LISC
Helping neighbors build communities

Date: May 8, 2015

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

Re: Docket #FTA-2015-0007 Capital Investment Grant Program

Submitted by: Local Initiatives Support Corporation (LISC)

The Local Initiatives Support Corporation (LISC) is pleased to provide comments on the Proposed Interim Policy Guidance on the Federal Transit Administration's (FTA) Capital Investment Grant Program. LISC strongly supports transit-oriented development and applauds FTA's efforts to consider surrounding land uses and development, including the availability of affordable housing, when evaluating new project sites. If you have any questions about our comments, please contact Andrea Ponsor, Policy Director, at (202) 739 9279 or aponsor@lisc.org, or Nicole Barcliff, Senior Policy Officer at (202)739-9276 or nbarcliff@lisc.org.

ABOUT LISC

Established in 1979, LISC is a national non-profit housing and community development organization dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments, as well as technical and management assistance.

With local offices in 30 cities around the country and partnerships with over 60 different organizations serving rural communities, LISC invests approximately $1 billion each year into improving communities with significant challenges. Our work covers a wide range of activities, including housing, economic development, building family income and wealth, education and creating healthy communities. LISC's "Building Sustainable Communities" model involves partnering with local stakeholders to devise comprehensive community revitalization strategies to address housing, education, health, safety and other needs in distressed neighborhoods.

CAPITAL INVESTMENT GRANT RULEMAKING

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

In our capacity as a participant in the planning process and funder of transit oriented development (TOD) and based on our experience with community development and transit oriented planning around the country, we offer the following comments in response to the questions posed by FTA regarding the affordable housing measure of the Land Use ratings.

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

A: The rating system is influencing local planning and is helping to forge cross-sector partnerships, creating a foundation for future equitable planning and investment decisions.

- While it is too soon to fully assess the effectiveness of these ratings and their effect on where stations are located (several projects subject to the new rating system have been in the Capital Investment Grant pipeline for years and had already identified station locations), we believe that the measure is already positively affecting local decision-making. New applicants into the pipeline will be able to take this factor into account from the onset, and plan accordingly. We will continue to monitor this situation and provide feedback.
- The rating *is* influencing local planning. This exercise has spurred local dialogue about the location of stations and the proximity of affordable housing. These conversations have, in some cases, led to cross-sector partnerships with the potential to create a foundation for future equitable planning and investment decisions. Diverse areas including Greater Phoenix, Greater Boston, the Hartford Capital Region and the Twin Cities have established dedicated financing mechanisms to promote affordable housing linked to transit guideway systems and station build out.
- Ongoing collaborative efforts will be useful in complying with the (not yet finalized) July 2013 U.S. Department of Housing and Urban Development Proposed Guidance to implement the Fair Housing Rule (78 FR 43709), which encourages collaboration between the housing and transportation sectors to ensure that diverse communities have access to communities of opportunity.

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

A: Despite the fact that many of the developments being placed-in-service were started prior to the adoption of the final rule and guidance, the Land Use and Economic Development Effects measures have spurred local collaboration to expand affordable housing opportunities within proposed station areas.

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

- We are aware of local conversations and efforts to expand affordable housing opportunities within proposed station areas. Diverse areas including Greater Phoenix, Greater Boston, the Hartford Capital Region and the Twin Cities have established dedicated financing mechanisms to promote affordable housing linked to transit guideway systems and station build out. Below are a few examples of these collaborative efforts:
    - A unique state, local, regional and nonprofit working group serving the Phoenix Metro Area facilitated a dedicated fund to incent, guide and leverage development of equitable TOD areas well served by mass transit. This group has influenced new zoning codes that support transit-accessible, affordable housing in downtown Mesa, and has been able to leverage over $53 million in public and private investment.
    - In the Twin Cities, there are initial discussions around developing inclusionary zoning ordinances in suburban station locations where affordable housing is less prevalent. Building on the success of the Corridors of Opportunity, which was funded with a HUD Sustainable Communities grant, the Partnership for Regional Opportunity is continuing to promote high quality development, including development of affordable housing, through community engagement and alignment of local resources. This group is also exploring funding sources for acquisition opportunities near existing or planned stations. Continuing conversations around the need for affordable housing near new projects and the importance of resident engagement in the planning process may also present opportunities to embed goals around these issues in the long term regional plan for the Twin Cities metropolitan area.
    - Connecticut has established a new $15 million TOD Fund administered via public-private partnership. The fund will provide predevelopment and acquisition financing for residential and mixed-use development within ½ mile radius of stops on the Hartford Line commuter rail and CTfastrak bus rapid transit stops in central Connecticut. Developments will be required to include affordable housing within the residential development.

  While some of these efforts preceded the FTA Final Rule and Guidance, they represent concrete efforts to advance the goals of the affordable housing assessments under Land Use and Economic Development Effects. Having the affordable housing assessment under Land Use and Economic Development Effects will spur more of these conversations and collaborations across the country as new housing and transportation projects are developed.

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

A: With proper guidance from FTA, the burden on affected parties in providing the information for FTA in response to this measure should be minimal. We strongly encourage FTA to:

1. **Maintain the reference to the National Housing Preservation Database, and amend the guidance to (a) reflect that PHAs are one potential data source among many; and (b) list out other sources, with a particular emphasis on state housing finance agencies;**
2. **Allow for self-certification, with FTA conducting random spot-checks for accuracy using HUD- or state-locally maintained data sources; and**
3. **Consider the length of the affordability restriction and include only properties whose restrictions will remain in place beyond the projected opening of the project corridor for purposes of calculating the ratio.**

- Project sponsors engaging in the type of partnerships necessary to advance equitable station-area planning and investment should not face an undue burden in accessing and analyzing the data necessary to respond to this measure. In preparing our joint comment letter during the 2013 rulemaking process one full-time staff member was able to prepare and analyze the relevant data from six complete transit systems (Atlanta, Charlotte, Chicago, Denver, Seattle and Washington, DC) in just a few hours. While our analysis did not include units created through local programs, it has been our experience that extensive data is available through state and local housing entities, such as the state housing finance agency, local government housing departments, and public housing agencies.
- FTA guidance cites the public housing authority (PHA) as the primary source for data on this measure. While the local PHA will be able to provide some data, in many jurisdictions public housing does not constitute the majority of legally binding affordability restricted housing, nor are they the regulatory agency responsible for such units. There were approximately 1.2 million public housing units in the United States as of 2007 (a number that generally does not increase), compared to nearly 2.5 million units created by the low income housing tax credit program from its inception in 1987 through 2012 (an average of 105,000 additional units are placed-in-service through this program every year). State housing finance agencies and local housing departments (which often provide gap funding or other local support) are generally the appropriate points-of-contact for units developed or preserved through this program and inclusionary/incentive zoning. Still other developments are restricted in connection with subsidized mortgages and long term rental subsidies and are monitored directly by the U.S. Department of Housing and Urban Development. The National Housing Preservation Database is also an appropriate data source for a broad range of federal subsidy programs, which can be supplemented by outreach to state and local agencies. Local affordable housing nonprofits and advocates often collect and maintain this data, as well. Therefore, we recommend that FTA maintain the reference to the National Housing Preservation Database, and amend the guidance to (a) reflect that PHAs are one potential data source among many; and (b) list out other sources, with a particular emphasis on state housing finance agencies.
- The requirement that project sponsors provide a letter from the relevant local housing agency or agencies certifying the accuracy of the data could create some minor challenges. Project sponsors may have some difficulty in getting an agency to sign off on a comprehensive dataset if it includes units for which they have no regulatory authority. While the guidance does state that project sponsors may turn in letters from multiple public housing agencies, we recommend that FTA allow for self-certification, with FTA conducting random spot-checks for accuracy using HUD- or state-locally maintained data sources. If FTA must require some form of official certification, we suggest clarifying the guidance to state that multiple letters are acceptable from other sources such as local housing departments and state housing finance agencies. It should be noted that the latter approach could create additional compliance burden for project sponsors.
- Given the long life cycle of transportation projects, in order to offer meaningful access for low-income households it is essential that affordability be retained as long as possible. Accordingly, when evaluating data on legally binding affordable housing restrictions, we urge FTA to consider the length of the affordability restriction and include only properties whose restrictions will remain in place beyond the projected opening of the project corridor for purposes of calculating the ratio. While we appreciate that the Land Use criteria is a snapshot of current conditions and that the Economic Development criteria will evaluate policies and programs that will facilitate future development and preservation of affordable housing, we believe that a development that has currently restricted housing that will soon be unrestricted

should not necessarily be scored as strongly as a development where housing will be restricted for the longer term, even if both developments are in jurisdictions with strong incentives and programs for future development.

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

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

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  - Measurement based on the total number of affordable housing units would disadvantage smaller or less-dense metropolitan areas.
  - Expressing the total number of units as a percentage of the total station-area housing stock would strip the measure of local context. The interim guidance cites an example of a project with a high percentage of affordable units within the corridor receiving a low score if the surrounding county has an even higher density of affordable units, while a project could receive a high score with a lower percentage of station area affordable units if the level in the surrounding county was particularly low. While revising the metric to focus solely on the total percentage of affordable units within station areas would remedy this seeming imbalance (when comparing project sponsors' plans to each other), there are tradeoffs.
  - One of the primary benefits of the current metric is to reward project sponsors that align their projects in a way that best meets the needs of low-income communities. While the first project sponsor in the aforementioned example may reach a relatively high number of affordable units, the project would bypass the communities with higher levels of affordability, and potentially greater transportation accessibility needs. The second project sponsor is aligning the project to where the needs may be greatest, and therefore is deserving of the higher score.
  - We recommend that FTA continue to give project sponsors the option to provide supplemental information. Each location is different and that context is crucial. For example, a system that does a good job of reaching affordable homes overall that seeks to expand into a job corridor with little-to-no housing overall would be expanding opportunity for low-income residents, and could deserve additional consideration under this metric. One method of encouraging project sponsors to provide supplemental information would be to provide examples of the type of information that would merit positive consideration, such as the aforementioned example.
- We appreciate that FTA provided project sponsor data for this metric. While the sample size to-date is insufficient to draw any firm conclusions, that there is a reasonable distribution of high, medium and low scores, both overall and when broken down by jurisdiction size. Therefore, we recommend maintaining current break-points in the short-term, which can be reassessed when there is a more robust dataset.

Thank you again for the opportunity to provide comments on this important measure within the Capital Investment Grant Program. LISC looks forward to working with FTA and its many local partners to continue building and revitalizing healthy, accessible communities of opportunity.