November 16, 2026

Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590-0001

Submitted via regulations.gov in Docket No. FTA-2026-0331

Re: Notice of Availability of Proposed Policy Guidance for the Capital Investment Grants ("CIG") Program (Docket No. FTA-2026-0331)

The City of Chicago and undersigned coalition of local governments ("Local Governments") submit this comment in response to the October 1, 2026 Notice of Availability of Proposed Policy Guidance for the Capital Investment Grants ("CIG") Program by the Federal Transit Administration ("FTA") of the Department of Transportation ("DOT"). *See* 91 Fed. Reg. 62,586 (Oct. 1, 2026), Docket No. FTA-2026-0331. The Local Governments request that the FTA reconsider the Proposed Guidance's funding preference for CIG projects in communities with high birth and marriage rates, as well as its refusal to allow projects already in the CIG pipeline to remain under existing guidance.

Millions of Americans across the country rely every day on CIG-funded transit systems—including heavy, light, and commuter rail and bus rapid transit—to access work, education, and essential services.[1] Investment in transit systems fosters economic growth, increased access to opportunity, and reduced emissions and congestion.[2]

Throughout the CIG program's history, local governments have leveraged CIG funding to implement major expansions of their public-transit systems.[3] CIG-funded projects are, by design, large and capital-intensive undertakings that local budgets alone cannot bear. By using CIG as the foundation for other funding sources, localities unlock transit projects at scales that would not be possible without this federal cornerstone.

In a sharp departure from the existing grant criteria, the Proposed Guidance would increase the available funding for a proposed New Starts or Core Capacity project if that project's transit corridor has birth and marriage rates equal to or higher than the national average. FTA does not meaningfully justify this proposal in its Notice and fails to explain how it would further the aims of the CIG program. Nor did DOT offer any justification when it first announced its intent to tie transit funding to communities' birth and marriage rates, in a memo released on January 29, 2025.[4] But the Local Governments are concerned that DOT's policy is part and

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[1] Fed. Transit Admin., *Annual Report on Funding Recommendations: Fiscal Year 2027, Capital Investment Grants Program and Expedited Project Delivery Pilot Program* 1 (Apr. 2026).

[2] Am. Pub. Transp. Ass'n, *Economic Impact of Public Transportation Investment* (Feb. 2026), https://www.apta.com/wp-content/uploads/2026/03/APTA-Economic-Impact-of-Public-Transportation-022026.pdf.

[3] Fed. Transit Admin., *supra* note 1.

[4] Dep't of Transp., DOT 2100.7, *Ensuring Reliance Upon Sound Economic Analysis in Department of Transportation Policies, Programs, and Activities* (Jan. 29, 2025).

parcel of its shift away from expanding transit options for the Nation's historically disadvantaged communities most in need of assistance.[5]

Communities with high birth and marriage rates tend to be wealthier, whiter, less densely developed, have higher rates of car access and usage, and have lower proximity to traffic and travel burden.[6] Though the Proposed Guidance awards only bonuses, not penalties, to a project's federal grant share based on demographic factors, the reality of limited transit funding means that FTA's new methodology would effectively redistribute the pool of CIG resources towards communities less likely to use transit, while reducing the viability of projects in other communities. For this reason, the policy "would likely deprive historically underfunded urban neighborhoods of the funding necessary to support a diversity of transportation options."[7] FTA should aim to increase public-transit options for car-centric communities, but not at the absolute expense of funding for communities who regularly use and rely upon transit, as well as communities with greater transportation needs overall. The Proposed Guidance fails to fully account for this need and threatens to reinforce existing inequities.

In a public statement, DOT defended the policy as prioritizing projects with "high ridership" that "align with where communities and families are actually growing." [8] Setting aside that this rationale appears nowhere in the actual Notice or Proposed Guidance, FTA's proposal accomplishes neither of those apparent goals.

First, it prioritizes regions with *low* ridership, at the expense of those with high ridership. Research has shown that "[i]n terms of ridership, fixed-guideway transit modes" like those CIG funds "are most effective in high density urban corridors," many of which have existing transit systems in need of expansion or improvement.[9] The Local Governments' experience with the

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[5] Dep't of Transp., *U.S. Transportation Secretary Sean Duffy Takes Action to Rescind "Woke" DEI Policies and Advance President Trump's Economic Agenda* (Jan. 29, 2025), https://www.transportation.gov/briefing-room/us-transportation-secretary-sean-duffy-takes-action-rescind-woke-dei-policies-and.

[6] Yonah Freemark & Lindiwe Rennert, *DOT's Plan to Distribute Funding by Birth and Marriage Rates Would Leave Communities Most In Need Behind*, Urb. Inst. (Feb. 7, 2025), https://www.urban.org/urban-wire/dots-plan-distribute-funding-birth-and-marriage-rates-would-leave-communities-most-need?_sp=9684ef92-1536-4de4-804b-6b72c7093c80.1793114404930; Jesus M. Barajas et al., *Shifting Priorities from Equity to Exclusion: Investigating US Transportation Policy Changes in the Anti-DEI Era*, Findings (Mar. 22, 2025), https://doi.org/10.32866/001c.132484; Marcella Kaplan et al., *Analysis of Marriage and Birth Rates as a Means for Distributing Transportation Funding*, Findings (Dec. 19, 2025), https://doi.org/10.32866/001c.154164.

[7] Freemark & Rennert, *supra* note 6.

[8] Sam Ogozalek, *Trump Administration Unveils Plan to Tie High Birth and Marriage Rates to Transit Funding*, Politico (Oct. 6, 2026), https://www.politico.com/news/2026/10/06/babies-marriage-transit-funding-trump-01107399.

[9] William J. Mallett, Cong. Rsch. Serv., IN12748, *Department of Transportation's "Family Friendly" Policy and Public Transit Project Funding* 2 (Oct. 15, 2026); *see* Jeremy Mattson, *Relationships Between Density, Transit, and Household Expenditures in Small Urban Areas*, 8 Transp. Rsch. Interdisciplinary Perspectives (2020), https://doi.org/10.1016/j.trip.2020.100260.

CIG program confirms that investing in these areas can have compounding benefits, resulting in a more efficient use of CIG funds.[10]

Conversely, redistributing funds to communities with higher birth and marriage rates—which, again, tend to have higher levels of car usage and lower densities—would unduly favor low-ridership transit systems with higher net costs.[11] If favorable demographics can mask a project's weaknesses in other Project Justification Criteria, FTA risks investing in less cost-effective, impactful projects without any clear corresponding benefit.[12] This could not only threaten the Local Governments' own current and future projects, but misallocate valuable taxpayer funds in a way that fails to serve the Nation's best collective interest. FTA's unilateral preference for high-birth-, high-marriage-rate communities fails to account for this "important aspect of the problem."[13]

Take Cook County, Illinois as an example. A study by the Urban Institute found that Cook County "neighborhoods with a high share of commuters who travel by walking, biking, or taking transit to work—mostly in Chicago—would be least likely to receive federal funding if preference went to neighborhoods with high marriage and birth rates."[14] Further, high-birth- and high-marriage-rate tracts in the county were higher-income and whiter, while low-birth- and low-marriage-rate tracts were more likely to be impoverished and Black or Hispanic.[15] Reducing future CIG projects' relative viability in the latter areas would only entrench a long history of racial and socioeconomic segregation that has cost the region billions in lost income and GDP.[16]

Second, to the extent the Proposed Guidance seeks to "align with where communities and families are actually growing,"[17] birth and marriage rates are a poor proxy for that aim. If FTA wanted to fund growing communities, it could simply rely on population data. Instead, the Proposed Guidance relies on a combination of birth and marriage rates, which fails to account for other components of population growth, including death rates and net migration.[18] Nor does FTA's approach account for areas where transit needs are high but birth and marriage rates low,

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[10] *See* Erick Guerra & Robert Cervero, *Cost of a Ride: The Effects of Densities on Fixed-Guideway Transit Ridership and Costs*, 77 J. Am. Planning Ass'n 267 (2011), https://doi.org/10.1080/01944363.2011.589767.

[11] *Id.*

[12] *See* Mallett, *supra* note 9, at 2.

[13] *Motor Vehicle Mfrs. Ass'n of United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

[14] Freemark & Rennert, *supra* note 6.

[15] *Id.*

[16] *See* Anton Rozhkov et al., *Tackling Transportation Inequality through Unveiling Chicago's Transit Deserts and Vulnerable Communities*, 151 J. Urb. Planning & Dev. (2025), https://doi.org/10.1061/JUPDDM.UPENG-5499; Metro. Planning Council, *The Cost of Segregation* 4 (Mar. 2017), https://metroplanning.org/wp-content/uploads/2024/01/cost-of-segregation.pdf.

[17] Ogozalek, *supra* note 8.

[18] *See* U.S. Census Bureau, *Methodology for the United States Population Estimates: Vintage 2025* at 1 (Jan. 2026), https://www2.census.gov/programs-surveys/popest/technical-documentation/methodology/2020-2025/methods-statement-v2025.pdf.

like communities with large student populations.[19] And given that only birth rate directly influences future population growth, while marriage rate is at best a partial determinant of birth rate, FTA fails to explain why both factors are independently weighted in FTA's proposed percentage-share calculation.[20] Again, FTA does not answer these questions in its Notice or otherwise explain the reasoning behind its proposed birth-and-marriage-rate preference. Perhaps rewarding jurisdictions for their high birth and marriage rates promotes FTA's separate social-policy (or political) goals,[21] but Congress did not authorize the agency to deploy CIG funds for collateral ends unrelated to the program's statutory purpose—improving transit access for all Americans.[22]

The Proposed Guidance's use of birth and marriage rates is not a coherent or sensible method for distributing CIG funding. FTA proposes to determine birth rate based on nonexistent American Community Survey (ACS) data: the ACS measures only fertility rates, which are distinct from birth rates as defined in the Proposed Guidance.[23] FTA also proposes to provide additional funding to CIG projects in areas with higher marriage rates for people 15 years and older.[24] This would create an unjustifiable policy of advantaging States that have lower marriage age requirements. Neither of these factors are in any way related to public-transportation policy or service, or contemplated by CIG's authorizing statute.

More broadly, the Local Governments are concerned that the Proposed Guidance represents the first step in a broader implementation of DOT's proposed policy to prioritize birth and marriage rates in funding decisions across the board. For the reasons stated above, such a policy would not be a sound use of scarce federal transportation dollars—dollars that the Local Governments rely on to maintain critical infrastructure for millions of Americans.

Finally, the Proposed Guidance's abrupt revision of CIG funding criteria and refusal to grandfather in-progress projects fails to account for jurisdictions' "serious reliance interests" in existing program guidance.[25] It threatens to upset numerous existing projects that have not yet reached the Engineering stage, many of which have been in the federal pipeline for years and devoted significant resources to planning around FTA's existing framework.[26] For instance, the City of Portland, Oregon and City of Columbus, Ohio both stand to benefit from in-progress CIG projects. They have both made consequential planning, financing, and contracting decisions in

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[19] *See* Joseph Womble, *Birth and Marriage Rates Have Nothing to Do with Funding Transit*, Transp. for Am. (Oct. 28, 2026), https://t4america.org/2026/10/28/birth-and-marriage-rates-have-nothing-to-do-with-funding-transit.

[20] U.S. Census Bureau, *supra* note 18, at 1; John Bongaarts, *Modeling the Fertility Impact of the Proximate Determinants: Time for a Tune-Up*, 33 Demographic Rsch. 535 (2015), https://doi.org/10.4054/DemRes.2015.33.19.

[21] *See* Barajas et al., *supra* note 6 (analyzing political affiliations of areas expected to benefit from DOT's policy).

[22] *See* 49 U.S.C. § 5301.

[23] Fed. Transit Admin, *Capital Investment Grants Proposed Policy Guidance* 17 (Oct. 1, 2026) (stating that average birth rates are calculated using American Community Survey (ACS) data); *see* U.S. Census Bureau, *About Fertility*, Census.gov (Apr. 2, 2026), https://www.census.gov/topics/health/fertility/about.html.

[24] Fed. Transit Admin, *supra* note 23, at 17.

[25] *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

[26] Fed. Transit Admin., *Capital Investment Grants (CIG) Dashboard* (Sept. 10, 2026), https://www.transit.dot.gov/sites/fta.dot.gov/files/2026-09/CIG-Public-Dashboard-09-11-2026.pdf.

reliance on FTA's existing guidance. Changing the rating criteria under their feet would impose additional costs and delay and could destabilize other funding sources, potentially threatening the viability of projects that would address substantial growth, mobility, and opportunity gaps in their communities.

For these reasons, the Local Governments respectfully request that FTA withdraw the portion of the Proposed Guidance tying CIG projects' allowable federal-funding share to local birth and marriage rates, and allow projects already in the CIG pipeline to elect to continue under existing guidance.

Respectfully,

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City of Los Angeles, California

Martin Luther King Jr. County, Washington

City of Minneapolis, Minnesota

City of New Haven, Connecticut

City of Portland, Oregon

City of Seattle, Washington

City of Tucson, Arizona