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**PUBLIC
TRANSPORTATION**

**New Starts Program
Challenges and Preliminary
Observations on Expediting
Project Development**

Statement of A. Nicole Clowers, Acting Director
Physical Infrastructure Issues



GAO

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Highlights of [GAO-09-763T](#), a testimony before the Subcommittee on Housing, Transportation, and Community Development, Committee on Banking, Housing, and Urban Affairs, U.S. Senate

Why GAO Did This Study

The New Starts program is an important source of new capital investment in mass transportation. As required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the Federal Transit Administration (FTA) must prioritize transit projects for funding by evaluating, rating, and recommending projects on the basis of specific financial commitment and project justification criteria, such as cost-effectiveness, economic development effects, land use, and environmental benefits. To be eligible for federal funding, a project must advance through the different project development phases of the New Starts program, including alternatives analysis, preliminary engineering, and final design. Using the statutorily identified criteria, FTA evaluates projects as a condition for advancement into each project development phase of the program.

This testimony discusses the (1) key challenges associated with the New Starts program and (2) options that could help expedite project development in the New Starts program. This testimony is based on GAO's extensive body of work on the New Starts program and ongoing work—as directed by Congress. For this work, GAO reviewed FTA documents and interviewed FTA officials, sponsors of New Starts projects, and representatives from industry associations. The FTA reviewed the information in this testimony and provided technical comments.

View [GAO-09-763T](#) or [key components](#). For more information, contact A. Nicole Clowers at (202) 512-2834 or clowersa@gao.gov.

PUBLIC TRANSPORTATION

New Starts Program Challenges and Preliminary Observations on Expediting Project Development

What GAO Found

Previous GAO work has identified three key challenges associated with the New Starts program.

- First, **frequent changes** to the New Starts program have sometimes led to confusion and delays. Numerous changes have been made to the New Starts Program over the last decade, such as revising and adding new evaluation criteria and requiring project sponsors to collect new data and complete new analyses. Although FTA officials told GAO that changes were generally intended to make the process more rigorous, systematic, and transparent, project sponsors said the frequent changes sometimes caused confusion and rework, resulting in delays in advancing projects.
- Second, the current New Starts **evaluation process measures do not capture all project benefits**. For example, FTA's cost-effectiveness measure does not account for highway travel time savings and may not capture all economic development benefits. FTA officials have acknowledged these limitations, but noted that improvements in local travel models are needed to resolve some of these issues. FTA is also conducting research on ways to improve certain evaluation measures.
- Third, striking the appropriate balance between **maintaining a robust evaluation and minimizing a complex process** is challenging. Experts and some project sponsors GAO spoke with generally support FTA's quantitatively rigorous process for evaluating proposed transit projects but are concerned that the process has become too burdensome and complex. In response to such concerns, FTA has tried to simplify the evaluation process in several ways, including hiring a consulting firm to identify opportunities to streamline or simplify the process.

As part of ongoing work, GAO has preliminarily identified options to help expedite project development within the New Starts program. These options include tailoring the New Starts evaluation process to risks posed by the projects, using letters of intent more frequently, and applying regulatory and administrative changes only to future projects. While each option could help expedite project development in the New Starts process, each option has advantages and disadvantages to consider. For example, by signaling early federal support of projects, letters of intent and early systems work agreements could help project sponsors use potentially less costly and time-consuming alternative project delivery methods, such as design-build. However, such early support poses some risk, as projects may stumble in later project development phases. Furthermore, some options, like combining one or more statutorily required project development phases, would require legislative action.

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to provide testimony on the Federal Transit Administration's (FTA) New Starts program. As you know, since the early 1970s, a significant portion of the federal government's share of new capital investment in mass transportation has come through the New Starts program. Through this program, FTA identifies and recommends new fixed-guideway transit projects—including heavy, light, and commuter rail; ferry; and certain bus projects—for full-funding grant agreements (FFGA).¹ Over the last decade, the New Starts program has provided state and local agencies with over \$10 billion to help design and construct transit projects throughout the country.

As required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU),² FTA must prioritize transit projects for funding by evaluating, rating, and recommending potential projects on the basis of specific financial commitment and project justification criteria—including mobility improvements, cost-effectiveness, economic development effects, land use, environmental benefits, and operating efficiencies. Using these statutorily identified criteria, FTA evaluates potential transit projects annually and as a condition for advancement into each phase of the process, including preliminary engineering, final design, and construction.³ FTA refers to projects in the preliminary engineering or final design phases as the “pipeline” through which successful projects advance to receive funding.

FTA's New Starts program is often cited as a model for other federal transportation programs because of its use of a rigorous and systematic evaluation process to distinguish among proposed New Starts

¹Fixed-guideway systems use and occupy a separate right-of-way for the exclusive use of public transportation services. These systems include fixed rail, exclusive lanes for buses and other high-occupancy vehicles, and other systems. An FFGA establishes the terms and conditions for federal funds available for the project, including the maximum amount of federal funds available.

²Pub. L. No. 109-59 (2005).

³During the preliminary engineering phase, project sponsors refine the design of the proposal, taking into consideration all reasonable design alternatives and estimating each alternative's costs, benefits, and impacts (e.g., financial or environmental). 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.

investments. However, we and others have also identified challenges facing the New Starts program. For example, our past reviews found that many program stakeholders thought that FTA's process for evaluating New Starts projects was too complex and costly and did not effectively use all of the criteria outlined in SAFETEA-LU and previous legislation to account for different project benefits, such as economic development.

My testimony discusses the (1) key challenges associated with the New Starts program and (2) options that could help expedite project development in the New Starts program. My comments are based on our extensive body of work on the New Starts program as well as our ongoing work for the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Transportation and Infrastructure.⁴ We will complete our ongoing work and report to the committees this summer. For our ongoing work—as directed by Congress—we reviewed SAFETEA-LU and other New Starts statutory requirements, FTA guidance and regulations governing the New Starts program and other FTA documents, including the annual New Starts report, and interviewed experts, consultants, project sponsors, industry associations, and FTA officials about the time it takes for a New Starts project to move through the New Starts process, as well as options to address the elements that cause delays.⁵ We conducted our ongoing work from January 2009 through May 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The FTA reviewed the information in this testimony and provided technical comments, which we incorporated.

Background

FTA generally funds New Starts projects through FFGAs, which are required by statute to establish the terms and conditions for federal

⁴See the Related GAO Products section at the end of this testimony for a listing of previous reports on these programs. We conducted these performance audits in accordance with generally accepted government auditing standards.

⁵As required by 49 U.S.C. § 5309(k)(1), the Department of Transportation annually reports its recommendations to Congress for the allocation of funds for the design and construction of fixed-guideway New Starts and Small Starts capital investments.

participation in a New Starts project.⁶ FFGAs also define a project's scope, including the length of the system and the number of stations; its schedule, including the date when the system is expected to open for service; and its cost. For projects to obtain FFGAs, 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 options, such as rail lines or bus routes, in a specific corridor versus a region. The alternatives analysis phase results in the selection of a locally preferred alternative, which is the New Starts project that FTA evaluates for funding. After a locally preferred alternative is selected, the project sponsor submits an application to FTA for the project to enter the preliminary engineering phase. When this phase is completed and federal environmental requirements under the National Environmental Policy Act are satisfied, FTA may approve the project's advancement into final design, after which FTA may recommend the project for an FFGA and advance the project into construction. FTA oversees grantees' management of projects from the preliminary engineering phase through the construction phase.

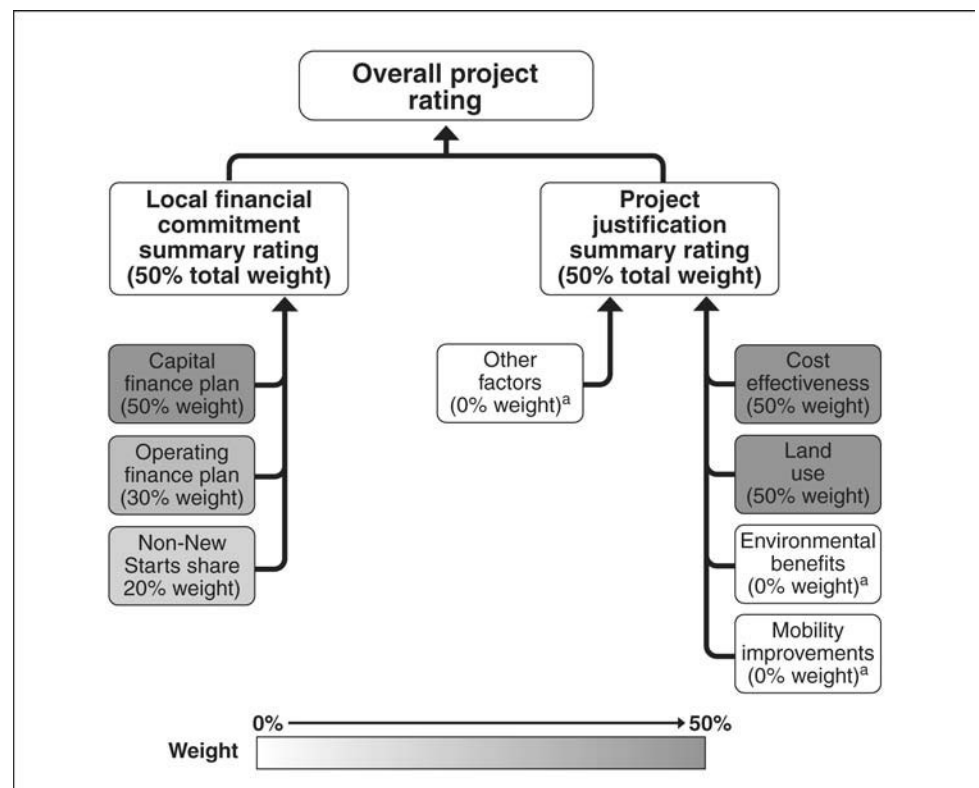
To help inform administration and congressional decision makers about which projects should receive federal funds, FTA currently distinguishes among proposed projects by evaluating and assigning ratings to various statutory evaluation criteria—including both local financial commitment and project justification criteria—and then assigning an overall project rating.⁷ (See fig. 1.) These evaluation criteria reflect a 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. FTA has developed specific measures for each of the criteria outlined in the statute. On the basis of these measures,

⁶An FFGA for a New Starts project can be for 80 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

⁷The exceptions to the evaluation process are statutorily exempt projects, which are those with requests for less than \$25 million in New Starts funding. Sponsors of these projects are not required to submit project justification information (although FTA encourages the sponsors to do so). These projects are exempt until such time as a final regulation implementing certain provisions of SAFETEA-LU is completed. FTA does not rate these projects. As a result, the number of projects in the preliminary engineering or final design phases may be greater than the number of projects evaluated and rated by FTA.

FTA assigns the proposed project a rating for each criterion and then assigns a summary rating for local financial commitment and project justification. These two ratings are averaged together to create an overall rating, which is used in conjunction with a determination of the project’s “readiness” for construction to determine what projects are recommended for funding. Projects are rated at several points during the New Starts process—as part of the evaluation for entry into the preliminary engineering and the final design phases, and yearly for inclusion in the New Starts Annual Report. As required by statute, the administration uses the FTA evaluation and rating process, along with the development phases of New Starts projects, to decide which projects to recommend to Congress for funding.

Figure 1: New Starts Evaluation Criteria and Rating Development



Source: GAO analysis of FTA data.

^aThese criteria are not currently assigned a weight in the evaluation framework.

Previous GAO Work Has Identified Key Challenges in Managing New Starts Program

Frequent Changes to the New Starts Program Have Sometimes Led to Confusion and Delays

Numerous changes have been made to the New Starts program over the last decade. These changes include statutory, regulatory, and administrative changes to the program. For example, we reported in 2005 that FTA had implemented 16 changes to the New Starts application, evaluation, rating, and project development oversight process since the fiscal year 2001 evaluation cycle.⁸ Additional changes have been made to the program since 2005. Examples of these changes made to the program over the last 10 years, in chronological order, include the following.

- **New data collection requirements:** Starting with the fiscal year 2004 evaluation cycle, FTA required project sponsors seeking an FFGA to submit a plan for the collection and analysis of information to determine the impacts of the project and the accuracy of the forecasts that were prepared during project planning and development. SAFETEA-LU subsequently codified this “before and after” study requirement.
- **Evaluation measures revised:** FTA revised its cost-effectiveness and mobility improvements criteria by adopting the Transportation System User Benefits (TSUB) measure that includes benefits for both new and existing transit system riders. Although project sponsors generally view the new cost-effectiveness measure of cost per hour of TSUB as an improvement over the previous measure of cost per new rider, we have reported that some project sponsors have had difficulties correctly calculating the TSUB value for their projects, resulting in delays and additional costs as they conduct multiple iterations of the TSUB measure.⁹

⁸GAO, *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).

⁹GAO, *Mass Transit: FTA Needs to Provide Clear Information and Additional Guidance on the New Starts Ratings Process*, [GAO-03-701](#) (Washington, D.C.: June 23, 2003); *Mass Transit: FTA Needs to Better Define and Assess Impact of Certain Policies on New Starts Program*, [GAO-04-748](#) (Washington, D.C.: June 25, 2004).

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- **New analysis requirement added:** Starting with the fiscal year 2005 evaluation cycle, FTA required project sponsors to complete risk assessments. Since implementation, the form and timing of the risk assessments have evolved since 2003, but the intent of the assessments remains to identify the issues that could affect the project's schedule or cost.
 - **Policy on funding recommendations changed:** In 2005, the administration informed the transit community that it would target its funding recommendations to projects that achieve a cost-effectiveness rating of medium or higher. Previously, the administration had recommended projects for funding that had lower cost-effectiveness ratings, if they met all other criteria.¹⁰
 - **New programs established:** SAFETEA-LU established the Small Starts program, a new capital investment grant program, simplifying the requirements imposed for those seeking funding for lower-cost projects.¹¹ This program is intended to advance smaller-scale projects through an expedited and streamlined evaluation and rating process. FTA subsequently introduced a separate eligibility category within the Small Starts program for Very Small Starts projects. Very Small Starts projects qualify for an even simpler evaluation and rating process.
 - **New evaluation criteria introduced:** Given past concerns that the evaluation process did not account for a project's impact on economic development, SAFETEA-LU added economic development to the list of project justification criteria that FTA must use to evaluate and rate New Starts projects.

Although the impetus for each change varied, FTA officials stated that, in general, all of the changes the agency has initiated were intended to make the process more rigorous, systematic, and transparent. This increased

¹⁰In the fiscal year 2010 New Starts report, FTA recommends a Small Starts project, Portland, Oregon Streetcar Loop, for a Project Construction Grant Agreement even though it received a low cost-effectiveness rating. According to an FTA official, FTA is advancing the project for funding because it meets all the statutory criteria. The official also noted that the medium rating cost-effectiveness threshold was an "administrative requirement" of the previous administration, and the new administration believes that the Portland, OR project is worth funding given its other predicted benefits.

¹¹Small Starts projects are defined as those that are requesting less than \$75 million in federal funding and have a total estimated net capital cost of less than \$250 million. Projects are eligible for the Very Small Starts program if their total costs are less than \$50 million.

rigor, in turn, helps FTA and project sponsors deliver more New Starts projects within budget and on time, according to FTA.

However, frequent changes to the New Starts program create challenges for project sponsors. For example, we have previously reported that some project sponsors told us that FTA did not create clear expectations or provide sufficient guidance about certain changes.¹² In addition, we reported that project sponsors said some changes made the application process more expensive and required them to spend significantly more time to complete the application. We have heard similar concerns from project sponsors during our ongoing review. Specifically, some project sponsors we interviewed told us that they have had to redo completed analyses because FTA applies regulatory and administrative changes to projects in the pipeline. In general, according to project sponsors and other stakeholders we have spoken to, this rework adds time and costs to completing the New Starts project development process.

FTA's Project Evaluation Process Does Not Currently Capture All Project Benefits

FTA currently assigns a 50 percent weight to both the cost-effectiveness and the land use criteria when developing the project justification summary rating. The other project justification criteria are not weighted, although the mobility improvements criterion is used as a “tiebreaker.” FTA officials have told us that they do not currently use the environmental benefits and operating efficiencies criteria in determining the project justification summary rating because the measures do not, as currently structured, provide meaningful distinctions among competing New Starts projects. FTA does not use the economic development criterion because of difficulty developing a measure that is separate and distinct from the land use criterion. We have found in the past that many project sponsors had similar views, noting that individual projects are too small to have much impact, in terms of, for example, air quality, on the whole region or the whole transit system.¹³ In contrast, FTA officials have told us that the cost-effectiveness and land use measures help to make meaningful distinctions among projects. For example, according to FTA, existing transit supportive land use plans and policies demonstrate an area’s commitment to transit and are a strong indicator of a project’s future success. Furthermore, according to many FTA officials, experts, and the

¹²GAO, *Public Transportation: New Starts Program Is in a Period of Transition*, GAO-06-819 (Washington, D.C.: Aug. 30, 2006).

¹³GAO-05-674.

literature we have consulted, FTA's cost-effectiveness measure accounts for most secondary project benefits, including economic development, because these benefits are typically derived from mobility improvements that reduce users' travel times. Therefore, developing new measures for these other criteria may result in the double-counting of certain project benefits.

However, in 2008, we reported that FTA's evaluation measures could be underestimating total project benefits.¹⁴ FTA's measure of cost-effectiveness, for instance, considers how the mobility improvements from a proposed project will reduce users' travel times. Although this measure can capture most secondary project benefits, it does not account for benefits for non-transit users (e.g., highway travel time savings) or capture any economic development benefits that are not directly correlated to mobility improvements. The omission of these benefits means proposed projects that convey significant travel time savings for motorists, for example, are not recognized in the selection process. Beyond the cost-effectiveness measure, we reported that project sponsors and experts expressed frustration that FTA does not include certain criteria in the calculation of project ratings, such as economic development and environmental benefits. They noted that this practice limits the information captured on projects, particularly since these are important benefits of transit projects at the local level. As a result, FTA may be underestimating projects' total benefits, particularly in areas looking to use these projects as a way to relieve congestion or promote more high-density development. In these cases, however, the extent to which FTA's current approach to estimating benefits affects how projects are ranked in FTA's evaluation and ratings process is unclear.

FTA officials have acknowledged these limitations, but noted that improvements in local travel models are needed to resolve some of these issues.¹⁵ In particular, many local models used to estimate future travel demand for New Starts are incapable of reliably estimating highway travel time savings as a result of the proposed project, according to FTA officials.

¹⁴GAO, *Public Transportation: Improvements Are Needed to More Fully Assess Predicted Impacts of New Starts Projects*, [GAO-08-844](#) (Washington, D.C.: July 25, 2008).

¹⁵Project sponsors estimate future travel demand and analyze the impacts of alternative transportation investment scenarios using computerized travel demand forecasting models. These models are used to estimate how urban growth and proposed facilities and the associated operational investments and transportation policies will affect mobility and the operation of the transportation system.

There is great variation in the models local transportation planning agencies use to develop travel forecasts (which underlie many of the New Starts measures), producing significant variation in forecast quality and limiting the ability to assess quality against the general state of practice. In 2008, we made a series of recommendations designed to address the limitations of FTA's current evaluation process, including recommending that (1) the Secretary of Transportation seek additional resources to improve local travel models in the next authorizing legislation to improve the New Starts evaluation process and the measures of project benefits; (2) FTA establish a timeline for issuing, awarding, and implementing the result of its request for proposals on short- and long-term approaches to measuring highway user benefits from transit improvements; (3) the Administrators of FTA and Federal Highway Administration collaborate in efforts to improve the consistency and reliability of local travel models; and (4) the Administrator of FTA establish a timeline for initiating and completing its longer-term effort to develop more robust measures of transit projects' environmental benefits.¹⁶ FTA is working to address these recommendations. For instance, FTA conducted a colloquium on environmental benefits of transit projects in October 2008, which resulted in a discussion paper on the evaluation of economic development. Further, in a Federal Register Notice published on January 26, 2009, FTA issued and sought comments on a discussion paper on new ways of evaluating economic development effects.¹⁷ FTA is now reviewing comments on that paper.

In May 2009, FTA also took steps to address concerns about the exclusion of some project justification criteria from the evaluation process. In a Notice of Availability for New Starts and Small Starts Policies and Procedures and Requests for Comments in the Federal Register, FTA proposed changing the weights assigned for the project justification criteria for New Starts projects.¹⁸ Specifically, FTA proposes to set the weights at 20 percent each for the mobility, cost-effectiveness, land use, and economic development criteria, and 10 percent each for operating efficiencies and environmental benefits.¹⁹ According to FTA, these changes reflect statutory direction that project justification criteria should be given

¹⁶ [GAO-08-844](#).

¹⁷ 74 Fed. Reg. 4502 (Jan. 26, 2009).

¹⁸ 74 Fed. Reg. 23776 (May 20, 2009).

¹⁹ 74 Fed. Reg. 23776 (May 20, 2009).

“comparable, but not necessarily equal, numerical weight” in calculating the overall project rating.²⁰ FTA is currently soliciting public comments on these proposed changes.

Striking Appropriate Balance between Maintaining a Robust Evaluation Process and Minimizing Complexity Is Challenging

We reported in 2008 that experts and some project sponsors we spoke with generally support FTA’s quantitatively rigorous process for evaluating proposed transit projects but are concerned that the process has become too burdensome and complex, and as noted earlier, may underestimate certain project benefits.²¹ For example, several experts and transportation consultants told us that although it is appropriate to measure the extent to which transit projects create primary and secondary benefits, such as mobility improvements and economic development, it is difficult to quantify all of these projected benefits. Additionally, several project sponsors noted that the complexity of the evaluation process can necessitate hiring consultants to handle the data requests and navigate the application process—which could increase the project’s costs. Our previous reviews of the New Starts program have noted similar concerns from project sponsors. For example, in 2007, we reported that a majority of project sponsors told us that the complexity of the requirements—such as the analysis and modeling required for travel forecasts—creates disincentives for entering the New Starts pipeline.²² Sponsors also said that the expense involved in fulfilling the application requirements, including the costs of hiring additional staff and consultants, discourages agencies with less resources from applying for this funding.

In response to such concerns, FTA has tried to simplify the evaluation process in several ways. For example, as previously mentioned, FTA established the Very Small Starts eligibility category within the Small Starts program for projects less than \$50 million in total cost. This program further simplifies the application requirements in place for the Small Starts program, which funds lower-cost projects, such as bus rapid

²⁰SAFETEA-LU Technical Corrections Act of 2008, Pub. L. No. 110-244, § 201(d), 122 Stat. 1610 (June 6, 2008). For the Small Starts program, FTA proposes to assign the three required project justification criteria (land use, economic development, and cost-effectiveness) equal weights (i.e., one-third for each criterion).

²¹[GAO-08-844](#).

²²GAO, *Public Transportation: Future Demand Is Likely for New Starts and Small Starts Programs, but Improvements Needed to the Small Starts Application Process*, [GAO-07-917](#) (Washington, D.C.: July 27, 2007).

transit and streetcar projects. Additionally, in its New Starts program, FTA no longer rates projects on the operating efficiencies criterion because, according to FTA, operating efficiencies are already sufficiently captured in FTA's cost-effectiveness measures, and the measure did not adequately distinguish among projects. Thus, projects no longer have to submit information on operating efficiencies. Likewise, FTA no longer requires project sponsors to submit information on environmental benefits because it found that the information gathered did not adequately distinguish among projects and that EPA's ambient air quality rating was sufficient. FTA also commissioned a study by Deloitte in June 2006 to review the project development process and identify opportunities for streamlining or simplifying the process.²³ This study identified a number of ways that FTA's project development process could be streamlined, including revising the policy review and issuance cycle to minimize major policy and guidance changes to every 2 years and conducting a human capital assessment to identify skill gaps and opportunities for reallocating resources in order to enhance FTA's ability to review and assist New Starts projects in a timely and efficient manner. According to FTA, the agency has implemented 75 percent of Deloitte's recommendations; some of the other recommendations are on hold pending the upcoming reauthorization of the surface transportation program, including the New Starts program.

Potential Options to Expedite Project Development in the New Starts Program

As part of our ongoing work, we are reviewing existing research, including past GAO reports, analyzing data on the length of time it takes for projects to complete the New Starts process, and interviewing project sponsors, industry stakeholders and consultants, and transportation experts to identify options to expedite project development in the New Starts program. Using these sources, we have preliminarily identified the following options. While each option could help expedite project development, each option has advantages and disadvantages to consider and some options could require legislative changes. In addition, each option would likely require certain trade-offs, namely reducing the level of rigor in the evaluation process in exchange for a more streamlined process. The discussion that follows is not intended to endorse any potential option, but instead to describe some potential options for expediting project development. We will continue to work with FTA and other stakeholders to identify other options as well as examine the merits

²³Deloitte Development, Inc., *New Starts Program Assessment*, Feb. 12, 2007.

and challenges of all identified options for inclusion in our report later this summer.

- **Tailor the New Starts evaluation process to risks posed by the projects:** Project sponsors, consultants, and experts we interviewed suggested that FTA adopt a more risk-based evaluation process for New Starts projects based on the project's costs or complexity, the federal share of the project's costs, or the project sponsor's New Starts experience. For example, FTA could align the level of oversight with the proposed federal share of the project—that is, the greater the financial exposure for the federal government, the greater the level of oversight. Similarly, FTA could reduce or eliminate certain reviews for project sponsors who have successfully developed New Starts projects in the past, while applying greater oversight to project sponsors who have no experience with the New Starts process. We have noted the value in using risk-based approaches to oversight. For example, we have previously reported that assessing risks can help agencies allocate finite resources and help policy makers make informed decisions.²⁴ By adopting a more risk-based approach, FTA could allow select projects to move more quickly through the New Starts process and more efficiently use its scarce resources. However, the trade-off of not applying all evaluation measures to every project is that FTA could miss the opportunity to detect problems early in the project's development.
- **Consider greater use of letters of intent and early systems work agreements:** The linear, phased evaluation process of the New Starts program hampers project sponsors' ability to utilize alternative project delivery methods, such as design-build, according to project sponsors.²⁵ These alternative project delivery methods have the potential to develop a project cheaper and quicker than traditional project delivery methods can. However, project sponsors told us it is difficult to attract private sector interest early enough in the process to use alternative project delivery

²⁴GAO, *Highlights of a Forum Convened by the Comptroller General of the United States: Strengthening the Use of Risk Management Principles in Homeland Security*, [GAO-08-627SP](#) (Washington, D.C.: April 2008).

²⁵Design-build is a project delivery approach where, in contrast to the design-bid-build approach that FTA's project evaluation process is aligned with, the design and construction are contracted out to a single entity. This approach is used to minimize the project risk for an owner and to reduce the delivery schedule by overlapping the design phase and construction phase of a project. Design-bid-build is a project delivery approach in which the agency or owner (e.g., transit operator) contracts with separate entities for the design and construction of a project.

methods because there is no guarantee that the project will ultimately receive federal funding through the New Starts program. The Deloitte study also noted that New Starts project sponsors miss the opportunity to use alternative project delivery methods because of the lack of early commitment of federal funding for the projects. To encourage the private sector involvement needed, project sponsors, consultants, and experts we interviewed suggested that FTA use letters of intent or early systems work agreements. Through a letter of intent, FTA announces its intention to obligate an amount from future available budget authority to a project. A challenge of using letters of intent is that they can be misinterpreted as an obligation of federal funds, when in fact they only signal FTA's intention to obligate future funds should the project meet all New Starts criteria and requirements. In contrast, an early systems work agreement obligates an amount of available budget authority to a project. The challenge of using an early systems work agreement is that FTA can only use these agreements with projects that will be granted an FFGA, thus limiting FTA's ability to use these agreements for projects in the pipeline.

- **Consistently use road maps or similar project schedules:** Project sponsors said that FTA should more consistently use road maps or similar tools to define the project sponsor's and FTA's expectations and responsibilities for moving the project forward. Without establishing these expectations, project sponsors have little information about how long it will take FTA to review its request to move from alternatives analysis to preliminary engineering, for example. This lack of information makes it difficult for the project sponsor to effectively manage the project. Given the benefits of clearly setting expectations, Deloitte recommended that FTA use road maps for all projects. FTA has used road maps for select projects, but the agency does not consistently use them for all projects. A limitation of using road maps is that expected time frames are subject to change—that is, project schedules often change as a project evolves throughout the development process. Furthermore, every project is unique, making it difficult to set a realistic time frame for each phase of development. Consequently, the road maps can provide only rough estimates of expected time frames.
- **Combine two or more project development phases:** Project sponsors and consultants told us that waiting for FTA's approval to enter preliminary engineering, final design, and construction can cause delays. While FTA determines whether a project can advance to the next project development phase, work on the project essentially stops. Project sponsors can advance the project at their own risk, meaning they could have to redo the work if FTA does not subsequently approve an aspect of the project. The amount of time it takes for FTA to determine whether a

project can advance can be significant. For example, one project sponsor told us that FTA's review of its application to advance from alternatives analysis to preliminary engineering took 8 months; about the same amount of time it took the project sponsor to complete alternatives analysis. FTA officials told us the length of time for reviews depends on a number of factors, most importantly the completeness and accuracy of the project sponsor's submissions. To reduce the "start/stop" phenomena project sponsors described, FTA could seek a legislative change to combine two or more of the statutorily required project development phases—for example, combining the preliminary engineering and final design phases. The Deloitte study also recommended that FTA redefine or more clearly define the project phases to more accurately reflect FTA's current requirements and to better accommodate alternative delivery methods.

- **Apply changes only to future projects:** Project sponsors told us that the frequent changes to the New Starts program can result in additional costs and delays as project sponsors are required to redo analyses to reflect the changes. In an attempt to create a process that provides more stability for project sponsors, in May 2006, FTA modified its policy to allow a project that has been approved for entry into final design not be subject to changes in the New Starts policy and guidance.²⁶ However, this policy change does not apply to projects approved for entry into preliminary engineering, which is the New Starts project development phase that has the most requirements for project sponsors and the phase where project sponsors told us that frequent changes to the project by sponsors and to the New Starts process by FTA result in additional costs and delays. Furthermore, another project sponsor noted that new requirements cause delays because each element of a proposed project is interrelated, so changing one requirement can stop momentum on a project. To avoid this rework, some project sponsors, consultants, and experts we interviewed suggested that FTA apply changes only to future projects, not projects currently in preliminary engineering. However, by not applying changes to projects in preliminary engineering, FTA could miss the opportunity to enhance its oversight of these projects.

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.

²⁶This policy would not exempt a project from new statutory or regulatory guidelines, as it is outside FTA's authority to do so.

GAO Contact and Staff Acknowledgments

For further information on this testimony, please contact A. Nicole Clowers, Acting Director, Physical Infrastructure Issues, at (202) 512-2834, or clowersa@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Key contributors to this testimony were Kyle Browning, Gary Guggolz, Raymond Sendejas, and Carrie Wilks.

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