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Department of Transportation

Federal Railroad Administration

High-Speed Intercity Passenger Rail (HSIPR) Program; Notices

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 Service Development Programs; issuance of interim program guidance.

SUMMARY: This notice details the application requirements and procedures for obtaining funding for high-speed and intercity passenger rail Service Development Programs available under the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 (Div. A of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117, Dec. 16, 2009)). The Federal Railroad Administration has issued a separate notice in today's edition of the **Federal Register** for Fiscal Year 2010 funding made available for Individual Projects.

This document incorporates interim guidance required for the HSIPR program pursuant to the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 and 49 U.S.C. 24402(a)(2). The funding opportunities described in this notice are available under Catalog of Federal Domestic Assistance (CFDA) number 20.319.

DATES: Applications for funding under this solicitation are due no later than 5 p.m. EDT, August 6, 2010. FRA reserves the right to modify this deadline.

ADDRESSES: Comments must be submitted through *http://www.grantsolutions.gov. See* Section 4 for additional information regarding the application process.

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 Att'n: HSIPR Program.

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Section 1: Funding Opportunity Description

1.1 Legislative Authority

This interim program guidance and financial assistance announcement pertains to the funding made available for Service Development Programs under FRA's HSIPR program. The authority for this grant program is contained in two pieces of legislation:

- The Passenger Rail Investment and Improvement Act of 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. chapter 24105), and High-Speed Rail Assistance (codified at 49 U.S.C. chapter 26106), respectively; and
- The Fiscal Year 2010 Consolidated Appropriations Act (Title I of Division 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."

This document incorporates interim guidance required for the HSIPR program pursuant to the FY 2010 DOT Appropriations Act and 49 U.S.C. 24402(a)(2).

1.2 Funding Approach

The FY 2010 DOT Appropriations Act appropriated a total of $2.5 billion for the HSIPR program. FRA is soliciting grant applications separately for the different components of this appropriation:

- *FY 2010 Service Development Programs (at least $2,125 million):* Service Development Programs with a 20 percent non-Federal match. This solicitation is for these funds.
- *FY 2010 Individual Projects (up to $245 million):* Final Design/Construction or Preliminary Engineering/NEPA for Individual Projects with a 20 percent non-Federal match. The notice of funding availability (NOFA) for these funds is being issued concurrently with this solicitation.
- *FY 2010 Planning Projects (up to $50 million):* Planning projects with a 20 percent non-Federal match. The solicitation for these funds was published on April 1, 2010, and applications were due May 19, 2010.
- *FY 2010 Multi-State Proposals (from $50 million for Planning Projects):* Proposals for Federally-led preparation of planning documents for high-speed rail corridors that cross multiple States. The guidance for submitting proposals was published on April 1, 2010, and the proposals were due May 19, 2010.

The balance of the $2.5 billion is allocated to HSIPR program administration and research.

1.3 Approach to Service Development Programs

Investment in Service Development Programs is the long-term emphasis of the HSIPR program. Service Development Programs are aimed at developing new high-speed or intercity passenger rail services or substantially upgrading existing services. (*See* Appendix 1 for the definition of "high-speed and intercity passenger rail.") Service Development Programs contain sets of inter-related projects that constitute the entirety or a distinct phase (or geographic section) of a long-range Service Development Plan (SDP)—projects which collectively produce benefits greater than the sum of each individual project. These investments will generally address, in a comprehensive manner, the construction and acquisition of infrastructure, equipment, stations, and facilities necessary to operate high-speed and intercity passenger rail service.

1.3.1 Service Development Program Administration

While the characteristics and outcomes of a Service Development Program will be unique to each individual application, for the purposes of this solicitation, FRA will classify Service Development Programs into two categories: Major Capital Projects and Standard Capital Projects.

As required by PRIIA (49 U.S.C. 24403(a)), and in keeping with project management approaches in use by other DOT agencies (*e.g.,* FTA's Project Management Oversight program (49 CFR part 633), and FHWA's IPD Major Project Delivery Guidance), large, complex capital projects, designated as "Major Capital Projects" call for a particularly rigorous approach towards project management and oversight.

Administratively, three primary distinctions exist between the Major and Standard Capital Project designation when applied to a Service Development Program: (1) The approach to the environmental review process; (2) FRA's use of a Letter of Intent (LOI) to contingently commit funds to the Service Development Program (as

described in Section 2); and, (3) the project delivery tools required and employed by FRA in managing the Service Development Program.

Given the scope, complexity, and project delivery risk inherent in implementing a Service Development Program, all Service Development Program applications are considered to be "Major Capital Projects" unless the FRA Administrator determines that this classification and the attendant requirements will not benefit the implementation of the proposed program. Applicants for funding for a Service Development Program may request to be considered a "Standard Capital Project" in their Application Form (*see* Section 4.2.1). This designation will typically be limited to Service Development Programs that:

1. Involve a recipient whose past experience in implementing similar HSIPR projects indicates that the program will be delivered successfully;
2. Generally are expected to have a total project cost less than $100 million;
3. Are intended to benefit intercity passenger rail service operating at top speeds of 79 mph or less; and
4. Solely involve the use of proven technology.

As the HSIPR program develops and Service Development Programs become its primary focus, the approach to the Major and Standard designations may change. As the HSIPR program matures, FRA expects to work with project sponsors from the beginning of the service development process and will designate a Service Development Program as "Major" or "Standard" in coordination with project sponsors during or before the planning phase of project development.

1.3.2 Service Development Program Environmental Review

There are two general methods to satisfying National Environmental Policy Act (NEPA) requirements for intercity passenger rail capital investment projects:

- A tiered approach, utilizing a Tier 1 environmental impact statement (EIS) to address broad service level issues ("programmatic" or "Service" NEPA), followed by Tier 2 EISs, environmental assessments (EAs), or categorical exclusions (CEs) to address site-specific project environmental reviews ("project" NEPA); or
- A non-tiered approach, in which one EIS or EA would cover both service issues and individual project components.

Generally, FRA prefers to take a tiered approach with Major Service Development Programs, and a non-tiered approach with Standard Service Development Programs. For Major Service Development Programs, FRA also generally prefers to use a Tier 1 environmental impact statement (EIS) for the initial evaluation of the application. FRA encourages applicants developing Standard Service Development Programs to develop a single EIS or EA that covers both service and project environmental analysis.

FRA is responsible for the NEPA process, including the establishment of the scope of environmental reviews and the decision to use tiering or a unified project-level document. FRA encourages applicants to contact FRA as early as possible in the planning process to discuss the appropriate form and level of NEPA documentation. For more information on the NEPA process and FRA's requirements, please *see* Section 4.2.5 and Appendix 2.2 of this solicitation.

1.4 Forthcoming Interim Guidance

FRA is preparing a draft guidance document as part of the process of establishing a long-term framework for the HSIPR program. This document, anticipated for publication later this year, will include details about each stage of the project development process (from planning and design through construction and operation), as well as provide substantial technical assistance on the processes and documentation needed for successful project development and delivery. This guidance is intended for future program administration and does not apply to this funding solicitation or the application process described in this notice.

The initial draft of this pending guidance document will be open for public comment, and FRA will utilize various outreach mechanisms for soliciting feedback from the HSIPR stakeholder community. FRA expects to modify the draft guidance document taking into account this feedback and to eventually issue Final Guidance that will include standards and guidelines that will be applicable to future funding opportunities.

Section 2: Award Information

Of the $2.5 billion appropriated under the FY 2010 DOT Appropriations Act, Congress mandated that not less than 85 percent of funds ($2.125 billion) be allocated to programs aimed at developing new high-speed or intercity passenger rail services or substantially upgrading existing corridor services. These grants are authorized under 49 U.S.C. 24406, 49 U.S.C. 24105, and 49 U.S.C. 26106.

FRA will make awards for Service Development Programs through cooperative agreements. Cooperative agreements allow for greater Federal involvement in carrying out the agreed upon investment. The substantial Federal involvement for these programs will include 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.

For Major Service Development Programs, FRA will issue a Letter of Intent (LOI) that represents the Federal Government's contingent financial commitment—up to a prescribed amount of funding—to implement the Service Development Program. An LOI will contain defined milestones, grant conditions, and other requirements agreed upon by FRA and the grantee that must be fulfilled or met prior to any funding obligation or disbursement. These milestones and conditions will be put in place to ensure successful and timely completion of projects. An LOI does not represent an obligation or disbursement of funds. Funding will be obligated through cooperative agreements and disbursed to grantees as the agreed upon milestones are achieved. *See* Section 1.3 for further information on Major and Standard Service Development Programs.

While there are no predetermined minimum or maximum dollar thresholds for awards, FRA anticipates making multiple awards from the $2.125 billion or more available for Service Development Programs. As such, FRA expects applicants to tailor their applications and proposed project scopes accordingly. 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 is an eligible applicant type for the Service Development Program, 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

The Federal share of the costs of projects funded through this solicitation shall not exceed 80 percent.

If an applicant chooses the option of contributing, from its own, its partner project sponsors', or other interested parties' resources, more than the required 20 percent non-Federal share of the costs of its proposed project, such additional contributions will be considered in evaluating the merit of its application.

3.3.2 Requirements for Applicant Cost Sharing

An applicant's contribution toward the cost of its proposed project may be in the form of cash or, with FRA approval, in-kind contributions of services or supplies 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 and 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 Service Development Programs

Eligible Service Development Program activities 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. 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.

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; and the first-dollar liability costs for insurance related to the provision of intercity passenger rail service under 49 U.S.C. 24404. 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.

Service Development Programs applying for funding under this solicitation may not include individual projects that have received HSIPR program funding under previous solicitations.

3.4.1 Major Service Development Programs

To be considered eligible for HSIPR program funding, an applicant applying for funding for a Major Service Development Program must have completed and submitted a NEPA document satisfying FRA's "Service NEPA" requirement with its application. *See* Section 4.2.5 and Appendix 2.2 for additional details on NEPA requirements.

Project PE, site-specific NEPA, final design, and construction activities are eligible for funding. *See* Appendix 2 of this solicitation for additional information on these activities.

3.4.2 Standard Service Development Programs

As with Major Service Development Programs, an applicant applying for funding for a Standard Service Development Program must have completed and submitted with its application an EIS or EA that addresses, at a minimum, Service NEPA issues. For applications for Standard Service Development Programs that are intended to advance directly into Final Design, FRA requires project NEPA documents and all Preliminary Engineering (PE) for project components to be completed and submitted with the application. *See* Appendix 2.2 for additional details on NEPA requirements, and Appendix 2.3 for further details regarding PE requirements.

Remaining project PE and site-specific NEPA, final design, and construction activities are eligible for funding. *See* Appendix 2 of this solicitation for additional information on these activities.

3.4.3 Previously Funded Service Development Programs

An application proposing to augment a Service Development Program, or component thereof, which received funding from FRA under the American Recovery and Reinvestment Act of 2009 must demonstrate the following:

- The applicant has, at the time it submits the new application, sufficiently refined the scope of previously funded elements of the Service Development Plan to ensure those elements will result in high-speed or intercity passenger rail service with operational independence, as defined in Section 3.5.2 of this notice;
- Any new elements of a Service Development Program proposed in the current application will also result in high-speed or intercity passenger rail service with operational independence, either cumulatively with the previous investment or as an independent operating segment of the Service Development Program;
- The applicant possesses the capacity and capability to manage and implement the proposed increase in scope of the Service Development Program in addition to the scope of work funded under the previous award; and
- There is a demonstrated need for immediate additional funding to implement the proposed increase in scope of the Service Development Program and the ability to expend the original and additional funds in the near term.

3.5 Additional Eligibility Requirements

3.5.1 Service Development Program Planning

Service Development Programs proposed for funding must be identified through a Service Development Plan meeting the requirements of this interim guidance. A Service Development Plan is prepared during the planning phase for HSIPR Service Development Programs and lays out the overall scope and approach for the proposed service. At a minimum, a Service Development Plan must clearly demonstrate the purpose and need for new or improved intercity passenger rail service; analyze alternatives for the proposed new or improved intercity passenger rail service, and identify the alternative that would best address the identified purpose and need; identify the discrete capital projects that will be required to implement the alternative that is proposed to be pursued; demonstrate the operational and financial feasibility of the alternative that is proposed to be pursued; and, as applicable, describe how the implementation of the HSIPR Service Development Program may be divided into discrete phases. More information on the objectives and preparation of Service Development Plans is included in Appendix 2.1.

3.5.2 Operational Independence

All Service Development Programs that are proposed to be advanced using HSIPR program funding must have operational independence. A Service Development Program is considered to have operational independence if, upon being implemented, it will result in a minimal operating segment of new or substantially improved high-speed or intercity passenger rail service that demonstrates tangible and measurable benefits, even if no additional investments in the same service are made. Examples of these benefits would include operational reliability improvements, travel-time reductions, and additional service frequencies resulting in increased ridership.

Applications that include benefits or proposed activities that are contingent upon FRA's selection of another application will not be considered for funding.

3.5.3 Availability of Funds

It is important for awarded projects to be brought promptly to obligation through execution of a cooperative agreement by the applicant and FRA and for awarded funds to be expended without delay and in accordance with the statement of work and project schedules included in the cooperative agreement. Under 49 U.S.C. 24402(h), if any amount awarded under the HSIPR program is not obligated within 2 years of the date on which the award is made, FRA may cancel the award and redistribute the funds to other HSIPR projects at the FRA Administrator's sole discretion. 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 Eligibility Restrictions

Pursuant to the provisions of Sections 301, 302, and 501 of PRIIA, the following activities are ineligible to

receive Federal funding under this solicitation:

- Applications submitted by private entities other than Amtrak;
- Projects for which commuter rail passenger transportation is the primary intended beneficiary (*see* Appendix 1);
- Projects in which the physical improvements are located outside of the United States; and
- Any expenses associated with passenger rail operating costs.

3.5.5 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 to fund expenses associated with the operation of intercity passenger rail service; 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 FY 2010 DOT Appropriations Act (December 16, 2009). However, such costs will be considered for reimbursement only to the extent that they are otherwise allowable under the applicable cost principles. 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.

3.5.6 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. Compliance with Section 305 of PRIIA will assist in creating the economies of scale necessary to achieve the Administration's goal of developing a sustainable railroad equipment manufacturing base in the United States, as outlined in the Vision for High-Speed Rail in America (April 2009). The Next Generation Corridor Equipment Pool Committee will be issuing specifications for bi-level cars this summer, single-level cars this winter, and locomotives in 2011.

3.5.7 Positive Train Control (PTC)

If, as a component of an overall Service Development Plan 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).

Section 4: Application and Submission Information

4.1 Application Procedures

4.1.1 Applying Online Through GrantSolutions

FRA participates in the Grants Management Line of Business (GMLoB) E-Gov initiative. As part of that initiative, FRA uses the Administration for Children and Families' (ACF) GrantSolutions (GS) Grants Management System. All applications must be submitted to FRA through GrantSolutions. To access the system, go to *https://www.grantsolutions.gov.* Should an applicant encounter difficulties accessing using GS, please contact the GrantSolutions Help Desk at 1–866–577–0771 or via e-mail at *help@grantsolutions.gov.* Applicants must complete the following three steps prior to submitting an application through GS:

- Register in GS. Go to *https://www.grantsolutions.gov* and select "Register" on the right side of the page. Applicants should begin the process immediately to meet the application submission deadlines.
- 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, however, 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.*

Standard OMB forms (identified in Section 4.2.3) 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 all application kit materials in order to view and print application forms and information. In addition, applicants can apply online through this screen.

Program-specific forms (identified in Sections 4.2.1, 4.2.2, and 4.2.4) may be downloaded from FRA's Web site at *http://www.fra.dot.gov/Pages/477.shtml.*

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.

APPLICATION CHECKLIST

Documents	Format
1. Application Form	
☐ HSIPR Service Development Program Application Form	Form
2. Budget and Schedule Form	
☐ HSIPR Service Development Program Budget and Schedule Form	Form
3. OMB Standard Forms	
☐ SF 424: Application for Federal Assistance	Form
☐ SF 424C: Budget Information—Construction	Form
☐ SF 424D: Assurances—Construction	Form
4. FRA Assurances Document	
☐ FRA Assurances Document	Form
5. Service Development Supporting Documentation	
☐ Service Development Plan	No Specified Format
☐ NEPA Documentation	No Specified Format
6. Service Delivery Supporting Documentation	
☐ Project Management Plan	No Specified Format
☐ Financial Plan	No Specified Format
☐ System Safety Plan	No Specified Format
☐ Railroad and Project Sponsor Agreements	No Specified Format

APPLICATION CHECKLIST—Continued

Documents	Format
7. Optional Supporting Documentation	
☐ Preliminary Engineering (PE) and/or Final Design (FD) Documentation	No Specified Format
☐ Other Relevant and Available Documentation	n/a

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.

The HSIPR Service Development Program application package contains seven components:

1. HSIPR Service Development Program Application Form (*see* Section 4.2.1).
2. HSIPR Service Development Program Budget and Schedule Form (*see* Section 4.2.2).
3. OMB Standard Forms (*see* Section 4.2.3).
4. FRA Assurances Document (*see* Section 4.2.4).
5. Service Development Supporting Documentation (*see* Section 4.2.5).
6. Service Delivery Supporting Documentation (*see* Section 4.2.6).
7. Optional Supporting Documentation (*see* Section 4.2.7).

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.

It is in the best interest of an applicant who is submitting an application for a Service Development Program that is exceptionally complex, long-term, or broad in scope to submit phased application packages for the same Service Development Program. Applicants pursuing this option should divide the activities into discrete phases, each with operational independence, based on geographic section, type of activity, or other appropriate criteria.

To apply for funding using this approach, an applicant should structure the applications in such a way that an application for a specific phase also includes all of the project activities and funding requested in applications for all previous phases, in addition to the set of activities and funding requested for the current phase. This "nested" approach will give FRA flexibility to select for funding those phases of a Service Development Program that are sufficiently developed to realize significant benefits, rather than selecting or not selecting the entire program based on insufficient development of some constituent parts.

For example, an applicant applying for funding for a Service Development Program may break the program into three distinct phases and apply as follows:

- Application 1 includes package of projects A for $X;
- Application 2 includes package of projects A + B for $X + $Y; and
- Application 3 includes package of projects A + B + C for $X + $Y + $Z.

Applicants taking this phased approach to their application submittals must ensure that each individual application includes all of the required documentation described below. FRA recognizes that in certain instances the same document may be used to support each of the individual applications; however, to support FRA's eligibility and evaluation review processes, each application package must be complete and include all required documentation.

4.2.1 HSIPR Service Development Program Application Form

The Application Form includes fields that have been developed by FRA to capture pertinent qualitative and quantitative program-specific information that is needed for FRA to confirm applicant and project eligibility, as well as information needed for evaluation and selection of applications. The Application Form requests four types of information:

1. General applicant and Service Development Program information;
2. Narratives that allow the applicant to make arguments for the benefits of the proposed Service Development Program and other factors that are used to evaluate the merits of the application (*see* Section 5.2 for evaluation criteria);
3. A corridor service overview that presents the applicant's comprehensive vision for the development or improvement of a corridor service and provides a navigation tool for multiple applications related to a particular Service Development Program; and
4. An "executive summary" that outlines the major milestones for the Service Development Program. It is FRA's intent that this portion of the application form will provide the framework for the Letter of Intent (LOI) if the project is selected for funding.

The Application Form also asks applicants who wish to be considered for designation as a Standard Service Development Program to provide a narrative describing how they meet the factors described in Section 1.3.1.

4.2.2 HSIPR Service Development Program Budget and Schedule Form

The HSIPR Service Development Program Budget and Schedule Form is a Microsoft Excel document that supports the qualitative and quantitative claims made in the applicant's HSIPR Service Development Program Application Form. In addition to capturing detailed program budget and schedule information, the form also describes the standard cost categories developed by FRA to assist in evaluating and selecting projects.

4.2.3 OMB Standard Forms

The Standard Forms are developed by the Office of Management and Budget (OMB) and are required of all grant applicants. Applicants applying for funding should submit the following forms electronically through GrantSolutions:

- Standard Form 424: Application for Federal Assistance;
- Standard Form 424C: Budget Information—Construction Programs; and
- Standard Form 424D: Assurances—Construction Programs.

4.2.4 FRA Assurances Document

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

4.2.5 Service Development Supporting Documentation

The service development documentation below focuses on the physical attributes of a project and its anticipated outcomes. These materials must demonstrate that the project has completed specified prerequisites and is ready to progress to the next phase of development.

- *Service Development Plan*—Applicants must submit the Service Development Pan (SDP) that informed the Service Development Program. The SDP lays out the overall scope and approach for the proposed service. The SDP must address the following objectives:
  - Clearly demonstrate the purpose and need for new or improved HSIPR service;
  - Analyze alternatives for the proposed new or improved HSIPR service and identify the alternative that would best address the identified purpose and need;
  - Demonstrate the operation and financial feasibility of the alternative that is proposed to be pursued;
  - Identify the discrete capital projects that will be required to implement the alternative that is proposed to be pursued; and
  - As applicable, describe how the implementation of the HSIPR Service Development Program may be divided into discrete phases.

  FRA recognizes that a variety of formats and types of information may meet the objectives described above. Applications that do not demonstrate fulfillment of these objectives may be determined by FRA to be not ready for consideration and evaluation. *See* Appendix 2.1 for additional information and suggested content for an SDP that satisfies the objectives above.
- *National Environmental Policy Act (NEPA) Documentation*—Applicants must provide a completed Environmental Assessment or a completed Final Environmental Impact Statement that demonstrates, at a minimum, satisfaction of "Service NEPA" for the proposed Service Development Program (either submitted with the application package or references through an accurate URL). If the applicant has completed project NEPA to satisfy this requirement, particularly for Standard Service Development Programs, this documentation should be submitted. If the applicant has prepared second-tier project NEPA documents for projects within the program, those may also be submitted. Any NEPA documentation submitted must be approved by the responsible State agency as sufficient and complete. A NEPA decision document (a Record of Decision or Finding of No Significant Impact) is not required for an application but must have been issued by FRA prior to award of a construction grant and commencement of any construction activities related to the project. NEPA requirements are detailed in Appendix 2.2 of this solicitation.

4.2.6 Service Delivery Supporting Documentation

Service delivery documentation of the types described below focuses on the implementation of the project and how the risks and uncertainties associated with the project will be managed.

FRA recognizes that a variety of formats and types of information may meet the objectives described below. Applications that do not demonstrate fulfillment of these objectives may be determined by FRA to be not ready for consideration and evaluation.

- *Project Management Plan*—Under PRIIA (49 U.S.C. 24403(a)), all Major Capital Projects (which includes most Service Development Programs) must prepare and carry out a Project Management Plan (PMP) approved by FRA. A PMP is a formal integrated document that serves as an overview of the applicant's approach toward the planning, monitoring, and implementation of a project. This documentation establishes the who, what, when, where, why, and how of the project. While elements of the PMP may draw information from outputs of the project development process (such as scope and design specifications, cost estimates, and project schedules), the PMP serves as FRA's primary source of information related to an applicant's plan for implementing the project. Applications submitted pursuant to this solicitation must include a PMP that demonstrates that the applicant's management procedures and organization give it the legal, financial, and technical capability and capacity to carry out successfully the Service Development Plan. In accordance with 49 U.S.C. 24403(a), the PMP must, at a minimum, address the following topics:
  - Adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications of key personnel and positions;
  - A budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;
  - A construction schedule for the project;
  - A document control procedure and recordkeeping system;
  - A change order procedure that includes a documented, systematic approach to handling the construction change orders;
  - Organizational structures, management skills, and staffing levels required throughout the construction phase;
  - Quality control and quality assurance functions, procedures, and responsibilities for construction, system

installation, and integration of system components;

○ Material testing policies and procedures;

○ Internal plan implementation and reporting requirements;

○ Criteria and procedures to be used for testing the operational system or its major components;

○ Periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

○ The project sponsor's commitment to submit periodically a project budget and project schedule to FRA if the project is selected.

• *Financial Plan*—A Financial Plan is a formal integrated document that addresses the applicant's approach toward managing the financial resources necessary to deliver the project and must be included with any application submitted pursuant to this solicitation. For a Service Development Program, the objectives of a Financial Plan are to (1) identify the sources of funding that will be used to satisfy the financing requirements to develop and implement the project (as based on the requirements established in project cost estimates); (2) describe the risks associated with the financing of the project (such as uncertainty regarding the commitment of required funding and the potential for unanticipated cost overruns); (3) identify the sources of any funding required to support the operations of the project. *See* Appendix 3 for additional information and suggested content for a Financial Plan that satisfies the objectives above.

• *System Safety Plan*—A System Safety Plan (SSP) must be submitted that demonstrates that the Service Development Program's design, implementation, and operation will comply with all applicable FRA safety requirements and will be performed in a manner that places safety as the highest priority. In general, the length, detail, and complexity of the SSP will depend significantly on the size and complexity of the Service Development Program. For relatively simple Service Development Programs, the SSP may be limited, describing the program's compliance with specific safety regulations and providing reference to procedures that will be followed for ensuring safe implementation. As applicable, the preparation of the SSP should be closely coordinated with, and may draw content from, documentation prepared by the applicant to satisfy requirements of the FRA Office of Railroad Safety, especially the guidelines for an APTA/FRA System Safety Program Plan, the FRA guidelines for collision hazard analysis, and any subsequent FRA regulations currently being developed requiring System Safety Plans. Prior to FRA issuing an LOI or cooperative agreement for a Service Development Program, an applicant must complete a System Security Plan.

• *Railroad and Project Sponsor Agreements*—Although the implementation of a HSIPR Service Development Program will generally require the development of numerous agreements of varying complexity between the parties involved with and affected by the project, two categories of agreement represent key elements of project delivery: (1) Agreements between the project sponsor(s) and the railroad(s) that own the infrastructure and that operate the service, and (2) agreements between multiple project sponsors, for projects that cross jurisdictional boundaries and/or involve subrecipients.

○ *Railroad Agreements*—Applications for Service Development Programs must include, at a minimum, agreements in principle with railroads that own any infrastructure to be improved as part of the Service Development Program and the operator of the HSIPR service(s) that will benefit from the project. Agreements in principle must demonstrate the railroads' commitment to taking all steps within their control to ensure the achievement of the public benefits (and particularly all operational benefits) of the Service Development Program that are described in the application, and their concurrence with the program of capital project identified as being required to achieve those benefits. Such agreements in principle should be structured so as to be able serve as the basis for future contractual agreements through which the railroads' cooperation in achieving the public benefits may be enforced by the project sponsor.

○ *Project Sponsor Agreements*—For any project that has multiple potential grantees or project sponsors, application must include a Project Sponsor Agreement executed among all of the parties involved that establishes the relationships between these entities and that identifies a single legal Grantee who will be responsible to and serve as the primary point of contact for FRA.

4.2.7 Optional Supporting Documentation

• *Preliminary Engineering (PE) and/or Final Design (FD) Documentation*—While not required as part of the application package, applicants should provide any documents that demonstrate the PE status (or Final Design status, if completed) of the proposed projects within the program. PE refines project plans and conceptual designs in order to identify the specific design alternative that can assure delivery of project objectives. At a minimum, completed PE documentation must demonstrate fully (1) the construction and operational feasibility of the project, (2) a level of project design, cost estimates, and schedules sufficient to advance immediately into full implementation, *e.g.,* through a "design-build" contract, and (3) identification of service operation outcomes sufficient to support agreements with stakeholders (*e.g.,* railroads) needed to deliver those benefits. *See* Appendix 2.3 for additional information on Preliminary Engineering and Appendix 2.4 for information on Final Design.

• *Other Relevant and Available Documentation*—To support the Application Form, 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 Application Form.

4.3 Submission Dates and Times

Applications for these funds must be submitted through GrantSolutions by 5 p.m. EDT, August 6, 2010.

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 technical 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 technical issues that may cause the applicant to miss the application deadline, the applicant must contact FRA at *HSIPR@dot.gov* immediately 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 technical 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 Review and Selection Process

Complete applications are due by 5 p.m. EDT, August 6, 2010. Applications will proceed through a three-step process:

1. Screening for completeness and eligibility (requirements outlined above in Section 3);

2. Review of each eligible application individually by a technical panel applying "evaluation criteria"; and

3. Final review of all eligible applications collectively and selection by the FRA Administrator applying "selection criteria."

All applications will first be screened for completeness and applicant and project eligibility. Applications determined to be both complete and eligible will be referred to a technical panel consisting of subject-matter experts for an evaluation review. The panels will be comprised of professional staff employed by FRA and other DOT modal administrations, as appropriate.

Applications will be individually reviewed and assessed against the evaluation criteria outlined in Section 5.2. For each of the criteria, the panel will assign a rating of zero to three points, based on the application's fulfillment of the objectives of each criterion. These individual criterion ratings will then be combined according to priority of criteria to arrive at an overall rating for the application.

The evaluation criteria, ranked in order of priority, are:

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

In addition to the ratings assigned by the technical evaluation panels, the FRA Administrator may take into account several cross-cutting and comparative selection criteria to determine awards. The Administrator will review the preliminary results to ensure that the scoring has been applied consistently and that the collective results meet several key priorities essential to the success and sustainability of the program (*see* Section 5.3). The five selection criteria are:

1. Fulfillment of DOT Strategic Goals.
2. Region/Location.
3. Innovation/Resource Development.
4. Partnerships/Participation.
5. Prior Federal Funding and State Investments.

In accordance with 49 U.S.C. 24402(c), FRA may also consider "other relevant factors as determined by the Secretary" of Transportation, in addition to the evaluation and selection criteria described below.

5.2 Evaluation Criteria

Careful economic analysis that quantifies and demonstrates the monetary value of user benefits and, if available, 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 will 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).

5.2.1 Public Benefits

Evaluation against this criterion will consider the qualitative factors outlined below, as supported by key quantitative metrics. Applicants must determine and identify service outcomes to quantify the anticipated benefits of the Service Development Program (or distinct phase or geographic segment) proposed in an application.

5.2.1.1 Transportation Benefits

Each application will be assessed based on its demonstration of the potential of the proposed Service Development Program investments to achieve transportation benefits in a cost-effective manner. Factors to be considered in assigning a rating include the contribution the proposed Service Development Program would make to:

- Supporting the development of intercity high-speed rail service;
- Generating improvements to existing high-speed and intercity passenger rail service, as reflected by estimated increases in ridership (as measured in passenger-miles), increases in operational reliability (as measured in reductions in delays), 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, including integration with existing intercity passenger rail services, allowance for and support of future network expansion, and promotion of technical interoperability and standardization (including standardizing operations, equipment, and signaling);
- Encouragement of intermodal connectivity and integration through provision of direct, efficient transfers among intercity transportation and local transit networks at train stations, including connections at airports, bus terminals, subway stations, ferry ports, and other modes of transportation;
- Enhancing intercity travel options;
- 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 in the project's financing, including, but not limited to, consideration of donated property interests or services; financial contributions by freight and commuter rail carriers commensurate with the benefit expected to their operations; and

financial commitments from host railroads, non-Federal governmental entities, nongovernmental entities, and others;

• 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.

5.2.1.2 Other Public Benefits

Each application will be assessed based on its demonstration of the potential of the proposed Service Development Program investments to achieve other public benefits in a cost-effective manner. Factors to be considered in assigning a rating will include the contribution the proposed Service Development Program would make to:

• Environmental quality and energy efficiency and reduction in dependence on foreign oil, including 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;

• Promoting interconnected livable communities, including complementing local or State efforts to concentrate higher-density, mixed-use development in areas proximate to multi-modal transportation options (including intercity passenger rail stations);

• Improving historic transportation facilities; and

• Creating jobs and stimulating the economy. Although this solicitation is not funded by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), these goals remain a top priority of this Administration. Therefore, Service Development Program applications will be evaluated on the extent to which the project is expected to quickly create and preserve jobs and stimulate rapid increases in economic activity, particularly jobs and activity that benefit economically distressed areas, as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161) (“Economically Distressed Areas”).

5.2.2 Sustainability of Benefits

Applications will be evaluated against this criterion to assess the likelihood of realizing the proposed Service Development Program’s benefits. Factors to be considered in assigning a rating will include:

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

• The quality and reasonableness of revenue and operating and maintenance cost forecasts for the benefiting intercity passenger rail service(s);

• The availability of any required operating financial support, preferably from dedicated funding sources for the benefiting intercity passenger rail service(s);

• The quality and adequacy of project identification and planning;

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

• The reasonableness of the operating service plan, including its provisions for protecting the future quality of other services sharing the facilities to be improved;

• The comprehensiveness and sufficiency, at the time of application, of agreements with key partners (including the railroad operating the intercity passenger rail service and infrastructure-owning railroads) that will be involved in the operation of the benefiting intercity passenger rail service, including the commitment of any affected host-rail carrier to ensure the realization of the anticipated benefits, preferably through a commitment by the affected host-rail carrier(s) to an enforceable on-time performance of passenger trains of 80 percent or greater;

• The favorability of the comparison between the level of anticipated benefits and the amount of Federal funding requested; and

• The applicant’s contribution of a cost share greater than the required minimum of 20 percent.

5.2.3 Project Delivery Approach

Each application will be assessed to determine the risk associated with the project’s delivery within budget, on time, and as designed. Evaluation against this criterion will consider the factors outlined below, which take into account the thoroughness and quality of the supporting documentation submitted with the application. Factors to be considered in assigning a rating will include:

• The applicant’s financial, legal, and technical capacity to implement the project, including whether the application depends upon receipt of any waiver(s) of Federal railroad safety regulations that have not been obtained;

• The applicant’s experience in administering similar grants and projects, including a demonstrated ability to deliver on prior FRA financial assistance programs;

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

• The reasonableness of the schedule for project implementation;

• The thoroughness and quality of the Project Management Plan;

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

• The overall completeness and quality of the application, including the comprehensiveness of its supporting documentation;

• The adequacy of any completed engineering work to assess and manage/mitigate the proposed project’s engineering and constructability risks;

• The sufficiency of system safety and security planning;

• The project’s progress, at the time of application, towards compliance with environmental protection requirements;

• The readiness of the project to be commenced; and

• The timeliness of project completion and the realization of the project’s anticipated benefits.

5.3 Selection Criteria

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

5.3.1 Fulfillment of DOT Strategic Goals (as Outlined in the U.S. DOT Strategic Plan 2010–2015)

• 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 promotion of livable communities in urban and rural locations.

• Ensuring consistency with national transportation and rail network objectives.

• Ensuring integration with other rail services and transportation modes.

5.3.3 Innovation/Resource Development

- Pursuing new technology and innovation where the public return on investment is favorable, while ensuring delivery of near-term transportation, public and economic recovery benefits.
- Advancing the state of the art in modeling techniques for assessing potential intercity passenger rail costs and benefits.
- Promoting domestic manufacturing, supply and industrial development, including U.S.-based manufacturing and supply industries.
- Developing professional railroad engineering, operating, planning and management capacity needed for sustainable high-speed intercity passenger rail development.

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.
- Employing creative approaches to ensure workforce diversity and use of disadvantaged and minority business enterprises.
- Engaging local communities and a variety of other stakeholder groups in the project, where applicable.

5.3.5 Prior Federal Funding and State Investments

- Assessing how a proposed project would complement previous construction or planning grants 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.

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)

FRA encourages its grant recipients to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals (as that term is defined for other DOT operating administrations at 49 CFR part 26) in carrying out projects funded under the HSIPR program, although FRA grant recipients are not required to do so. The DOT DBE regulation (49 CFR part 26) applies only to certain categories of Federal highway, Federal transit, and airport funds. FRA is not covered under the DOT DBE regulations. The procurement standards applicable to grant recipients require grant recipients and subgrantees to take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible (*see* 49 CFR 18.36(e) and 19.44(b)). The grant recipient shall submit information, as required, 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 grant 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 (Grants)" (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 grant 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 grant 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 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. 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 grant 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 an LOI or a cooperative agreement for a Service Development Program, an applicant must complete a System Security Plan.

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 Section 49 U.S.C. 10102(5), for purposes of title 49 of the United States Code and any other statute that adopts the definition found in 49 U.S.C. 10102(5), including the Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.*); the Railway Labor Act (43 U.S.C. 151 *et*

seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*) (*see* 49 U.S.C. 24405(b)).

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 any compensation for such use; assurance that service outcomes specified to result from the project, and for which the railroad is necessary for delivery, will be delivered, and a mechanism to enforce specified service outcomes; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that the grant recipient complies with liability requirements consistent with 49 U.S.C. 28103. Grant recipients that use rights-of-way owned by a railroad must comply with FRA guidance regarding how to establish a written agreement between the applicant and the railroad regarding use and ownership as discussed in Sections 4.2.6 and 6.2.11 (*see* 49 U.S.C. 24405(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 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 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.

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 Att'n: HSIPR Program.

Appendix 1: Definition of High-Speed and Intercity Passenger Rail

"Intercity rail passenger transportation" is defined at 49 U.S.C. 24102(4) as "rail passenger transportation except commuter rail passenger transportation." An intercity passenger rail service consists of a group of one or more scheduled trains (roundtrips) that provide intercity passenger rail transportation between bona fide travel markets (not constrained by State or jurisdictional boundaries), generally with similar quality and level-of-service specifications, within a common (but not necessarily exclusive or identical) set of identifiable geographic markets.

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

The since-terminated Interstate Commerce Commission (ICC) established six features to aid in classifying a service as "commuter" rather than "intercity" rail passenger transportation [1]:

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

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

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

"High-speed rail" is an intercity passenger rail service that "is reasonably expected to reach speeds of at least 110 miles per hour" (49 U.S.C. 26106(b)(4)).

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

[2] In additional to serving as a reference database, the NTD captures data that serve as the basis for apportioning and allocating funding to eligible grantees under FTA's formula grant programs.

Appendix 2: Additional Information on Stages of Project Development

The information contained below in Appendices 2.1 Service Development Program Planning, 2.3 Preliminary Engineering, and 2.4 Final Design represent suggested content and approaches for completing the documentation required for each stage of project development. While FRA does not require applicants/grantees to follow the specific document structures and content listed below, they are provided to assist applicants/grantees in fulfilling the objectives necessary to successfully complete each stage of project development. However, the information contained in Appendix 2.2 Environmental Documentation must be adhered to in order to demonstrate compliance with NEPA.

Appendix 2.1 Service Development Program Planning

The Service Development Plan (SDP) is prepared during the planning phase for HSIPR Service Development Programs. The SDP lays out the overall scope and approach for the proposed service. Among the primary objectives of the SDP are:

- To clearly demonstrate the purpose and need for new or improved HSIPR service;
- To analyze alternatives for the proposed new or improved HSIPR service and identify the alternative that would best addresses the identified purpose and need;
- To demonstrate the operation and financial feasibility of the alternative that is proposed to be pursued; and
- As applicable, to describe how the implementation of the HSIPR Service Development Program may be divided into discrete phases.

The following model outline for the SDP describes the specific elements and content that optimally would be included in an SDP. While nearly all of the topics addressed in the major sections of this outline are necessarily interrelated, and should be addressed through an iterative analytical process, this outline's organization highlights the major disciplines and analytical capabilities that should be brought together in the development of an SDP.

1. Purpose and Need

The fundamental starting point of any transportation planning effort, including SDPs developed under the HSIPR program, is

the identification of the purpose and need for an improvement to the transportation system service in a given geographic market. In outlining a transportation problem in need of a solution, the Purpose and Need section should provide, at a minimum, a description of the transportation challenges and opportunities faced in the markets to be served by the proposed service, based on current and forecasted travel demand and capacity conditions.

2. Rationale

The rationale demonstrates how the proposed new or improved HSIPR service would cost-effectively address transportation and other needs. The rationale is based on current and forecasted travel demand and capacity condition. This section should demonstrate how the proposed service can cost-effectively address transportation and other needs considering system alternatives (highway, air, other, as applicable).

Development of the program rationale considers multimodal system alternatives (highway, air, other, as applicable), including a qualitative and quantitative assessment of the costs, benefits, impacts, and risks of the alternatives. Program rationale also explores synergies between the proposed service and large-scale goals and development plans within its service region and communities.

3. Identification of Alternatives

This section describes the alternative transportation improvements, including HSIPR improvements and improvements to other modes, which have been considered within the SDP as means of addressing the underlying transportation purpose and need. At a minimum, this section should identify a base case (also known as a "do-nothing" or "do-minimum" case), against which these alternatives have been analyzed within the SDP, and provide a rationale for the selection of the base case.

4. Planning Methodology

The SDP should clearly describe the basic elements of the methodology used in developing the plan. This may address a wide array of topics, but at a minimum, it should address:

a. The planning horizon utilized;

b. Any major, cross-cutting assumptions employed throughout the SDP; and

c. The level of public involvement in developing the plan.

5. Demand and Revenue Forecasts

The SDP should address the methods, assumptions, and outputs for travel demand forecasts, and the expected revenue from the service. It should provide information on the following topics and outputs:

a. Demand Forecasts

• *Methodology*—Document the modeling methodology and approach used to forecast passenger rail demand (*e.g.,* a four-step model), including competing modes, HSIPR alternatives considered, and the method for reflecting passenger capacity constraints (such as equipment, station, and station access capacity) within the HSIPR service.

• *Study Area Definition*—Describe the extent of the study area, road network extent, rail stations, airports, intercity bus terminals considered.

• *Data sources*—Provide the assumptions and data used to quantify the existing travel market and forecast year travel market.

• *Travel Model*—

i. Show the demand model structure including example equations and elasticities.

ii. Describe the base and future year model, including specific travel network and service characteristics. This should include pricing assumptions (including the rationale and basis for including or excluding both revenue-maximizing and public benefit-maximizing pricing models) and travel time-related assumptions (including frequency, reliability, and schedule data for the service). Also include the manner in which exogenous growth (*e.g.,* related to general economic, employment, or population growth), has been accounted for in the model.

iii. Include the mode choice model structure such as logit nested diagrams.

iv. Explain the model calibration and validation.

• *Model Forecasts*—Present and explain the detailed base and forecast year ridership outputs (including trip-table outputs), along with the ramp-up methodology employed for determining ridership during the intermediate years between project completion and the model forecast year.

b. Revenue Forecasts

• *Ticket Revenue Forecasts*—Explain base and forecast year ticket revenue forecasts.

• *Auxiliary Revenue Forecasts*—If applicable, provide base and forecast year auxiliary revenue, including but not limited to, food and beverage revenue, mail and express revenue.

6. Operations Modeling

This section describes the underlying operational analyses, including railroad operation simulations and equipment and crew scheduling analyses, which in turn reflect such variables as travel demand and rolling stock configuration. The modeling should include all rail activity in the corridor including freight and commuter rail.

If the new or improved HSIPR service contemplated under the SDP makes use of facilities that would be shared with rail freight, commuter rail, or other Intercity Passenger Rail services, the existing and future characteristics of those services—as developed cooperatively with the rail freight, commuter, and Intercity Passenger Rail operators—should be included as a integral element to the SDP. In particular, the SDP should show how the proposed Service Development Program will protect the quality of those other services through a planning horizon year. In general, operations modeling performed in accordance with FRA's publication "Railroad Corridor Transportation Plans: A Guidance Manual" would support an SDP. The section on operations modeling should provide information on the following topics and outputs.

a. Modeling Methodologies

• Describe in detail the Service Network Analysis models and methodologies used, including the method through which potential infrastructure improvement were identified and incorporated into the modeling effort.

• Specifically describe how stochastic operations variation, in terms of operational reliability of scheduled rail service, operational variability of non-scheduled rail service, and equipment and infrastructure reliability, has been incorporated into the modeling effort.

b. Operating Timetables

• Provide base case and alternative-specific schedules for existing and new HSIPR service and commuter rail service, and operating windows or schedules, if applicable, for rail freight and other activities (*e.g.,* maintenance of way). Include both revenue operations and all scheduled or likely non-revenue (deadhead) movements.

c. Equipment Consists

• Describe the equipment consists for all services included in the operations modeling, including motive-power (locomotive or multiple-unit) characteristics (*e.g.,* weight, horsepower, tractive effort, *etc.*), non-powered equipment characteristics (*e.g.,* consist lengths in units and distance, trailing tonnage, *etc.*), and any use of distributed power, electronically controlled pneumatic (ECP) braking systems, or other practices affecting train performance.

• Provide baseline acceleration rates and braking curves for all trains included in the operations modeling, consistent with the consist characteristics described.

d. Rail Infrastructure Characteristics

• Describe the origin on the rail infrastructure network employed in the operations modeling, including whether or not it was provided by the infrastructure owner or independently developed.

• Describe any major infrastructure-related assumptions employed in the operations modeling, including signal system characteristics, maximum unbalance, and turnout speeds.

e. Outputs

• Provide detailed outputs from the operations modeling of all base case and alternative scenarios, including stringline (time and distance) diagrams, delay matrices, and train-performance calculator speed and distance graphs.

f. Equipment and Train Crew Scheduling

• Provide outputs of HSIPR equipment and train crew schedule modeling, demonstrating how equipment and train crews will turn at endpoints, and the total equipment and train crew resources required to meet each modeled HSIPR operating timetable.

g. Terminal, Yard, and Support Operations

• Provide outputs of detailed modeling of operations at major terminals, demonstrating the adequacy of identified platform tracks, pocket tracks, yard capacity, and maintenance of equipment facilities to meet the requirements of each modeled HSIPR operating timetable.

7. Station and Access Analysis

This section of the SDP addresses the location of the stations to be served by the

proposed new or improved HSIPR service, how these stations will accommodate the proposed HSIPR service, how passengers will access those stations, and how these stations will be integrated with connections to other modes of transportation. The topics addressed under this section will depend greatly on whether the Service Development Plan is intended to support the introduction of a new HSIPR service on a new route, or whether it relates to the improvement of an existing HSIPR service—generally, the latter, in serving existing stations, will not require detailed planning of station locations. This section of the SDP should provide information on the following topics and outputs.

a. Station Location Analysis

- An analysis of potential alternatives for station locations, with the identification of preferred locations.
- A description of the methodology employed in selecting station locations, including consideration of zoning, land use, land ownership, station access, demographics, and livable community factors (such the relative consideration of center-city and "beltway" type stations).
- A description of any planned joint use or development of each station facility by other passenger rail operators, other transportation operators (*e.g.,* transit, intercity bus, air transport), or commercial or residential real estate developments.

b. Station Operations

- An analysis to determine the adequacy of Station capacity to meet the needs of the HSIPR service, including platform length, platform and concourse pedestrian capacity, ticketing capacity, compliance with Americans with Disabilities Act (ADA) requirements, and compatibility between station facilities and HSIPR equipment (*e.g.,* platform and equipment floor heights).

c. Intermodal Connectivity

- A detailed description of all non-HSIPR passenger transportation operations and services to be integrated into each station.
- A description of the degree on integration of intermodal connections with each station facility (*e.g.,* complete collocation, short distance proximity, distant proximity, *etc.*), including estimates of door-to-door passenger transfer times (excluding waiting, ticketing, and/or check-in time) from one mode to another (*e.g.,* the time it would take to go from the an HSIPR service platform to a subway station entrance, or an airline check-in counter).
- A description of additional intermodal integration measures to be employed, such as integrated ticketing, schedule coordination, travel information integration, *etc.*

d. Station Access

- An analysis of how passengers will access each station, and how these access options will provide sufficient capacity to satisfy forecasted ridership to and from the station, including public transportation, road network capacity, vehicle pick-up/drop-off, and parking.

8. Conceptual Engineering and Capital Programming

The SDP describes the rail equipment and infrastructure improvements (and other investments) required for each discrete phase of service implementation. If applicable, the SDP should prioritize improvements for each phase. The SDP presents estimated capital costs for projects and project groups, with documentation of assumptions and methods.

a. Project Identification

- The SDP should identify in detail each discrete project that will be necessary to implement the planned new or improved HSIPR service, such as construction of specific stations, individual sections of additional or upgraded track, locomotive and rolling stock purchases, *etc.*
- "Projects" should be defined at a level of detail sufficient to delineate between elements of the overall scope with differing geographic locations, different types of investments (*e.g.,* track improvements vs. station projects vs. equipment purchases), and different implementation schedules. The manner in which the proposed scope is likely to be divided into contracts for implementation may also be considered in identifying the scope of discrete "projects." In general, each "project" should be defined with the aim of making its scope easily comprehensible and identifiable to a layperson.
- The identification of discrete projects should likewise be consistent with proper usage of the Work Breakdown Structure (WBS) tool for project management—the "projects" themselves should constitute one of the top levels of the Service Development Program's overall WBS.

b. Project Cost Estimates

- The SDP should include project costs estimates in both the WBS and HSIPR Standard Cost Category format.
- The SDP should include the documentation of the cost estimates in their original format, illustrating exactly how those cost estimates were calculated.
- The cost estimates should be supported by a detailed description of the methodology and assumptions used in developing the estimates, including values and sources of unit costs for labor, materials, and equipment; overhead costs or other additives; allocated and unallocated contingencies; credit value of salvaged materials; and cost escalation factors. The source of unit costs should be explained for cost estimates based on broad, top-down "indicative project" prices. Unless explicitly justified, total contingencies for cost estimates developed during the planning phase should be no greater than 30%.

c. Project Schedule and Prioritization

- The SDP should present the proposed schedule for the implementation of the Service Development Plan organized in the format of Work Breakdown Structure and consistent the phases of projects development.
- The schedule should illustrate the duration of each activity within the WBS, the earliest date at which each activity could commence, and the dependencies between the various activities.

d. Conceptual Engineering Design Documentation

- The SDP should include basic visual depictions of the projects encompassed by the proposed Service Development Program, including maps and track charts.
- Track charts should clearly show the current and proposed future track configurations throughout the geographic area encompassed by the Service Development plan (and any proposed interim configurations, if phased implementation is proposed). Track charts should be drawn to an appropriate linear scale for the level of complexity of the track configuration in a particular segment, and should clearly show turnout sizes, road crossings, overhead and undergrade bridges, station and yard locations, junctions, track curvature, grade, signal location, signal rule applicability (*e.g.,* CTC, ATC, PTC, DTC, *etc.*) and maximum authorized speeds. The physical location of specific projects should be shown clearly, including the limits of any linear-oriented projects (*e.g.,* roadbed rehabilitation, rail replacement, tie replacement, *etc.*).

9. Operating and Maintenance Costs and Capital Replacement Forecast

The SDP should include operating and financial projections for each phase of the planned intercity passenger rail service. The SDP should address the methods, assumptions and outputs for operating expenses for the train service including maintenance of way, maintenance of equipment, transportation (train movement), passenger traffic and services (marketing, reservations/information, station, and on-board services), and general/administrative expenses. Cost-sharing arrangements and access fees with infrastructure owners and rail operators should also be included. Where applicable, allocation of costs across routes should also be discussed.

a. Costing Methodology and Assumptions

For each different cost area, the SDP should provide the basis for estimation (application of unit costs from industry peers or a detailed resource build-up approach) of operating expenses. The SDP should include documentation of key assumptions and provide back-up data on how unit costs and quantities and cost escalation factors were derived. Typical cost areas include:

- *Maintenance of way*—Includes the cost of maintaining the MOW, signals, buildings, structures, bridges *etc.*
- *Maintenance of equipment*—Includes the cost of layover and turnaround servicing, preventive maintenance, bad orders, wreck & accidents, and contractor maintenance.
- *Transportation (train movement)*—Includes the cost of trainmen, enginemen, bus connections, train fuel, propulsion power, railroad access and incentive payments.
- *Marketing and Information*—Includes the cost of advertising, marketing, reservations, information.
- *Station*—Includes the cost of station staff (ticketing, baggage, red caps, porters *etc.*),

building rent, maintenance, utilities, security.

• *On-board services*—Includes the cost of on-board service staff, food and provisions.

• *General/administrative expenses.*

b. Summary of Operating Costs

c. Route Profit and Loss Statement

Estimate the Profit and Loss Statement for the route based on revenue and operating cost forecasts.

d. Capital Replacement Costs

The SDP should provide detailed estimates of any additional capital costs, beyond those incurred in the initial implementation of the Service Development Program, that are anticipated to be required due to lifecycle replacement or other factors through the planning horizon of the SDP.

10. Public Benefits Analysis

The SDP should include a description and quantification of benefits, whether operational, transportation output-related, and economic in nature, with particular focus on job creation and retention, "green" environmental outcomes, potential energy savings, and effects on community livability. Except where clearly unmonetizable, the SDP should provide the estimated economic value of those benefits. At a minimum, this section of the SDP should include:

a. Operational and Transportation Output Benefits

The SDP should clearly identify the operational and transportation output-related benefits that will be generated by the project. Examples of operational benefits include trip-time improvements, reliability improvements (as measured by train delay-minutes), frequency increases, and passenger capacity increases (as measured by seat-miles). Transportation output benefits include increases in HSIPR passenger-trips and passenger-miles traveled, reductions in passenger-delay-minutes, and passenger-travel time savings resulting from faster scheduled trips times.

b. User and Non-User Economic Benefits

The SDP should include an analysis of the monetized economic benefits to user and non-user that will be generated by the project, regardless of how or where those benefits are generated. User benefits include items such as the value of travel time savings to rail users, while non-user benefits include items such as the monetized value of emissions reductions, community development, and travel time savings due to congestion reduction for users of other modes from which demand is anticipated to shift to the new or improved HSIPR service.

c. Benefits by Rail Service Type

All user and non-user benefits should be delineated by the type of improved rail service (*i.e.,* HSIPR, commuter, or freight) that will generate those benefits. For example, user benefits in the form of travel time savings generated by a project for HSIPR passengers should be shown delineated from those travel time savings accruing to users of a commuter rail service that will also benefit from the project. Likewise, non-user benefits in the form of emission reductions resulting from the shift of passengers to HSIPR service should be separated from benefits resulting from a shift of road freight transport to rail freight service.

Appendix 2.2 Environmental Documentation

The environmental review process required by NEPA applies to all Federal grant programs. NEPA requires Federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. NEPA also mandates that all reasonable alternatives be considered, and to that end, an alternatives analysis is typically conducted during the environmental review process. Agencies must also make information on these impacts and alternatives publicly available before decisions are made and actions occur.

Appendix 2.2.1 Corridor-Wide Environmental Documentation ("Service NEPA")

As part of the Service Development Program planning phase applicants must complete an environmental review, which addresses the full extent of the overall Service Development Program and its related actions. Within the context of the HSIPR program, this evaluation is referred to as "Service NEPA."

Service NEPA involves at least a programmatic/Tier 1 environmental review (using tiered reviews and documents), or a project environmental review, that addresses broad questions and likely environmental effects in the entire corridor relating to the type of service(s) being proposed, including alternative cities and stations served, geographical route alternatives, service levels and frequencies, choice of operating technologies (*e.g.,* diesel vs. electric operation and maximum operating speeds), ridership projections, major infrastructure components, and identification of major terminal area or facility capacity constraints. Standard Service Development Programs are often best addressed with project NEPA documentation; while more complex Major Service Development Programs often call for a tiered approach.

Service NEPA is intended to support a Federal decision concerning whether or not to implement a Service Development Program. For major Service Development Programs, FRA generally prefers to use a tiered NEPA process and a Tier-1 environmental impact statement (EIS) to satisfy Service NEPA at a point prior to Preliminary Engineering that is required to support a more detailed, comprehensive "project NEPA" document. Furthermore, completion of a tiered Service NEPA EIS allows for the significant narrowing of the alternatives to be considered in preparing subsequent project NEPA documents, allowing for reduced Preliminary Engineering costs.

While FRA anticipates that most Major Service Development Programs will follow a tiered approach towards NEPA document development (including preparation of a Service NEPA EIS during the planning phase), FRA will consider a non-tiered service NEPA approach where appropriate and conducive to the efficient progression of the project and the consideration of environmental impacts. In general, FRA will consider using project NEPA for Service Development Programs where one or more of the following factors apply:

• There are no routing decisions required for the proposed service;

• The projects necessary to implement the proposal are likely to be modest in scale and unlikely to cause significant environmental impacts;

• The Preliminary Engineering effort for the Service Development Program is likely to be modest in scale, cost, and duration; and

• The project sponsor will be providing all necessary funding, from non-HSIPR program sources, to complete Preliminary Engineering and site-specific environmental analysis.

For Service Development Programs that meet these criteria and for which FRA has decided not to tier, NEPA will be satisfied through a unified project-level document developed during the PE/NEPA phase.

Appendix 2.2.2—Project Environmental Documentation ("Project NEPA")

As part of the PE/NEPA phase of project development, a project NEPA document and other required environmental documentation to satisfy other Federal laws are prepared for the specific design alternative identified through Preliminary Engineering and other reasonable alternatives (integrated with the design alternatives analysis performed as part of Preliminary Engineering). Additionally, the design and engineering outputs of Preliminary Engineering will serve as inputs into the evaluation of environmental impacts just as identified impacts are inputs for design and engineering. Therefore, it is essential that Preliminary Engineering and project NEPA be closely coordinated and performed in tandem with one another.

Appendix 2.2.3—NEPA Roles and Responsibilities

FRA, as the Federal sponsoring agency, has primary responsibility for assuring compliance with NEPA and related environmental laws for projects funded under the HSIPR program. While NEPA compliance is a Federal agency responsibility and the ultimate decisions remain with the Federal sponsoring agency, FRA encourages applicants to take a leading role in preparing environmental documentation, consistent with existing law and regulations.

In the varied and flexible HSIPR program no single approach to NEPA compliance will work for every proposal. Therefore, FRA will work closely with applicants to assist in the timely and effective completion of the NEPA process in the manner most pertinent to the applicant's proposal.

Appendix 2.2.4—FRA NEPA Compliance

All NEPA documents must be supported by 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. Such analyses must be conducted in accordance with 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, and other related laws and regulations such as the Clean Water Act and the Endangered Species Act.

Appendix 2.3—Preliminary Engineering

Preliminary Engineering (PE) builds on the conceptual engineering and other documentation developed during the planning process in order to evaluate alternatives and to identify a specific design alternative for implementing a project, and demonstrate its feasibility for implementation. Within the context of the HSIPR program, FRA relies on the documentation developed through PE in order to make a decision as to whether to obligate funding for the construction and implementation of a project. As such, HSIPR program applicants seeking to progress a project to Final Design and Construction should ensure that the PE documentation for the project is adequate to support such a decision.

In the process of demonstrating the feasibility of a particular design alternative, PE involves the refinement of the cost estimate and schedule for the project and the reduction of uncertainties (as represented by reduced cost estimate and schedule contingencies). Furthermore, as part of PE, the analyses of the financial, operational, and public benefit impacts of the project that were developed during the planning phase are refined, so as to address and reduce uncertainties and risks associated with the project after it is placed in service.

The following documentation would demonstrate the completion of PE for a project:

1. Project Description

a. A detailed description of the design alternative identified through the PE process, including other design alternatives considered.

b. A description of construction staging or phasing (such as sequential phasing of interlocking reconfigurations) identified as necessary to implement the identified design alternative.

c. A presentation of the work necessary to implement the identified design alternative in a detailed Work Breakdown Structure (WBS) format. The WBS for the project would serve as the master format for organizing and presenting the various elements of the project through the subsequent phases of development, and presenting cost estimates and project schedules.

d. An assessment of the physical condition and location of the railroad in the project area (up to two to three miles beyond the project construction limits depending upon effect and interrelationship of the project with train operations), including: bridges (rail and highway); track including the number and location of previously existing railroad tracks on a roadbed; buildings (stations and maintenance facilities, *etc.*); signal systems and interlocked detectors, switches, derails, and snow melters; utility systems on, over, adjacent to or under the rail line and agreements concerning them; electrification systems, if any; description of highway crossing warning systems (if any) and daily traffic counts at public and private at grade highway crossings; existing and proposed railroad operations and routes of freight, commuter and intercity trains with train daily numbers of trains by type; a safety and security management plan; and STRACNET routes and/or moves for commercial high and wide loads.

2. Project Cost Estimate

a. Project cost estimates in both the project's WBS and the HSIPR Standard Cost Category format.

b. Documentation of the cost estimate in its original format, illustrating exactly how the cost estimates were calculated.

c. A detailed description of the methodology and assumptions used in developing the estimates, including values and sources of unit costs for labor, materials, and equipment; overhead costs or other additives; allocated and unallocated contingencies; credit value of salvaged materials; and cost escalation factors. Unless explicitly and adequately justified, total contingencies for cost estimates developed during PE should be no greater than 20%.

3. Project Schedule

a. A schedule for the implementation of the project organized in the format of Work Breakdown Structure and consistent with the phases of project's development.

b. The schedule should illustrate the duration of each activity within the WBS, the earliest date at which each activity could commence, and the dependencies between the various activities.

4. Design Documentation

a. A project locator map showing both the location of the project area within the context of the State in which and the corridor on which it is located.

b. A project area map showing the exact project location and the immediate surrounding area (up to two to three miles beyond the project construction limits consistent with the Project Description).

c. Detailed PE drawings:

• For projects involving improvements to track, track structures, signals, or other linear railroad assets, full two-dimensional depictions of the project (*i.e,* not track charts or schematics) showing existing and proposed conditions at a scale of one inch = 100 to 500 feet, depending on location (built-up vs. undeveloped areas). PE drawings should incorporate scale maps or scale aerial photography of existing conditions with design plan drawings overlaid on the maps/photography, and should show: (i) Existing railroad right-of-way limits along with the railroad ownership; (ii) proposed track changes including track removals and track installations showing track centers, turnout sizes, curve and spiral data, *etc.;* (iii) vertical profiles and grades of existing and proposed construction; (iv) public and private at grade highway crossings; and (v) passenger stations, building(s), platforms, parking, access to the primary highway system in the area, and public transit services and facilities.

• For projects involving improvements to maintenance facilities and yards, PE drawings should show the track and facility layout, specialized equipment (if any), and office and employee welfare facilities.

• For projects involving equipment procurement or rehabilitation, PE drawings should include plan, side elevation, and end elevation drawings, clearly showing interior configuration (including seating configurations, restroom configuration, doorway sizes), clearance envelope, and floor heights.

• For projects involving improvements to stations buildings, PE drawings should include all renderings and plan, elevation, detail drawings necessary to illustrate the scope of the project.

i. Schematic track charts for all projects involving improvements to track, track structures, signals, or other linear railroad assets, refined from those developed during the planning process.

ii. Route and aspect charts for all projects involving signal system improvements, signal system installation, or track reconfigurations in signaled territory.

5. Design and Procurement Compliance

a. Demonstration that the proposed project design is compliant with all applicable FRA safety regulations and AREMA design standards.

b. For projects involving the procurement of rolling stock, demonstration that the proposed equipment procurement will be consistent with Section 305 of PRIIA, which calls for the establishment of a standardized next-generation rail corridor equipment pool. Compliance with Section 305 of PRIIA will assist in creating the economies of scale necessary to achieve the Administration's goal, as outlined in FRA's Strategic Plan, of developing a sustainable railroad equipment manufacturing base in the United States.

c. For projects involving improvements to railroad signaling/control systems, the application should demonstrate that the proposed improvements are consistent with a comprehensive plan for complying with the requirements for positive train control (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. 20147) and with FRA's final rule on Positive Train Control System published in the **Federal Register** on January 15, 2010 (75 FR 2598).

6. Refinement of Planning Documentation

Many elements of the Service Development Plan developed during the Planning phase of project development would be expanded and updated in later phases of the project development process, as the project itself becomes more refined. Much of this refinement is completed as part of Preliminary Engineering, particularly as it relates to the following Service Development Plan elements:

a. Identification of Alternatives (particularly as it relates to design alternatives).
b. Demand and Revenue Forecasts.
c. Operations Modeling.
d. Station and Access Analysis.
e. Operating and Maintenance Costs and Capital Replacement Forecast.
f. Public Benefits Analysis.

To demonstrate completion of PE, revised versions of planning documentation that cover these topics (to the extent the topics are applicable to the project), including descriptions of how project decisions and refinements made as part of PE have resulted in changes to key outputs of the planning process (such as demand forecasts, forecasts of operational benefits, operations and maintenance cost forecasts, and estimates of public benefits, should be provided.

Appendix 2.4 Final Design

During the Final Design phase, any remaining uncertainties or risks associated with minor changes to design scope are fully addressed, and the products of Preliminary Engineering are refined as additional detailed design work is completed. The objective of the Final Design phase is to progress the engineering of the project beyond what was required to demonstrate the feasibility of the design of the project, to the point where the engineering documentation is sufficient to support the procurement of construction services to implement the project. Final Design includes the preparation of final design plans, final construction cost estimates, and a refined and revised project schedule, and may also encompass early construction-related activities, such as right-of-way acquisition and utility relocation.

In general, the documentation that project sponsors submit to FRA to demonstrate completion of Final Design is similar to that which constituted the outputs of Preliminary Engineering. Final Design documentation will generally incorporate design changes and refinements implemented as part of the FD process, and should reflect a level of detail sufficient to support the procurement of construction services and the effective control of the project throughout its construction. As such, major differences between the PE and FD documentation include:

- *Project Description:* Upon completion of FD, the Work Breakdown Structure of the project should reflect a level of detail sufficient to support the effective control of the project's construction, particularly as it relates to the project's scope and specifications.
- *Project Cost Estimate:* Upon completion of FD, cost estimates should be at a level of detail sufficient to support construction services procurement, and to allow for the tracking and comparison during the construction phase of actual costs against estimated costs.
  - Unless explicitly and adequately justified, total contingencies for cost estimates developed during Final Design should be no greater than 10%.
- *Project Schedule:* Upon completion of FD, the project schedule should reflect a level of detail sufficient to support the effective control of the project's timely construction.
- *Final Design Documentation:* Final Design drawings should be at a level of detail sufficient to support the preparation of construction and shop drawings, and to ensure the effective control of the project's scope and configuration.
  - As part of Final Design, detailed specification should be developed or adopted for the project, in order to ensure the quality, suitability, and durability of all construction.

Appendix 3: Additional Information on Financial Plans

The information contained below in Appendix 3 represents suggested content and approaches for completing the financial planning documentation required for Service Development Programs. While FRA does not require applicants/grantees to follow the specific document structure and content listed below, they are provided to assist applicants/grantees in fulfilling the objectives necessary to successfully complete a Financial Plan.

The Financial Plan for a Service Development Program should address two major areas of the projects financing:

- The financing of the development and implementation of the capital projects identified as necessary to support the Service Development (referred to as "capital financing"); and
- The ongoing financing of the operations of the service itself, including provisions for financing any ongoing operating deficits (referred to as "operating financing").

Appendix 3.1 General Components for Financial Plans

In general, both the capital financing and the operating financing elements of a Service Development Program's Financial Plan should address the following topics:

- The Financial Plan should demonstrate that the project sponsor has the legal and necessary authority to accept and spend Federal and non-Federal funds for the project.
- The Financial Plan documents the recent and forecasted financial condition and health of the project sponsor and other key partners that are anticipated to provide funding for the project.
- The Financial Plan should demonstrate that any financing necessary to deliver the project has been budgeted and committed to the project. The plan illustrates cash flow requirements to assure that funds will be available as needed, that grant funds can be spent on a timely basis, and that any project financing will be available. In general, all capital financing required for a given phase of the project's development must be committed prior to the commencement of that phase, while all required operating financing must be committed prior to the commencement of the construction phase.
- Both the initial Financial Plan and the annual updates should be prepared in accordance with recognized financial reporting standards such as the "Guide for Prospective Financial Information" of the American Institute of Certified Public Accountants and should be certified by the project's sponsor.

Appendix 3.1.1 Capital Financial Planning Components

The capital financing part of a Service Development Program's Financial Plan should address the following topics:

- The Financial Plan demonstrates that the project sponsor has the ability to provide any required or proposed matching funds and can absorb potential cost changes and increases without impacting other proposed projects.
- Project sponsors must accept responsibility for any capital cost overruns if they occur and have a Financial Plan in place and another source of funds to cover overruns if needed.
- Where sole source or force account work is projected, the project sponsor must provide an independent analysis of comparative costs to ensure the reasonableness of the sole source budget.

In addressing these topics, the capital financing part of the Financial Plan should comprise at least the following sections:

1. *Cost Estimate,* presenting the total cost and cost-to-complete for major project elements in year of expenditure dollars;
2. *Implementation Plan,* detailing the project schedule and the cost-to-complete in annual increments in year of expenditure dollars;
3. *Financing and Revenues,* showing each funding source as annual amounts available for project obligations;
4. *Cash Flow,* presenting cash inflows and outflows on an annual basis; and
5. *Risk Identification and Mitigation Factors,* showing how the project sponsor intends to address major financial risks, such as cost overruns and unavailability of anticipated funding.

Inputs for some of these sections will in part be drawn from, and should be consistent with, documentation prepared as part of the project development process (*e.g.,* cost estimates and schedules), while other inputs will be drawn from, and must be consistent with, other project delivery documentation (such as risk management plans developed as part of the Project Management Plan).

Appendix 3.1.2 Operating Financial Planning Requirements

Service Development Programs, by their very nature, carry significant risks associated with the ongoing operating of the service after the construction of capital projects has been completed and the Service Development Program has been fully implemented. In order to demonstrate that a project sponsor has the ability to address or otherwise manage this operating financing risk, the Financial Plan should include a section addressing operating financing. The operating financing part of a Service Development Program's Financial Plan should address the following topics:

- Operating financial projections for each phase of the planned service, with documentation of the methods, assumptions, and outputs of the following: travel demand forecasts, projected revenue, and operating expenses, including maintenance of way, maintenance of equipment, transportation

(train movement), passenger traffic and services (marketing, ticketing, station, and onboard services), and general/administrative expenses. Cost-sharing arrangements with infrastructure owners and rail operators should also be included.

• A presentation of all the assumptions used to develop cost and revenue estimates, including the sources of information and methodologies used. Supporting documentation and independent verification of the cost and revenue assumptions (*e.g.,* demand studies, feasibility studies, economic forecasts) should be included if they are available.

In addressing these topics, the operating financing part of the Financial Plan should include at least the following sections:

1. *Operating Forecast,* presenting on an annual basis revenue and operating and maintenance cost forecasts for the period encompassing the anticipated life of the Service Development Program's component capital investments (not less than 20 years);

2. *Capital Replacement Forecast,* presenting on an annual basis forecasts of capital reinvestment necessary to keep the Service Development Program's capital investments in a state-of-good repair for the period encompassing the anticipated life of the most long-lived of the Service Development Program's capital investments (not less than 20 years);

3. *Financing and Revenues,* showing each funding source as annual amounts available to support any operating deficit or capital replacement requirements;

4. *Cash Flow,* presenting on an annual basis cash inflows and outflows; and

5. *Risk Identification and Mitigation Factors,* showing how the project sponsor intends to address major financial risks, such as cost overruns, revenue shortfalls, and unavailability of anticipated funding.

As with the capital financing part of the Financial Plan, inputs for some of these sections will in part be drawn from, and must be consistent with, the Service Development Plan (*e.g.,* revenue and operating and maintenance cost forecasts and capital replacement forecasts).

Appendix 4: Additional Information on Applicant Budgets

The information contained in this appendix is intended to assist applicants with developing OMB Standard Form 424C: Budget Information—Construction Programs, as described in Section 4.2.

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

• *Administrative and Legal Expenses:* List the estimated amounts needed to cover administrative expenses. Do not include costs which are related to the normal functions of government. Allowable legal costs are generally only those associated with the purchases of land which is allowable for Federal participation and certain services in support of construction of the project. This may include:

○ Hours/Rate and total cost of local government staff.

○ Hours/Rate and total cost of outside counsel fees.

○ Hours/Rate and total cost of consultants.

• *Land, structures, rights-of-way, appraisals, and related items:* List the estimate site and right(s)-of-way acquisition costs (this includes purchase, lease, and/or easements). If possible, include details of number of acres, acre cost, square-footage, and square footage cost.

• *Relocation expenses and payments:* List the estimated costs relation to relocation advisory assistance, replacement of housing, relocation payments to displaces persons and businesses, *etc.* This may include:

○ The gross salaries and wages of employees for the grantee who will be directly engaged in performing demolition or removal of structures from developed land.

• *Architectural and engineering fees:* List the estimated basic engineering fees related to construction (this includes start-up services and preparation of project performance work plan).

• *Other architectural and engineering fees:* List the estimated engineering costs, such as surveys, tests, soil borings, *etc.*

• *Project inspection fees:* List the estimated engineering inspection costs. This may include:

○ Rate of project inspector.

○ Construction monitoring.

○ Audit or construction programs.

• *Site Work:* List the estimated costs of site preparation and restoration which are not included in the basic construction contract. This may include:

○ Clearing.

○ Erosion control.

○ Reseeding.

• *Demolition and removal:* List the estimated costs related to demolition activities.

• *Construction:* List the estimated cost of the construction contract. This may include costs for:

○ Labor costs, *e.g.,* associated with site preparation and installation of grade crossings, highway warning signs, *etc.*

○ Equipment rental/purchase, *e.g.,* an excavator or bulldozer.

○ Materials, *e.g.,* Rail anchors, retaining walls, *etc.*

• *Equipment:* List the estimated cost of office, shop, laboratory, safety equipment, *etc.* to be used at the facility, if such costs are not included in the construction contract.

• *Miscellaneous:* List the estimated miscellaneous costs.

• *Contingencies:* List the estimated contingency costs.

Appendix 5: List of Acronyms and Abbreviated References

Acronym	Meaning
ACF	Administration for Children and Families.
ADA	Americans with Disabilities Act.
Administrator	Administrator of the Federal Railroad Administration.
CAST	Custom Applications Support and Training Unit (GrantSolutions).
CCR	Central Contractor Registration database.
CE	Categorical Exclusion—a class of action for the NEPA process.
DBE	Disadvantaged Business Enterprise.
Department	The United States Department of Transportation.
DOT	The United States Department of Transportation.
DUNS	Data Universal Number System.
EA	Environmental Assessment—a NEPA document.
EIS	Environmental Impact Statement— the most extensive type of NEPA document.
FD	Final Design.
FHWA	Federal Highway Administration.
FONSI	Finding of No Significant Impact—a possible decision concluding the NEPA process.
FRA	Federal Railroad Administration—an operating administration of the U.S. Department of Transportation.
FTA	Federal Transit Administration.
FY	Fiscal Year.
FY 2009 DOT Appropriations Act.	Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009—Title I of Division I of Public Law 111–8, March 11, 2009.
FY 2010 DOT Appropriations Act.	Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2010—Title I of Division A of Public Law 111–117, December 16, 2009.
GMLoB	Grants Management Line of Business.
GS	GrantSolutions grants management system.
ICC	Interstate Commerce Commission.

Acronym	Meaning
IPD	Innovation Program Delivery.
LOI	Letter of Intent.
mph	Miles Per Hour.
NEPA	National Environmental Policy Act.
NTD	National Transit Database.
OMB	Office of Management and Budget.
PE	Preliminary Engineering.
PRIIA	Passenger Rail Investment and Improvement Act of 2008 (Division B of Public Law 110–432, October 16, 2008).
PTC	Positive Train Control.
ROD	Record of Decision—a possible decision concluding of the NEPA process.
RSIA	Rail Safety Improvement Act of 2008 (Division A of Public Law 110–432, October 16, 2008).
Secretary	Secretary of the United States Department of Transportation.
State DOT	State Department of Transportation.

Issued in Washington, DC on June 25, 2010.

Joseph C. Szabo,

Administrator.

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BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

High-Speed Intercity Passenger Rail (HSIPR) Program

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

ACTION: Notice of funding availability for Individual Projects; issuance of interim program guidance.

SUMMARY: This notice details the application requirements and procedures for obtaining funding for individual high-speed and intercity passenger rail projects available under the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 (Div. A of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117, Dec. 16, 2009)). The Federal Railroad Administration has issued a separate notice in today's edition of the **Federal Register** for Fiscal Year 2010 funding made available for Service Development Programs.

This document incorporates interim guidance required for the HSIPR program pursuant to the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 and 49 U.S.C. 24402(a)(2). The funding opportunities described in this notice are available under Catalog of Federal Domestic Assistance (CFDA) number 20.319.

DATES: Applications for funding under this solicitation are due no later than 5 p.m. EDT, August 6, 2010. FRA reserves the right to modify this deadline.

ADDRESSES: Comments must be submitted through *http://www.grantsolutions.gov. See* Section 4 for additional information regarding the application process.

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 Att'n: HSIPR Program.

SUPPLEMENTARY INFORMATION:

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Section 1: Funding Opportunity Description

1.1 Legislative Authority

This interim program guidance and financial assistance announcement pertains to the funding made available for Individual Projects under FRA's HSIPR program. The authority for this grant program is contained in two pieces of legislation:

- The Passenger Rail Investment and Improvement Act of 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. chapter 24105), and High-Speed Rail Assistance (codified at 49 U.S.C. chapter 26106), respectively; and
- The Fiscal Year 2010 Consolidated Appropriations Act (Title I of Division 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."

This document incorporates interim guidance required for the HSIPR program pursuant to the FY 2010 DOT Appropriations Act and 49 U.S.C. 24402(a)(2).

1.2 Funding Approach

The FY 2010 DOT Appropriations Act appropriated a total of $2.5 billion for the HSIPR program. FRA is soliciting grant applications separately for the different components of this appropriation:

- *FY 2010 Individual Projects (up to $245 million):* Final Design/Construction or Preliminary Engineering/NEPA for Individual Projects with a 20 percent non-Federal match. This solicitation is for these funds.
- *FY 2010 Service Development Programs (at least $2,125 million):* Service Development Programs with a 20 percent non-Federal match. The notice of funding availability (NOFA) for these funds is being issued concurrently with this solicitation.
- *FY 2010 Planning Projects (up to $50 million):* Planning projects with a 20 percent non-Federal match. The solicitation for these funds was published on April 1, 2010, and applications were due May 19, 2010.
- *FY 2010 Multi-State Proposals (from $50 million for Planning Projects):* Proposals for Federally-led preparation of planning documents for high-speed rail corridors that cross multiple states. The guidance for submitting proposals was published on April 1, 2010, and the proposals were due May 19, 2010.

The balance of the $2.5 billion is allocated to HSIPR program administration and research.

1.3 Forthcoming Interim Guidance

FRA is preparing a draft guidance document as part of the process of