Understanding and Using Federal Legislation and Regulations: Power Through Knowledge
Outline

• Existing New Starts Process
  - Purpose and Environment
  - Steps in the Process
    • Systems Planning
    • Alternatives Analysis
    • Preliminary engineering
  - Ratings
• Simplified Small Starts Process
• SAFETEA-LU changes
• Regulations and Guidance
New Starts Program Goals

• Fund meritorious projects
• Develop reliable information for decision-making on project benefits and costs
• Ensure projects treated equitably nationally
• Facilitate communication between FTA, transit industry and Congress
How FTA Meets Its Goals

• Sound and rigorous management of the program
• Promote - and assist in - the development of reliable information on costs and benefits
• Transparent evaluation process
• Local decisions, project ratings, and funding recommendations are based on the best information available to both the public and decision-makers
The New Starts Environment

315 Projects Authorized

Govt Accounting Office

Office of the Secretary

OMB

White House

Senate Authorizing Majority/Minority

Senate Appropriations Majority/Minority

House Authorizing Majority/Minority

House Appropriations Majority/Minority

Individual Senate and House Members

Press

FTA

Inspector General

Individual Senate and House Members
New Starts Process

Project Development: Typically 6-12 Years

- Alternatives Analysis: 1-2 years
- Preliminary Engineering: 2-3 years
- Final Design: 3-7 years
- Construction: ~100 AA Studies
- Operation: 8 PE Projects
- FTA Approval: 7 FD Projects
- Full Funding Grant Agreement (FFGA): 22 FFGA Projects
New Starts Planning and Project Development Process

**Planning**
- Systems Planning
- Alternatives Analysis
  - Select LPA, MPO Action, Develop Criteria, PMP
  - FTA Decision On Entry into PE

**Preliminary Engineering**
- Preliminary Engineering
  - Complete NEPA Process
  - Refinement of Financial Plan
  - FTA Decision On Entry into Final Design

**Final Design**
- Final Design
  - Commitment of Non-Federal Funding,
    Construction Plans, ROW Acquisition,
    Before-After Data Collection Plan,
    FTA Evaluation for FFGA,
    Begin Negotiations

**Construction**
- Full Funding Grant Agreement
- Construction

Major Development Stage

Decision Point
Key Decisions for Each Phase of Project Development

- Systems planning: needs, policies, priority corridor(s)
- Alternatives analysis: mode and alignment, realistic financial plan, supportive land use
- Preliminary engineering: final scope/cost, completion of NEPA, firm up financial plan and land use
- Final design: construction documents, commitment of funds
- Full Funding Grant Agreement: FTA share, ROD, commitment to pay overruns
- Construction: schedule/budget adherence
- Operations: Before & After study
Planning: Lessons Learned

- Good planning = good decisionmaking
- Pay attention to the early decisions
- Don’t plan to deal with planning issues in PE
- Acknowledge, manage, and minimize risk
- Need for consideration of a wide range of alternatives with consistent policy assumptions
- Need to invest the time and resources to do it right
- FTA should be involved early on and throughout the process
- FTA can add value!
**Preliminary Engineering - What is it?**

- All environmental impacts are identified with adequate provisions for their mitigation.
- All major project elements are designed to a level where no significant uncertainties relative to cost will occur.
- All cost estimating is complete to the level of confidence necessary for the project sponsor to implement the financial plan, including establishing the maximum New Starts amount.
Final Design - What is it?

- Refine project definition and eliminate risks related to design scope
- Prepare bid packages and schedule taking into account market risks
- Commit all non-New Starts funds
- Mitigate any remaining uncertainties (i.e., geotechnical, real estate, utility relocations, freight railroad ROW)
- Adopt project management plans that address contingency and risk management
Full Funding Grant Agreement (FFGA) - What is it?

• Formal Agreement signed by FTA and Grantee, following detailed review by DOT, OMB and Congress
• Agreement on Project Scope, Budget, and Schedule (ROD)
• Terms and Conditions of Federal Participation, including a cap on 5309 funds
• Multi-year Funding Commitment (subject to Congressional Appropriations)
Full Funding Grant Agreement

To receive an FFGA, a project must:

- Be Authorized in Law
- Complete the Planning, Project Development, and NEPA Processes
- Meet Project Readiness Requirements (technical capacity, firm and final cost estimate and funding)
- Receive a “Medium” or higher overall rating
- Receive a “Medium” or higher cost effectiveness rating
- Meet all other Federal Requirements
Construction Requirements

• Work closely with FTA Regional office and PMOC

• Advise FTA immediately if any slippage in schedule or cost increases

• Use contingency and risk management plans to manage cost increases

• Develop recovery plan, if needed
Operations Requirements

• Conduct Before and After study two years after opening
• Submit report within 30 months of opening
The FTA New Starts Evaluation and Rating Framework

Minimum Project Development Requirements:

- Metropolitan Planning and Programming Requirements
- Project Management Technical Capability
- NEPA Approvals
- Other Considerations
Cost Effectiveness Measure

- Cost per unit of benefit equals
  - Cost measure: Annualized incremental capital (federal and local) plus annual operating cost divided by
  - Benefit measure: hours of transportation system user benefits
What’s a “user benefit”

• A measure of changes in travel time which reflects locally-derived values for trip components
• Captures value of the following components
  - In-vehicle time
  - Walk and wait time
  - Number of transfers
  - Modal constants
Cost Effectiveness

- Rating Values:
  - Low: >$29 per hour
  - Medium-low: $23 - $28.99 per hour
  - Medium: $15 - $22.99 per hour
  - Medium-high: $11.50 - $14.99 per hour
  - High: <$11.49 per hour

- Original Medium Low of $25 Based on:
  - National Value of time ($10.00)
  - +25% for Highway Congestion ($2.50)
  - +100% for all other benefits ($12.50)
SAFETEA-LU Small Starts

- Capital for New or Extensions to Fixed Guideway Systems or substantial Bus Corridor Improvements
- Total project cost must be less than $250 million and New Starts Funds must be less than $75 million
- Separate funding category beginning in FY 07
- Streamlined criteria and process
  - Project Justification
    - Cost Effectiveness based on opening year estimates
    - Land Use & Local Economic Development
    - Reliability of cost and ridership estimates
  - Local Financial Commitment
    - Local Share, Capital Finance Plan, Operating Finance Plan but for opening year
SAFETEA-LU’s New Starts Changes

• Ridership/cost estimate incentives – higher Federal match where cost and ridership estimates within 10% range of PE forecasts
• Cost control incentive – grantees keep portion of savings
• New Criteria – reliability of ridership and cost forecasts, economic development
• Before and After” Studies required
SAFETEA-LU Other 5309 Changes

• Contractor Performance Assessment Report
  - FTA annual report on consistency and accuracy of cost and ridership estimates
  - Grantees must consult CPAR in selecting contractors

• Alternatives Analysis funding provided under a new discretionary grant program 5339 ($25M/year)
Public-Private Partnership Pilot Program

• Open to projects that:
  - Do not yet have an FFGA
  - Do not have all financing committed & available yet
  - Participation of private sector partner would help complete financing plan

• Expression of interest (5): Georgia DOT w/ Regional Transit Authority; BART, Raleigh-Durham; Houston Metro; and Dulles Rail Corridor (VA)

• Selection criteria under development
New Starts Policy Guidance

- NEPA interface with New Starts
  - Complete scoping prior to entry into PE
  - Include New Starts information in DEIS/FEIS/ROD
- CEO certification of technical methods – connection between MPO certification reviews and certification in the New Starts process
- Preservation of information for before and after study at entry into PE/FD/FFGA
- Analysis of uncertainties of cost and ridership estimates
- Cap New Starts funding at entry into Final Design
- Cannot use modal constant unless have mode in your area
Metropolitan and Statewide Planning Regulation (23 CFR 450)

- Status of Regulatory Process
  - NPRM issued on June 9, 2006
  - Final rule by January 2007, effective July 2007
- TIPs and STIPs are 4 or 5 year (fiscally constrained)
- Transportation plan/program must “promote consistency” with planned growth and economic development
- Provides for linking planning and NEPA (project must be in plan)
- Must discuss potential environmental mitigation activities (at policy or strategic level – not project)
- Participation Plan required
  - Developed in consultation with interested parties
  - Identifies procedures, strategies, and desired outcomes
Environmental Streamlining (6002)

• Status of Regulatory Process
  - Issued Guidance for comment in June,
  - Issue final guidance later this month
  - Issue changes to 23 CFR 771 next year

• Formalized joint lead agencies

• New scoping requirements (purpose and need, range of alternatives, likely impacts)

• Must come to the table or out

• Statue of limitations after FR Notice
Joint Development Guidance

• SAFETEA-LU added intercity bus and rail stations and terminals

• Status of Guidance Process
  - Issued draft guidance in August
  - Issue final guidance by end of year

• Key features
  - Flexibility, provides examples not standards, does not set revenue sharing basis
  - Provide certification process for leases
  - FTA will focus review on transfer of property - grantee can negotiate terms and conditions - and assuring continuing use and control