

The New Starts Grant and Affordable Housing

A Roadmap for Austin's Project Connect

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Purpose

This report is intended to provide an overview of the ways in which affordable housing preservation and development impact the Federal Transit Administration's New Starts Grant Process. It was written as a guide for Austin's Project Connect, which is developing a high capacity urban transit project for three corridors: Riverside, Core, and Highland ("Austin New Starts Transit Project"). The information in this memo was derived from FTA's New and Small Starts Evaluation and Rating Process Final Policy Guidance (August 2013),¹ and FTA's Guidelines for Land Use and Economic Development Effects for New Starts and Small Starts Projects (August 2013).²

Introduction

The New Starts Program is a highly competitive federal grant program for capital investments in major, new transit projects. Project Connect will in all likelihood be dependent on New Starts funding for its high capacity urban transit project. One half of a grant applicant's rating comes from its Project Justification score. That score is decided by combining ratings for six criteria. Each of the criteria receives equal weight of 16.66%.

FTA evaluates and rates New Starts grant applications twice: before a project enters its Engineering phase, and again once engineering and design are complete, before coming to a Full Funding Grant Agreement. At both the Engineering and Full Funding stages of the grant review process, FTA assigns applicants a rating of High, Medium, or Low.³ Those ratings correspond to a number of points, which combine to form a project's score for a given criterion.

Of the six criteria, two are heavily influenced by affordable housing concerns: The Land Use Criterion and the Economic Development Effects Criterion. **Overall, the inclusion and preservation of affordable housing along the proposed transit corridor directly impacts one-fifth of the total Project Justification Score.** Affordable housing plays a role

¹ Available at http://www.fta.dot.gov/documents/NS-SS_Final_PolicyGuidance_August_2013.pdf

² Available at http://www.fta.dot.gov/documents/Land_Use_and_EconDev_Guidelines_August_2013.pdf

³ See *Id.* at 31-34.

in other criteria as well. For example, affordable housing considerations have a role to play in the Mobility Improvements and Cost Effectiveness criteria.

A word of caution: the evaluation process is new. Until applications are processed and approved under these new criteria, we will not know for certain precisely how each criterion is evaluated.

I. Affordable Housing Factors in the Land Use Criterion

The rating for the land use criterion is evaluated based on five considerations:

- Existing corridor and station area development
- Existing corridor and station area development character
- Existing station area pedestrian facilities, including access for persons with disabilities
- Existing corridor and station area parking supply
- Proportion of existing “legally binding affordability restricted” housing in the corridor compared to the proportion of legally binding affordability restricted housing in the counties in which the project travels.

Of these, the final consideration is the most relevant to affordable housing. Each applicant is assigned a score based upon the existing legally binding affordability restricted housing in the proposed transit area. **That score comprises 30% of the overall Land Use rating.**

A. Existing Legally Binding Affordability Restricted Housing

A legally binding affordability restriction is defined by the FTA as a lien, deed of trust, or other legal instrument attached to a property and/or housing structure that restricts the cost of housing units to be affordable to households with incomes below 60 percent of the area median income. The definition includes, but is not limited to, state or federally supported public housing, and housing owned by organizations dedicated to providing affordable housing.

An applicant’s rating is determined by comparing two ratios: (a) the percent of existing restricted units within ½-mile radius of all proposed transit project stations, to (b) the percent of existing restricted units in the county through which the project travels. Ratios from 1.5 to 2.24 are considered “medium,” while those at and above 2.5 are rated “high.” Ratios below 1.10 are rated “low.” **Thus, the higher the concentration of existing**

affordable housing in the vicinity of the transit stops proposed along the Austin New Starts Transit Project vis-à-vis Travis County, the better the Project will be rated.

B. Applicability to Project Connect

Currently, within the proposed Highland and Core corridors, very few developments exist with legally binding affordability restrictions. In contrast, in selecting Riverside, Project Connect has chosen an area with a high concentration of existing affordable housing, although most of the housing along the corridor is market rate housing without legally binding rent restrictions. As that area continues to develop over the next few years, it will be important for interested parties to ensure that existing legally binding affordability restricted housing developments are protected. As Project Connect is only two years away from submitting its application, local government entities must act quickly to create more legally binding affordability restricted housing along all three corridors in the project area.

II. Affordable Housing Factors in the Economic Development Criterion

The Economic Development Criterion is evaluated based on three sub-factors:

- Transit-supportive plans and policies;
- Performance impacts of policies; and
- Tools to maintain or increase the share of affordable housing in the project corridor.

Each of these sub-factors is worth one third of the Economic Development Rating. Each sub-factor is assigned a rating on a 5-point scale. **The third sub-factor—focused exclusively on affordable housing—accounts for one-third of the points eligible under the Economic Development Criterion.** The remaining two sub-factors encourage dense, transit-supportive plans and policies that go hand-in-hand with affordable housing development.

A. Tools to maintain or increase the share of affordable housing in the project corridor

FTA defines “affordable housing” as housing affordable over the long-term to renters or owners with incomes below 60 percent of the area median income. For rental housing to qualify, it must be owned by an organization dedicated to providing affordable housing, or

governed by a legally binding restriction requiring the housing or land be used to provide affordable housing.

The following five considerations are involved in FTA's analysis:

- Evaluation of corridor-specific affordable housing needs and supply;
- Plans and policies to preserve and increase affordable housing in the region or corridor;
- Adopted financing tools and strategies targeted at preserving and increasing affordable housing in the region or corridor;
- Evidence of developer activity to preserve and increase affordable housing in the corridor; and
- The extent to which local plans and policies account for long-term affordability and the needs of very- and extremely-low income households in the corridor.

1. Evaluation

Applicants need to evaluate the need for and supply of affordable housing in the project corridor and surrounding region. To do so, applicants must complete a needs assessment, examining both quantitative and qualitative measures of affordability. Metrics may include the ratio of median monthly housing costs to median income (for both renters and owners), or the fraction of households paying more than a given percent of their income for housing. Qualitative methods may evaluate the extent to which people who want to live in the area can afford to do so. Applicants may then set affordability goals or targets for the study area and/or specific subareas.

2. Plans and Policies

Next, applicants must implement plans and policies to preserve and increase affordable housing in the region and corridor. Agencies applying for a Full Funding Grant Agreement must be ready to “demonstrate substantial progress on developing and adopting the required regulatory changes and incentives necessary to promote affordable housing policies in the transit corridors and station areas.”⁴ FTA guidance states that applicants should put policies in place “*before* the transit project is built, when it may be possible to acquire property or apply protections at a lower cost” (emphasis in original).⁵ Applicants should work with local planning agencies and housing and community development

⁴ Federal Transit Administration, GUIDELINES FOR LAND USE AND ECONOMIC DEVELOPMENT EFFECTS FOR NEW STARTS AND SMALL STARTS PROJECTS, 11 (available at http://www.fta.dot.gov/documents/Land_Use_and_EconDev_Guidelines_August_2013.pdf)

⁵ *Id.*, at 28

authorities to document needs and determine policies to implement for both the station areas and the region as a whole. FTA guidance lists examples of such policies, among them:

- Inclusionary zoning;
- Density bonuses;
- Employer assisted housing policies;
- Rent controls or condominium conversion controls;
- Zoning to promote housing diversity, including measures to reduce the disincentive to build smaller units;
- Tenant right of first refusal laws; and
- Affordability covenants

FTA's preference for affordability policies is not unqualified. The guidance notes that plans and policies should be sure to promote private investment, and not discourage the production of new housing.

3. Adopted Financing Tools and Strategies

FTA also reviews the affordable housing financing tools in place in applicant regions.

Example policies include:

- Funding for targeted acquisition, rehabilitation, and development of housing, including direct funding for public and nonprofit organizations, tax credits, and tax abatements;
- Land banking programs;
- Direct assistance to owners and tenants, such as subsidies, weatherization and utilities support programs, and tax abatements;
- Housing trust funds; and
- Targeted tax increment financing and other value capture strategies

4. Evidence of Developer Activity

In addition to examining policies, FTA looks for evidence of the actual provision of housing by private and public developers in the corridor. The guidance directs applicants to work with private developers and organizations to identify existing and new development that includes affordable housing.

5. Long-term Affordability and Needs of the Poor

Finally, FTA considers the extent to which plans and policies account for long-term affordability and the needs of very- and extremely-low income households. Noting the destructive effects of rising land values, and that many affordability restrictions have time limits, FTA directs applicants to ensure that affordable units remain so after FTA's

evaluation. There should be evidence of continuance of legally binding affordability restrictions in the transit corridor over the long-term following the project's opening.

Earning a High Rating

Even at the Engineering stage, the first of FTA's two reviews of each New Starts application, in order to earn a High rating, applicants must have plans and policies already in place that identify and address the current and prospective housing affordability needs along the corridor. FTA lists the following criteria for jurisdictions to receive a High rating in the engineering phase:

- Funding sources, commitments, and “robust financial incentives” should be identified and secured that support affordable housing acquisition, development and/or preservation, including acquisition of land and/or properties intended to be converted to affordable housing.
- Jurisdictions should be in the process of adopting local policies and zoning codes that support affordable housing development in the transit corridor.
- Developers should be actively working in the corridor to secure priority development sites and/or maintaining affordability levels in existing housing units.

The Policy Guidance states that by the second, Full Funding stage review, each of these items should be fully implemented. Thus, it is not enough for Project Connect to merely “be in a process” when it submits its application. To earn a High rating, a comprehensive plan must have been developed and implementation must be under way. Robust financial incentives must be in place along the proposed corridor to support acquisition, rehabilitation and development of affordable housing. Developers must be actively working in the corridor to secure priority development sites and/or maintain affordable levels in existing units. Land must have been banked for future affordable housing development. Tax abatements should be in effect. Subsidies should be being disbursed.

If FTA does not find evidence of this activity—if there is little or no development or preservation activity in the corridor; if plans and policies are merely in development, or fail to address key elements; if financing has not been secured—Project Connect will earn a Low rating, hurting its application's chances for approval. With only two years to go before Project Connect files its New Starts grant application, the City of Austin and Cap Metro need to be working immediately to put these policies in place.

B. Transit Supportive Policies

In addition to evaluating tools that directly maintain or increase affordable housing in the project area, FTA also considers transit-supportive plans and policies. These include growth management, transit-supportive corridor policies, and supportive zoning and policy tools in place to implement transit-supportive policies. Most of these measures are tied to density and zoning policies: FTA wants to ensure that any development near projects it funds supports sufficient density and design characteristics to sustain ridership.

This evaluation consideration does not identify affordable housing policies that should be implemented. Still, there are potential synergies between zoning and development guidelines that are conducive to transit, and policies that promote affordable housing. For example, the creation of a Tax Increment Financing District, a Homestead Preservation District, or a Transit-Oriented Development Fund each have the potential to spur the development of affordable housing, thereby increasing residency and driving ridership with a population of transit-dependent persons.

C. Performance and Impacts of Transit Supportive Plans and Policies

Finally, FTA considers whether regional and station area development policies have supported transit in the past, and are likely to in the future. As with its evaluation of transit supportive policies, FTA does not here consider affordable housing concerns. However, it is likely that the availability of affordable housing would improve Project Connect's score in this area. For example, FTA would likely take into consideration any land banked for affordable housing development—land likely later to be occupied by transit-dependent persons—when it evaluates the potential for transit-supportive development.

III. Other Criteria in which Affordable Housing Plays A Role

A. Mobility Improvements

In evaluating mobility improvements, trips by “transit dependent persons” are worth double those taken by others. FTA allows applicants to estimate mobility improvements using one of two models: FTA's own STOPS model or a local travel-forecasting model. The STOPS model defines transit dependent persons as persons in households that do not own a car. Local forecasting models may define such persons as either living in households that do

not own a car, or persons living in households in the lowest income bracket as defined locally.

As Austin likely has a higher percentage of households who own cars vis-à-vis other markets, it would be advantageous for Project Connect to use a local model that includes low-income households. To the extent that affordable housing policies can either preserve or increase the number of such households in the targeted corridors, such policies can increase Project Connect's overall project rating.

Notably, Project Connect may choose to include a horizon year in its estimate of the number of trips taken—that is, an estimate of not just how many trips will be taken when the project opens, but also the number taken at a future date. Such horizon year estimates make up 50% of an overall mobility improvement estimate. Should Project Connect elect this estimating method, policies that preserve and, especially, increase the amount of affordable housing (and thus the number of transit dependent persons) would be even more advantageous.

B. *Cost Effectiveness*

FTA calculates the cost effectiveness of a project as the annualized capital cost plus annual operations and management costs, divided by the annual number of estimated trips on the project. Certain project enhancements, called “enrichments” are subtracted from the annualized capital cost calculations.

“Enrichments” are improvements to the transit project that are desired by the project sponsor, but are non-integral to the planned functioning of the project. Among the enrichments identified by FTA guidance are several Activity Line Items in the FTA Standard Cost Category worksheet. The cost of those enrichment projects may be excluded from the New Starts cost effectiveness calculation.

One of these line items provides for Joint Development Projects. These projects include: “any income-producing activity with a transit nexus related to a real estate asset in which FTA has an interest.” “Joint Development Projects are commercial, residential, industrial, or

mixed-use developments that are induced by or enhance the effectiveness of transit projects.”⁶ FTA hopes that the credit will encourage applicants to undertake such projects.

Projects that include affordable housing increase ridership and improve the transit-oriented character of the area. They would likely qualify for Joint Development Enrichment credits. Since they improve project scores in other categories, Joint Development Projects that include affordable housing present an extra win-win for Project Connect.

Conclusion

FTA’s New Starts Grant Program has a clear preference for projects that encourage the preservation and development of affordable housing. Those applicants who can demonstrate a commitment to affordable housing—evidenced by not only plans but robust policies that have been implemented—are more likely to have their project approved. With only a few years remaining before Project Connect’s application is evaluated by the FTA, Austin will need to begin adopting policies that promote affordable housing along the transit corridor, and implementing those policies, immediately.

⁶ Federal Transit Administration, NEW AND SMALL STARTS EVALUATION AND RATING PROCESS FINAL POLICY GUIDANCE, 27 (available at http://www.fta.dot.gov/documents/NS-SS_Final_PolicyGuidance_August_2013.pdf)