Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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Chairman

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Sam Graves
Ranking Member

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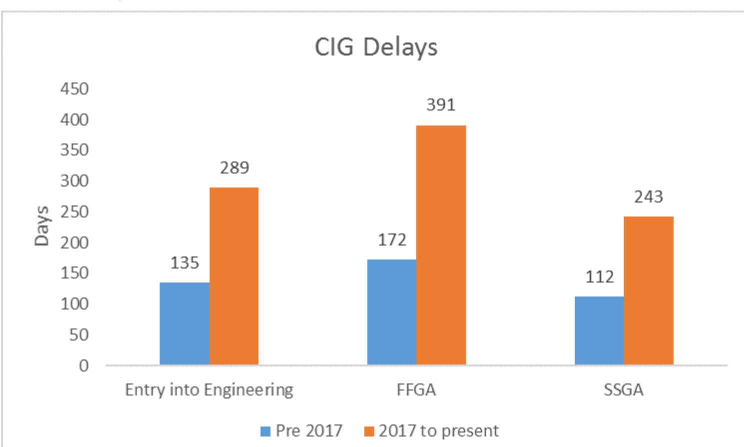
July 16, 2019

TO: Members, Subcommittee on Highways and Transit
FROM: Majority Staff, Subcommittee on Highways and Transit
RE: Oversight of the Federal Transit Administration's Capital Investment Grant Program

Transit industry stakeholders have raised concerns about the implementation of the Capital Investment Grant Program (CIG) in recent years, including the slow pace of decision-making and new policy guidance leading to costlier projects and a higher required local cost share. In order to further examine concerns raised with the Committee and to ensure compliance with the law, Chairman DeFazio and Ranking Member Graves sent a bipartisan letter to the Federal Transit Administration (FTA) and dozens of transit agencies on March 8, 2019, seeking "data that will allow us to conduct a quantitative analysis of the CIG program and its operations under the FAST Act."

The findings below are based on a majority staff review of data provided to the Committee. Results have been consolidated to ensure the identity of individual projects or agencies remain confidential. Analysis of certain project data under the CIG program and the findings, detailed below, corroborate the concerns raised by transit agencies.

Finding 1: Transit agencies face significantly longer timeframes for decision-making by FTA under this Administration



Transit agencies have continued to express frustration over the long wait times for project approvals and the lack of clear and timely communication from FTA on the causes of a delay or a timeline for approval. A review of the data confirms significantly longer approval times for decisions under the CIG program by this Administration. The analysis examined the number of days to get approval into Engineering and to execute Full Funding Grant

Agreements (FFGAs) for New Starts projects and Small Starts Grant Agreements (SSGAs) for Small Smarts projects.[1]

The number of days for approval more than doubled under this administration, demonstrating a signicant delay in project approval. These delays affected projects regardless of their size, indicating that the delays had nothing to do with the complexity of projects.

Finding 2: FTA actions have resulted in at least $845 million in extra costs for transit agencies

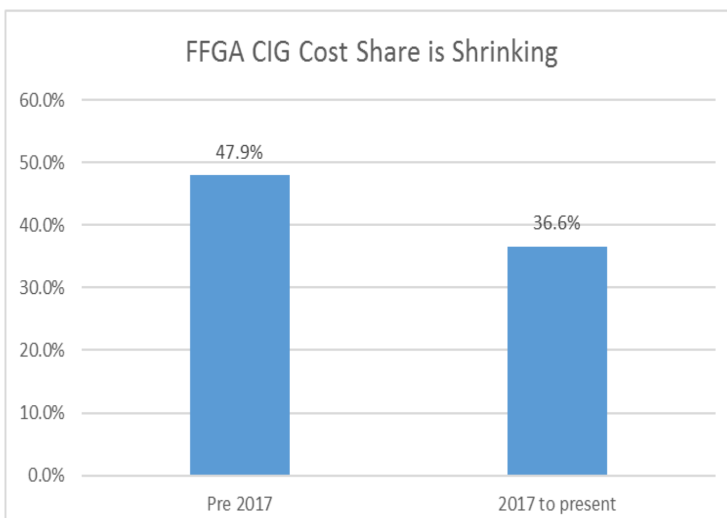
The risk assessment is a third party assessment of the project risks and their effects on the project's timeline and cost estimate. It also calculates the amount of contingency funding that FTA will require the project sponsor to have in order to cover potential cost overruns.

The Committee requested information from transit agencies documenting higher project costs resulting from changes in the risk assessment process and delays in approving projects, and reviewed aggregated data provided by a subset of transit agencies willing to report data. Changing the probability threshold in the risk assessment process from 50 percent to 65 percent added an additional $650 million to total project costs for these projects. In addition, the data also revealed $195 million in additional project costs from delays in the approval process.

In total, the data revealed approximately $845 million in additional project costs created unnecessarily by FTA actions. These additional costs were generally covered by local dollars, forcing local governments to scramble to pay for federal inaction. The identified cost overruns do not represent costs for all agencies, only a subset from those willing to report them, and therefore is an incomplete figure.

Finding 3: The federal cost share for New Starts projects is shrinking

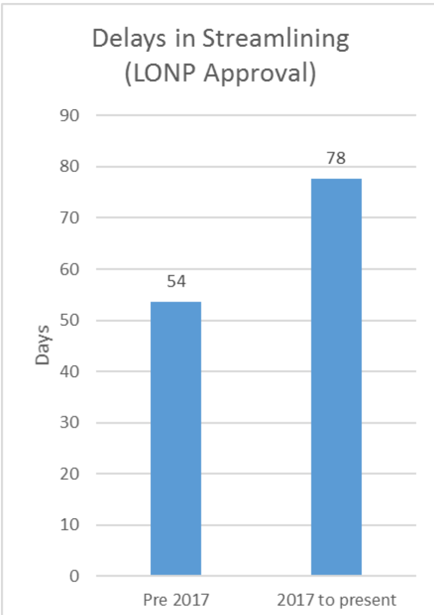
The Committee has also been made aware that transit agencies have felt pressured by FTA staff to seek lower federal shares in order to be approved for a CIG grant. The data provided demonstrates the effect of this pressure; **the CIG cost share for New Start projects has dropped over 10 percent in the last two years**. The data reveals that currently, the average CIG cost share for New Starts projects is 36.6 percent. This is below the arbitrary 40 percent cap that FTA has unofficially communicated to transit agencies should be their cost share goal. This unofficial



[1] Full Funding Grant Agreement, (FFGA) is a multiyear agreement between the federal government and a transit agency that establishes the terms and conditions for federal financial participation, including the maximum amount of federal funding that is committed. A Small Starts Grant Agreement (SSGA), is similar to an FFGA but for a transit project seeking less than $100 million in a CIG grant and typically commits the funding in a single year.

policy is directly contrary to 49 U.S.C. § 5309(l)(5), which states: "[n]othing in this section [49 U.S.C. § 5309] shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost."

Finding 4: Project sponsors are waiting longer for approval to use streamlining tools



CIG projects move through a lengthy and strenuous process. Upon nearing final project approval, project sponsors may request a Letter of No Prejudice (LONP) to allow them to begin work before final approval on the most time sensitive components of the project. LONPs can lead to significant cost savings and may reduce the potential for schedule delays later in the project.

LONPs are not a commitment of funds, but a cost saving measure and streamlining tool. Given the importance the Administration has placed on streamlining project approvals, expediting LONPs would be logical. **However, committee data shows that the number of days required to approve a LONP rose by 44 percent in the current Administration.**

Finding 5: Transit agencies and FTA are working from different timelines

A comparison of the data FTA submitted and the data transit agencies submitted revealed large disparities in terms of timelines in the Project Development phase. **The dates provided by FTA and transit agencies matched as little as 39 percent of the time.**

The data shows that FTA and project sponsors are frequently not in agreement on the date a project moves from one phase to the next. This finding raises concerns about a lack of coordination, understanding, and bureaucratic complexities in the CIG program. This finding also supports calls for a CIG program dashboard.