

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
(i) 20 CFR 411.320; ..... SSA-1394; EN Contract Changes .....	202	1	10	34
Totals .....	206,826	.....	.....	110,804

6. *Medical Consultant's Review of Psychiatric Review Technique Form—20 CFR 404.1520a, 404.1640, 404.1643, 404.1645, 416.920a—0960–0677.* Form SSA-3023 is a program evaluation form SSA's regional review component uses to facilitate the contract medical/psychological consultant's review of the Psychiatric Review Technique Form (PRTF). SSA-3023 records the reviewing medical/psychological consultant's assessment of the PRTF. The medical/psychological consultant only completes form SSA-3023 when an adjudicating component's PRT is in the file. SSA requires form SSA-3023 for each PRT form completed. The respondents are medical/psychological consultants who review the Psychiatric Review Technique Form for quality purposes.

*Type of Request:* Extension of an OMB-approved information collection.  
*Number of Respondents:* 344.

*Frequency of Response:* 165.

*Average Burden per Response:* 12 minutes.

*Estimated Annual Burden:* 11,352 hours.

Dated: August 28, 2009.

**Elizabeth A. Davidson,**

*Director, Center for Reports Clearance, Social Security Administration.*

[FR Doc. E9-21215 Filed 9-1-09; 8:45 am]

**BILLING CODE 4191-02-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket Number: FTA-2009-0036]

#### Additional Final Guidance on New Starts/Small Starts Policies and Procedures

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Response to comments; final guidance.

**SUMMARY:** The purpose of this notice is to convey additional 2009 final guidance on New Starts/Small Starts policies and procedures. On July 29, 2009, FTA announced in the **Federal Register** the availability of proposed guidance and requested public

comment. FTA received a total of 15 comments from transit agencies, metropolitan planning organizations, labor unions, advocacy groups, and other interested parties. After reviewing the public comments, FTA is issuing final guidance, which is included at the end of this notice.

**DATES:** Unless otherwise stated in this notice, this final guidance is effective September 2, 2009.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Day, Office of Planning and Environment, telephone (202) 366-5159 and Christopher Van Wyk, Office of Chief Counsel, telephone (202) 366-1733. FTA is located at 1200 New Jersey Ave., SE., East Building, Washington, DC 20590. Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

#### Organization

The proposed guidance issued on July 29, 2009 covered the following three topic areas: (a) Proposed policy changes; (b) clarification to existing policies and procedures; and (c) potential changes to FTA internal practices for managing the New Starts and Small Starts program.

This guidance first presents and responds to comments for area (a), proposed policy changes, for which the following three proposed policy changes are presented: (1) Local financial commitment rating; (2) New Starts and Small Starts "other" factors criteria; and (3) New Starts project planning horizon year. The second section of the guidance presents and responds to comments regarding area (b), clarification to existing policies and procedures, and addresses: (1) Documentation of uncertainties; and (2) alternate ridership and transportation user benefits estimation methods. These responses to comments are provided to further clarify existing policy. The third section of the guidance presents and responds to comments regarding area (c), potential changes to FTA internal practices for managing the New Starts and Small Starts program, specifically, expanded use of pre-award authority and letters of no prejudice (LONPs). The fourth section presents and responds to submitted comments not directly related to any of the three areas covered in the

proposed guidance. Following the responses to comments for each of these areas, the final guidance and a description of changes to FTA internal practices are articulated in full.

#### Proposed Policy Changes—Response to Comments

##### 1. Local Financial Commitment Rating

In the proposed guidance, FTA suggested eliminating the policy of considering the degree to which a project employs innovative contractual agreements in the evaluation and rating of the operating financial plan under the local financial commitment criterion. Specifically, FTA proposed eliminating the policy of increasing the operating financial plan rating when project sponsors provide evidence that the operations and maintenance for the proposed project will be contracted out or when there is evidence that an opportunity had been given for contracting out but the project sponsor had substantive reasons for not doing so.

Of the 15 comments received, 12 expressed general support for the proposal. Of the remaining respondents, two did not directly address the proposal and one expressed concern with the proposal. The latter comment is addressed below.

*Comment:* One respondent noted that public investments in transportation, including New Starts and Small Starts projects, might trigger reimbursement clauses in the public/private contracts of competing infrastructure. For example, a new light rail line may cause automobile commuters to shift from a privately operated toll road to public transit. Depending on the terms of the toll road public/private partnership contract, such a shift could trigger a reimbursement clause. The commenter suggested that the cost of the example light rail line should, therefore, include the cost of reimbursing the private entity operating the example toll road. The respondent encouraged FTA to rethink this proposal to the extent that it would exclude information on the existence of infrastructure privatization terms that would increase the costs of new or improved public transit projects.

*Response:* FTA's proposal would eliminate the policy of increasing the operating financial plan rating when a project sponsor provides evidence that the operations and maintenance of the proposed project will be contracted out or when there is evidence that an opportunity had been given for contracting out. The commenter's concern and recommendation deals with a different issue, that is, reimbursement clauses in the public/private partnership contracts of transportation infrastructure and inclusion of such reimbursement costs in the budget of the proposed project that would impact the public/private infrastructure project. The proposal changes how FTA rates a proposed project; it does not address the terms in existing contracts for public/private partnerships for other transportation infrastructure projects.

## 2. New Starts and Small Starts Other Factors Criterion

In the proposed guidance, FTA suggested being less prescriptive on the items considered under the "other" factors criterion to better accommodate all of the unique project characteristics or circumstances that may justify special treatment in the evaluation of a project. Examples of other factors previously highlighted by FTA in earlier guidance included whether the project was a principal element of a congestion management strategy/auto pricing strategy, "make-the-case" documents, and the reliability of cost estimates and ridership forecasts.

Of the 15 comments received, six expressed general support for the proposal. Of the remaining respondents, six did not directly address the proposal, and three expressed concerns with specific aspects of the proposal. The concerns of the three respondents are addressed below.

*Comments:* One respondent suggested that not formally evaluating and rating the reliability of information (as was previously scheduled to begin in August 2009) goes against President Obama's transparency goals. The respondent suggested that FTA's assessment of reliability should be communicated in an open and clear manner, which is best accomplished by assigning an explicit rating to the reliability of information as opposed to FTA's proposal of considering, but not explicitly rating, reliability. The respondent also noted that FTA calling out any "other" factors does not prevent FTA from also considering the unique characteristics or circumstances that may justify special treatment.

One other respondent inquired as to the rationale for not formally and explicitly rating the reliability of information provided on costs and travel forecasts. The respondent argued that it is fundamental to the public good that FTA provide independent oversight, including assessing the reliability of cost estimates and travel forecasts.

One other respondent stated that measuring the reliability of project costs and ridership has merit and the rating procedures should be implemented through notice and comment rule making.

*Response:* If FTA were to formally evaluate and rate each of the project justification "considerations" listed in the Safe, Accountable, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU), which can vary significantly among proposed projects, the submittal of information would be cumbersome to project sponsors and increase FTA review time. FTA recognizes that the project justification criteria that FTA does explicitly rate, while broad, cannot always capture the project characteristics or circumstances that may justify special treatment. In some cases, confidence in or concerns with the reliability of cost and ridership/user benefit estimates may motivate FTA to adjust a project's justification rating. In other cases, the positive impacts of the project, for example, the consequences of project-related compact land use development on the capacity, utilization, or longevity of other surface transportation assets—a project consideration listed in 49 U.S.C. 5309(d)(3)(E)—may motivate FTA to adjust a project's justification rating. The proposed guidance suggests not dictating which of these considerations may be more or less important to all projects. Rather, FTA encourages project sponsors to submit information germane to their proposed project, whether that information relates to considerations specifically listed in SAFETEA-LU or other considerations/factors, for FTA to consider in determining a project justification rating.

FTA will continue to perform thorough examinations of the cost and ridership/user benefit estimates submitted in support of New Starts and Small Starts projects to ensure the estimates are plausible and that the methods used generally follow accepted practice. Further, FTA will continue to consider the reliability of cost and ridership/user benefit estimates using factors described in the August 2008 policy guidance, including the track record of the project sponsor in

implementing similar projects within budget, and the track record of the project sponsor in achieving projected ridership after implementing similar projects.

*Comment:* One respondent suggested that the "make-the-case" document requires very little effort to produce provided the project sponsor understands the justification for the proposed project. Further, the respondent noted that the document helps many project sponsors and the public understand the project's benefits. The respondent argued that the document should be required.

*Response:* FTA agrees that the "make-the-case" document is valuable and FTA encourages project sponsors to voluntarily prepare and submit the document to FTA for the reasons stated by the respondent. The document can help FTA and the public understand a project's benefits. However, the "make-the-case" documents submitted to FTA over the past two years were not sufficiently consistent to allow FTA to assign ratings; the content and presentation varied widely. In an effort to streamline and simplify the New Starts and Small Starts program, FTA does not want to continue to require documents that are useful on an individual basis, but have not proven effective in meaningfully distinguishing between competing projects.

## 3. New Starts Project Planning Horizon Year

In the proposed guidance, FTA suggested, effective March 2010, allowing New Starts project sponsors to use the adopted planning horizon forecast year—provided the year is either 2030 or 2035—of the metropolitan planning organization (MPO) to estimate project ridership, transportation system user benefits, and operations and maintenance costs.

Of the 15 comments received, six expressed general support for the proposal. Of the remaining respondents, six did not directly address the proposal and three either suggested changes or requested clarification of the policy moving forward. Comments from the latter three respondents are addressed below.

*Comments:* Two respondents suggested allowing the use of adopted planning horizons more than 25 years into the future to allow for additional flexibility to those regions which have already adopted plans with longer planning horizons. Another respondent asked if this proposal is intended as a short- or long-term practice.

*Response:* In acknowledgement of the long-term nature of major capital transit

investments, FTA asks New Starts project sponsors to estimate project ridership, user benefits, and operations and maintenance costs for some future, horizon year—20 years “out” is the adopted standard. By using a standard forecast year, FTA can compare projects fairly: the benefits provided by Project A in 20 years can be compared to the benefits provided by Project B in 20 years. For the next few years, a 20-year horizon could reasonably be represented by either a 2030 or 2035 forecast. In an effort to streamline and simplify the New Starts process, FTA proposed allowing project sponsors to use the same horizon year as the regional metropolitan planning organization, provided that horizon year is either 2030 or 2035. This proposal strikes a compromise between two agency/program goals: maintaining a level playing field nationally and simplifying the New Starts process. Allowing project sponsors to use horizon years beyond 2035, as suggested by the respondents, would compromise FTA’s ability to evaluate projects fairly. In the next few years, FTA expects most metropolitan planning organizations will adopt a 2035 or later horizon year. At a point five years or so in the future, FTA may again allow project sponsors the option of adopting one of two horizon years.

*Comment:* One respondent suggested this proposal be implemented immediately, as it allows more flexibility for metropolitan planning organizations, rather than implementing the proposal in March 2010 as proposed by FTA.

*Response:* Implementing this proposal immediately would motivate numerous project sponsors who have already generated 2030 forecasts required in support of information submitted for FTA’s fiscal year 2011 *Annual Report on Funding Recommendations* to hastily prepare a new set of 2035 forecasts. By allowing a delayed implementation, FTA is providing sponsors and metropolitan planning organizations the opportunity to use 2035 forecasts or continue to use 2030 forecasts next year.

#### **Clarification to Existing Policies— Response to Comments**

The proposals presented in this section are intended to further clarify existing policy rather than introduce or change policy.

##### **1. New Starts and Small Starts Documentation of Uncertainties**

In the proposed guidance, FTA reminded project sponsors that the policy adopted in the August 2008 guidance requiring that predictions of

capital costs and project ridership for the locally preferred alternative be expressed as ranges, with accompanying explanations of the contributing sources of uncertainty, will not be implemented until six months after FTA issues separate guidance concerning this provision. Separate guidance has not been published.

*Comments:* Three respondents expressed concern that, when put into place, the documentation of uncertainties will increase the reporting burden of the project sponsor. These respondents note that significant oversight tools are currently in place and that FTA should give these tools time to work before implementing new ones. Another respondent suggested that expressing cost and ridership projections as ranges could be costly and time consuming and is unlikely to improve the reliability of forecasts. This respondent suggested the factors contributing to uncertainty be discussed in text.

One other respondent noted the difficulty in large, multi-jurisdictional metropolitan planning organizations of reaching consensus on a single land use forecast and suggested it would be very difficult to come to consensus on alternative high and low land use forecasts.

Two respondents suggested that FTA rescind the policy.

*Response:* The point of clarification that FTA wishes to convey is that FTA has not issued guidance requiring that predictions of capital costs and project ridership be expressed as ranges, therefore it is not currently in effect. FTA will take into consideration the above comments in any future action developing guidance on this subject.

##### **2. Alternate Ridership and Transportation System User Benefits Estimation Methods for New Starts and Small Starts**

In the proposed guidance, FTA reminded project sponsors that regional travel forecasting models are not always required for New Starts or Small Starts predictions of ridership and transportation system user benefit estimates. Under the right circumstances, quality data paired with straightforward analysis can provide a more direct representation of travel than a regional model.

*Comment:* Two respondents suggested FTA compile and share alternate ridership and user benefits estimation methods best practices. Two other respondents suggested FTA provide additional information on what constitutes adequate data collection approaches.

One other respondent suggested FTA be clear about expectations as a failure to do so could result in a long and confusing cycle of attempts and adjustments with no clear endpoint.

*Response:* FTA encourages project sponsors to discuss potential modeling approaches and the data collection efforts intended to support those modeling approaches early in the alternatives analysis process. FTA’s Office of Planning and Environment is available to discuss the methods used by other project sponsors as well as provide guidance on data collection efforts.

*Comment:* One respondent asked FTA not to make alternate estimation methods mandatory.

*Response:* The point of clarification that FTA wishes to convey is its willingness to work with project sponsors on alternate approaches to using regional transportation models in the appropriate circumstances. The clarification to existing policy included in the proposed guidance does not make alternate estimation methods mandatory.

#### **Changes to Internal FTA Practices— Response to Comments**

The changes to internal FTA practices described below are not subject to public notice-and-comment per 5 U.S.C. 553(b)(A). However, FTA here presents and responds to comments to clarify the intent of the changes to internal FTA practices. These changes are further discussed below in the section labeled “Revised Practices for Pre-award Authority and Letters of No Prejudice.”

##### **Expanded Pre-Award Authority and/or Expanded Use of Letters of No Prejudice**

The proposed guidance noted that FTA was considering expanding the activities covered by “automatic” pre-award authority upon completion of the requirements under the National Environmental Policy Act (NEPA) and/or expanding the circumstances under which FTA will issue letters of no prejudice (LONPs).

Of the 15 comments received, seven expressed general support for the proposal and eight did not directly address the proposal. The comments below either elaborate on the general support or provide specific ideas for expanding the use of pre-award authority and LONPs.

*Comments:* Two respondents suggest that the expanded use of pre-award authority and LONPs will help mitigate the cost and schedule impacts of delays that can be caused by FTA reviews and approvals. Another suggests that the need to expedite projects far outweighs

any feared consequences of an individual sponsor claiming they thought they had a guarantee.

*Response:* FTA concurs that expanding pre-award authority should help expedite project delivery.

*Comments:* One respondent suggested giving pre-award authority for utility work and for project management costs associated with work conducted under pre-award authority. Another respondent suggested granting pre-award authority to all project activities as long as they are covered under a completed NEPA process, including but not limited to the following time-sensitive activities: Land acquisition; vehicle procurement; procurement of design build and construction management/general contractor contracts; demolition; rail and ties or other special equipment; and, critical path construction activities.

*Response:* As described in the “Revised Practices for Pre-Award Authority and Letters of No Prejudice” section below, FTA agrees that pre-award authority for utility relocation and vehicle procurement should be granted following the completion of the NEPA process. FTA already gives pre-award authority for land acquisition following the completion of NEPA. FTA already gives pre-award authority for the management tasks necessary to carry out activities covered by pre-award authority.

FTA believes that pre-award authority for demolition and rails, ties or other special equipment should be granted at entry into final design rather than after the completion of NEPA. Frequently, engineering that has been completed post-NEPA, but before final design, has affected project plans. Furthermore, the costs of rails, ties and/or other special equipment may be difficult to recover if the project were not constructed. Consequently, FTA considers it prudent to grant pre-award authority for demolition and the procurement of rails, ties and/or other special equipment following entry into final design, when more information about the project is available and confidence in the project's implementation is higher.

FTA does not believe that allowing pre-award authority for the procurement of design-build and construction management/general contractor contracts prior to final design will expedite project delivery. These activities are not generally considered to have “long lead times.”

FTA does not consider it prudent to grant pre-award authority for “critical path construction” activities. This term could assume a host of meanings. FTA will consider LONPs for “critical path

construction” activities by a case-by-case analysis of the specific requests.

*Comments:* Two respondents suggest allowing a project sponsor to use an LONP where an entire project has been cleared under NEPA and a Record of Decision (ROD) or Finding of No Significant Impact (FONSI) has been published and the project sponsor seeks to construct an initial segment of the project utilizing non-section 5309 funds. The respondents note that the entire project would have to be evaluated, rated, and approved for funding by FTA under the New Starts or Small Starts program, but that this approach would enable local funds to be considered “local match” for the segment advanced under the New Starts or Small Starts program.

*Response:* Under the proposed guidance, FTA sought ways to expedite the delivery of New Starts projects, but did not intend to suggest using LONPs to expedite the delivery of a program of projects.

*Comment:* One respondent suggested that activities not covered by automatic pre-award authority should be given an LONP upon request with minimal review consisting of determining whether or not the activity is covered under a completed NEPA process and whether the activity would eventually be eligible for 5309 New Starts funds.

*Response:* FTA generally agrees with this comment, with some reservations. Please see the “Revised Practices for Pre-Award Authority and Letters of No Prejudice” section below for a full description of FTA's position on review of requests for LONPs.

*Comments:* One respondent suggested granting LONPs for some final design activities during the portion of preliminary engineering that occurs prior to the completion of NEPA. Another respondent suggested granting pre-award authority for engineering at any level needed to improve cost estimates or reduce risks to project implementation.

*Response:* FTA requires project sponsors to “lock in” the amount of New Starts funds requested by the project at the end of New Starts preliminary engineering/entry into final design. Consequently, FTA allows project sponsors, during New Starts preliminary engineering, to do the engineering work necessary for the sponsor to arrive at a project scope, schedule and cost estimate sufficiently defined to seek entry into final design.

*Comment:* One respondent suggested establishing a clock for review of LONP requests, which should improve the predictability of the process, thus

improving schedule adherence and expediting project delivery.

*Response:* Under the procedures discussed in the “Revised Practices for Pre-Award Authority and Letters of No Prejudice” section below, pre-award authority will be expanded and, consequently, the need for LONPs will be reduced. In this framework, establishing a clock for all LONPs is difficult. FTA intends to perform limited review of LONP requests of a routine nature, especially of those from experienced project sponsors.

#### **Broader Comments on New Starts and Small Starts Program—Response to Comments**

FTA received several comments regarding aspects of the New Starts and Small Starts program not explicitly discussed in the proposed guidance.

*Comments:* One respondent asked FTA to consider rescinding and another asked FTA to rescind the funding recommendation practice generally requiring a “medium” cost-effectiveness rating announced in the 2005 “Dear Colleague” letter.

*Response:* The Administration is continuing to review the appropriateness, efficacy, and impact of the “Dear Colleague” letter practice.

*Comments:* One respondent asked FTA to consider, as a new project justification factor, transit trip time as compared to driving time. This respondent also suggested including network connectivity—the degree to which a project increases connections among regional employment centers—as a new project justification factor.

*Response:* FTA's user benefits measure implicitly compares transit travel time to driving time and reflects the connectivity of regional employment centers.

*Comment:* One respondent expressed support for a legislative change which would expand the use of early systems work agreements to guarantee Federal match for clearly defined and necessary early work to allow the most efficient and expedited implementation of a New Starts project.

*Response:* As indicated by the commenter, expanded use of early systems work agreements would require legislative change, which is beyond the scope of FTA's proposed changes in policy guidance.

*Comment:* One respondent suggested FTA adjust the cost effectiveness index upward by considering the value of Federal investment in the project, or the Federal investment in a program of related projects, particularly for phases of the same project.

*Response:* FTA will consider this comment, as well as all other comments received, as the agency seeks to further streamline and simplify the New Starts and Small Starts program.

## Final Guidance

### 1. Local Financial Commitment Rating

In 2007, FTA implemented a policy of considering the degree to which a project employs innovative contractual agreements when evaluating local financial commitment. Specifically, FTA increased the operating financial plan rating (from “medium” to “medium-high” or from “medium-high” to “high”) when project sponsors provided evidence that the operations and maintenance of the project will be contracted out or when there is evidence that an opportunity had been given for contracting out but the project sponsor had substantive reasons for not doing so. FTA has determined that the type of contracting arrangement used or considered by a project sponsor is not useful or appropriate in determining the strength of the overall project. Thus, FTA eliminates a project sponsor’s use or consideration of contracting out operations and maintenance when evaluating and rating the operating financial plan.

This change applies to New Starts projects, as well as to any Small Starts or Very Small Starts projects that do not qualify for the streamlined local financial commitment evaluation described in FTA’s *Interim Guidance on Small Starts and Very Small Starts*.

### 2. New Starts and Small Starts Other Factors Criterion

FTA will no longer emphasize specific items that it will consider when determining whether to modify a project’s rating based on “other” factors pursuant to 49 U.S.C. 5309(d)(3)(K) and 49 U.S.C. 5309(e)(4)(E). Rather, FTA will consider any factors related to the project that it deems appropriate under the discretion granted to it in statute. FTA will consider these “other” factors on a project-by-project basis.

Thus, FTA will no longer call out congestion management strategies, with automobile pricing strategies in particular, or the contents of a “make-the-case” document as items it will specifically consider or formally rate as “other” factors. Under this proposal, project sponsors would be free to submit information on these items voluntarily to assist FTA in its overall evaluation and rating of the project, but would not be required to submit such information. In addition, FTA will not formally and explicitly rate the reliability of

information provided on costs and travel forecasts, but will still consider reliability of the information when determining whether the project justification rating should be changed.

### 3. New Starts Project Planning Horizon Year

Since 2005, FTA has required project sponsors to submit information on ridership, transportation system user benefits, and operations and maintenance costs based on forecasts representing conditions in 2030. Because many metropolitan planning organizations (MPO) have now moved to a horizon year of 2035, FTA will allow project sponsors to submit information consistent with the MPO’s adopted planning horizon year, whether it is 2030 or 2035. Project sponsors may use a 2035 planning horizon year only if it has been officially adopted by the MPO.

Because of the timing of this guidance relative to the annual review of projects conducted in support of FTA’s *Annual Report on Funding Recommendations*, this policy does not go into effect until March 2010.

This proposed change does not affect potential Small Starts or Very Small Starts projects, as they submit information based on the opening year of the project rather than a forecast year.

### Revised Practices for Pre-Award Authority and Letters of No Prejudice

FTA reminds project sponsors and the public that neither pre-award authority nor an LONP has ever been a guarantee of future Federal funding. Moreover, FTA here highlights that contrary to past practice, an LONP no longer serves as an indicator of a project being a promising candidate for a Full Funding Grant Agreement (FFGA) or Project Construction Grant Agreement (PCGA). The following discussion presents a summary of existing and revised practices for pre-award authority and LONPs.

Under existing practice, upon FTA approval to enter preliminary engineering, FTA extends pre-award authority to incur costs for preliminary engineering. Upon FTA approval to enter final design, FTA extends pre-award authority to incur costs for final design. Pre-award authority for each phase is automatic upon FTA’s signing of a letter to the project sponsor approving entry into that phase.

Also under existing practice, FTA extends automatic pre-award authority for the acquisition of real property and real property rights for a New Starts or Small Starts project upon completion of the National Environmental Policy Act

(NEPA) process for that project. The NEPA process is complete when FTA signs an environmental Record of Decision (ROD) or Finding of No Significant Impact (FONSI), or makes a Categorical Exclusion (CE) determination.

Previously, FTA granted pre-award authority for utility relocation upon entry into final design. FTA hereby changes its existing practice by extending pre-award authority for utility relocation upon completion of the NEPA process for New Starts and Small Starts projects.

Previously, an LONP was required for grantees to purchase vehicles. FTA hereby changes existing practice by extending pre-award authority for the procurement of vehicles upon completion of the NEPA process for New Starts and Small Starts projects. FTA cautions grantees that do not currently operate the type of vehicle proposed in the New Starts or Small Starts project about exercising this pre-award authority and encourages these sponsors to wait until later in the project development process when project plans are more fully developed and Federal support for the project is more certain. FTA reminds project sponsors that the procurement of vehicles must comply with all Federal requirements including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, and Buy America. FTA encourages project sponsors to discuss the procurement of vehicles with FTA in regards to Federal requirements prior to exercising pre-award authority.

FTA hereby changes existing practice by extending pre-award authority for non-construction activities upon entry into final design for New Starts projects. The intent is to allow for the procurement of long-lead time items or items for which market conditions play a significant role in the acquisition price. Previously, an LONP was required for these activities. The following list of non-construction activities is illustrative rather than exhaustive. Please contact your FTA Regional Office for a determination of activities not listed here, but which meet the intent described above.

FTA grants pre-award authority upon entry into final design for the following activities: Procurement of rails, ties, and other specialized equipment; the procurement of commodities; and demolition.

Because Small Starts projects are not subject to approval into a final design phase, they must obtain an LONP for the following activities to remain eligible for reimbursement or as credit toward

local match: Procurement of rails, ties, and other specialized equipment; the procurement of commodities; and demolition.

FTA reminds project sponsors and the public that local funds expended by the project sponsor pursuant to and after the date of the pre-award authority are eligible for reimbursement or as credit toward local match only if FTA later makes a grant or grant amendment for the project. Local funds expended by the project sponsor prior to the date of the pre-award authority are not eligible for credit toward local match or reimbursement.

The above changes to automatic pre-award authority are expected to reduce the need for LONPs. FTA will still consider LONPs for activities not covered by automatic pre-award authority. As a change in administrative practice, FTA will, following the completion of the requirements under NEPA, expedite the issuance of LONPs, when appropriate, by no longer performing a detailed review of the cost and scope of the request in every instance. Rather, a limited review will be performed in those cases that are of a more routine nature, especially those involving an experienced sponsor.

This change has the following ramifications. First, an LONP is no longer an indication by FTA that the project is a promising candidate for either an FFGA or PCGA. Second, FTA is transferring more risk to the project sponsor. LONPs allow a project sponsor to incur costs using non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible as credit toward the local match only if FTA approves the project for funding at a later date. Federal funding is not implied or guaranteed by an LONP. The reduced level of FTA oversight should expedite the delivery of New Starts and Small Starts projects, but will also require increased diligence on the part of project sponsors to ensure that public funds are expended wisely.

**Peter M. Rogoff,**

*Administrator, Federal Transit Administration.*

[FR Doc. E9-21173 Filed 9-1-09; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Advisory Circular 33.70-1, Guidance Material for Aircraft Engine Life-Limited Parts Requirements

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of issuance of advisory circular.

**SUMMARY:** This notice announces the issuance of Advisory Circular (AC) 33.70-1, Guidance Material for Aircraft Engine Life-limited Parts Requirements. This AC provides definitions, guidance, and acceptable methods that may be used to demonstrate compliance with the engine life-limited parts integrity requirements of § 33.70 of Title 14 of the Code of Federal Regulations. Section 33.70 contains requirements applicable to the design and life management of propulsion system life-limited parts including high-energy rotating parts.

**DATES:** The Engine and Propeller Directorate issued AC 33.70-1 on July 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** The Federal Aviation Administration, Attn: Timoleon Mouzakis, Engine and Propeller Standards Staff, ANE-111, 12 New England Executive Park, Burlington, MA 01803-5299; telephone: (781) 238-7114; fax: (781) 238-7199; e-mail: [timoleon.mouzakis@faa.gov](mailto:timoleon.mouzakis@faa.gov).

We have filed in the docket all substantive comments received, and a report summarizing them. If you wish to review the docket in person, you may go to the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. If you wish to contact the above individual directly, you can use the above telephone number or e-mail address provided.

**How to Obtain Copies:** A paper copy of AC 33.70-1 may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC-121.23, Ardmore East Business Center, 3341Q 75th Ave., Landover, MD 20785, telephone 301-322-5377, or by faxing your request to the warehouse at 301-386-5394. The AC will also be available on the Internet at [http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies) (then click on "Advisory Circulars").

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44702, 44704.

Issued in Burlington, Massachusetts, on July 31, 2009.

**Francis A. Favara,**

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. E9-21068 Filed 9-1-09; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Advisory Circular 33-8, Guidance for Parts Manufacturer Approval of Turbine Engine and Auxiliary Power Unit Parts Under Test and Computation

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of issuance of advisory circular.

**SUMMARY:** This notice announces the issuance of Advisory Circular (AC) 33-8, Guidance for Parts Manufacturer Approval of Turbine Engine and Auxiliary Power Unit Parts under Test and Computation. This AC provides guidance for developing substantiation data to support the design approval of critical and complex turbine engine and auxiliary power unit (APU) parts produced under parts manufacturer approval. This guidance is for the comparative test and analysis method used to show compliance to the airworthiness requirements under test and computation, per S21.303 of Title 14 of the Code of Federal Regulations (14 CFR). This method supports showing the engine or APU still complies with 14 CFR part 33 and Technical Standard Order (TSO) C77.

**DATES:** The Engine and Propeller Directorate issued AC 33-8 on August 19, 2009.

**FOR FURTHER INFORMATION CONTACT:** The Federal Aviation Administration, Attn: Karen M. Grant, Engine and Propeller Standards Staff, ANE-111, 12 New England Executive Park, Burlington, MA 01803-5299; telephone: (781) 238-7119; fax: (781) 238-7199; e-mail: [karen.m.grant@faa.gov](mailto:karen.m.grant@faa.gov).

We have filed in the docket all substantive comments received, and a report summarizing them. If you wish to review the docket in person, you may go to the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. If you wish to contact the above individual directly, you can use the above telephone number or e-mail address provided.

**How to Obtain Copies:** A paper copy of AC 33-8 may be obtained by writing to the U.S. Department of