



# **Vision for High-Speed Rail in America**

## ***Frequently Asked Questions***

### ***High-Speed Rail Strategic Plan***

*Question 1: What is the High-Speed Rail [Strategic Plan](#)?*

Answer 1: The [American Recovery and Reinvestment Act of 2009](#) (ARRA) required the Secretary of Transportation to submit a strategic plan to Congress describing how the Secretary would use the \$8 billion provided to the Federal Railroad Administration (FRA) under ARRA to re-energize efforts to develop high-speed passenger rail systems in the United States. This Strategic Plan, entitled [A Vision for High-Speed Rail In America](#), was announced by President Obama and submitted to Congress on April 16, 2009.

### ***Rail Program Implementation and Schedule***

*Question 2: What programs will FRA use to fund the development of high-speed and intercity passenger rail?*

Answer 2: The Strategic Plan takes a holistic view of high-speed and intercity passenger rail development. FRA intends to employ a mix of the three new programs recently authorized in the [Passenger Rail Investment and Improvement Act](#) of 2008 (PRIIA) and funded through ARRA:

- High-Speed Rail (HSR) Corridor Development (Section 501 of PRIIA, Public Law 110-432, Division B, as 49 U.S.C. §26101 *et seq*)
- Intercity Passenger Rail (IPR) Service Corridor Capital Assistance (Section 301 of PRIIA, as 49 U.S.C. Chapter 244)
- Congestion Grants (Section 302 of PRIIA, as 49 U.S.C §24105)

Each of these competitive grant programs, along with the FY 2009 Capital Assistance to States -- Intercity Passenger Rail Service Program, will play a part in developing high-speed and intercity passenger rail service.

*Question 3: How will funding for the high-speed and intercity passenger rail grant programs be allocated?*

Answer 3: The U.S. Department of Transportation (DOT) will not allocate funding to the three specific programs (HSR, IPR, and Congestion) mentioned above. Instead, these programs provide the eligibility requirements for three distinct applicant-funding tracks outlined below. Awards of grant funding will be based on transparent, merit-based selection criteria:

1. *Individual Projects.* Grants to complete individual projects that are “ready-to-go” with completed environmental and preliminary engineering work – with an emphasis on near term job creation. Eligible projects include acquisition, construction of or improvements to infrastructure, facilities and equipment. Projects must be eligible under Section 301 (Intercity Passenger Rail) or Section 302 (Congestion), which are further outlined in Questions 6.
2. *Corridor Development Programs.* Cooperative agreements to develop entire phases or geographic sections of high-speed rail corridors that have completed corridor plans, environmental documentation and have a prioritized list of projects to help meet the corridor objectives. Projects must be eligible under Section 501 (High-Speed Rail) or Section 301 (Intercity Passenger Rail), which are further outlined in Questions 5 and 6.
3. *Planning.* Cooperative agreements for planning activities (including development of corridor plans and State Rail Plans) *using non-ARRA appropriated funds.* This third approach is intended to help create the conditions needed for future corridor development in order to build out a more fully integrated national high-speed and intercity passenger rail network.

*Question 4: What is FRA’s schedule for implementing these high-speed and intercity passenger rail grant programs?*

Answer 4: The Strategic Plan outlines a proposed timetable for implementing the passenger rail grant programs that seeks to balance the practical constraints facing potential applicants with the immediate imperatives of ARRA, and the long-term goal of developing a sustainable program for building high-speed passenger rail service. The proposed schedule contemplates two rounds of funding, each with solicitations for the three funding tracks discussed above, and subsequent rounds if funds are not fully obligated during the initial rounds. The following schedule is preliminary and subject to revision in the interim guidance to applicants that will be issued by June 17, 2009:

#### *Round 1*

- Solicitation 1.1 – Projects: Applications will be due by the beginning of August, with project selections made within approximately 45 days
- Solicitation 1.2 – Corridor Development Programs: Applications will be due by the end of September, with program selections made by the end of December.

- Solicitation 1.3 – Planning: Applications will be due by the beginning of August, with project selections made within approximately 45 days (These planning activities are not eligible under ARRA; FY 2009 appropriations funds will be used to fund any selected applications for this solicitation.)

*Round 2.* This round provides an opportunity for resubmission of revised applications that were unsuccessful in Round 1, along with new proposals – likely including the same target projects and eligibility criteria. If FY 2010 appropriations for high-speed and intercity passenger rail projects are available, they would be coordinated with the ARRA solicitations (as in Round 1). Subsequent solicitations may be added to other future funding opportunities if ARRA funds remain available. Applications during this second round will be due in 2010.

## ***Program, Project and Applicant Eligibility***

*Question 5: Who can apply for funds under the ARRA rail grant programs?*

Answer 5: For the \$8 billion in capital funds for high-speed and intercity passenger rail, the three competitive discretionary rail grant programs each have slightly different applicant eligibility requirements:

- HSR corridor program (Section 501) – 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
- IPR program (Section 301) – 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
- Congestion program (Section 302) – States and Amtrak (in cooperation with States) are eligible to apply
- FY 2009 Capital Assistance to States - Intercity Passenger Rail Service Program – Departments of transportation for any State (including the District of Columbia) are eligible to apply

*Question 6: What types of projects are eligible for funding under the \$8 billion ARRA rail grant programs?*

Answer 6: Grant funds cannot be used for operating expenses. The following types of capital projects/programs are eligible for funding:

- HSR and IPR (Sections 501 and 301) – (i) Projects/programs for acquiring, constructing, improving, or inspecting equipment, track, and track structures, or facilities for the primary benefit of high-speed or 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 agreement; highway-rail grade crossing improvements related to high-speed or intercity passenger rail service; expenses for mitigating environmental impacts; communication and signalization improvements; relocation assistance; acquiring replacement housing sites; and acquiring, constructing, relocating, and rehabilitating replacement housing. (ii) Projects/programs for rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service.

- Congestion (Section 302) – 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.
- FY 2009 Capital Assistance to States-Intercity Passenger Rail Service Program – Capital Projects as defined for HSR/IPR, and 10% (\$9 million) for planning activities that lead directly to the development of a passenger rail corridor investment plan

*Question 7: Is rolling stock eligible for funding under ARRA?*

Answer 7: Yes. Applicants will need to include a passenger equipment plan as part of any application to improve, develop or initiate high-speed rail service. Applicants are also responsible for ensuring that the rail passenger equipment they operate complies with all applicable safety laws and regulations or that the operator has secured appropriate approvals from FRA in accordance with established processes (e.g., 49 C.F.R. §238.7 related to waivers of the Passenger Equipment Safety Standards, 49 C.F.R. Part 238). Applicants will also need to be mindful of the Buy America requirements of 49 U.S.C. §24405 in connection with equipment acquisitions with ARRA funding. For rolling stock equipment proposals, DOT will encourage acquisition of new, standardized, interoperable equipment that incorporates state-of-the-art safety features.

*Question 8: Are projects located along the Northeast Corridor (NEC) eligible for funding under \$8 billion in capital funds?*

Answer 8: Yes. While the NEC main line between Boston, New York and Washington, DC is not a designated high-speed rail corridor, and thus not eligible for PRIIA Section 501 funds, projects along the NEC are eligible for ARRA funding under the intercity passenger rail and congestion programs (Sections 301 and 302 of PRIIA, respectively). NEC main line projects must be sponsored by States (for Section 301) or Amtrak (in cooperation with States – for Section 302) in order to be considered for funding. Investments in NEC development are also eligible under Amtrak's ARRA grant and FY 2009 appropriations funding.

*Question 9: Does a project have to be located on a "designated high-speed rail corridor" to be eligible for funding?*

Answer 9: No. Only projects eligible under Section 501 (High-Speed Rail) of the “Corridor Development programs” funding track need to be located in one of the ten existing federally designated high-speed rail corridors. Projects eligible under Section 301 (Intercity Passenger Rail), Section 302 (Congestion) or FY 2009 appropriations can be located outside of federally designated corridors.

*Question 10: Is maglev eligible for ARRA high-speed rail funds?*

Answer 10: ARRA and FRA’s implementation program are intended to be technology neutral. Applications will be evaluated on their merits, including the project’s ability to deliver public benefits and mitigate risks (as outlined on Page 14 of the Strategic Plan).

*Question 11: Can the ARRA rail grants be used for grade separations or deployment of Positive Train Control technology?*

Answer 11: Grants funded under Section 301 (Intercity Passenger Rail) and Section 501 (High-Speed Rail) in either the “Projects” or “Corridor Development programs” funding tracks can be used for highway-rail grade crossing improvements related to high-speed or intercity passenger rail service. Funding under these programs as well as under Section 302 (Congestion Mitigation) can also be utilized for the deployment of Positive Train Control (PTC) technology.

## ***High-Speed Rail Issues***

*Question 12: What is the definition of high-speed rail?*

Answer 12: Under PRIIA, “high-speed rail” is defined as “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 Strategic Plan further defines the different types of high-speed and conventional intercity passenger rail service (see Page 2 of Strategic Plan).

*Question 13: Which segments of the ten existing federally designated high-speed rail corridors will be built first?*

Answer 13: U.S. Department of Transportation does not have a pre-selected list of routes or projects to be funded and built. Projects will be selected under a competitive, merit-based grant process.

*Question 14: Are the ten existing federally designated high-speed rail corridors subject to change or modification? Will there be any other corridors designated as high-speed rail corridors?*

Answer 14: The Secretary of Transportation will determine whether to designate (23 U.S.C. §104 (d) (2)) the one remaining authorized stand-alone high-speed rail corridor. With regard to modifications or extensions of existing designations, Section 224(c)(2) of 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 was recently enacted and no process has been established to date. Consideration of modifications and designation of addition high-speed rail corridors will be made in the context of developing the National Rail Plan.

## ***Corridor and Project Planning***

*Question 15: Is planning an eligible expense under the ARRA rail programs?*

Answer 15: No. While good planning is an essential component of successful projects, it is not an eligible use of ARRA grant funds. However, as the Strategic Plan indicates, FRA intends to provide other grant funds (such as FY 2009 appropriations) under the “Planning” funding track discussed above for planning and project development activities. In the future, funding proposed in the President’s FY 2010 budget would be eligible for planning purposes.

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

*Question 16: Will projects have to be on the State Transportation Improvement Program (STIP) to be eligible for grant funds under ARRA?*

Answer 16: ARRA appropriates funds in support of three programs authorized under PRIIA, which does not explicitly require that projects be included in a 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 17: Will projects have to be on an approved State Rail Plan to be eligible for ARRA grant funds?*

Answer 17: No, Congress exempted ARRA grant funds from the requirement contained in PRIIA stipulating 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.

## ***Application Assistance***

*Question 18: What will the interim guidance cover?*

Answer 18: ARRA requires the Secretary of Transportation to issue interim program guidance to prospective applicants by June 17, 2009. This guidance will cover the grant terms, conditions, procedures and other prerequisites applicants will need to satisfy. It will also detail the evaluation criteria, as well as the deadlines and timeframes for submission and selection. The interim guidance will also cover the FY 2009 Capital Assistance to States – Intercity Passenger Rail Service program, and outline the program's relationship to the ARRA-funded programs.

*Question 19: What are the selection criteria for the ARRA rail grant programs?*

Answer 19: As President Obama outlined in his March 20, 2009, memorandum, *Ensuring Responsible Spending of Recovery Act Funds*, program evaluation will be based on "transparent, merit-based selection criteria." The Strategic Plan provides an overview of the criteria that will be used to evaluate applications (see Page 14 of the Strategic Plan). The interim guidance will further define the selection criteria and provide specific instructions for applicants.

*Question 20: What is the difference between a "grant" and a "cooperative agreement"?*

Answer 20: Both grant agreements and cooperative agreements are instruments for providing Federal financial assistance to a recipient for use in undertaking a specific activity (see 41 U.S.C. §§ 6304 and 6305). A cooperative agreement is identical in all respects to a grant agreement, except that under a cooperative agreement the Federal agency is anticipated to have substantial involvement in the activity that is undertaken through the agreement. This substantial Federal involvement can take numerous forms, ranging from simple Federal approval authority at key milestones, to more active and significant partnership arrangements between the recipient and the Federal agency.

*Question 21: How do freight railroads and their rights-of-way fit into the development of high-speed and intercity passenger rail?*

Answer 21: Although Federal law provides Amtrak a right of access to privately owned railroad facilities, that access has been constrained by insufficient capacity of their rail lines. With the prospect of significant public funding flowing through States to support capital investments – often in existing, privately owned rail lines – for expanded and improved passenger services, partnerships will be needed between States and the private railroads that own the infrastructure. Whether for comprehensive corridor improvement programs or discrete stand alone projects, State-railroad agreements will be needed to ensure that public investments will fulfill and continue to be available for their intended purposes. For example, projects could include track replacement and improvements, double and triple tracking, removal of highway-rail grade crossings, grade separations, etc.

*Question 22: What can applicants do now to enhance their chances of being selected when funds become available?*

Answer 22: Where feasible, applicants should take steps to make projects and corridor programs “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; and
- Identify and secure sources of funding that may be necessary to cover any operating expenses incurred once service commences.

*Question 23: The Federal share under ARRA is “up to” 100 percent; are applicants expected to provide a non-federal match?*

Answer 23: No. ARRA grant applicants determine whether to propose a match or not. However, in evaluating applications, FRA will consider financial or in-kind commitments from key stakeholders, including States involved in the corridor and the host railroads that own any required rail infrastructure. Once a grant is awarded, recipients will be expected to cover any project expense overruns and complete the project.

## ***ARRA Technical Issues***



*Question 24: During what timeframe must the funding under ARRA be spent?*

Answer 24: FRA must obligate all Recovery Act funds by September 30, 2012. Funding must be spent by recipients by 2017.

*Question 25: Are projects subject to “Buy American” provisions?*

Answer 25: 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 by June 17, 2009.

*Question 26: Who will monitor spending to prevent waste, fraud and abuse? What controls and audit procedures are being established to manage the funding?*

Answer 26: In accordance with guidance from the Office of Management and Budget (OMB) and FRA’s own plans, FRA staff, oversight contractor support personnel, the DOT Inspector General, and the Government Accountability Office (GAO) will all monitor expenditures to detect, prevent and eliminate 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 million 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 27: Is the \$8 billion ARRA funding related to FRA’s recent request for expressions of interest in implementing a [high-speed rail corridor](#)?*

Answer 27: Not directly. However, States may choose to develop corridors based on concepts submitted under the expressions of interest, and may choose to apply for grant(s) under ARRA to fund elements of such projects.