

March 13, 2009



*Federal Railroad
Administration
The American Recovery and
Reinvestment Act of 2009
Frequently Asked Questions*

**Rail Programs Funded Under
*The American Recovery and Reinvestment Act (ARRA)
of 2009*
Public Law 111-5**

Eligibility Issues

Question 1: What rail programs are funded under [ARRA](#)?

Answer 1: There are two major types of rail grant programs under ARRA: (i) \$1.3 billion for capital grants to Amtrak, of which \$450 million is for security improvements including life safety improvements, and (ii) \$8 billion for capital grants for high-speed rail corridors and intercity passenger rail service. Under (ii), there are three specific rail grant programs:

- High-speed rail corridor development grants (authorized in Section 501 of the [Passenger Rail Investment and Improvement Act of 2008](#) (PRIIA), Public Law 110-432, Division B, as 49 U.S.C. §26101 et seq.)
- Intercity passenger rail service corridor capital assistance grants (authorized in Section 301 of PRIIA), 49 U.S.C. Chapter 244)
- Congestion grants (authorized in Section 302 of PRIIA), as 49 U.S.C §24105)

Question 2: Who can apply for funds under the ARRA rail programs?

Answer 2: Amtrak is the only eligible applicant for the \$1.3 billion Amtrak grant program. For the \$8 billion capital funds, there are three types of competitive discretionary rail grant programs, each with slightly different applicant eligibility requirements:

- For high-speed rail corridor development grants, States (including the District of Columbia), groups of States, Interstate Compacts, public high-

- speed passenger rail agencies established by one or more States, and Amtrak are eligible to apply
- For intercity passenger rail service corridor capital assistance grants, States (including the District of Columbia), groups of States, Interstate Compacts, and public intercity passenger rail agencies established by one or more States are eligible to apply
 - For congestion grants, States and Amtrak (in cooperation with States) are eligible to apply

Question 3: What types of projects are eligible for funding under the \$8 billion ARRA program?

Answer 3: The following types of capital projects are eligible for funding:

- High-speed rail corridor grants and intercity passenger rail grants:
 - a project for acquiring, constructing, improving, or inspecting equipment, track, and track structures, or a facility of use in or for the primary benefit of high-speed 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 agreement, highway-rail grade crossing improvements related to high-speed rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing; or
 - a project for rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service.
- Congestion grants: capital costs of facilities, infrastructure, and equipment for high priority rail corridor projects necessary to reduce congestion or facilitate ridership growth in intercity rail passenger transportation. Additional information on project eligibility is provided in 49 U.S.C. §24105(b).

Grant funds cannot be used for operating expenses.

Question 4: Is planning an eligible expense under the ARRA rail programs?

Answer 4: No. While good planning is an essential component of successful projects, it is not an eligible use of ARRA grant funds. However, FRA intends to encourage use of other grant funds (such as funds made available under the intercity passenger rail grant annual appropriations) for planning and project development activities. Furthermore, expenses for post-planning activities that are directly related to construction (including design work, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way) may be

eligible for ARRA grant funds, although ARRA requires that priority be given to applications for projects that are ready to go to construction immediately.

Question 5: While the federal share is “up to” 100 percent, are applicants expected to provide a non-federal match?

Answer 5: No. Grant recipients determine whether to provide a match or not. However, once a grant is awarded, recipients will be expected to cover any project expense overruns and complete the projects. Moreover, the existence of non-federal matching contributions strengthens an application insofar that it provides evidence of a tangible commitment on the part of the applicant to fully implement and complete the project.

Question 6: Will projects have to be on the State Transportation Improvement Program (STIP) to be eligible for grant funds under ARRA?

Answer 6: ARRA appropriates funds in support of three programs authorized under PRIIA, which does not explicitly require that projects be included in a State’s STIP to be eligible for funding. However, for the high-speed rail corridor development and intercity passenger rail corridor capital assistance programs a project must be compatible with the plans developed pursuant to the transportation planning requirements under 23 U.S.C. §135 (which set out STIP requirements). Inclusion of a project in the applicant State’s STIP would be one way of fulfilling this requirement.

Question 7: Will projects have to be on an approved State Rail Plan to be eligible for ARRA grant funds?

Answer 7: No, Congress exempted ARRA grant funds from the requirement contained in PRIIA that projects must be on an approved State Rail Plan. However, FRA will be looking for evidence that projects fit into an applicant’s longer-term intercity passenger rail development plans, including evidence that projects are on a prioritized list of projects that meaningfully advance a longer-term corridor development program.

Question 8: ARRA emphasizes “ready-to-go” projects; what does that mean for the rail grant programs?

Answer 8: “Ready-to-go” projects are those for which planning, environmental and preliminary engineering activities have been completed – thus allowing grant recipients to immediately begin final design and construction and/or enter into design-build contracts. Projects that have not reached this stage of development may still be eligible for grant funding under ARRA.

Question 9: Are projects subject to “Buy American” provisions?

Answer 9: Section 1605 of Title XVI of Division A of ARRA contains a Buy American provision that applies to all funds made available under the Act. In addition, Title XII of Division A (which contains the \$8 billion in funding for high-speed rail corridor development, intercity passenger rail corridor capital assistance, and congestion grants programs) provides that 49 U.S.C. §24405 applies to the \$8 billion grant funds. Section 24405(a) contains a Buy American requirement that is somewhat stricter with respect to waiving the Buy American requirements than the provision of section 1605. FRA will be providing further guidance on reconciling these two requirements in the interim guidance for the program that will be issued on or before June 17, 2009 (see discussion below).

Program Schedule

Question 10: What is FRA's schedule for implementing the rail grant programs under ARRA?

Answer 10: Unlike other programs funded under ARRA, the high-speed rail corridor development, intercity passenger rail corridor capital assistance, and congestion grant programs are newly established programs authorized in PRIIA. Congress acknowledged this fact by requiring the Secretary to develop a strategic plan for implementing the programs and deliver that plan to Congress within 60 days of enactment, April 18, 2009. In addition, since there are no existing regulations governing these programs, Congress instructed the Secretary to provide interim guidance to prospective applicants within 120 days of enactment, June 17, 2009.

Question 11: What will the Strategic Plan submitted to Congress cover?

Answer 11: FRA and the Department are currently developing the strategic plan. The plan will likely include, among other things, a description of: (1) the proposed schedule for providing grant funds under ARRA, (2) the criteria that will be used to select projects, (3) the reporting and evaluation process that will be used to measure and communicate program effectiveness, and (4) the relationship of the ARRA grant programs to the recently enacted intercity passenger rail authorization act (PRIIA).

Question 12: What will the interim guidance cover?

Answer 12: The interim guidance will cover the grant terms, conditions and procedures applicants will need to satisfy in order to submit applications, including deadline(s) and timeframes for submission and selection.

Question 13: Since Congress allowed more time for implementation of the rail grant programs than for other investment programs under ARRA, does that mean that these projects have a longer-term build out period than others?

Answer 13: FRA will detail the expectations and implementation timeframes in the Strategic Plan as well as the interim guidance. Generally, it is likely that FRA will initially seek projects that are “ready to go,” but will also provide opportunities for subsequent applications that include projects with a longer build-out period.

Question 14: What are the selection criteria for the ARRA rail grant programs?

Answer 14: Final selection criteria will be provided in the interim guidance. Based upon statutory guidance and best practices, it is likely that selection criteria will include such elements as:

- Application completeness
- Adequate project identification/planning processes and controls
- Job creation or preservation benefits
- Transportation and other benefits such as energy efficiency, reduced emissions, and mitigation of congestion growth in other modes
- Minimizing or mitigating project risk
- Start and completion dates
- Cost-effectiveness

Question 15: Is there a limit to the amount of funds an eligible applicant may seek?

Answer 15: No. FRA will be constrained by the funds available.

Question 16: Who will monitor spending to prevent waste, fraud and abuse? What controls and audit procedures are being established to manage the funding?

Answer 16: In accordance with guidance from OMB and FRA’s own plans, FRA staff, oversight contractor personnel, the DOT Inspector General, and the GAO will all monitor spending to prevent waste, fraud and abuse. The controls and audit requirements will be spelled out in the grant agreements for selected projects. Within Title XII of the ARRA, \$20,000,000 is provided Department of Transportation's Inspector General for conducting audits and investigations of projects and activities carried out under the Act. In addition, \$5 million of the \$1.3 billion available to Amtrak is provided to the Amtrak Inspector General.

Question 17: What can applicants do now to enhance their chances of being selected when funds become available?

Answer 17: Where feasible, applicants should take steps to get projects “ready-to-go,” including:

- Complete planning, environmental, and preliminary engineering activities
- Seek, obtain and /or secure the approval and concurrence of all rail carriers that are authorized to use any rail infrastructure, facilities or operational resources (i.e. dispatching) that are proposed to be altered or reconfigured by the project
- Initiate negotiations to enter into formal agreements with the infrastructure owner (typically freight railroads) to ensure project success – e.g., project investment plan, service plan, benefits agreements, liability, labor issues, etc. FRA will be issuing more specific guidance on the requirement for such agreements as set forth in 49 U.S.C. §24405
- Amend or conclude agreements with the operator (typically Amtrak) to deliver a service plan
- Identify and secure sources of funding that may be necessary to cover any operating expenses incurred once service commences

Question 18: While the strategic plan and interim guidance are being developed, will there be any other grant funds available to advance projects?

Answer 18: FRA expects to issue a Notice of Funds Availability (NOFA) in the near future for the approximately \$90 million available under the Fiscal Year (FY) 2009 Capital Assistance to States – Intercity Passenger Rail Service program – appropriated under the Department of Transportation Appropriations Act, 2009 (Public Law 111-8).

Question 19: What projects would be eligible for FY 2009 grant funds?

Answer 19: Under the FY 2009 Capital Assistance to States – Intercity Passenger Rail Service program, project eligibility will be similar to the FY 2008 version of the IPR Grants program (NOFA available at <http://www.fra.dot.gov/Downloads/Research/E8-3018.pdf>). FRA may also give preference to applications for the planning, environmental and preliminary engineering necessary to advance projects that would later be eligible under ARRA.

Question 20: What will the matching requirements be for FY 2009 grant funds?

Answer 20: The FY 2009 Capital Assistance to States – Intercity Passenger Rail Service program mirrors the FY 2008 program, and thus require a 50 percent non-federal matching contribution.

High-Speed Rail Issues

Question 21: What is the definition of high-speed rail?

Answer 21: Under PRIIA, “high-speed rail” is “intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour” (49 U.S.C. §26105 (b)(4)). The FRA intends to offer additional guidance on the interpretation of this Congressional definition in its Strategic Plan. In the meantime, for initial planning purposes, an intercity passenger rail system can be considered as meeting this definition if:

- It provides service that is time-competitive with air and/or auto on a door-to-door basis for trips in the approximate range of 100 to 500 miles; and
- Its component subsystems (track, equipment, communications, control, and all others) are capable of sustained top speeds of 110 mph or more where the alignment and environmental considerations permit; and
- The system meets or exceeds all applicable safety standards

Question 22: Which segments of the ten existing federally designated high-speed rail corridors will be built first?

Answer 22: U.S. Department of Transportation does not have a pre-selected list of routes to be funded and built. Projects will be selected under a competitive grant process that will be articulated in the interim guidance (outlined above).

Question 23: Is the Northeast Corridor an officially designated high-speed corridor?

Answer 23: No. Linking Boston, New York, Washington, and intermediate cities, Amtrak’s Northeast Corridor (NEC) main line is America’s most highly-developed high-speed rail corridor, having benefited from over \$4 billion in direct Federal funding under the Northeast Corridor Improvement Project that had its roots in the High-Speed Ground Transportation Act of 1965 and the railroad restructuring legislation of the mid-1970s. In addition, investments in NEC development are part of Amtrak’s annual capital program, and often include participation by the commuter rail authorities that make use of NEC infrastructure for many of their extensive operations.

The NEC main line is not a “designated high-speed rail corridor” for purposes of 23 U.S.C. Section 104(d)(2) (“Railway-highway crossing hazard elimination in high-speed rail corridors”) nor for programs that depend upon that Section, such as the high-speed rail corridor development program in Section 501(d) of PRIIA (49 U.S.C. 26106).

Question 24: Will FRA designate additional high-speed rail corridors?

Answer 24: The Secretary of Transportation will determine whether to designate (23 U.S.C. §104 (d) (2)) the one remaining authorized slot for a stand-alone high-speed rail corridor. As regards modifications or extensions of existing designations, Section 224(c)(2) of the PRIIA requires the Secretary of Transportation to “establish a process for a State or group of States to petition the Secretary to redesignate or modify any designated high-speed rail corridors.” This requirement has been recently enacted and no process has been established to date.

Question 25: Who decides what type of equipment may be purchased?

Answer 25: As appropriate, applicants will propose an equipment plan as part of their application to develop or initiate high-speed rail service. FRA is responsible for ensuring the passenger rail equipment fully complies with all applicable safety regulations. Ultimately, FRA may also encourage that equipment be standardized across corridors and services to the extent possible in order to maximize economies of scale, and ensure interoperability and flexibility.

Question 26: Is the \$8 billion ARRA funding directly related or tied to FRA’s recent request for expressions of interest in implementing a [high-speed rail corridor](#)?

Answer 26: No. However, states may choose to develop corridors based on projects submitted under the expressions of interest, and may choose to apply for grant(s) under ARRA to fund elements of such projects.

Question 27: Is maglev eligible for ARRA high-speed rail funds?

Answer 27: ARRA and FRA’s implementation program are intended to be technology neutral. The costs and benefits of Maglev systems are explored in FRA’s most recent report on that topic, “[Report to Congress: Costs and Benefits of Magnetic Levitation](#),” September 2005.

Question 28: What is the cost per mile to build a European-style high-speed rail corridor?

Answer 28: There is no experience in the U.S. in such high-speed rail development. Planning estimates and international experience suggest that the average cost per mile for advanced steel-wheel high-speed rail would be between \$30 and \$50 million. Factors that have a major influence on cost include the availability of right-of-way, maximum operating speeds, topography, and the extent of elevated structures and tunnels.