Rosslyn, VA 22209, who may be reached on 703–875–5413.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

The DS 6561 form provides a concise summary of basic medical history, lab tests and physical examination. Since users of this form are not career Foreign Service Officers and may work for limited periods of time overseas, this form is an efficient method of assessing the status of their health. Respondents are members of non-Foreign Affairs Agencies.

Methodology:

Information is collected at overseas medical units, by physicians in MED's Exam Clinic at SA 1 and by private physicians overseas. Information is collected mostly by fax and electronic submission.

Dated: February 10, 2011.

Joseph A. Kenny,

Executive Director, Office of Medical Services M/MED, Department of State.

[FR Doc. 2011–6131 Filed 3–15–11; 8:45 am]

BILLING CODE 4710–36–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 for high-speed and intercity passenger rail projects.

SUMMARY: This notice details the application requirements and procedures for obtaining funding under FRA's High-Speed Intercity Passenger Rail (HSIPR) program. The funding opportunities described in this notice are available under Catalog of Federal Domestic Assistance (CFDA) number 20.319.

Notice to Applicants: FRA recommends applicants read this notice in its entirety prior to preparing application materials. There are several administrative prerequisites that applicants must comply with in order to submit an application (*see* Section 4 of this notice), which can take up to ten days to process.

DATES: Applications for funding under this solicitation are due no later than 8 p.m. EDT on Monday, April 4, 2011, and must be submitted through *http://www.grantsolutions.gov. See* Section 4 for additional information regarding the application process. FRA reserves the right to modify this deadline.

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

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Section 1: Funding Opportunity Description

1.1 Legislative Authority

This financial assistance announcement is intended to solicit proposals for high-speed and intercity passenger rail projects under FRA's HSIPR program. The authority for this grant program is contained in three pieces of legislation:

- The Passenger Rail Investment and Improvement Act of 2008 (Div. B of Pub. L. 110–432, October 16, 2008) (PRIIA), under Sections 301, 302, and 501: Intercity Passenger Rail Service Corridor Capital Assistance (codified at 49 U.S.C. chapter 244), General Passenger Rail Transportation (codified at 49 U.S.C. 24105), and High-Speed Rail Assistance (codified at 49 U.S.C. 26106), respectively;
- The American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, February 17, 2009) (ARRA or the Recovery Act), under the title "Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service;" and
- The Fiscal Year 2010 Consolidated Appropriations Act (Title I of Div. A of Pub. L. 111–117, December 16, 2009) (FY 2010 DOT Appropriations Act), under the title "Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service."

1.2 Background

Since enactment of PRIIA, FRA has made approximately $10.6 billion available under the HSIPR program. Award of these funds has served to jump-start high-speed and intercity passenger rail projects throughout the country. However, recently it has become clear that some of the funds previously announced would not be used to advance the originally intended projects; in particular, approximately $2.392 billion announced for the State of Florida.

The purpose of this notice is to solicit applications—for eligible projects that could immediately proceed to award—for the approximately $2.392 billion previously announced for Florida and approximately $38 million in remaining unallocated Recovery Act funding. This notice is also intended to establish a pipeline of meritorious projects that could receive any other HSIPR funds available at the time of award. These other funds could include savings that result from previously awarded projects coming in under budget, funds withdrawn from previously awarded projects that are not proceeding satisfactorily, any other appropriated funds authorized under PRIIA and made available through the remainder of this fiscal year, or other sources.

The approximately $2.392 billion previously announced for Florida included funds provided both under the Recovery Act and the FY 2010 DOT Appropriations Act. Additional funds awarded under this notice could be provided from other sources. Therefore, applicants should not be concerned with applying for funds from a specific appropriations statute; rather they should seek to submit the best projects that could be funded from any or all such sources. Additionally, all applicants are encouraged to contribute non-Federal matching funds, a factor that will be considered when evaluating the merit of an application. While applicants may identify any aspects of their projects that might favor one or the other appropriations statute (the different requirements for each source of funding are discussed in Sections 1.3, 3, and 6), FRA will determine which funding to provide to projects selected for award at its own discretion. However, applicants should note that any projects receiving funding under the Recovery Act must be able to be obligated by September 30, 2012 and completed by September 30, 2017—both statutory requirements under the Recovery Act.

Furthermore, while Florida received approximately $2.392 billion for one project—the Tampa to Orlando High-Speed Rail Service Development Program—FRA is not requiring the full amount awarded under this solicitation be provided to one project or one corridor. Rather, FRA is directing this solicitation to all interested and eligible applicants, and anticipates making multiple awards with the funding available. Recognizing the limited funding currently available and FRA's intention to make multiple awards, applicants would be well-advised to subdivide higher-cost undertakings into separate project components or discrete phases that have operational independence in order to give FRA maximum flexibility in selecting projects (*see* Sections 3.5.2 and 4.2.1 for more information on operational independence and application phasing). In describing these separate project components or phases, applicants should be sure to describe both the operational independence of each individual project or phase and the benefits of completing just the discrete project or phase, even if the full Service Development Program is not selected for funding in this award cycle.

FRA is committed to ensuring that the HSIPR program is a success. In responding to this solicitation, applicants should clearly demonstrate that the project sponsor and any other relevant stakeholder directly involved in the project are committed to ensuring the success of the project proposed for funding.

1.3 Funding Approach

At least $2.43 billion is available for awards under this solicitation, including $1.63 billion from the Recovery Act and $800 million from the FY 2010 DOT Appropriations Act. FRA is soliciting grant applications for the following types of projects:

- *Service Development Programs:* A set of inter-related capital projects that will result in the introduction of new or substantially improved high-speed or intercity passenger rail services. Projects funded with Recovery Act appropriations may have a Federal share of total project costs up to 100 percent and must be completed by September 30, 2017. Projects funded with FY 2010 annual appropriations must provide a non-Federal match of at least 20 percent of total project costs; funding will remain available until expended and according to the terms and conditions of the cooperative agreement.
- *Individual Projects:* Discrete capital projects that will result in service benefits or other tangible improvements on a corridor. These projects include completion of preliminary engineering (PE), National Environmental Policy Act (NEPA) documentation, final design (FD), and construction. For the purpose of this solicitation and the application process, these projects are divided into two categories: PE/NEPA applications and FD/construction applications (*see* Section 3.4.3 for further information). Due to statutory limitations contained in the FY 2010 DOT Appropriations Act, funding for Individual Projects is only available under the Recovery Act. These projects may have a Federal share of total project costs up to 100 percent and must be completed by September 30, 2017.

Section 2: Award Information

While at least $2.43 billion is currently available for awards (*see* Section 1), this solicitation may also serve as the basis for reallocating other funding under the Recovery Act or the FY 2010 DOT Appropriations Act, including funds available from previously awarded projects coming in under budget, from funds withdrawn from previously awarded projects that are not proceeding satisfactorily, and from any other appropriated funds authorized under PRIIA and made available through the remainder of this fiscal year, or from other sources.

The FY 2010 DOT Appropriations Act mandated that not less than 85 percent of the total available funding be allocated to Service Development Programs. Due to the funding awarded for Individual Projects under the initial solicitation for FY 2010 appropriations and announced by the Secretary of Transportation on October 28, 2010, the $800 million in remaining FY 2010 appropriations will be dedicated solely to Service Development Programs.

The Recovery Act did not specify what proportion of funding should be allocated for particular project types. As a result, and consistent with previous funding solicitations, FRA will not allocate funding between Service Development Programs and Individual Projects in advance. FRA will award the $1.63 billion in available Recovery Act funding to Service Development Programs and Individual Projects based on the outcomes of the application review and selection (*see* Section 5).

Applications for projects that were submitted under the initial solicitations for Recovery Act and FY 2010 annual appropriations funding may be updated with the most current information available and resubmitted for consideration. However, applicants should be aware that all applications will be reviewed and evaluated based on the requirements contained in this notice.

FRA will make awards for Service Development Programs and Individual Projects through cooperative agreements. Cooperative agreements allow for greater Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The funding provided under these cooperative agreements will be made available to grantees on a reimbursable basis.

While there are no predetermined minimum or maximum dollar thresholds for awards, FRA anticipates making multiple awards from the funding available. As such, FRA expects applicants to tailor their applications and proposed project scopes accordingly, ensuring that the proposed level of public investment is commensurate with the expected public benefits. In order to attain the maximum benefits for the available funding and promote successful project delivery, applications offering substantial non-Federal financing options will be looked on more favorably during the review and selection process (*see* Section 5). Pursuant to 49 U.S.C. 24402(g)(1), FRA will establish the net project cost for the scope of work proposed in an application, based on engineering materials, studies of economic feasibility, information on the expected use of equipment or facilities, and other project information provided in an application. FRA reserves the right to contact applicants with any questions or comments related to applications.

Section 3: Eligibility Information

Applications under this solicitation will be required to meet minimum requirements related to applicant eligibility, project eligibility, and the fulfillment of other eligibility requirements. To the extent that an application's substance exceeds the minimum eligibility requirements described below, such information will be considered in evaluating the merits of an application (*see* Section 5 for evaluation and selection criteria).

3.1 Eligible Applicants

Eligible applicant entities are as follows:

- States (including the District of Columbia);
- Groups of States (Sections 301 and 501 of PRIIA);
- 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 302; *see* 49 U.S.C. 24402(e) for additional information on Amtrak's eligibility requirements when applying for grants in cooperation with States).

3.2 Minimum Qualifications for Applicant Eligibility

An applicant must, in addition to demonstrating that it meets the requirements as an eligible entity, affirmatively demonstrate that the applicant has or will have the legal, financial, and technical capacity to carry out the activities proposed within an application. A prospective applicant that does not fall within the definition of a State, group of States, or Amtrak will also be required to submit documentation (such as copies of legislation) demonstrating its legal authority to provide intercity or high-speed passenger rail service on behalf of a State or group of States.

In addition, the applicant must demonstrate that it has or will have satisfactory continuing control over the use of equipment or facilities acquired, constructed, or improved by the project and the capability and willingness to maintain such equipment or facilities.

For an applicant to demonstrate the legal, financial, and technical capacity to carry out the activities proposed in the application, the applicant will be required to address the following qualifications:

• The applicant's ability to absorb potential cost overruns or financial shortfalls;

• 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 investment project development activities of a nature similar to those for which funding is being requested.

For an applicant to demonstrate that it has or will have satisfactory continuing control over the use of equipment or facilities acquired, constructed, or improved by the project, the applicant will be required to show either:

• That the applicant has or will have direct ownership of the equipment or facilities acquired, constructed, or improved by the project; or

• That the applicant has secured or has made progress towards securing and will have enforceable contractual agreements providing satisfactory continuing control in place with the entity or entities (*e.g.,* one or more railroads, or a local government) that have or will have direct ownership of such assets.

For an applicant to demonstrate that it has or will have the capability and willingness to maintain the equipment or facilities acquired, constructed, or improved by the project, the applicant will be required to show:

• That it has made progress toward, and will have contractual agreements in place with, any entity or entities (*e.g.,* one or more railroads, or a local government) that have or will have direct ownership of the equipment or facilities acquired, constructed, or improved by the project, which address financial and operational responsibility for asset use and maintenance for the useful life of the asset;

• That, to the extent financial responsibility will fall to the applicant, a viable funding source(s) has been identified to cover maintenance costs; and

• The applicant's experience in maintaining assets with similar financial and operational maintenance requirements as those assets for which funding is being requested.

Information and documentation demonstrating the fulfillment of the minimum qualifications described above must be submitted as part of the application (*see* Section 4.2).

3.3 Cost Sharing

3.3.1 Applicant Cost Sharing

While the minimum required non-Federal share of total project costs will vary based on the source of funding, all applicants are encouraged to contribute non-Federal matching funds from their own, their partner project sponsors', or other interested parties' resources. Matching funds provided in excess of the minimum requirements will be considered in evaluating the merit of an application.

FRA may chose to award funds under the Recovery Act, FY 2010 DOT appropriations, other sources, or a combination at its discretion, regardless of any preferences expressed by the applicant. The Federal share of the costs of projects selected to receive Recovery Act awards may be up to 100 percent. The Federal share of the costs of projects selected to receive FY 2010 DOT appropriations awards shall not exceed 80 percent.

3.3.2 Requirements for Applicant Cost Sharing

Whether optional (for Recovery Act funding) or mandatory (for FY 2010 funding), 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 related to the activities proposed for funding. 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. However, all in-kind contributions must be allowable, reasonable, allocable, and in accordance with applicable OMB cost principles, and must not represent double-counting of costs otherwise accounted for in an indirect cost rate pursuant to which the applicant will seek reimbursement.

The applicant must provide, as part of its application, documentation that demonstrates that it has committed and will be able to fulfill any required or pledged contribution, including committing any required financial resources that are budgeted or planned at the time the application is submitted.

All applicants will be required to identify a viable funding source(s) at the time of application to absorb any cost overruns and deliver the proposed project with no Federal funding or financial assistance beyond that provided in the cooperative agreement.

3.4 Eligible Projects

3.4.1 Definition of Capital Projects

Capital projects are defined by 49 U.S.C. 24401(2) and 49 U.S.C. 26106(b)(3) as acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of high-speed and intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to high-speed and intercity passenger rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, acquiring, constructing, relocating, and rehabilitating replacement housing, rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service; providing access to rolling stock

for nonmotorized transportation and storage capacity in trains for such transportation, equipment, and other luggage. FRA will not fund activities not included in this definition nor consider the funding of any such activities in calculating an applicant's required cost share.

3.4.2 Eligible Service Development Programs

Eligible Service Development Programs under this funding announcement must consist of a coordinated and comprehensive grouping of capital projects that will result in the introduction of new high-speed or intercity passenger rail services or significant improvements to existing corridor services (*see* Section 3.4.1 for more information about capital projects). These investments will generally address, in a comprehensive manner, the construction and acquisition of infrastructure, equipment, and stations, and other facilities necessary to operate high-speed and intercity passenger rail service.

To be considered eligible for HSIPR program funding, an applicant applying for funding for a Service Development Program must have completed and submitted a NEPA document satisfying FRA's "Service NEPA" requirement with its application. Project PE, site-specific NEPA, final design, and construction activities are eligible to receive funding.

For applications for Service Development Programs that are intended to advance directly into final design, FRA requires project NEPA documents and all PE for project components to be completed and submitted with the application.

3.4.3 Eligible Individual Projects

Individual Projects are discrete capital projects that will result in service benefits or other tangible improvements on a corridor (*see* Section 3.4.1 for more information about capital projects). Eligible Individual Project activities under this funding announcement include completion of PE/NEPA documentation, FD, and construction activities. These activities are broken into two categories for the purpose of this solicitation and the application process:

- PE/NEPA completion: Activities proposed in an application must include all remaining work needed to complete both PE and NEPA documentation to be eligible. The resulting PE/NEPA documents must be sufficiently developed to support immediate commencement of final design or construction activities; however, these final design and construction activities would not be funded as part of the grant award.
- FD/Construction activities: Applications should include the design, construction, and full implementation of projects that have completed PE/NEPA requirements. FRA may consider funding only final design for projects that represent a critical strategic investment for HSIPR service, are sufficiently complex and broad in scope, and for which final design would constitute a substantial step in implementing the project.

3.4.4 Previously-Selected Projects

FRA will not make awards for activities or component projects under this solicitation that were selected to receive HSIPR program funding under any previous solicitation. However, applicants may submit an application to augment a project or component thereof that was selected under a previous solicitation. In this instance, the application must demonstrate the following:

- The applicant has, at the time it submits the new application, sufficiently refined the scope of previously-selected elements of the project to ensure those elements will have operational independence, as defined in Section 3.5.2 of this notice;
- Any new elements of a project proposed in the current application will also have operational independence;
- The applicant possesses the capacity and capability to manage and implement the proposed increase in scope of the project in addition to the scope of work previously selected to receive funding; and
- There is a demonstrated current need for additional funding to implement the proposed increase in scope of the project and the ability to expend the original and additional funds in the near term.

3.5 Additional Eligibility Requirements

3.5.1 Project Planning

All projects must be identified through a transparent, inclusive planning process that analyzes the investment needs and objectives for the intercity passenger rail service that the project is intended to benefit.

For Service Development Programs, this planning process must be documented in a detailed Service Development Plan (SDP) that lays out the overall scope and approach for the proposed service. Individual Projects must be identified through a Service Development Plan, State Rail Plan, or similar planning document that comprehensively analyzes the service improvement needs on a specific corridor.

At a minimum, the planning process for both Service Development Programs and Individual Projects must demonstrate that the project has been identified as the best solution for solving a specific existing transportation problem, and make the case for investing in the proposed solution. In doing so, the planning process must encompass activities such as identifying the purpose and need for the project and analyzing the costs, benefits, and impacts of a range of alternatives for implementing the project.

3.5.2 Operational Independence

All projects that are proposed to be advanced using HSIPR program funding must have operational independence. A project is considered to have operational independence if, upon implementation, it will have tangible and measurable benefits, either independently of other investments or cumulatively with projects selected to receive awards under previous HSIPR program solicitations (*see* Section 3.4.4 for more information about previously-selected projects). Examples of tangible and measurable benefits include operational reliability improvements, travel-time reductions, and additional service frequencies resulting in increased ridership. Additionally, a Service Development Program may demonstrate operational independence by resulting in tangible and measurable progress in implementing new or substantially improved high-speed or intercity passenger rail service.

3.5.3 Availability of Funds

FRA intends to select applications for projects that can promptly proceed to award. Statutorily, FRA must obligate all Recovery Act funds by September 30, 2012. If funding announced under FY 2010 annual appropriations is not obligated within 2 years of the date of the announcement, FRA may redistribute the funds to other HSIPR projects at the FRA Administrator's discretion (49 U.S.C. 24402(h)). Similarly, FRA may require the return of obligated funds that remain unexpended if the grantee is not making satisfactory progress in implementing the project or program as provided for in the cooperative agreement.

3.5.4 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 under this solicitation and must be taken into consideration in the development of budget information submitted as part of an application:

- Funding may not be used for expenses associated with the operation of intercity passenger rail service;
- Funding may not be used for projects that primarily benefit commuter rail passenger transportation;
- Funding may not be used for projects in which the physical improvements are located outside the United States; and
- While there is no cap on a 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 after the enactment of the applicable appropriations legislation (February 17, 2009, for the Recovery Act or December 16, 2009, for the FY 2010 DOT Appropriations Act). However, such costs will be considered for reimbursement only to the extent that they are otherwise allowable under the applicable cost principles. To the extent such pre-award costs are incurred prior to the date of submission of an application, the application must show in detail what costs have been incurred in order for such costs to be considered for reimbursement. Projects for which construction activities commenced prior to receipt of an FRA environmental determination under NEPA will not be eligible for funding.

Additionally, a grant recipient may not generally expend any of the funds provided in an award on construction or other activities that represent an irretrievable commitment of resources to a particular course of action affecting the environment until after all environmental and historic preservation analyses required by the National Environmental Policy Act (42 U.S.C. 4332) (NEPA), the National Historic Preservation Act (16 U.S.C. 470(f)) (NHPA), and related laws and regulations have been completed and FRA has provided the grant recipient with a written notice authorizing it to proceed.

3.5.5 Standards for Equipment Procurement or Design Grants

If the applicant is seeking a grant for the procurement or design of railroad equipment, the proposed equipment should be consistent with specifications developed by the Next Generation Corridor Equipment Pool Committee. This Committee was established under Section 305 of PRIIA to develop a pool of standardized next-generation rail corridor equipment.

3.5.6 Positive Train Control (PTC)

If, as a component of an investment intended to benefit high-speed or intercity passenger rail service, a project involves installation and/or improvements to railroad signaling/control systems, the application must demonstrate that the proposed improvements are consistent with a comprehensive plan for complying with the requirements for PTC implementation under Section 104 of the Rail Safety Improvement Act of 2008 ("RSIA," Division A of Pub. L. 110–432, October 16, 2008, codified at 49 U.S.C. 20157) and with FRA's final rule on Positive Train Control Systems published in the **Federal Register** on January 15, 2010 (75 FR 2598) and September 27, 2010 (75 FR 59108).

Section 4: Application and Submission Information

4.1 Application Procedures

4.1.1 Applying Online Through GrantSolutions

All applications must be submitted to FRA through GrantSolutions (GS). To access the system, go to *https://www.grantsolutions.gov.* All potential applicants should immediately complete the following three steps, which are required prior to submitting an application through GS. These steps can take up to ten days for the systems/information-owners to process:

- *Register in GS.* Go to *https://www.grantsolutions.gov* and select "Register" on the right side of the page to register, if not previously registered.
- *Obtain a Data Universal Number System (DUNS) number.* All applicants must include a DUNS number in their application. Applications without a DUNS number are incomplete. A DUNS number is a unique nine-digit number 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 lifecycle. Obtaining a DUNS number is a free, simple, one-time activity. Obtain a number by calling 1–866–705–5177 or by applying online at *http://fedgov.dnb.com/webform/displayHomePage.do.*
- *Register in the Central Contractor Registration (CCR) database.* FRA also requires that all applicants (other than individuals) for Federal financial assistance maintain current registrations in the CCR database. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via *http://www.grants.gov* or GrantSolutions should already be registered with CCR. Please note that applicants must update or renew their CCR registration at least once per year to maintain an active status. Information about registration procedures can be accessed at *http://www.ccr.gov.*

4.1.2 Address To Request Paper Application Package

If Internet access is unavailable, please write to FRA at the address below to request a paper application.

U.S. Department of Transportation, Federal Railroad Administration, Attn: HSIPR Program Information (RPD–10), Mail Stop 20, 1200 New Jersey Avenue, SE., Washington, DC 20590.

4.2 Application Package

Required documents for the application package are summarized in the checklist below.

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Application Checklist

Documents	Project Type		
	Service Development Program	Individual Project	
		FD/ Construction	PE/ NEPA
Application Forms			
1. Narrative			
☐ HSIPR Narrative Application Form – Service Development Program	✓		
☐ HSIPR Narrative Application Form – Individual FD/Construction		✓	
☐ HSIPR Narrative Application Form – Individual PE/NEPA			✓
2. Budget and Schedule			
☐ HSIPR Budget and Schedule Form – Service Development Program	✓		
☐ HSIPR Budget and Schedule Form – Individual Project		✓	
3. OMB			
☐ SF 424: Application for Federal Assistance	✓	✓	✓
☐ SF 424A: Budget Information-Non Construction		✓ *	✓
☐ SF 424B: Assurances-Non Construction		✓ *	✓
☐ SF 424C: Budget Information-Construction	✓	✓ *	
☐ SF 424D: Assurances-Construction	✓	✓ *	
4. FRA Assurances			
☐ FRA Assurances Document	✓	✓	✓
Supporting Documentation			
5. Project Development			
☐ Project Planning Documentation	✓	✓	✓
☐ Service NEPA Documentation	✓		
☐ Project NEPA Documentation	Optional	✓	
☐ Preliminary Engineering (PE) Documentation	Optional	✓	
6. Project Delivery			
☐ Project Management Documentation	✓	✓	✓

Documents	Project Type		
	Service Development Program	Individual Project	
		FD/ Construction	PE/ NEPA
☐ Financial Planning Documentation	✓	✓	✓
☐ System Safety Planning Documentation	✓	✓	
☐ Railroad and Project Sponsor Agreements	✓	✓	✓

* If an FD/Construction project includes construction activities, the SF-424C and SF-424D forms are required. If an FD/Construction project is comprised of non-construction activities only (such as equipment procurement), the SF-424A and SF-424B forms are required.

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Applicants must complete and submit all components of the application package; failure to do so may result in the application being removed from consideration for award. All components of the application package must be submitted through GrantSolutions (including optional supporting documentation), as described in Section 4.1.1. 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.

Program-specific forms and requirements for supporting documentation may be downloaded from FRA's Web site at *http://www.fra.dot.gov/rpd/passenger/477.shtml.* Specific instructions for completing these forms can be found within each document. Further information regarding the required supporting documentation may be found with the relevant application forms.

Standard OMB forms will be available electronically on the Funding Opportunity page at *http://www.GrantSolutions.gov.* The Funding Opportunity screen provides applicants with general announcement information and access to these required application materials. In addition, applicants can apply online through this screen.

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 through GrantSolutions.

4.2.1 Application Phasing

It is in the best interest of each applicant—particularly those submitting an application for a Service Development Program that is exceptionally complex, long-term, or broad in scope—to recognize the limited funding available. Therefore, an application's competitiveness may be improved by demonstrating how a proposed project could be divided into discrete phases, each with operational independence, based on geographic section, type of activity, discrete benefits and costs, or other appropriate criteria. Applicants pursuing this option should submit a single application that identifies the discrete phases, component projects, and resulting benefits of each phase. This approach will provide FRA the flexibility to select for funding those phases that are sufficiently developed to realize significant benefits, rather than selecting or not selecting the entire project based on insufficient development of some constituent parts.

4.2.2 Optional Supporting Documentation

To support the application, FRA welcomes the submission of other relevant and available supporting documentation that may have been developed by the applicant. The format and structure of any optional 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 to the address in Section 4.5 for materials that cannot otherwise be provided electronically. Applicants should provide notification of any documentation being submitted in hard copy in the appropriate section of the HSIPR Narrative Application Form.

4.3 Submission Dates and Times

Applications for these funds must be submitted through GrantSolutions by 8 p.m. EDT on Monday, April 4, 2011.

4.4 Intergovernmental Review

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

4.5 Other Submission Information

As detailed in Section 4.1.1, all application materials, including supporting documentation, should be submitted through GrantSolutions. Should an applicant encounter technological difficulties using the GrantSolutions system, please contact the GrantSolutions Help Desk at 1–866–577–0771 or via e-mail at *help@grantsolutions.gov.* If the applicant experiences technological issues that may cause the applicant to miss the application deadline, the applicant must contact FRA at *HSIPR@dot.gov* immediately, and prior to the application deadline, to request consideration to submit the application after the deadline. FRA staff may ask the applicant to e-mail the complete grant application, the DUNS number, and provide a GrantSolutions Customer Support tracking number(s). After FRA reviews all of the information submitted and contacts the GrantSolutions Customer Support to validate the technical issues reported, FRA will contact the applicant to either approve or deny the request to submit a late application. If the issues reported cannot be validated, the application may be rejected as untimely. For applications submitted by e-mail, the applicant should print, sign, scan into electronic format (preferably Adobe Portable Document Format (.pdf)), and attach to the submission e-mail copies

of all application forms requiring the applicant's signature.

For optional supporting documentation that an applicant is unable to submit electronically (such as oversized engineering drawings), an applicant may submit an original and two copies to the address below. 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.

U.S. Department of Transportation, Federal Railroad Administration, Attn: HSIPR Program Information (RPD–10) Room 38–302, Mail Stop 20, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Section 5: Application Review Information

5.1 Application Review and Selection

Complete applications are due by 8 p.m. EDT on Monday, April 4, 2011. Applications will proceed through a three-part review process:

1. Screening for completeness and eligibility;
2. Review of eligible applications by technical panels applying evaluation criteria; and
3. Project selection by the FRA Administrator applying additional selection criteria.

Each application will first be screened for completeness (containing all required documentation outlined in Section 4.2) and eligibility (requirements outlined in Section 3). Eligible and complete applications will then be reviewed and assessed against the evaluation criteria outlined in Section 5.2. Due both to statutory requirements and the overall objectives of the Recovery Act, FRA intends to select projects that can promptly proceed to award. As such, the evaluation criteria, ranked in order of priority, are:

1. Project Readiness.
2. Public Benefits.
3. Project Delivery Approach.
4. Sustainability of Benefits.

The ratings assigned for the four evaluation criteria above will not in themselves constitute the final award determination. The agency will also take into consideration several cross-cutting and comparative selection criteria (*see* Section 5.3) to determine awards. In accordance with 49 U.S.C. 24402(c), FRA may also consider "other relevant factors as determined by the Secretary" of Transportation.

For applications for funding for Service Development Programs or FD/Construction activities, the project readiness, benefit, delivery, and cross-cutting and comparative criteria will be applied to the proposed projects. For applications for funding for PE/NEPA completion, these criteria will be applied to the underlying projects that will be the subject of PE/NEPA development, except where explicitly indicated.

5.2 Evaluation Criteria

5.2.1 Project Readiness

The following factors will be considered in assessing the readiness of the proposed project to proceed promptly to award:

- The applicant's progress, at the time of application, in reaching compliance with NEPA for the proposed project. Although a NEPA decision document (Record of Decision, Finding of No Significant Impact, Categorical Exclusion determination) is not required at the time of application, applications for Service Development Programs and Individual FD/Construction Projects that are accompanied by a final NEPA determination will be looked upon favorably during the application review and selection process;
- The applicant's progress, at the time of application, in reaching final service outcomes agreements (where necessary) with key project partners. Applicants that own and/or control the infrastructure to be improved by the project or have a service outcomes agreement in place with the infrastructure owning railroad for the proposed project, or an executed agreement that could be amended with the infrastructure owning railroad for a project(s) located on the same corridor as the proposed project, will be looked upon favorably during the application review and selection process; and
- The quality and completeness of the project's Statement of Work (included in the HSIPR Narrative Application Form), including whether the Statement of Work provides a sufficient level of detail regarding scope, schedule, and budget to immediately advance the project to award.

5.2.2 Public Benefits

Economic analysis that quantifies and demonstrates the monetary value of user benefits and, if available, broader public benefits will be particularly relevant to FRA in evaluating applications. The systematic process of comparing expected benefits and costs helps decision-makers organize information about, and evaluate trade-offs between, alternative transportation investments. FRA may consider benefits and costs using standard data provided by applicants and will evaluate applications in a manner consistent with Executive Order 12893, Principles for Federal Infrastructure Investments, 59 FR 4233 (January 31, 1994).

Evaluation against the public benefits criterion will consider the qualitative factors outlined below, as supported by key quantitative metrics.

5.2.2.1 Transportation Benefits

The following factors will be considered in assessing a proposed project's achievement of transportation benefits:

- Generating improvements to existing high-speed and intercity passenger rail service, as reflected by estimated increases in ridership, increases in operational reliability, reductions in trip times, additional service frequencies to meet anticipated or existing demand, and other related factors;
- Generating cross-modal benefits, including anticipated favorable impacts on air or highway traffic congestion, capacity, or safety, and cost avoidance or deferral of planned investments in aviation and highway systems;
- Creating an integrated high-speed and intercity passenger rail network;
- Encouragement of intermodal connectivity and integration, including a focus on convenient connection to local transit and street networks, as well as coordination with local land use and station area development;
- Ensuring a state of good repair of key intercity passenger rail assets;
- Promoting standardized rolling stock, signaling, communications, and power equipment;
- Improved freight or commuter rail operations, in relation to proportional cost-sharing (including donated property) by those other benefiting rail users;
- Equitable financial participation from benefiting entities in the project's financing;
- Encouragement of the implementation of positive train control (PTC) technologies (with the understanding that 49 U.S.C. 20147 requires all Class I railroads and entities that provide regularly scheduled intercity or commuter rail passenger services to fully institute interoperable PTC systems by December 31, 2015); and
- Incorporating private investment in the financing of capital projects or service operations.

5.2.2.2 Other Public Benefits

The following factors will be considered in assessing the proposed

project's achievement of other public benefits:

• The extent to which the project is expected to create and preserve jobs and stimulate increases in economic activity;

• Promoting environmental quality, energy efficiency, and reduction in dependence on oil, including the use of renewable energy sources, energy savings from traffic diversions from other modes, employment of green building and manufacturing methods, reductions in key emissions types, and the purchase and use of environmentally sensitive, fuel-efficient, and cost-effective passenger rail equipment; and

• Promoting coordination between the planning and investment in transportation, housing, economic development, and other infrastructure decisions along the corridor, as identified in the six livability principles developed by DOT with the Department of Housing and Urban Development and the Environmental Protection Agency as part of the Partnership for Sustainable Communities, which are listed fully at *http://www.dot.gov/affairs/2009/dot8009.htm.*

5.2.3 Project Delivery Approach

The following factors will be considered in assessing the risk associated with the proposed project's delivery within budget, schedule, and as designed (for applications to complete PE/NEPA documentation, the following factors will be applied to the proposed PE/NEPA development activities rather than to the underlying project):

• The timeliness of project completion and the realization of the project's benefits;

• The applicant's financial, legal, and technical capacity to implement the project;

• The applicant's experience in administering similar grants and projects;

• The soundness and thoroughness of the cost methodologies, assumptions, and estimates;

• The thoroughness and quality of the Project Management Plan;

• The timing and amount of the project's future noncommitted investments;

• The adequacy of any completed engineering work to assess and manage/mitigate the proposed project's engineering and constructability risks (does not apply to PE/NEPA projects); and

• The sufficiency of system safety and security planning (does not apply to PE/NEPA projects).

5.2.4 Sustainability of Benefits

The following factors will be considered in assessing the likelihood of realizing the proposed project's benefits:

• The applicant's financial contribution to the project;

• The quality of a Financial Plan that analyzes the financial viability of the proposed rail service;

• The quality and reasonableness of revenue, operating, and maintenance cost forecasts;

• The availability of any required operating financial support, preferably from dedicated funding sources;

• The quality and adequacy of project identification and planning;

• The reasonableness of estimates for user and non-user benefits for the project; and

• The reasonableness of the operating service plan.

5.3 Selection Criteria

The FRA Administrator will also use the criteria below to further ensure that the projects selected for funding will advance key priorities for the development of high-speed and intercity passenger rail and contribute positively to the success and sustainability of the HSIPR program.

5.3.1 Fulfillment of DOT Strategic Goals

• Improving transportation safety.

• Maintaining transportation infrastructure in a state of good repair.

• Promoting economic competitiveness.

• Fostering livable communities.

• Advancing environmentally sustainable transportation policies.

5.3.2 Region/Location

• Ensuring appropriate level of regional balance across the country.

• Ensuring consistency with national transportation and rail network objectives.

• Ensuring integration with other rail services and transportation modes.

5.3.3 Innovation/Resource Development

• Pursuing new rail technologies that result in favorable public return on investment and ensure delivery of project benefits.

• Promoting innovations that demonstrate the value of new approaches to, among other things, transportation funding and finance, contracting, project delivery, congestion management, safety management, asset management, or long-term operations and maintenance.

• Advancing the state of the art in modeling techniques for assessing costs and benefits.

• Promoting domestic manufacturing, supply, and industrial development.

• Developing professional railroad engineering, operating, planning, and management capacity.

5.3.4 Partnerships/Participation

• Where corridors span multiple States, emphasizing those that have organized multi-State partnerships with joint planning and prioritization of investments.

• Where Amtrak is the applicant, considering the partnerships with and/or demonstrated support for the project by entities authorized to plan, design, construct, operate, maintain and/or finance intercity or high-speed passenger rail in the affected States.

• Employing creative approaches to ensure workforce diversity and use of disadvantaged and minority business enterprises.

• Engaging local communities and other stakeholder groups in the project.

5.3.5 Project Delivery/Integration

• Assessing the applicant's means for achieving satisfactory continuing control over project assets in a timely manner, including, but not limited to, public ownership of project assets or service outcomes agreements with railroad operator(s) and infrastructure-owning railroad(s) at the time of application.

• Assessing the quality and completeness of the Statement of Work (included in the HSIPR Narrative Application Form), including whether the Statement of Work provides a sufficient level of detail regarding scope, schedule, and budget to immediately advance the project to award;

• Assessing how a proposed project would complement previous awards made under the HSIPR or related programs.

• Assessing how the proposed project would complement previous State investments in high-speed intercity passenger rail.

• Assessing the applicant's track record in sustainable funding and project delivery, both within the HSIPR program and other Federal financing programs.

Section 6: Award Administration Information

6.1 Award Notices

Applications selected for funding will be announced after the application review period. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. Notification of a selected

application is not an authorization to begin proposed project activities.

6.2 Administrative and National Policy Requirements

The provisions of this section apply to grant recipients of the HSIPR program.

6.2.1 Contracting Information

A grant recipient's procurement of goods and services must comply with the Procurement Standards requirements set forth at 49 CFR 18.36 or 49 CFR 19.40 through 19.48, whichever is applicable depending on the type of grantee (part 18 covers State and local governments and part 19 covers non-profit and for-profit entities), and with applicable supplementary U.S. DOT or FRA directives or regulations.

6.2.2 Compliance With Federal Civil Rights Laws and Regulations

The grant recipient must comply with all civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that FRA determines otherwise in writing. These include, but are not limited to, the following: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) (as implemented by 49 CFR part 21), which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 1601–1607), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental, or financing of housing, (i) 49 U.S.C. 306, which prohibits discrimination on the basis of race, color, national origin, or sex in railroad financial assistance programs; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance was made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the grant recipient. Grant recipients must comply with all regulations, guidelines, and standards adopted under the above statutes. The grant recipient is also required to submit information, as required, to the FRA Office of Civil Rights concerning its compliance with these laws and implementing regulations and its activities implementing a grant award.

6.2.3 Disadvantaged Business Enterprises (DBE)

The grant recipient will be required to provide maximum practicable opportunities for small businesses, including veteran-owned small businesses and service disabled veteran-owned small businesses and implement best practices, consistent with our nation's civil rights and equal opportunity laws, for ensuring that all individuals—regardless of race, gender, age, disability, and national origin—benefit from the activities funded under the HSIPR program. The DOT Disadvantaged Business Enterprises (DBE) regulation (49 CFR part 26) applies only to certain categories of Federal highway, Federal transit, and airport funds, however, incorporating key elements of this DBE program in contracts awarded by grant recipients under the HSIPR program would be an excellent example of a best practice for ensuring that all individuals, regardless of race, gender, age, disability, and national origin, benefit from the program. The grant recipient will be required to provide FRA with a plan for ensuring the use of contractors owned and controlled by socially and economically disadvantaged individuals and to submit information to the FRA Office of Civil Rights concerning its activities with respect to DBEs in implementing a grant award.

6.2.4 Assurances and Certifications

Upon acceptance of the grant by FRA, all certifications and assurances provided by the grant recipient through the application process are incorporated in and become part of the cooperative agreement. Applicable forms include SF 424(A)/(B), SF 424(C)/(D), and FRA's Assurances and Certification form. The OMB Standard Forms can be accessed at *http://www.forms.gov.* The FRA Assurances and Certifications Document is available at *http://www.fra.dot.gov/downloads/admin/assurancesandcertifications.pdf.*

6.2.5 Debarment and Suspension; and Drug-Free Workplace

Grant recipients must obtain certifications on debarment and suspension for all third party contractors and subgrantees and comply with all DOT regulations, "Nonprocurement Suspension and Debarment" (2 CFR part 1200), and "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)" (49 CFR part 32).

6.2.6 Safety Oversight

Grant recipients must comply with any Federal regulations, laws, policy, and other guidance that FRA or DOT may issue pertaining to safety oversight in general and in the performance of any grant award in particular. FRA has in place a comprehensive system of railroad safety oversight (*see* 49 CFR part 209 *et seq.*) that is applicable to railroad operations generally.

6.2.7 Americans With Disabilities Act (ADA)

Grant recipients must agree to use funds provided under the cooperative agreement in a manner consistent with the requirements of Title II of the Americans with Disabilities Act (ADA) of 1990, as amended; Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); and both statutes' implementing regulations at 49 CFR parts 27, 37, and 38. DOT (through its delegate FRA) has responsibility to offer technical assistance for the provisions of the ADA about which it issues regulations. 42 U.S.C. 12206(c)(1) reads: "Each Federal agency that has responsibility under paragraph (2) for implementing this chapter may render technical assistance to individuals and institutions that have rights or duties under the respective subchapters of this chapter for which such agency has responsibility." Grant recipients are strongly encouraged to seek FRA's technical assistance with regard to the accessible features of passenger rail systems, to include accessibility at stations and on railcars. FRA believes such technical assistance is essential where interpretation of DOT's regulatory requirements is necessary and/or before the creation of any new rail system.

6.2.8 Environmental Protection

All facilities that will be used to perform work under an award shall not be so used unless the facilities are designed and equipped to limit water and air pollution in accordance with all applicable local, State, and Federal standards.

Grant recipients will conduct work under an award and will require that work that is conducted as a result of an award be in compliance with the following provisions, as modified from time to time: Section 114 of the Clean Air Act, 42 U.S.C. 7414, and Section 308 of the Federal Water Pollution Control Act, 33 U.S.C. 1318, and all regulations issued there under. Through the cooperative agreement, grant recipients will certify that no facilities that will be used to perform work under an award are listed on the List of Violating Facilities maintained by the Environmental Protection Agency (EPA). Grant recipients will be required to notify the FRA Administrator as soon as it or any contractor or subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to an award is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that the grant recipient's duty of notification shall extend only to those communications of which it is aware, or should reasonably have been aware. Grant recipients will need to include or cause to be included in each contract or subcontract entered into, which contract or subcontract exceeds $50,000.00 in connection with work performed pursuant to an award, the criteria and requirements of this section and an affirmative covenant requiring such contractor or subcontractor to immediately inform the grant recipient upon the receipt of a communication from the EPA concerning the matters set forth herein.

6.2.9 National Environmental Policy Act (NEPA)

The following is a description of FRA's standard grant provisions on NEPA compliance.

Generally, grant recipients may not expend any of the funds provided in an award on construction or other activities that represent an irretrievable commitment of resources to a particular course of action affecting the environment until after all environmental and historic preservation analyses required by the National Environmental Policy Act (42 U.S.C. 4332) (NEPA), the National Historic Preservation Act (16 U.S.C. 470(f)) (NHPA), and related laws and regulations have been completed and FRA has provided the grant recipient with a written notice authorizing them to proceed.

In instances where NEPA approval has not been secured at the time of grant award, grant recipients are required to assist FRA in its compliance with the provisions of NEPA, the Council on Environmental Quality's regulations implementing NEPA (40 CFR part 1500 *et seq.*), FRA's "Procedures for Considering Environmental Impacts" (45 FR 40854, June 16, 1980, as revised May 26, 1999, 64 FR 28545), Section 106 of the NHPA, and related environmental and historic preservation statutes and regulations. As a condition of receiving financial assistance under an award, grant recipients may be required to conduct certain environmental analyses and to prepare and submit to FRA draft documents required under NEPA, NHPA, and related statutes and regulations (including draft environmental assessments and proposed draft and final environmental impact statements).

No publicly-owned land from a park, recreational area, or wildlife or waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials shall be used by grant recipients without the prior written concurrence of FRA. Grant recipients shall assist FRA in complying with these requirements of 49 U.S.C. 303(c).

6.2.10 Environmental Justice

The grant recipient will be required to agree to facilitate compliance with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. 4321 note, except to the extent that FRA determines otherwise in writing.

6.2.11 Operating and Access Agreements

Grant recipients will be required to reach a written agreement, approved by FRA, with each of the railroads or other entity on whose property the project will be located showing that the recipient will have satisfactory continuing control over the use of the equipment and facilities necessary to implement the project and the capability and willingness to maintain the equipment and facilities. Among other things, such railroad/owner agreements shall specify terms and conditions regarding the following issues: Responsibility for project design and implementation, project property ownership, maintenance responsibilities, and disposition responsibilities, and the owning entity's commitment to achieve, to the extent it has control, the anticipated project benefits. If an agreement between the grant recipient and the owner that substantially addresses the above-referenced issues is already in place as of the date of execution of the cooperative agreement, the grant recipient will be required to submit it to FRA for FRA's review and determination of adequacy. However, if either no agreement is in place as of the date of execution of this Agreement, or if an existing agreement has been determined by FRA to be inadequate, the grant recipient shall, prior to the grant recipient's execution of an agreement with the owner, submit the final draft of such an agreement to FRA for FRA's review and approval. A finding by FRA that the required approved railroad/owner agreement(s) are in place is a prerequisite for the obligation of funding for construction-related activities.

6.2.12 Real Property and Equipment Management, Discontinuance of Service, and Disposition Requirements

The grant recipient will be required to ensure the maintenance of project property to the level of utility (including applicable FRA track safety standards) that existed when the project improvements were placed in service for a period of a minimum of 20 years from the date such project property was placed in service. In the event that all intercity passenger rail service making use of the project property is discontinued during the 20-year period, the grant recipient will be required to continue to ensure the maintenance of the project property, as set forth above, for a period of one year to allow for the possible reintroduction of intercity passenger rail service. In the event the grant recipient should fail to ensure the maintenance of project property, as set forth above, for a period of time in excess of six months, the grant recipient will be required to refund to FRA a pro-rata share of the Federal contribution, based upon the percentage of the 20-year period remaining at the time of such original default.

The grant recipient will also be required to acknowledge that the purpose of the project is to benefit intercity passenger rail service. In the event that all intercity passenger rail service making use of the project property is discontinued (for any reason) at any time during a period of 20 years from the date such project property was placed in service, as set forth above, and if such intercity passenger rail service is not reintroduced during a one-year period following the date of such discontinuance, the grant recipient will be required to refund to FRA, no later

than 18 months following the date of such discontinuance, a pro-rata share of the Federal contribution, based upon the percentage of the 20-year period remaining at the time of such discontinuance.

6.2.13 Freedom of Information Act (FOIA)

As a Federal agency, 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 notice of funding availability 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 notice 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 FRA.

6.2.14 Security Planning and Oversight

The grant recipient must comply with any Federal regulations, laws, policy, and other guidance that FRA, DOT, or the Department of Homeland Security may issue pertaining to security oversight in general and that FRA or DOT may issue regarding the performance of any grant award in particular. Prior to FRA issuing a cooperative agreement for a Service Development Program or an Individual FD/construction project, an applicant must complete a System Security Plan.

6.2.15 Project Labor Agreements

Executive Order 13502, Use of Project Labor Agreements for Federal Construction Projects, issued by President Obama on February 6, 2009, encourages Federal agencies in awarding any contract in connection with large-scale Federal government construction projects to, on a project-by-project basis, consider requiring the use of a project labor agreement by a contractor where use of such an agreement will (i) advance the Federal Government's interest in achieving economy and efficiency in Federal procurement, producing labor management stability, and ensuring compliance with laws and regulations governing safety and health, equal employment opportunity, labor and employment standards, and other matters, and (ii) be consistent with law. At this time, the Executive Order does not apply directly to recipients of financial assistance to either require or preclude the use of a project labor agreement.

6.2.16 Distracted Driving Safety Policy

Grant recipients are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies that bar text messaging while driving company-owned or –rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official government business or when performing any work for or on behalf of the Government. *See* Executive Order 13513 "Federal Leadership on Reducing Text Messaging While Driving", Oct. 1, 2009 (available at *http://edocket.access.gpo.go/2009/E9–24203.htm*) and DOT Order 3902.1 "Text Messaging While Driving", Dec. 30, 2009 (available at *http://dotnet.gov.gov*), as implemented by Financial Assistance Policy Letter (No. FAP–2010–01, Feb. 2, 2010). This includes, but is not limited to, Grant recipients:

(1) Considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;

(2) Conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving;

(3) Encouraging voluntary compliance with the agency's text messaging policy while off duty.

6.3 Program-Specific Grant Requirements

6.3.1 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 funds for a HSIPR 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.

6.3.2 Operators Deemed Rail Carriers

With the exception of entities falling within the exclusions set forth in 49 U.S.C. 24405(e), 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 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)).

6.3.3 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 (a) any compensation for such use; (b) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; (c) 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 (d) an assurance that the grant recipient complies with liability requirements consistent with 49 U.S.C. 28103. 49 U.S.C. 24405(c). Applicants shall also provide assurance that it has or will have the legal, financial and technical capacity to carry out the project, including, but not limited to, public ownership of necessary equipment and facilities or access agreements with railroad operator(s) and infrastructure-owning railroads evidencing that the grant recipient will have continued access to necessary equipment and facilities. 49 U.S.C. 24402(b). Applicants should further provide assurance that service outcomes specified to result from the project, and for which the railroad is necessary for delivery, will be delivered, including a mechanism to enforce the specified service outcomes. 49 U.S.C. 24402(c).

6.3.4 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)).

6.3.5 Davis-Bacon Act

Projects funded through the Recovery Act and all projects funded through PRIIA that use rights-of-way owned by a railroad are required to comply with the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*) as provided for in 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.

6.3.6 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 and 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)).

6.4 Reporting

6.4.1 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 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 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)*—Grantees must submit a quarterly Federal financial report 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. Grantees 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, grantees must submit a Summary Project Report, detailing the results and benefits of the grantee's improvement efforts, as well as a final Federal Financial Report (SF–425).

6.4.2 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. General 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.* 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, DOT's Office of the Inspector General, 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 subgrantees 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.

6.4.3 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 subgrantees, 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.

6.4.4 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 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.

6.5 ARRA-Specific Grant Requirements (Applies to ARRA–Funded Grants Only)

ARRA contains several specific requirements associated with funding provided in that statute. These include:

6.5.1 Prohibited Activities

None of the ARRA funds appropriated or otherwise made available in the cooperative agreement may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

6.5.2 Certifications

As a condition of award, to the extent applicable, grant recipients must comply with the Certification requirements of ARRA. These include Section 1201 (Maintenance of Effort); Section 1511 (Transparency and Oversight); and Section 1607 (Additional Funding Distribution and Assurance of Appropriate Use of Funds).

6.5.3 Whistleblower Protections

The grant recipient will be required to provide the whistleblower protections required by Section 1553 of ARRA.

6.5.4 False Claims Act

The grant recipient and sub-recipients will be required to promptly refer to the DOT's Inspector General credible evidence that a principal, employee, agency, contractor, sub-contractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

6.5.5 Contracting Provisions

To the maximum extent possible, contracts funded under ARRA shall be awarded as fixed-price contracts through the use of competitive procedures. Grant recipients will be required to provide a summary of any contract awarded with ARRA funds that is not fixed-price and not awarded using competitive procedures for posting on the Recovery Accountability and Transparency Board's Web site.

6.5.6 ARRA-Specific Reporting Requirements

ARRA Section 1201 Report— Periodic Reports—Each grant recipient will be required to submit periodic reports to the FRA as described in this paragraph not later than February 17, 2012. The Periodic Reports shall include information describing: (1) The amount of Federal funds appropriated, allocated, obligated, and outlayed under the cooperative agreement; (2) the number of projects that have been put out to bid under the cooperative agreement and the amount of Federal funds associated with such projects; (3) the number of projects for which contracts have been awarded under the cooperative agreement and the amount of Federal funds associated with such contracts; (4) the number of projects for which work has begun under such contracts and the amount of Federal funds associated with such contracts; (5) the number of projects for which work has been completed under such contracts and the amount of Federal funds associated with such contracts; and (6) the number of direct, on-project jobs created or sustained by the Federal funds provided for projects under the cooperative agreement and, to the extent possible, the estimated indirect jobs created or sustained in the associated supplying industries, including the number of jobs created and the total increase in employment since February 17, 2009. DOT or FRA may issue additional guidance on the preparation and submission of Periodic Reports.

Section 1512(c)—Jobs Accountability Reports—Not later than 10 days after the end of each quarter, each grant recipient will be required to submit a Jobs Accountability Report to the FRA that contains: (1) The total amount of ARRA funds received pursuant to this agreement; (2) the amount of ARRA funds received that were expended or obligated to projects or activities; and (3) a detailed list of all projects or activities for which ARRA funds were expended or obligated, including—(A) the name of the project or activity; (B) a description of the project or activity; (C) an evaluation of the completion status of the project or activity; (D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and (E) detailed information on any subcontracts or subgrants awarded by the grant recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), allowing aggregate reporting on awards below $25,000 or to individuals,

as prescribed by the Director of OMB. OMB may issue additional guidance on the preparation and submission of Jobs Accountability Reports. The grant recipient must also register with the CCR database or complete other registration requirements as determined by the Director of OMB.

Section 1609: Environmental Reporting—Section 1609(c) of ARRA requires that Federal agencies report via the President (specifically, to the White House Council on Environmental Quality) every 90 days following enactment of ARRA on the status of projects funded under ARRA with respect to compliance with NEPA. Grant recipients may be requested to submit information to assist FRA in completing this report.

Additional Information—To satisfy the purposes of ARRA, grant recipients may be required to provide additional information in response to requests from OMB, the Congressional Budget Office, the Government Accountability Office, or the Department's Inspector General. FRA will inform grant recipients if and when such additional reports or information are required.

Section 7: Agency Contact

For further information regarding this notice and the HSIPR program, please contact the FRA HSIPR Program Manager via e-mail at *HSIPR@dot.gov,* or by mail: U.S. Department of Transportation, Federal Railroad Administration, MS–20, 1200 New Jersey Avenue, SE., Washington, DC 20590 Attn: HSIPR Program.

Issued in Washington, DC, on March 11, 2011.

Joseph C. Szabo,

Administrator.

[FR Doc. 2011–6178 Filed 3–14–11; 11:15 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Buy America Waiver Notification

AGENCY: Maritime Administration, U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: This notice provides information regarding MARAD's finding that a Buy America waiver, stated in 41 U.S.C. 10b, is appropriate for the purchase of foreign Mobile Harbor Cranes in the Federal-aid/TIGER II grant for the Port of Providence. The waiver for this project involves the purchase and use of specific items that are not produced in the United States and deemed necessary for the construction of the project. MARAD has reached out to industry on the domestic availability of these items. No domestic manufacturers have been located.

The Port of Providence's TIGER II project is to expand and upgrade the Port of Providence in Rhode Island. TIGER II dollars in the amount of $10.5 million will help replace two aged diesel cranes, one of which is currently non-functional, with new electric, barge-based cranes that will enable the Port to handle container traffic. Replacing these cranes will allow the port to expand its container short sea shipping operation, help relieve bottlenecks along the I–95 corridor, and support jobs in and around the economically distressed are of Providence.

This waiver is being requested because mobile harbor cranes are not produced in the United States. These cranes are considered to be specialized equipment and other types of cranes cannot be adapted to meet the mobility, lift, precision, and efficiency requirements necessary for marine cargo operations at the Port of Providence. MARAD has consulted and coordinated directly with appropriate industry associations and has determined that it has been more than 15 years since cranes of this type were manufactured in the United States. It should also be noted, the purchase of foreign built cranes to complete this, and other port development projects, is only one part of the overall port modernization and expansion effort. All other materials used in the construction of all port construction projects will be produced in the United States, and MARAD has been working with the Manufacturing Extension Partnership, under the National Institute of Standards and Technology, to identify manufacturing opportunities for domestic harbor crane construction and repair.

DATES: The effective date of the waiver is March 17, 2011.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Anthony Shuler Jr., MARAD Office of Infrastructure Development and Congestion Mitigation, (202) 366–6639, or via e-mail at *Anthony.L.Shuler@dot.gov.* For legal questions, please contact Jeff Vogel, MARAD, Office of the Chief Counsel, (202) 493–0307 or via e-mail at *Jeff.Vogel@dot.gov .*

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register's** home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

Congress has enacted a Buy American provision which requires manufactured goods that are permanently incorporated into a project that is funded with Federal-aid funds to be produced in the United States. The application of Buy American is triggered by the obligation of Federal funds to a project. Once Federal-aid funds are obligated to a project, then all steel or manufactured goods incorporated into the project must be produced in the United States. The specific statutory requirement reads as follows:

> Notwithstanding any other provision of law, and unless the head of the department or independent establishment concerned shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, only such unmanufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be in the United States, shall be acquired for public use. 41 U.S.C. 10a.

Under 41 U.S.C. 10b, the Secretary may waive the Buy American requirements for specific articles, materials, or supplies on a Federal-aid construction project when with respect to those articles, materials, or supplies it is impracticable to require adherence with the Buy American Act or such a requirement would unreasonably increase the project cost.

The waiver process is initiated by the requesting organization when it believes that a waiver is warranted pursuant to any of the waiver provisions under 41 U.S.C. 10b. MARAD develops findings and justifications for the waiver and publishes the decision in the **Federal Register**. MARAD's publication of its Buy American decision is required pursuant to the Buy American Act, 41 U.S.C. 10b. The effective date of the waiver is the date following publication of the **Federal Register**.

Authority: 41 U.S.C. 10a.

By Order of the Maritime Administrator.

Dated: March 10, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–6103 Filed 3–15–11; 8:45 am]

BILLING CODE 4910–81–P