

will coordinate their views during the project.

4. *Justification Statement:* Identify the rationale for Federal leadership on the planning project, such as specific institutional barriers or operational complexities. Conditions that may call for a Federal leadership role include multi-state and multi-jurisdictional complexity and/or operational complexity involving multiple operating entities and/or divided property ownership and rights. Additionally, proposals should provide a narrative on how the proposed project could serve as a demonstration project and national model for future FRA-managed, multi-State planning projects.

*Submission Package:* States interested in providing proposals must submit the following documents to [HSIPR@dot.gov](mailto:HSIPR@dot.gov) no later than 5 p.m. EST, May 19, 2010.

- *Required*—One Application Form provided at <http://www.fra.dot.gov/Pages/2243.shtml>.

- *Required*—Letter(s) signed by all the chief executives of State transportation departments or agencies that will be part of the project, stating their commitment to participate.

- *Optional*—Letter(s) from other stakeholders or interested parties.

- *Optional*—Other supporting documents that the applicant believes would assist FRA in understanding the proposal (including, but not limited to, maps or previous planning documents).

**FOR FURTHER INFORMATION CONTACT:** For further information regarding this notice, please contact the FRA HSIPR Program Manager via e-mail at [HSIPR@dot.gov](mailto:HSIPR@dot.gov).

Issued in Washington, DC, on March 29, 2010.

**Karen Rae,**

*Deputy Administrator.*

[FR Doc. 2010-7338 Filed 3-31-10; 8:45 am]

BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### High-Speed Intercity Passenger Rail (HSIPR) Program

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of funding availability.

**SUMMARY:** On January 28, 2010, President Obama announced the first selections for the High-Speed Intercity Passenger Rail (HSIPR) Program. This notice builds on the program framework established by FRA in the June 23, 2009 interim program guidance (74 FR

29900), and details the application requirements and procedures for obtaining funding for high-speed rail planning activities under the Department of Transportation Appropriations Act of 2010 (FY 2010 DOT Appropriations Act). This solicitation is only applicable to the planning funds available under the FY 2010 appropriation; a future solicitation will be released in the coming months for the stand-alone project and corridor program funds under the FY 2010 appropriation. FRA has also concurrently issued a separate solicitation for projects to be funded with funds available under the Department of Transportation Appropriations Act of 2009 that have not yet been allocated to projects. This solicitation is also published in today's edition of the **Federal Register**.

**DATES:** Applications for funding under this solicitation are due no later than 5 p.m. EST, May 19, 2010 and must be submitted via [Grants.gov](http://Grants.gov) (see instructions in Section 3.1). See Section 3 for additional information regarding the application process. FRA reserves the right to modify this deadline.

Supporting materials that cannot be submitted electronically may be mailed or hand delivered to: U.S. Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue, SE., MS-20, Room W38-302, Washington, DC 20590, Att'n: HSIPR Program. Applicants are encouraged to use special courier services to avoid shipping delays. Application forms are available at <http://www.fra.dot.gov/Pages/2243.shtml>.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding this notice and the grants program, please contact the FRA HSIPR Program Manager via e-mail at [HSIPR@dot.gov](mailto:HSIPR@dot.gov), or by mail: U.S. Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue, SE., MS-20, Washington, DC 20590, Att'n: HSIPR Program.

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## Section 1: Financial Assistance Description

### 1.1 Authority

This financial assistance announcement pertains to the funding made available for planning activities under FRA's High-Speed Intercity Passenger Rail (HSIPR) Program.

The authority for these planning funds is contained in two pieces of legislation:

- The Passenger Rail Investment and Improvement Act of 2008, under Sections 301, 302, and 501—Intercity Passenger Rail Service Corridor Capital Assistance (codified at 49 U.S.C. chapter 244); and

- The Fiscal Year (FY) 2010 Consolidated Appropriations Act ("FY 2010 DOT Appropriations Act," Title I of Division A of Pub. L. 111-117, December 16, 2009), under the title "Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service."

This document incorporates interim guidance required for this financial assistance opportunity pursuant to the FY 2010 DOT Appropriations Act and 49 U.S.C. 24402(a)(2). The funding made available under this financial assistance announcement was appropriated under the FY 2010 DOT Appropriations Act. The funding opportunities described in this guidance are available under Catalog of Federal Domestic Assistance (CFDA) number 20.319.

### 1.2 Program Description and Legislative History

As one of President Obama's foremost transportation priorities, the HSIPR Program is intended to help address the nation's transportation challenges by investing in an efficient network of high-speed and intercity passenger rail corridors that connect communities across America. On January 28, 2010, President Obama announced the first recipients selected to receive funding under the HSIPR Program. These initial awards were funded from the \$8 billion appropriated under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act) and \$90 million appropriated under the FY 2009 DOT Appropriations Act. Within the \$90 million of FY 2009 funding, approximately \$9 million worth of planning projects were selected.

Congress established the framework for the HSIPR Program through the passage of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Enacted in October 2008, PRIIA represents the most sweeping Congressional action on intercity

passenger rail since those that created the National Railroad Passenger Corporation (Amtrak) and the Northeast Corridor Improvement Project during the 1970s. In addition to reauthorizing Amtrak, PRIIA established three new competitive grant programs for funding high-speed intercity passenger rail capital improvements, each of which, as authorized, requires a 20 percent non-Federal match:

- *Intercity Passenger Rail Service Corridor Capital Assistance (Section 301)*—Under this section, the broadest of PRIIA's three funding programs, States (including the District of Columbia), groups of States, interstate compacts, and public Intercity Passenger Rail agencies established by one or more State(s) may apply for grants for capital improvements to benefit all types of intercity passenger rail service, including high-speed service. Amtrak may participate through a cooperative agreement with a State(s).

- *High-Speed Rail Corridor Development (Section 501)*—Although similar in structure, criteria, and conditions to Section 301, eligibility for this program is restricted to projects intended to develop Federally-designated high-speed rail corridors for intercity passenger rail services that may reasonably be expected to reach speeds of at least 110 miles per hour (mph). Applicant eligibility under Section 501 is broadened from Section 301 to include Amtrak.

- *Congestion Grants (Section 302)*—This program authorizes grants to States or to Amtrak (in cooperation with States) for facilities, infrastructure, and equipment for high-priority rail corridor projects to reduce congestion or facilitate intercity passenger rail ridership growth.

In the FY 2010 DOT Appropriations Act, Congress built upon the “jump start” in funding for high-speed and intercity passenger rail development provided through the ARRA by appropriating an additional \$2.5 billion for the grant activities authorized under Sections 301, 302, and 501 of PRIIA. However, unlike the special exceptions made in ARRA, applicants will now be required to provide at least the 20 percent non-Federal match mandated in PRIIA. Additionally, Congress stipulated that up to \$50 million of the funds provided can be used for planning activities.

### 1.3 Funding Approach

The FY 2010 DOT Appropriations Act appropriated a total of \$2.5 billion for high-speed and intercity passenger rail grants; additionally, approximately \$65 million remains from the FY 2009 DOT

Appropriations Act. FRA is separately soliciting applications for the different components of these appropriations:

1. *FY 2010 planning funds (up to \$50 million)*: Planning projects with a 20 percent non-Federal match. This solicitation is for these funds. (The appropriation permits the Secretary to retain a portion of these funds for Federally-led multi-State planning projects. *See* Section 1.4 for more details.)

2. *FY 2010 stand-alone projects (up to \$245 million) and corridor programs (at least \$2,125 million)*: Stand-alone final design/construction and/or preliminary engineering/NEPA projects and corridor program funding with a 20 percent non-Federal match. The solicitation for these funds is forthcoming.

3. *Residual FY 2009 funds (approximately \$65 million)*: Construction projects with a 50 percent non-Federal match. The notice of funding availability (NOFA) for these funds is being issued concurrently with this solicitation.

### 1.4 General Award Information

Of the \$2.5 billion appropriated by Congress, up to \$50 million is available for planning activities. These planning grants are authorized under Sections 301, 302, and 501 of PRIIA.

Planning grants are aimed at helping to establish a pipeline of future HSIPR construction projects and corridor development programs by advancing planning activities for corridors that are at an earlier stage of the development process. The grants can also be used for completion of State rail plans. These planning activities provide States with an opportunity to complete the prerequisite work needed to submit applications for future construction grant solicitations.

The FY 2010 DOT Appropriations Act also permits the Secretary of Transportation to retain a portion of planning funding to facilitate the preparation of planning documents for high-speed rail corridors that cross multiple States. Groups of States interested in advancing ideas for a U.S. DOT-led multi-State planning “demonstration” effort should submit proposals according to a separate and concurrently-issued notification also included in today’s **Federal Register**.

FRA will make awards for (1) “passenger rail corridor investment plans” that lead directly to completion of both service development plans (SDPs) and corridor-wide environmental documents, and (2) State rail plans (*see* Section 2.4). The awards will be issued through cooperative agreements. Cooperative agreements allow for

greater Federal involvement in carrying out the agreed upon investment. The substantial Federal involvement for high-speed intercity passenger rail planning activities will include agreement on the scope of study, review of draft studies, and acceptance of final deliverables.

While there are no predetermined minimum or maximum dollar thresholds for awards, FRA anticipates making multiple awards from the \$50 million available for planning. As such, FRA expects applicants to tailor their applications and proposed project scopes accordingly.

## Section 2: Eligibility Information

Applications for planning activities will be required to meet minimum requirements related to applicant eligibility, project eligibility, and the fulfillment of other prerequisites.

To the extent that an application’s substance exceeds the minimum eligibility requirements described below, such qualifications will be considered in evaluating the merits of an application.

### 2.1 Eligible Applicant Types

An entity seeking assistance for planning activities must meet the definition of an “applicant” under Sections 301, 302 and 501 of PRIIA. *See* Appendix 1.1 for more details about applicant eligibility.

Eligible applicant entities are as follows:

- States (including the District of Columbia);
- Groups of States (Sections 301 and 501);
- Interstate Compacts (Sections 301 and 501);
- Public agencies established by one or more States and having responsibility for providing intercity passenger rail service (Section 301) or high-speed passenger rail service (Section 501);
- Amtrak (Section 501); and
- Amtrak, in cooperation with States (Sections 301 and 501).

### 2.2 Applicant and Key Partner Qualifications

For an application submitted by an eligible entity to be considered for planning funding, it must affirmatively demonstrate that the applicant has or will have the legal, financial, and technical capacity to carry out its proposed project. To demonstrate these capacities, the applicant is required to address the following qualifications:

- For an entity other than a State, its legal authority to undertake the proposed project and apply for and expend Federal financial assistance;

- The applicant's ability to provide matching funds and to absorb potential cost overruns or financial shortfalls. For entities other than States, the demonstration of such ability should include a description of the entity's own financial resources, its ability to raise revenue through taxation, dedicated funding sources, or other means, and/or explicit financial backing by one or more State governments;

- The applicant's experience in effectively administering grants of similar scope and value (including timely completion of grant deliverables, compliance with grant conditions, and quality and cost controls); and

- The applicant's experience in managing railroad planning projects of a nature similar to that for which funding is being requested.

### 2.3 Cost Sharing and Matching

#### 2.3.1 Treatment of Applicant Cost Sharing

Pursuant to the provisions of the FY 2010 DOT Appropriations Act and Sections 301, 302, and 501 of PRIIA, the Federal share of the costs of projects funded through cooperative agreements under this solicitation may not exceed 80 percent.

If an applicant chooses the option of contributing, from its own or its partner project stakeholders' resources, more than the required 20 percent non-Federal share of the costs of its proposed project, such additional contributions will be considered in evaluating the merit of its application (see Section 4 for a complete description of evaluation and selection criteria).

#### 2.3.2 Requirements for Applicant Cost Sharing

An applicant's contribution toward the cost of its proposed project may be in the form of cash or, with FRA approval, in-kind contributions of services or supplies. As part of its application, an applicant offering an in-kind contribution must provide a documented estimate of the monetary value of any such contribution, and its eligibility under 49 CFR 18.24 or 19.23.

The applicant must provide as part of its application documentation that demonstrates that it has committed and will be able to fulfill any pledged contribution, including committing any required financial resources that are budgeted or planned at the time the application is submitted. Furthermore, funds from other Federal financial assistance programs may not be used to satisfy the 20 percent match requirement.

All applicants will be required to demonstrate the ability to absorb any

cost overruns and deliver the proposed project with no Federal funding or financial assistance beyond that provided in the cooperative agreement.

### 2.4 Eligible Projects

There are two types of eligible planning projects: (1) Those that lead directly to "passenger rail corridor investment plans" (which include both service development plans and corridor-wide environmental documentation); and (2) those that lead directly to a State rail plan.

#### 2.4.1 Passenger Rail Corridor Investment Plans

Passenger rail corridor investment plans include both a service development plan (SDP) and corridor-wide environmental documentation. Groups of States submitting proposals should identify whether they are proposing that FRA lead the development of both documents, a stand-alone SDP, or corridor-wide environmental document.

Applicants seeking planning funds to develop a passenger rail corridor investment plan must apply for any necessary work to develop *both* a service development plan and corridor-wide environmental documentation. If the applicant has already completed one of these documents or a component thereof, FRA must have accepted that document as meeting the minimum requirements outlined herein in order for the applicant to receive a grant to complete the remaining component(s).

##### 2.4.1.1 Service Development Plan

Service Development Plans (SDPs) should support future corridor development. SDPs funded through this solicitation must include the following elements:

- *Corridor Development Program Rationale*—Description of the corridor's transportation challenges and opportunities, based on current and forecasted travel demand and capacity conditions, demonstrating how the proposed project/program would cost-effectively address transportation and other needs. Development of the program rationale should consider multimodal system alternatives (highway, air, other, as applicable), including a qualitative and quantitative assessments of the costs, benefits and impacts and risks of the alternatives. Program rationale may also explore synergies between the proposed service and large-scale goals and development plans within its service region and communities.

- *Service Plan*—Detail on the train service alternatives to be provided for

each phase of new or improved HSIPR service, including: the service frequency, timetable (including time-distance "stringline" diagrams), general station locations, intermodal connections, and train consists. The Service Plan will rely on or include operational analyses, including, where appropriate, railroad operation simulations and equipment and crew scheduling analyses, which in turn reflect such variables as travel demand and rolling stock configuration. The planning horizon should be consistent with the anticipated useful lives of the improvements to be introduced. If the proposed service makes use of facilities that would be shared with freight, commuter rail, or other intercity passenger rail services, the planning study should consider the existing and future characteristics of those services, as developed cooperatively with freight, commuter, and intercity passenger rail partners.

- *Capital Investment Needs Assessment*—Identification of infrastructure, rolling stock and facilities improvements for each discrete phase of new or improved service implementation, including any sequence or prioritization. The plan will include cost estimates for specific capital investments needed to achieve and sustain the service plan.

- *Financial Forecast*—Operating financial projections for each phase of the planned service, with documentation of the methods, assumptions and outputs of the following: travel demand forecasts, projected revenue, and operating expenses, including maintenance of way, maintenance of equipment, transportation (train movement), passenger traffic and services (marketing, ticketing, station, and on-board services), and general/administrative expenses. Cost-sharing arrangements with infrastructure owners and rail operators should also be included.

- *Public Benefits Assessment*—Description of user and non-user benefits and, to the extent readily quantifiable, the estimated economic value of those benefits, with particular attention to job creation and retention, "green" environmental outcomes, potential energy savings, and effects on community livability.

- *Program Management Approach*—A phased program implementation strategy including a preliminary description of the intended techniques of project management that will assure quality, cost, and budget control; and the financing and organizational plans for carrying out the proposed strategy.

#### 2.4.1.2 Corridor-Wide Environmental Documents

Eligible planning projects include those that lead directly to completion of NEPA and related environmental documentation for corridor programs. Environmental documentation funded through this solicitation must satisfy Service NEPA requirements. FRA has defined Service NEPA as at least a programmatic/Tier 1 environmental review (using tiered reviews and documents), or a project environmental review, that also addresses broader questions and likely environmental effects for the entire corridor relating to the type of service(s) being proposed, including cities and stations served, route alternatives, service levels, types of operations (speed, electric, or diesel powered), ridership projections, and major infrastructure components. Simple corridor programs are often best addressed with project NEPA documentation, while more complex corridor programs may need a tiering approach. FRA is responsible for establishing the scope of the environmental review, including the use of tiering or use of project NEPA documentation.

#### 2.4.2 State Rail Plans

Eligible planning projects include those that result in completion of State rail plans. The contents of State rail plans funded through this solicitation must satisfy Chapter 227 of Title 49 and include the following:

- The State's goals for a multimodal system, the role of rail within that system, and current freight and passenger rail activities.
- A description of the existing freight and passenger system, current operating objectives for freight and passenger rail, and the system performance.
- A discussion of the institutional structure of the rail program, ongoing safety and security programs, and a general analysis of the economic and environmental impacts of rail within the State.
- A summary of all passenger and freight rail proposals under consideration in the State for commuter and intercity markets, their capital costs, timing, phasing and funding, public and private benefits, supporting studies and reports, and how they would address rail system deficiencies.
- A description of the vision for rail transportation in the State, how it relates to the national rail plan (if available in its final form by the time of the planning activities) and regional plans, and how it would be carried out through rail agencies, supporting

legislation, and any new rail programs within the State.

- A 5-year and 20-year rail service and investment program and a discussion of their effects on State transportation, rail capacity and congestion, other modes, safety and congestion, energy and greenhouse gas emissions, environmental, economic and employment conditions, and the distribution of benefits to communities in terms of livability.
- Specific information for the passenger element of the service and investment program including: Financing plan, service development plan, and 5 and 20-year public and private benefits.
- Specific information for the freight element of the service and investment program, including: Financing plan and 5 and 20-year public private benefits.
- A description of public, agency, and interested party participation in the plan development, how their recommendations were addressed in process, and how rail planning is coordinated with other State transportation planning and programs, including Section 135 of Title 23.

#### 2.5 Project Completion

FRA encourages all planning projects to be completed within 1 to 2 years of obligation.

#### 2.6 Eligibility Restrictions

Pursuant to the provisions of the FY 2010 DOT Appropriations Act and Sections 301, 302, and 501 of PRIIA, planning activities outlined below are ineligible to receive funding:

- Applications for planning activities submitted by private entities other than Amtrak;
- Projects for which commuter rail passenger transportation is the primary intended beneficiary; and
- For any expenses associated with passenger rail operating costs.

Additional funding use restrictions are fully described in Section 3.4.3 of this notice.

### Section 3: Application and Submission Information

#### 3.1 Applying Online

Applications for these funds will be submitted through Grants.gov by 5 p.m. EST on May 19, 2010. Program-specific application forms (identified in Section 3.3 below) may be downloaded from FRA's Web site at <http://www.fra.dot.gov/Pages/2243.shtml>.

To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and submit an

application can be found at Grants.gov. If you experience difficulties at any point during this process, please call the Grants.gov Customer Support Hotline at 1-800-518-4726, Monday-Friday from 7 a.m. to 9 p.m. EST.

Registering with Grants.gov is a one-time process; however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. It is highly recommended that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline specified. Applications will not be accepted after the due date; delayed registration is not an acceptable reason for extensions. In order to apply for funding under this announcement and to apply for funding through Grants.gov, all applicants are required to complete the following.

1. *Acquire a DUNS Number.* A Data Universal Numbering System (DUNS) number is required for Grants.gov registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Obtain a DUNS number by calling 1-866-705-5711 or by applying online at <http://www.dunandbradstreet.com>.

2. *Acquire or Renew Registration with the Central Contractor Registration (CCR) Database.* All applicants for Federal financial assistance maintain current registrations in the Central Contractor Registration (CCR) database. An applicant must be registered in the CCR to successfully register in Grants.gov. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Please note, however, that applicants must update or renew their CCR registration at least once per year to maintain an active status, so it is critical to check

registration status well in advance of the application deadline. Information about CCR registration procedures can be accessed at <http://www.ccr.gov>.

3. *Acquire an Authorized Organization Representative (AOR) and a Grants.gov Username and Password.* Complete your AOR profile on Grants.gov and create your username and password. You will need to use your organization's DUNS number to complete this step. For more information about the registration process, go to [http://www.grants.gov/applicants/get\\_registered.jsp](http://www.grants.gov/applicants/get_registered.jsp).

4. *Acquire Authorization for your AOR from the E-Business Point of Contact (E-Biz POC).* The E-Biz POC at your organization must log in to Grants.gov to confirm you as an AOR. Please note that there can be more than one AOR for your organization.

5. *Search for the Funding Opportunity on Grants.gov.* Please use the following identifying information when searching for the funding opportunity on Grants.gov. The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is #20.319 titled "High-Speed Rail Corridors and Intercity Passenger Rail Service—Capital Assistance Grants."

6. *Submit an Application Addressing All of the Requirements Outlined in this Funding Availability Announcement.* Within 24 to 48 hours after submitting your electronic application, you should receive an e-mail validation message from Grants.gov. The validation message will tell you whether the application has been received and validated or rejected, with an explanation. You are urged to submit your application at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

**Note:** When uploading attachments please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt. While you may imbed picture files such as .jpg, .gif, and .bmp, in your document files, please do not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

#### *Experiencing Unforeseen Grants.gov Technical Issues*

If you experience unforeseen Grants.gov technical issues beyond your control that prevent you from submitting your application by the deadline, you must contact FRA staff at [HSIPR@dot.gov](mailto:HSIPR@dot.gov) within 24 hours after the deadline and request approval to submit your application. At that time, FRA staff will require you to e-mail the

complete grant application, your DUNS number, and provide a Grants.gov Help Desk tracking number(s). After FRA staff review all of the information submitted, as well as contact the Grants.gov Help Desk to validate the technical issues you reported, FRA staff will contact you to either approve or deny your request to submit a late application. If the technical issues you reported cannot be validated, your application will be rejected as untimely.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in the funding availability notice; and (4) technical issues experienced with the applicant's computer or information technology (IT) environment.

#### *3.2 Address To Request/Submit Application Package*

If Internet access is unavailable, please write to FRA at the following address to request a paper application: U.S. Department of Transportation, Federal Railroad Administration, Attn. HSIPR Program Information (RDV-10), Mail Stop 20, 1200 New Jersey Ave., SE., Washington, DC 20590.

For optional supporting documentation (described in Section 3.3.1) that an applicant is unable to submit electronically (such as oversized engineering drawings), applicants may submit an original and two copies to the above address. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials.

#### *3.3 Content of Application*

##### *3.3.1 Application Package Components*

The application package for HSIPR Program planning applications contains three required components:

1. HSIPR Planning Application Form.
2. OMB Standard Application Forms.
3. FRA's Assurances Document.

Applicants must complete all three required components of the application package; failure to do so may result in the application being removed from consideration for award. All three components of the application package must be submitted through Grants.gov.

Applicants may also submit additional documentation to support the

merits of their applications. Inclusion of such supporting documentation is optional.

##### *3.3.1.1 HSIPR Planning Application Form*

The most significant component of the application package is the HSIPR Planning Application Form, into which the applicant enters specific information about the proposed project. The form includes fields that have been developed by FRA to capture pertinent qualitative and quantitative program-specific information that is needed for FRA to confirm applicant and project eligibility, as well as information needed for evaluation and selection of applications. The HSIPR Planning Application Form requests three types of information:

1. General applicant and project information.
2. Narratives that allow the applicant to make arguments on the benefits of its proposed planning activities and other factors that are used to evaluate the merits of the application (See Section 4.2 and 4.3 for a summary of evaluation and selection criteria).

3. A Statement of Work (SOW)—scope, schedule and budget—that provides a description of the work that will be completed under the cooperative agreement, including the planning objectives, deliverables, milestones, project management information, and a budget broken down by deliverables and milestones that includes the assumptions used to develop the estimates. Pursuant to 49 U.S.C. 24402(g), FRA reserves the right to request changes to project scopes, schedules, and budgets of selected projects. See Appendix 3 for more information on preparing project budgets.

The HSIPR Planning Application Form is available from FRA's Web site at: <http://www.fra.dot.gov/Pages/2243.shtml>. Applicants should download and complete the form and submit as an attachment in Grants.gov.

In support of any information provided in the Application Form, FRA welcomes the submission of any other available supporting documentation that may have been developed by the applicant. The format and structure of any additional supporting documents is at the discretion of the applicant. Optional supporting documentation may be provided one of two ways—(1) as attachments to the application, or (2) in hard copy for materials that cannot otherwise be provided electronically. Applicants should provide notifications of any documentation being submitted in hard copy in the appropriate section

of the HSIPR Program Application Form.

Optional supporting documentation could include items such as maps, preliminary engineering documents, environmental work, implementation plans, stakeholder agreements, or financial plans.

### 3.3.1.2 OMB Standard Application Forms

The Standard Forms are developed by OMB and are required of all grant applicants. These forms should be submitted electronically through Grants.gov.

- Standard Form 424, Application for Federal Assistance.
- Standard Form 424A, Budget Information—Non-Construction Programs.
- Standard Form 424B, Assurances—Non-Construction Programs.

### 3.3.1.3 FRA Assurances Document

FRA's assurances document contains standard Department certifications on grantee suspension and debarment, drug-free workplace requirements, and Federal lobbying. The FRA assurances document can be obtained from FRA's Web site at <http://www.fra.dot.gov/downloads/admin/assurancesandcertifications.pdf>. The document should be signed by an authorized certifying official for the applicant, scanned into electronic format, and submitted as an attachment to the application in Grants.gov.

### 3.3.1.4 Other Required Documentation

For any other documentation required prior to award that is not specified in this notice, FRA will make individual arrangements with applicants for the submission of the required documentation.

## 3.4 Additional Application Information

### 3.4.1 Submission Dates and Times

Complete applications must be submitted to Grants.gov (as specified in Section 3.1) no later than 5 p.m. EST, May 19, 2010. Grants.gov will send the applicant an automated e-mail confirming receipt of the application. Supporting documentation that cannot be submitted electronically may be sent by courier service with a waybill receipt stamped no later than 5 p.m. EST, May 19, 2010. FRA will e-mail the applicant to confirm receipt of supporting documentation sent by courier service.

Subject to demonstration of unanticipated extenuating circumstances, FRA may consider application materials submitted after the deadlines prescribed above.

FRA reserves the right to contact applicants with any concerns, questions, or comments related to applications.

### 3.4.2 Intergovernmental Review

This program has not been designated as subject to Executive Order 12372, pursuant to 49 CFR part 17.

### 3.4.3 Funding Restrictions

In general, only those costs considered allowable pursuant to OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" (codified at 2 CFR part 225) will be considered for funding. Additionally, the following funding restrictions will apply to cooperative agreements awarded for planning activities, and must be taken into consideration in the development of budget information submitted as part of applications.

- Funding may not be used to fund expenses associated with the operation of intercity passenger rail service;
- Funding may not be used for first-dollar liability costs for insurance related to the provision of intercity passenger rail service;
- While there is no cap on grant recipient's use of grant funds for management and administrative costs, such costs must be allowable, reasonable, allocable, and in accordance with applicable OMB cost principles cited above.

FRA will also consider reimbursement of pre-award costs incurred as early as the enactment of the FY 2010 DOT Appropriations Act (December 16, 2009). However, such costs will be considered for reimbursement only to the extent that they are otherwise allowable under the applicable cost principles.

## Section 4: Application Review Information

### 4.1 Application Review Process

Complete applications are due by 5 p.m. EST, May 19, 2010. All applications will proceed through a three-step process:

1. Screening for completeness and eligibility;
2. Evaluation review by a technical panel applying "evaluation criteria;" and
3. Final review and selection by the FRA Administrator, applying "selection criteria."

All applications will first be screened for completeness, as well as applicant and project eligibility. Applications determined to be both complete and eligible will be referred to a technical panel consisting of subject-matter

experts for a merit-based evaluation review. The panels will be comprised of professional staff employed by FRA and other DOT modal administrations, as appropriate.

Applications will be individually reviewed and assessed against the evaluation criteria outlined in Section 4.2. For each of the criteria, the panel will assign a rating of between zero and three points, based on the application's fulfillment of the objectives of each criterion. These individual criterion ratings will then be combined according to priority of criteria, to arrive at an overall rating for the application.

The evaluation criteria, in order of priority, are:

1. Potential Transportation and Public Benefits.
  2. Future Program Viability and Sustainability.
  3. Project Delivery Approach.
- Applications will be reviewed based on both the underlying projects being studied and the quality of the planning activities being proposed. These criteria relate to the underlying projects or corridors that are the subject of the planning activities as well as the proposed planning activities themselves.

In addition to the ratings assigned by the technical evaluation panels, the FRA Administrator may take into account several cross-cutting and comparative selection criteria to determine awards. The Administrator will review the preliminary results to ensure that the scoring has been applied consistently, and that the collective results meet several key priorities essential to the success and sustainability of the program (*see* Section 4.3). The four selection criteria are:

1. Region/Location.
2. Innovation/Resource Development.
3. Partnerships/Participation.
4. Prior HSIPR Funding Decisions and/or State Investments.

### 4.2 Evaluation Criteria

#### 4.2.1 Potential Transportation and Public Benefits

The review panel will consider how the proposed service would result in future transportation and public benefits by evaluating the characteristics of the underlying projects or corridors that are the subjects of the study.

Some of the factors that may be considered for *passenger rail corridor investment programs* include:

- The clarity and detail with which the applicant has identified the problem to be addressed by the proposed service;
- The market potential of the corridor being studied, taking into consideration

such factors as population, density, economic activity, and travel patterns;

- The potential for the corridor to deliver high-speed and intercity passenger rail service benefits, including ridership, on-time performance, travel time, service frequencies, safety and other factors;
- The potential of the corridor program to promote economic development, including contributions to a sustainable U.S. manufacturing and supply base;
- The potential of the corridor program to enhance energy efficiency and environmental quality;
- The potential of the corridor program to promote interconnected livable communities, including complementing local or State efforts to concentrate higher-density, mixed-use, development in areas proximate to multi-modal transportation options (including intercity passenger rail stations); and
- The consideration of other transportation modes in the planning process.

Some of the factors that may be considered for *State rail plans* include:

- The clarity and detail with which the applicant has identified the problems to be addressed by the State's vision for rail transportation and rail investment program;
- The potential for the State rail plan to lead to passenger and freight rail service benefits, including ridership, on-time performance, travel time, service frequencies, goods movement, safety and other factors;
- The potential of the State rail plan to promote economic development, including contributions to a sustainable U.S. manufacturing and supply base;
- The potential of the State rail plan to enhance energy efficiency and environmental quality;
- The potential of the State rail plan to promote interconnected livable communities, including complementing local or State efforts to concentrate higher-density, mixed-use, development in areas proximate to multi-modal transportation options (including intercity passenger rail stations); and
- The integration of the State rail plan with the planning processes of other transportation modes.

#### 4.2.2 Future Program Viability and Sustainability

This criterion will be used to evaluate the extent to which the planning project will support a viable and sustainable high-speed rail program, including consideration of:

- The likelihood that the final deliverables (Service Development Plan,

Environmental Document, or State Rail Plan) will be ready and capable of being implemented;

- The demonstrated commitment of the State and other stakeholders to quickly execute the program once planning is complete;
- The degree to which the planning process meaningfully incorporates input from affected communities, local governments, regional councils and planning organizations, neighboring States, railroads, transportation modal partners, environmental interests, the public and other stakeholders—early and throughout the process;
- The likelihood that the corridor programs being studied can yield measurable service and public benefits in a reasonable period of time;
- The demonstrated ability of the applicant to support the future capital and operating needs of the corridor(s) being studied;
- The thoroughness of the proposed deliverables;
- The quality of proposed methodology and assumptions; and
- The applicant's contribution of a cost share greater than the required minimum of 20 percent.

#### 4.2.3 Project Delivery Approach

Applications will be evaluated on the applicant's ability and approach to deliver the planning study successfully and in a timely fashion, including consideration of:

- The applicant's financial, legal, and technical capacity to implement the project;
- The applicant's experience in administering similar grants and planning efforts;
- The soundness and thoroughness of the cost methodologies and assumptions, and estimates for the proposed planning activities;
- The reasonableness and timeliness of the milestone and completion schedule;
- The thoroughness and quality of the Statement of Work;
- The timing and amount of the project's future noncommitted investments;
- The comprehensiveness and sufficiency, at the time of application, of agreements with key partners that will be involved in conducting the planning effort; and
- The overall completeness and quality of the application, including the comprehensiveness of its supporting documentation.

#### 4.3 Selection Criteria

##### 4.3.1 Region/Location

- Ensuring appropriate level of regional balance across the country.
- Ensuring promotion of livable communities in urban and rural locations.
- Ensuring consistency with national transportation and rail network objectives.
- Ensuring integration with other rail services and transportation modes.

##### 4.3.2 Innovation/Resource Development

- Advancing the state of the art in modeling techniques for assessing potential intercity passenger rail costs and benefits.
- Promoting domestic manufacturing, supply and industrial development, including U.S.-based manufacturing and supply industries.
- Developing professional railroad engineering, operating, planning and management capacity needed for sustainable high-speed intercity passenger rail development.
- Utilizing innovative planning techniques, such as new methods for engaging the public.

##### 4.3.3 Partnerships/Participation

- Where corridors span multiple States, emphasizing those that have organized multi-State partnerships with joint planning and prioritization of investments.
- Employing creative approaches to ensure workforce diversity and use of disadvantaged and minority business enterprises.
- Engaging local communities and a variety of other stakeholder groups in the planning process.

##### 4.3.4 Prior HSIPR Funding Decisions and/or State Investments

- Assessing how a proposed project would complement previous construction or planning grants made by the HSIPR program.
- Assessing how the proposed project would complement previous State investments in high-speed intercity passenger rail.

### Section 5: Award Administration Information

#### 5.1 Award Notices

Upon approval of an application, notification will be sent to the grant recipient through Grants.gov and via a mailed letter.

FRA will publicly announce selected projects. For projects that were not selected, FRA will notify the applicants

of the decision and provide the following:

- Suggestions on application revisions for any subsequent resubmission rounds (if desired by applicant); and
- Guidance regarding subsequent rounds of funding.

5.2 Administrative and National Policy Requirements

Grant recipients must follow all administrative and national policy requirements including: Procurement standards, compliance with Federal civil rights laws and regulations, disadvantaged business enterprises (DBE), debarment and suspension, drug-free workplace, FRA's and OMB's

Assurances and Certifications, ADA, buy America, environmental protection, NEPA, and environmental justice. For additional details on these administrative and national policy requirements, please refer to FRA's HSIPR Notice of Grant Award Example under the high-speed rail link on FRA's Web page at <http://www.fra.dot.gov/Pages/2374.shmtl>, which includes a sample copy of FRA's current model grant/cooperative agreement.

5.3 Program Specific Grant Requirements

Grant recipients receiving PRIIA-authorized grants must comply with all requirements set forth in PRIIA,

including adhering to: Buy America, Labor Protection, and Davis-Bacon Act. For a complete list of all PRIIA-specific grant requirements, refer to Appendix 2.1.

5.4 General Requirements

Grant recipients must comply with reporting requirements. All post-award information pertaining to reporting, auditing, monitoring, and the close-out process is detailed in Appendix 2.2.

Section 6: Questions and Clarifications

Questions about this guidance and the application process should be submitted to the HSIPR Program Manager via e-mail at [HSIPR@dot.gov](mailto:HSIPR@dot.gov).

LIST OF ACRONYMS

Acronym	Meaning
ACF	Administration for Children and Families.
ADA	Americans with Disabilities Act.
ARRA	American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).
CAST	Custom Applications Support and Training Unit (GrantSolutions).
CCR	Central Contractor Registration database.
CE	Categorical Exclusion—a class of action for the NEPA process.
CFS report	“Commercial Feasibility Study,” Federal Railroad Administration, High-Speed Ground Transportation for America, September 1997; available at: <a href="http://www.fra.dot.gov/Pages/515">http://www.fra.dot.gov/Pages/515</a> .
Department	The U.S. Department of Transportation.
DUNS	Data Universal Number System.
EA	Environmental Assessment—a NEPA document.
EIS	Environmental Impact Statement—the most extensive type of NEPA document.
FD	Final Design.
FONSI	Finding of No Significant Impact—a possible decision concluding the NEPA process.
FRA	Federal Railroad Administration—an Operating Administration of the U.S. Department of Transportation.
FTA	Federal Transit Administration.
FY	Fiscal Year.
FY 2008 DOT Appropriations Act	Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008—Title I of Division K of Public Law 110-161, December 26, 2007.
FY 2009 DOT Appropriations Act	Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009—Title I of Division I of Public Law 111-8, March 11, 2009.
FY 2010 DOT Appropriations Act	Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2010—Title I of Division A of Public Law 111-117, December 16, 2009.
GS	GrantSolutions Grants Management System.
ICC	Interstate Commerce Commission.
LOI	Letter of Intent.
mph	Miles Per Hour.
NEPA	National Environmental Policy Act.
NTD	National Transit Database.
OTP	On-time performance
PE	Preliminary engineering.
PRIIA	Passenger Rail Investment and Improvement Act of 2008 (Division B of Public Law 110-432).
PTC	Positive Train Control.
ROD	Record of Decision—a possible decision concluding of the NEPA process.
RSIA	Rail Safety Improvement Act of 2008 (Division A of Pub. L. 110-432, October 16, 2008).
State DOT	State Department of Transportation.
State Capital Grant Program	Capital Assistance to States—Intercity Passenger Rail Service program—established in FY 2008 DOT Appropriations Act and continued in the FY 2009 DOT Appropriations Act.

Appendix 1: Additional Information on Eligibility

Appendix 1.1 Applicant Types

State—A State department of transportation (State DOT) which is the State-wide instrumentality or agency of a State, in the form of a department, commission, board, or official of any State, charged by its laws

with the responsibility for transportation-related matters within the State, including high-speed intercity passenger rail.

Group of States—A group of two or more States in which an agreement has been established to work in coordination to build and operate rail projects within specified boundaries and within the duration of agreement. The agreement should specify the

commitments (financial and otherwise) of all parties to developing and maintaining rail operations for a specified corridor. This type of agreement requires the backing of several political and administrative entities within each State. Such agreement should include but not be limited to the following: Identification of all parties involved, the duration of the agreement, governance



arrangements, commitment of partners, risk and benefits sharing arrangements, liabilities, level of service per partner or client, services to be provided, dispute resolution, substandard performance, termination, signatories. A group of States wishing to submit an application must designate one State within the group to serve as the lead State for the application. This lead State will be responsible for submitting the application and administering any grant that is awarded to the group of States.

**Interstate Compact**—An entity created through an agreement between two or more States. Frequently, these compacts create a new governmental entity that is responsible for administering or improving some shared resource, such as public transportation infrastructure. In some cases, a compact serves simply as a coordination mechanism between independent authorities in the member States. Article I, Section 10 of the United States Constitution provides that no State shall enter into an agreement or compact with another State without the consent of Congress. Interstate compacts for the purpose of intercity passenger rail development have been established previously, based on the implied general consent of Congress expressed through Public Law 98–358, in which Congress explicitly granted consent to the creation of an interstate compact between the States of Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky for the purpose of developing intercity passenger rail.

**Public Agencies, established by one or more States (Having responsibility for providing intercity passenger rail service)**—A publicly owned not-for-profit agency created and authorized under State law and responsible for providing intercity passenger rail service (under PRIIA Section 301) or high-speed rail service (under PRIIA Section 501).

**Amtrak, in cooperation with States**—The National Railroad Passenger Corporation undertaking a project subject to an agreement with one or more States (as defined above) (under PRIIA Sections 301 or 302).

**Amtrak**—The National Railroad Passenger Corporation undertaking a project authorized under PRIIA Section 501.

## Appendix 1.2 Definition of Intercity Passenger Rail

“Intercity rail passenger transportation” is defined at 49 U.S.C. 24102(4) as “rail passenger transportation except commuter rail passenger transportation.” Likewise, “commuter rail passenger transportation” is defined at 49 U.S.C. 24102(3) as “short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple ride, and commuter tickets and morning and evening peak period operations.” In common use, the general definition of “rail passenger transportation” excludes types of local or regional rail transit, such as light rail, streetcars, and heavy rail. Similarly, both intercity passenger rail transportation and commuter rail passenger transportation exclude single-purpose scenic or tourist railroad operations.

The since-terminated Interstate Commerce Commission (ICC) established six features to

aid in classifying a service as “commuter” rather than “intercity” rail passenger transportation:<sup>1</sup>

- The passenger service is primarily being used by patrons traveling on a regular basis either within a metropolitan area or between a metropolitan area and its suburbs;
- The service is usually characterized by operation performed at morning and peak periods of travel;
- The service usually honors commutation or multiple-ride tickets at a fare reduced below the ordinary coach fare and carries the majority of its patrons on such a reduced fare basis;
- The service makes several stops at short intervals either within a zone or along the entire route;
- The equipment used may consist of little more than ordinary coaches; and
- The service should not extend more than 100 miles at the most, except in rare instances; although service over shorter distances may not be commuter or short haul within the meaning of this exclusion.

FTA further refined the definition of commuter rail in the glossary for its National Transit Database (NTD)<sup>2</sup> Reporting Manual. In particular, FTA refined the ICC’s third “feature” by specifying that “predominantly commuter [rail passenger] service means that for any given trip segment (*i.e.*, distance between any two stations), more than 50 percent of the average daily ridership travels on the train at least three times a week.”

In judging the eligibility of an application under this solicitation, FRA will determine whether the rail passenger service that is primarily intended to benefit from the proposal constitutes “intercity passenger rail transportation” under the statutory definition and ICC and FTA interpretations. FRA may also take into account whether the primary intended benefiting service has been or is currently the direct or intended beneficiary of funding provided by another Federal agency (*e.g.*, FTA) for the purpose of improving commuter rail passenger transportation and whether the service in question is or will be operated by or on behalf of a local, regional, or State entity whose primary rail transportation mission is the provision of commuter or transit service.

## Appendix 2: Additional Information on Award Administration and Grant Conditions

### Appendix 2.1 Program Specific Grant Requirements

PRIIA established a series of grant conditions applicable to intercity passenger rail grant awards (*see* 49 U.S.C. 24405) and the FY 2010 DOT Appropriations Act applies these conditions also to congestion and high-speed rail grants. While these requirements may have limited applicability with respect to the planning activities to be funded under

<sup>1</sup> Penn Central Transportation Company Discontinuance or Change in Service of 22 Trains between Boston, Mass., and Providence R.I., February 10, 1971, I.C.C. 338, 318–333.

<sup>2</sup> In addition to serving as a reference database, the NTD captures data that serve as the basis for apportioning and allocating funding to eligible grantees under FTA’s formula grant programs.

this solicitation, they are set out below for the information of the applicants.

### Appendix 2.1.1 Buy America

Grant recipients must comply with the Buy America provisions set forth in 49 U.S.C. 24405(a), which specifically provide that the Secretary of Transportation may obligate ARRA funds for a high-speed intercity passenger rail or congestion project only if the steel, iron, and manufactured goods used in the project are produced in the United States. The Secretary (or the Secretary’s delegate, the FRA Administrator) may waive this requirement if the Secretary finds that applying this requirement would be inconsistent with the public interest; the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or including domestic material will increase the cost of the overall project by more than 25 percent. For purposes of implementing these requirements, in calculating the components’ costs, labor costs involved in final assembly shall not be included in the calculation. If the Secretary determines that it is necessary to waive the application of the Buy America requirements, the Secretary is required before the date on which such finding takes effect to publish in the **Federal Register** a detailed written justification as to why the waiver is needed; and provide notice of such finding and an opportunity for public comment on such finding, for a reasonable period of time, not to exceed 15 days. The Secretary may not make a waiver for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection, and the government of that foreign country has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies. The Buy America requirements described in this section shall only apply to projects for which the costs exceed \$100,000.

### Appendix 2.1.2 Operators Deemed Rail Carriers

A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this program shall be considered a rail carrier, as defined in Section 49 U.S.C. 10102(5), for purposes of title 49 of the United States Code and any other statute that adopts the definition found in 49 U.S.C. 10102(5), including the Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.*); the Railway Labor Act (43 U.S.C. 151 *et seq.*); and the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*) (*see* 49 U.S.C. 24405(b)).

### Appendix 2.1.3 Railroad Agreements

As a condition of receiving a grant under this program for a project that uses rights-of-way owned by a railroad, the grant recipient

shall have in place a written agreement between the grant recipient and the railroad regarding such use and ownership, including any compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that the grant recipient complies with liability requirements consistent with 49 U.S.C. 28103. Grant recipients that use rights-of-way owned by a railroad must comply with FRA guidance regarding how to establish a written agreement between the applicant and the railroad regarding use and ownership as discussed in Appendix 3.2.11. (See 49 U.S.C. 24405(c)).

#### Appendix 2.1.4 Labor Protection

As a condition of receiving a grant under this program for a project that uses rights-of-way owned by a railroad, the grant recipient must agree to comply with the standards of 49 U.S.C. 24312, as such section was in effect on September 1, 2003, with respect to the project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C. 24308(a) and the protective arrangements established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by grants under this program. (see 49 U.S.C. 24405(c)).

#### Appendix 2.1.5 Davis-Bacon Act

Projects funded through PRIIA are required to comply with the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*) (see 49 U.S.C. 24405(c)(2)). The Davis-Bacon Act is a measure that fixes a floor under wages on Federal government projects and provides, in pertinent part, that the minimum wages to be paid for classes of workers under a contract for the construction, alteration, and/or repair of a Federal public building or public work, must be based upon wage rates determined by the Secretary of Labor to be prevailing for corresponding classes of workers employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed.

#### Appendix 2.1.6 Replacement of Existing Intercity Passenger Rail Service

Grant recipients providing intercity passenger rail transportation that begins operations after October 16, 2008 on a project funded in whole or in part by grants made under this program, that replaces intercity passenger rail service that was provided by Amtrak, unless such service was provided solely by Amtrak to another entity as of such date, are required to enter into a series of agreements with the authorized bargaining agent or agents for adversely affected employees of the predecessor provider. (see 49 U.S.C. 24405(d)).

## Appendix 2.2 General Requirements

### Appendix 2.2.1 Standard Reporting Requirements

- *Progress Reports*—Progress reports are to be submitted quarterly. These reports must relate the state of completion of items in the statement of work to expenditures of the relevant budget elements. The grant recipient must furnish the quarterly progress report to the FRA on or before the 30th calendar day of the month following the end of the quarter being reported. Grantees must submit reports for the periods: January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31. Each quarterly report must set forth concise statements concerning activities relevant to the project, and should include, but not be limited to, the following: (a) An account of significant progress (findings, events, trends, *etc.*) made during the reporting period; (b) a description of any technical and/or cost problem(s) encountered or anticipated that will affect completion of the grant within the time and fiscal constraints as set forth in the agreement, together with recommended solutions or corrective action plans (with dates) to such problems, or identification of specific action that is required by the FRA, or a statement that no problems were encountered; and (c) an outline of work and activities planned for the next reporting period.

- *Quarterly Federal Financial Report (SF-425)*—The Grantee must submit a quarterly Federal financial report electronically in the GrantSolutions system, on or before the thirtieth (30th) calendar day of the month following the end of the quarter being reported (*e.g.*, for quarter ending March 31, the SF-425 is due no later than April 30). A report must be submitted for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity occurs. The Grantee must use SF-425, Federal Financial Report, in accordance with the instructions accompanying the form, to report all transactions, including Federal cash, Federal expenditures and unobligated balance, recipient share, and program income.

- *Interim Report(s)*—If required, interim reports will be due at intervals specified in the statement of work and must be submitted electronically in the GrantSolutions system.

- *Final Report(s)*—Within 90 days of the Project completion date or termination by FRA, the Grantee must submit a Summary Project Report in the GrantSolutions system. A final version of this report, detailing the results and benefits of the Grantee's improvement efforts, must be furnished by the expiration date of the project period.

### Appendix 2.2.2 Audit Requirements

Grant recipients that expend \$500,000 or more of Federal funds during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with U.S. Government Accountability Office Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, located at <http://www.whitehouse.gov/omb/>

[circulars/a133/a133.html](http://www.whitehouse.gov/omb/circulars/a133/a133.html). Currently, audit reports must be submitted to the Federal Audit Clearinghouse no later than nine months after the end of the recipient's fiscal year. In addition, FRA and the Comptroller General of the United States must have access to any books, documents, and records of grant recipients for audit and examination purposes. The grant recipient will also give FRA or the Comptroller, through any authorized representative, access to, and the right to examine all records, books, papers or documents related to the grant. Grant recipients must require that sub-grantees comply with the audit requirements set forth in OMB Circular A-133. Grant recipients are responsible for ensuring that sub-recipient audit reports are received and for resolving any audit findings.

### Appendix 2.2.3 Monitoring Requirements

Grant recipients will be monitored periodically by FRA to ensure that the project goals, objectives, performance requirements, timelines, milestones, budgets, and other related program criteria are being met. FRA will conduct monitoring activities through a combination of office-based reviews and onsite monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. The recipient is responsible for monitoring award activities, including sub-awards and sub-grantees, to provide reasonable assurance that the award is being administered in compliance with Federal requirements. Financial monitoring responsibilities include the accounting of recipients and expenditures, cash management, maintaining of adequate financial records, and refunding expenditures disallowed by audits.

### Appendix 2.2.4 Closeout Process

Project closeout occurs when all required project work and all administrative procedures described in 49 CFR part 18, or 49 CFR part 19, as applicable, have been completed, and when FRA notifies the grant recipient and forwards the final Federal assistance payment, or when FRA acknowledges the grant recipient's remittance of the proper refund. Project closeout should not invalidate any continuing obligations imposed on the Grantee by an award or by the FRA's final notification or acknowledgment. Within 90 days of the project completion date or termination by FRA, Grantees agree to submit a final Federal Financial Report (SF-425), a certification or summary of project expenses, a final report, and third party audit reports, as applicable.

## Appendix 2.3 Freedom of Information Act (FOIA)

As a Federal agency, the FRA is subject to the Freedom of Information Act (FOIA) (5 U.S.C. 552), which generally provides that any person has a right, enforceable in court, to obtain access to Federal agency records, except to the extent that such records (or portions of them) are protected from public disclosure by one of nine exemptions or by one of three special law enforcement record

exclusions. Grant applications and related materials submitted by applicants pursuant to this guidance would become agency records and thus subject to the FOIA and to public release through individual FOIA requests. FRA also recognizes that certain information submitted in support of an application for funding in accordance with this guidance could be exempt from public release under FOIA as a result of the application of one of the FOIA exemptions, most particularly Exemption 4, which protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential (5 U.S.C. 552(b)(4)). In the context of this grant program, commercial or financial information obtained from a person could be confidential if disclosure is likely to cause substantial harm to the competitive position of the person from whom the information was obtained (*see* National Parks & Conservation Ass'n v. Morton, 498 F.2d 765, 770 (DC Cir. 1974)). Entities seeking exempt treatment must provide a detailed statement supporting and justifying their request and should follow FRA's existing procedures for requesting confidential treatment in the railroad safety context found at 49 CFR 209.11. As noted in the Department's FOIA implementing regulation (49 CFR part 7), the burden is on the entity requesting confidential treatment to identify all information for which exempt treatment is sought and to persuade the agency that the information should not be disclosed (*see* 49 CFR 7.17). The final decision as to whether the information meets the standards of Exemption 4 rests with the FRA.

### Appendix 3: Additional Information on Application Budgets

Applicants must present a detailed budget for the proposed project that includes both Federal funds and matching funds. Items of cost included in the budget must be reasonable, allocable and necessary for the project. At a minimum, the budget should separate total cost of the project into the following categories:

- **Personnel:** List each position by title and name of employee, if available, and show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees engaged in grant activities must be consistent with that paid for similar work within the applicant organization.
- **Fringe Benefits:** Fringe benefits should be based on actual known costs or an established formula. Fringe benefits are for personnel listed in the "Personnel" budget category and only for the percentage of time devoted to the project.
- **Travel:** Itemize travel expenses of project personnel by purpose (training, interviews, and meetings). Show the basis of computation (*e.g.*, X people to Y-day training at \$A airfare, \$B lodging, \$C subsistence).
- **Equipment:** List nonexpendable items that are to be purchased. Nonexpendable equipment is tangible property having a useful life of more than two years and an acquisition cost of \$5,000 or more per unit. (Note: Organization's own capitalization policy may be used for items costing less

than \$5,000.) Expendable items should be included either in the "Supplies" category or in the "Other" category. Applicants should analyze the cost benefits of purchasing versus leasing equipment, especially high cost items and those subject to rapid technical advances. Rented or leased equipment should be listed in the "Contractual" category. Explain how the equipment is necessary for the success of the project. Attach a narrative describing the procurement method to be used.

- **Supplies:** List items by type (office supplies, postage, training materials, copying paper, and expendable equipment items costing less than \$5,000) and show the basis for computation. (Note: Organization's own capitalization policy may be used for items costing less than \$5,000.) Generally, supplies include any materials that are expendable or consumed during the course of the project.

- **Consultants/Contracts:** Indicate whether applicant's written procurement policy (*see* 49 CFR 18.36) or the Federal Acquisition Regulations (FAR) are followed. **Consultant Fees:** For each consultant enter the name, if known, service to be provided, hourly or daily fee (8-hour day), and the estimated time on the project. **Consultant Expenses:** List all expenses to be paid from the grant to the individual consultants in addition to their fees (travel, meals, and lodging). **Contracts:** Provide a description of the product or service to be procured by contract and an estimate of the cost. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source contracts in excess of \$100,000.

- **Other:** List items (rent, reproduction, telephone, janitorial or security services) by major type and the basis of the computation. For example, provide the square footage and the cost per square foot for rent, or provide the monthly rental cost and how many months to rent.

- **Indirect Costs:** Indirect costs are allowed only if the applicant has a Federally approved indirect cost rate. A copy of the rate approval (a fully executed, negotiated agreement) must be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant Federal agency, which will review all documentation and approve a rate for the applicant organization.

Issued in Washington, DC, on March 29, 2010.

**Karen Rae,**

*Deputy Administrator.*

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**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2010-0109]

#### Petition for Waiver of the Terms of the Order Limiting Operations at LaGuardia Airport

**ACTION:** Notice of reopening comment period to accept rebuttal comments.

**SUMMARY:** On February 18, 2010, the FAA published a notice in the Federal Register seeking comment on a joint waiver request filed by Delta Air Lines and US Airways seeking a waiver from the prohibition on purchasing operating authorizations ("slots" or "slot interest") at LaGuardia Airport. The comment period closed on March 22, 2010. The FAA finds it in the public interest to reopen the comment period for seven days to give all interested parties additional time to file rebuttal comments. Any rebuttal comments filed by April 5, 2010, will be considered.

**DATES:** The comment period on the petition for waiver of the terms of the Order Limiting Operations at LaGuardia Airport opened on February 18, 2010, and closed on March 22, 2010, and is reopened for rebuttal comments until April 5, 2010.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2010-0109 using any of the following methods:

- **Federal ERulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- **Mail:** Send comments to Docket Operations, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue, SW., West Building Ground Floor, Room W12-140, Washington, DC 20590.

- **Fax:** Fax comments to Docket Operations at 202-493-2251.

- **Hand Delivery:** Bring comments to Docket Operations Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. For more information on the process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**Privacy:** We will post all comments we receive without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment or