FTA TRANSIT ASSET MANAGEMENT (TAM) NOTICE OF PROPOSED RULEMAKING (NPRM) LISTENING SESSION OCTOBER 29, 2015 WESTIN DENVER DOWNTOWN DENVER, COLORADO

John Giorgis, FTA, welcomed participants to the listening session and gave a brief overview of the Notice of Proposed Rulemaking (NPRM) process. He said FTA reviewed comments submitted in response to the Advanced Notice of Proposed Rulemaking (ANPRM) on both the safety program and the new requirements for Transit Asset Management (TAM) under MAP-21.

Giorgis then described the purpose of the meeting. The session, he said, was not designed to be a public hearing, but rather a forum for FTA to go over the NPRM section-by-section and answer questions for clarification.

He announced that the session would be recorded and submitted as part of the official docket on the rulemaking.

In the NPRM, FTA is proposing that transit providers receiving funds from FTA, he said, must have a TAM Plan. Transit asset management is a business model that uses the condition of assets to "guide the optimal prioritization of funding at transit properties to keep transit networks in a State of Good Repair (SGR)."

An FTA report released in 2013 (based on 2010 data) revealed that an estimated $85.9 billion would be needed to bring the nation's transit system into a state of good repair. The government is facing fiscal constraints—and so are state and local governments.

"TAM is designed to be a business 'Best Practice' that will help us prioritize the best we can with resources available in a fiscally constrained environment," Giorgis said.

The proposed rule fits into a broader performance management framework envisioned by MAP-21 across all modes of surface transportation. FTA has undertaken two major efforts to address the performance-based requirements: The National Public Transportation Safety Plan will propose safety performance measures that transit providers would need to set targets on in their Transit Agency Safety Plans. FTA's TAM and FTA's TAM rule will propose SGR measures that transit providers would need to set targets on.

The TAM NPRM opened for comment September 30, 2015, and the final rule is expected by next summer.

The proposed rule includes five main sections: General Provisions, TAM System, TAM Plans, Performance Management and Recordkeeping and Reporting Requirements.

A. General Provisions

The main purpose of developing an asset management system is to help transit agencies achieve and maintain a SGR for the nation's public transportation system, Giorgis said.

B. National Transit Asset Management System

The five pillars of asset management envisioned by MAP-21 requires FTA to do the following:

- Define SGR
- Require that TAM Plans be developed by all recipients and subrecipients, including asset inventory and investment prioritization
- Establish SGR performance measures against which all grant recipients will set targets
- Report data to the NTD
- Receive Technical Assistance.

IN the NPRM, FTA proposed a definition of state of good repair to mean "condition in which a capital asset is able to operate at a full level of performance." This means that an asset must be able to perform its designed function, must not pose a known unacceptable safety risk and must have met or recovered its lifecycle investment.

C. Transit Asset Management Plans

Giorgis said that all providers who are recipients or subrecipients of Federal financial assistance under 49 U.S.C. Chapter 53 must submit TAM Plans. FTA tailored its TAM Plan requirements to providers based on whether they fall under Tier I or Tier II.

Tier I agencies would be transit systems that operate rail or have over 100 vehicles in peak revenue service.

Tier II providers do not operate rail, have 100 or less vehicles in peak revenue services or exclusively receive Federal funds from Section 5310 or Section 5311 programs, or Native American tribes.

Proposed TAM Plan Elements

Inventory of Capital Assets
All Plans must include a listing of all capital assets that transit providers own, operate or manage. Providers may use existing inventories already collected and include assets acquired without FTA funds.

Inventory by Categories and Class
FTA proposed four main overarching asset categories: Rolling Stock, Facilities, Infrastructure and Equipment. The purpose of the asset inventory, he said, is to start "informing your management and stakeholders what assets you have, what condition they are in and to inform investment prioritization."

Condition Assessment
Condition assessment is a rating of the inventoried assets. What condition are assets in? Good? Fair? "Rating should be done at the level of detail that is sufficient for you to monitor and predict the performance of assets in your inventory," Giorgis said. They could be collected at the individual level or together for all assets in a given asset class.

Decision Support Tools

Decision support tools could be viewed as a process or actual tool that supports transit providers in developing the investment prioritization. The tool does not have to be a software program. "Identify what process or tools work for you," Giorgis said.

Investment Prioritization

TAM Plans must include a list of investments providers are planning to make for their system. The TAM Plan must include a ranked listing of proposed projects and programs by the year the transit agency plans to implement them. While prioritizing investments, providers should consider any identified unacceptable safety risks and accessibility requirements "that may kick in as a result of the decision to replace or rehab an asset," he said.

TAM and SGR Policy

An SGR policy describes the goals and policies of a transit provider's TAM Plan while strategies consists of actions that support implementation of a TAM policy.

Implementation Strategy

Implementation strategies focus on actions the transit provider will take over the course of the year to achieve their TAM policies.

List of Key Annual Activities

Providers will describe actions needed to implement TAM Plans for each year such as software development, coordination between maintenance and finance offices.

Identification of Resources

Providers must identify resources they will be needed to achieve the objective of the plan. How much money, for instance, will it take to achieve SGR? How much staff time will be involved to achieve TAM goals?

Evaluation Plan

Transit providers must also describe how TAM activities will be monitored, evaluated and updated to ensure the continuous improvement of TAM practices.

Plan Responsibility

Each transit provider must designate an Accountable Executive who will have the authority of approving and implementing TAM Plans. Tier I providers must develop their own TAM Plan, while Tier II providers may participate in a Group Plan or opt out and develop their own TAM Plan.

Group Plans

FTA proposed a Group TAM Plan option to reduce the burden of compliance on smaller providers. Group Plans must be compiled by a sponsor—generally the state DOT, or designated Section 5307 or Section 5310 program recipients. Tier II providers can participate in a single Group Plan or may choose to opt out and develop their own TAM Plans.

"If you are a rural subrecipient serving multiple states you can participate in one state or the other's group plan," he said. "If you are an Indian tribe receiving funds from the Tribal transit program and you are also receiving funds as a subrecipient to the state DOT you may do a plan on your own or participate in a Group Plan for the state."

The bottom line, he said, is that FTA wants every transit provider covered by "one and only one asset management plan."

TAM Plan Timeframes

Plans must be updated at least every 4 years, he said. Initial TAM Plans must be completed no later than 2 years after the effective date.

QUESTIONS

Charles Carr, Mississippi DOT, asked how his agency can reconcile the various conditions measures. Urban providers may require the use of one level of condition standards while the rural providers may require the use of a different one. "You have folks operating within proximity of each other who are using different condition measures," he said.

Giorgis explained that FTA is not proposing a uniform system for measuring conditions. The agency is providing flexibility for "reasonable measures of conditions" within an asset management plan. "FTA is proposing a SGR performance measure that may form a basis of consistent language to talk across systems based on those measures, even though those measures do not need to be the conditions measures you use in your asset inventory," Girogis said.

Charles Carr, Mississippi DOT, said his agency has maintained capital replacement plans for several subrecipients based on "end of useful life" criteria. Can his agency still rely on that criteria to help prioritize replacement schedules?

Giorgis said that FTA has a number of requirements for minimum useful life based on capital depreciation of assets to ensure the federal government is getting value for its funding. "But that will not necessarily be the basis that you may want to (use to) prioritize investment," he said. Carr's agency may own an FTA-funded 40-foot bus with a 12-year minimum useful life and, at the end of 12 years, decide the bus could last another couple of years before it needs to be replaced. Giorgis said that most agencies are operating largely off minimum useful life measures. "The asset management plan we are proposing," he said, "encourages people to think strategically about what is the true useful life we can get out of the asset against the other funding needs we have for replacing assets that may be in worst condition than something that just reached minimum useful life."

Eric Romber, Montana DOT, said that many of his agency's subrecipients are small and either rent buildings or are given space by their local governments. Do those assets need to be part of the TAM Plan?

Giorgis said that because buildings are critical elements necessary to deliver services, FTA proposed that the agency would have to, at minimum, include buildings in the asset inventory. The agency may want to indicate in the inventory that the asset is leased and that the leasing contract requires the asset to be maintained with a minimum level of safety and in a suitable condition. "It may be an asset that never appears in your investment prioritization because it doesn't have to be replaced," Giorgis said. "But nonetheless you have to at least inventory it and identify that this is an asset that is supporting (your) transit service."

Jeff Sanders, Colorado DOT, said that his agency provides funding for several Section 5311 and Section 5310 program providers. If the state DOT were to sponsor a group TAM Plan, would FTA expect the agency to do two of them "or could we throw them all in the same bucket?"

Giorgis said that Sanders' agency has discretion to do what makes the most sense. Having separate TAM Plans may make sense because subrecipients in each of the programs work in different operating environments and have different types of assets. "But you have discretion there," he said, "since we know there is overlap between the programs as well."

Jeff Sanders, Colorado DOT, said that one aspect of the TAM Plan is to include an investment list for the upcoming four years. His agency works with 40 Section 5311 program providers. "That's several hundreds of assets," he said. Should his agency be prioritizing the assets collectively as a group?

Giorgis said FTA is aware that there may be 100 subrecipients under the Section 5311 program, but state DOTs already have much of the needed information. "This is creating a systematic framework for some things you are probably doing already," he said, "upping the formality of what we are asking you to do, injecting a little more thought into the process than perhaps you have right now."

Another participant said that a 1995 mini-van used by a rural agency comes up on the list every year. Every year the rural agency is encouraged to write a grant to replace the mini-van but the offer is declined because the rural provider doesn't want to come up with the 20% match. "They defer and say 'No thanks,'" he said. "We can make great Plans but often times those Plans aren't going to be followed."

Giorgis encouraged him to submit his comments to the docket. He pointed out that even a Group Plan at the state level needs to take into account other sources of funding beyond Section 5311 funds and state DOT funds. Giorgis said FTA is looking for a strategic approach to bring transit systems into SGR. Operating a 20-year-old mini-van bears consequences for that transit system "whether it's the maintenance cost of taking the mini-van to the shop monthly or its service reliability," he said.

D. Performance Measurement

FTA proposed four SGR performance measures—one for each asset class. The proposal includes an age-based measure for Rolling Stock, based on the percentage of vehicles that have met or exceeded their useful life benchmark (ULB). FTA also proposed a condition-based approach for facilities, a performance-based approach for infrastructure and an age-related approach for equipment.

The ULB, Giorgis explained, differs from the minimum useful life requirements under FTA's grant programs. FTA for instance, established a 12 year useful-life minimum for a federally funded 40-foot bus. The ULB will be at a maximum level, taking into account the operating environment and maintenance practices.

Targets

Giorgis said annual targets must be established for each asset class. Targets should be supported by data based on the most recent conditions available and take into account the provider's financial situation. Targets for Group Plans apply to the group as a whole. Targets must be reported annually to the NTD.

QUESTIONS

Kristin Haar, Iowa DOT, asked whether the useful life benchmark has to be greater than the minimum useful life.

Giorgis said that the useful life benchmark does not have to be be greater than the minimum useful life. However, an asset with a ULB that is less than the minimum useful life will only be eligible for FTA funds for replacement once it has met the minimum useful life.
A participant asked whether his agency should do performance targets for each category within the class.

Giorgis corrected him by saying that the classes belong within the categories. He added that the proposal requires agencies to have a separate target for each class of vehicles within the revenue vehicle category. Agencies putting together a statewide Group Plan, for instance, will have to set separate targets for full size buses, cutaways, mini vans and automobiles.

Vincent Bruscas, Everett Transit, said his agency operates a multi-modal station—a 50 year-old building, with 15-year old elevators and 20-year old HVACs. "Do I have three separate classes?" he asked.

Giorgis said FTA views buildings as a whole and is not proposing agencies to set separate targets for elevators, escalators and HVACs—all of which have much shorter replacement cycles. "Whole buildings would be subject to targets," he said.

Another participant asked if agencies need to include their state facilities in the TAM Plan.

Giorgis said the targets would be weighted by the percent of capital responsibility. "If you are merely leasing the facility and have no capital contribution to it," he pointed out, "you won't have to set targets for it."

Jeff Sanders, Colorado DOT, pointed out that his agency has traditionally been a "pass through grants transit provider," but it recently purchased 13 regional buses with state funding. If the buses were purchased with FTA funding, the agency would have to sponsor a Group TAM Plan and prepare a TAM Plan for its own vehicles. Does the fact that the vehicles were purchased with state funding matter?

Giorgis encouraged Sanders to submit his comment to the docket. "We did not consider the situation of a state DOT that is operating a completely state-funded transit service," he said.

A participant said his agency has a number of Section 5311 program recipients who have received vehicle contributions from counties or cities. The vehicles were not purchased with FTA funds, but they rely on FTA funding to maintain their operations. Should these vehicles be accounted for in a TAM Plan?

Giorgis said that as long as the Section 5311 subrecipient has one FTA-funded vehicle, either capital or operating, all vehicles for their operation need to be included in a TAM Plan and in the targets. Asset management is carried out on a system-wide basis for any system participating in FTA's funding program. "It's difficult to do asset management effectively when you are segregating systems by funding sources," he said. "You need to look at your whole system, that's the logic behind it."

The same participant asked whether mid-life rehab or overhauls should be factored into condition assessments.

Giorgis said mid-life rehab and overhauls should be factored into condition assessments, "especially in the asset inventory." Another factor to be considered is whether lifecycle maintenance needs for assets are being met. "That's often an area of lifecycle maintenance that tends to get skimped on when funding gets tight as it often does," he said.

Suzanne O'Neil, TransitPlus, asked what happens when vehicles are purchased and operated with state funds but the staff in the transit unit are supported through FTA funds.

Giorgis suggested O'Neil submit that question to the docket and be specific about the circumstances of where the funding is going, who is being funded and whether services rendered should be exempt from the requirements.

E. Recordkeeping and Reporting Requirements

Annual NTD Reporting Requirements

Every recipient, Giorgis said, will have to report performance targets for the next fiscal year, describe condition of the assets and provide a narrative report detailing changes in condition and progress toward targets.

Recordkeeping requirements

Transit systems must maintain records supporting TAM Plans and share them with State and Metropolitan Planning Organizations (MPO).

Illustration of TAM Timelines

Initial targets for the performance measures will have to be set within three months after the final rule is issued. The first SGR performance target revision must take place one year after the final rule is issued. The first TAM Plan will be due two years after the final rule is issued. Transit providers will have to submit to NTD a report on their assets' conditions within four months from the end of the Fiscal Year. The first narrative report will be due three years after the final rule is issued.

Certification

TAM Plans are self-certified by the Accountable Executive. FTA will update certification and assurances to reflect TAM Plan requirements.

QUESTIONS

A participant asked what effect missing targets would have on the state management reviews?

Giorgis said that updates to the state management reviews process "are to be determined and will come out after the final rule." As far as FTA's TAM Plan process, he said, Congress made it clear there would be no consequences for missing targets. “FTA wants to encourage our recipients to be aggressive about setting targets because the goal is (to form) a partnership between the states, transit systems and FTA (in which) all are pushing towards SGR,” Giorgis said. “We don’t want set up a system where we say, ‘Set up a target that you’ll make anyways,’ because that won’t be a productive process.”

Tools

Giorgis said that technical assistance products are available at www.fta.dot.gov/sgr. A separate webinar will be held on the new NTD asset inventory reporting requirements. FTA already developed an asset management plan and is currently developing a Light version geared toward small, non-rail systems. The agency is working on two guidebooks that will provide instructions on how to assess conditions of facilities.

SGR Formula Program

MAP-21 established a new Section 5337 SGR Formula Grant Program—all projects funded under the group must be included in the grantee’s TAM Plan.

Next Steps

The comment period for the NPRM ends November 30, 2015.

FTA asked transit providers for feedback on cost implications, estimating benefits, non-statutory criteria, proposed group TAM Plan requirements, proposed deadlines and suggestions on way to analyze the benefits and costs of addressing the SGR backlog.

QUESTIONS

A participant commented that he liked the idea of establishing a group TAM Plan. “We centralize funding decisions at the state DOT and it makes sense to centralize asset management decisions too,” he said. In terms of feedback on technical assistance, he asked FTA to develop templates for a stand-alone TAM Plan and a Group TAM Plan. He also asked for clarification about whether state DOTs are required to sponsor a Group Plan.

Giorgis explained that the proposed rule states DOTs must offer subrecipients Group Plans, but subrecipients may not necessarily want to participate in them.

Indian tribes may, for instance, want to do their own Group Plan, or they may “also be covered by someone else’s Group Plan because they get 5310 funds from the city of Denver or 5311 funds from Wyoming.” If all subrecipients opt out, the transit provider does not have to offer Group Plans.

Giorgis thanked participants for attending the session. The meeting was adjourned.