



1. Solicitation #: 3450004943 / 21-SPR-0008

2. Solicitation Issue Date: 09/02/20

3. Brief Description of Requirement:

CONTRACT FOR DEVELOPMENT OF 2020 OKLAHOMA STATE RAIL PLAN. SPR ITEM #1906

The Solicitation is let as a Request for Proposal pursuant to and in accordance with Oklahoma Statute, Title 74, Section 85.12.B.3.

As of 03/18/2020 and until further notice, due to concerns about the possible spread of the coronavirus on packages, bids should be submitted to ODOT via email. Electronic bids will still be considered sealed bids and the attachments will not be opened until bid closing. Electronic bids should be emailed to the Buyer handling the solicitation.

4. Response Due Date<sup>1</sup>: 09/29/20

Time: 2:00 PM CST/CDT

5. Issued By and **RETURN SEALED BID TO**<sup>2</sup>:

U.S. Postal Delivery Address: 200 NE 21<sup>st</sup> Street  
Room 3C6  
Oklahoma City, OK 73105

Common Carrier Delivery Address: See Above

Electronic Submission Address: See Note Above

6. Solicitation Type (type "X" at one below):

- Invitation to Bid
- Request for Proposal
- Request for Quote

7. Contracting Officer:

Name: Cheryl Emerson, CPO  
Phone: 405-628-3318; Email: cemerson@odot.org

<sup>1</sup> Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments").  
<sup>2</sup> If "U.S. Postal Delivery" differs from "Carrier Delivery", use "Carrier Delivery" for courier or personal deliveries.



*"Certification for Competitive Bid and Contract" **MUST** be submitted along with the response to the Solicitation.*

1. **RE: Solicitation #** 3450004943 / 21-SPR-0008

**2. Bidder General Information:**

FEI / SSN : \_\_\_\_\_ Supplier ID: \_\_\_\_\_  
Company Name: \_\_\_\_\_

**3. Bidder Contact Information:**

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Contact Title: \_\_\_\_\_  
Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_  
Email: \_\_\_\_\_ Website: \_\_\_\_\_

**4. Oklahoma Sales Tax Permit<sup>3</sup>:**

- YES – Permit #: \_\_\_\_\_
- NO – Exempt pursuant to Oklahoma Laws or Rules – Attach an explanation of exemption

**5. Registration with the Oklahoma Secretary of State:**

- YES - Filing Number: \_\_\_\_\_
- NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming ([www.sos.ok.gov](http://www.sos.ok.gov) or 405-521-3911).

**6. Workers' Compensation Insurance Coverage:**

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

- YES – Include with the bid a certificate of insurance.
- NO – Exempt from the Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11) – Attach a written, signed, and dated statement on letterhead stating the reason for the exempt status.<sup>4</sup>

<sup>3</sup> For frequently asked questions concerning Oklahoma Sales Tax Permit, see <https://www.ok.gov/tax/Businesses/index.html>

<sup>4</sup> For frequently asked questions concerning workers' compensation insurance, see <https://www.ok.gov/wcc/Insurance/index.html>

**7. Disabled Veteran Business Enterprise Act**

- YES – I am a service-disabled veteran business as defined in 74 O.S. §85.44E. Include with the bid response 1) certification of service-disabled veteran status as verified by the appropriate federal agency, and 2) verification of not less than 51% ownership by one or more service-disabled veterans, and 3) verification of the control of the management and daily business operations by one or more service-disabled veterans.
- NO – Do not meet the criteria as a service-disabled veteran business.

Authorized Signature	Date
Printed Name	Title



**NOTE:** A certification shall be included with any competitive bid and/or contract exceeding \$5,000.00 submitted to the State for goods or services.

Agency Name: Oklahoma Dept. of Transportation Agency Number: 34500

Solicitation or Purchase Order #: 3450004943 / 21-SPR-0008

Supplier Legal Name: \_\_\_\_\_

**SECTION I [74 O.S. § 85.22]:**

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
  - a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
  - b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
  - c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
  - d. to any collusion with any state agency or political subdivision official or employee as to create a sole-source acquisition in contradiction to Section 85.45j.1. of this title.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

**SECTION II [74 O.S. § 85.42]:**

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

The undersigned, duly authorized agent for the above named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

the competitive bid attached herewith and contract, if awarded to said supplier;

**OR**

the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

\_\_\_\_\_  
Supplier Authorized Signature

\_\_\_\_\_  
Certified This Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email

\_\_\_\_\_  
Fax Number

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## **A. GENERAL PROVISIONS**

### **A.1. Definitions**

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1. "Acquisition" means items, products, materials, supplies, services, and equipment an entity acquires by purchase, lease purchase, lease with option to purchase, or rental;
- A.1.2. "Addendum" means a written restatement of or modification to a Contract Document executed by the Supplier and State.
- A.1.3. "Bid" means an offer in the form of a bid, proposal, or quote a bidder submits in response to a solicitation;
- A.1.4. "Bidder" means an individual or business entity that submits a bid in response to a solicitation;
- A.1.5. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation; and
- A.1.6. "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

### **A.2. Bid Submission**

- A.2.1. Submitted bids shall be in strict conformity with the instructions to bidders and shall be submitted with a completed Responding Bidder Information, OMES-FORM-CP-076, and any other forms required by the solicitation.
- A.2.2. Bids shall be submitted to the procuring agency in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.
- A.2.3. The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", OMES-FORM-CP-004, must be made out in the name of the bidder and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.
- A.2.4. All bids shall be legible and completed in ink or with electronic printer or other similar office equipment. Any corrections to bids shall be identified and initialed in ink by the bidder. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive. All bids submitted shall be subject to the Oklahoma Central Purchasing Act, Central Purchasing Rules, and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein—all of which are made part of this solicitation.

### **A.3. Solicitation Amendments**

- A.3.1. If an "Amendment of Solicitation", OMES-FORM-CP-011, is issued, the bidder shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the bid or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The procuring agency must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the bid to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.
- A.3.2. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the procuring agency.
- A.3.3. It is the bidder's responsibility to check frequently for any possible amendments that may be issued. The procuring agency is not responsible for a bidder's failure to download any amendment documents required to complete a solicitation.

### **A.4. Bid Change**

If the bidder needs to change a bid prior to the solicitation response due date, a new bid shall be submitted to the procuring agency with the following statement "This bid supersedes the bid previously submitted" in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER



A.9.2.3. Solicitation, as amended (if applicable); and

A.9.2.4. Successful bid (including required certifications), to the extent the bid does not conflict with the requirements of the solicitation or applicable law.

A.9.3. Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

#### **A.10. Pricing**

A.10.1. Bids shall remain firm for a minimum of sixty (60) days from the solicitation closing date.

A.10.2. Bidders guarantee unit prices to be correct.

A.10.3. In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the supplier in performance of the Contract shall be included in the total bid price/contract amount.

#### **A.11. Manufacturers' Name and Approved Equivalent**

Unless otherwise specified in the solicitation, manufacturers' names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. Bidder may offer any brand for which they are an authorized representative, and which meets or exceeds the specification for any item(s). However, if bids are based on equivalent products, indicate on the bid form the manufacturer's name and number. Bidder shall submit sketches, descriptive literature, and/or complete specifications with their bid. Reference to literature submitted with a previous bid will not satisfy this provision. The bidder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids that do not comply with these requirements are subject to rejection.

#### **A.12. Clarification of Solicitation**

A.12.1. Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation, and must be prior to the closing date of the solicitation.

A.12.2. If a bidder fails to notify the State of an error, ambiguity, conflict, discrepancy, omission or other error in the SOLICITATION, known to the bidder, or that reasonably should have been known by the bidder, the bidder shall submit a bid at its own risk; and if awarded the contract, the bidder shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a bidder takes exception to any requirement or specification contained in the SOLICITATION, these exceptions must be clearly and prominently stated in their response.

A.12.3. Bidders who believe proposal requirements or specifications are unnecessarily restrictive or limit competition may submit a written request for administrative review to the contracting officer listed on the solicitation. This request must be made prior to the closing date of the solicitation.

#### **A.13. Negotiations**

A.13.1. In accordance with Title 74 §85.5, the Oklahoma Department of Transportation reserves the right to negotiate with one, selected, all or none of the vendors responding to this solicitation to obtain the best value for the State. Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue that may mitigate the State's risks. The Department shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.

A.13.2. Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:

A.13.3. Negotiations may be conducted in person, in writing, or by telephone.

A.13.4. Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.

A.13.5. Terms, conditions, prices, methodology, or other features of the bidders offer may be subject to negotiations and subsequent revision. As part of the negotiations, the bidder may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.

A.13.6. The requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State Of Oklahoma.

#### **A.14. Rejection of Bid**

The State reserves the right to reject any bids that do not comply with the requirements and specifications of the solicitation. A bid may be rejected when the bidder imposes terms or conditions that would modify requirements of the solicitation or limit the bidder's liability to the State. Other possible reasons for rejection of bids are listed in OAC 260:115-7-32.

#### **A.15. Award of Contract**

- A.15.1. The ODOT Procurement Division Manager may award the Contract to more than one bidder by awarding the Contract(s) by item or groups of items, or may award the Contract on an ALL OR NONE basis, whichever is deemed by the ODOT Procurement Division Manager to be in the best interest of the State of Oklahoma.
- A.15.2. Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.
- A.15.3. In order to receive an award or payments from the State of Oklahoma, suppliers must be registered. The vendor registration process can be completed electronically through the OMES website at the following link: <https://www.ok.gov/dcs/vendors/index.php>.

#### **A.16. Contract Modification**

- A.16.1. The Contract is issued under the authority of the ODOT Procurement Division Manager who signs the Contract. The Contract may be modified only through a written Addendum, signed by the ODOT Procurement Division Manager and the supplier .
- A.16.2. Any change to the Contract, including but not limited to the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procuring agency in writing, or made unilaterally by the supplier, is a breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Addendums, shall be void and without effect, and the supplier shall not be entitled to any claim under this Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant Contract.

#### **A.17. Delivery, Inspection and Acceptance**

- A.17.1. Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The supplier(s) awarded the Contract shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the bid shall include all such charges. All products and/or services to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the supplier until accepted by the receiving agency. The supplier(s) awarded the Contract shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.
- A.17.2. Supplier(s) awarded the Contract shall be required to deliver products and services as bid on or before the required date. Deviations, substitutions or changes in products and services shall not be made unless expressly authorized in writing by the procuring agency.

#### **A.18. Invoicing and Payment**

- A.18.1. Upon submission of an accurate and proper invoice, the invoice shall be paid in arrears after products have been delivered or services provided and in accordance with applicable law. Invoices shall contain the purchase order number, a description of the products delivered or services provided, and the dates of such delivery or provision of services. An invoice is considered proper if sent to the proper recipient and goods or services have been received.
- A.18.2. State Acquisitions are exempt from sales taxes and federal excise taxes.
- A.18.3. Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.
- A.18.4. Payment terms will be net 45. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. § 34.72.
- A.18.5. Additional terms which provide discounts for earlier payment may be evaluated when making an award. Any such additional terms shall be no less than ten (10) days increasing in five (5) day increments up to thirty (30) days. The date from which the discount time is calculated shall be the date of a proper invoice.

#### **A.19. Tax Exemption**

State agency acquisitions are exempt from sales taxes and federal excise taxes. Bidders shall not include these taxes in price quotes.

#### **A.20. Audit and Records Clause**

- A.20.1. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any Contract with the State, the successful bidder(s) agree any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant Contract.
- A.20.2. The successful supplier(s) awarded the Contract(s) is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion and/or termination of the Contract. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

#### **A.21. Non-Appropriation Clause**

The terms of any Contract resulting from the solicitation and any Purchase Order issued for multiple years under the Contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other Contract document, the procuring agency may terminate its obligations under the Contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the supplier and shall be final and binding.

#### **A.22. Choice of Law**

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the Contract shall be governed by the laws of the State of Oklahoma.

#### **A.23. Choice of Venue**

Venue for any action, claim, dispute or litigation relating in any way to the Contract shall be in Oklahoma County, Oklahoma.

#### **A.24. Termination for Cause**

- A.24.1. The supplier may terminate the Contract for default or other just cause with a 30-day written request and upon written approval from the procuring agency. The State may terminate the Contract for default or any other just cause upon a 30-day written notification to the supplier.
- A.24.2. The State may terminate the Contract immediately, without a 30-day written notice to the supplier, when violations are found to be an impediment to the function of an agency and detrimental to its cause, when conditions preclude the 30-day notice, or when the State Purchasing Director determines that an administrative error occurred prior to Contract performance.
- A.24.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

#### **A.25. Termination for Convenience**

- A.25.1. The State may terminate the Contract, in whole or in part, for convenience if the State Purchasing Director determines that termination is in the State's best interest. The State Purchasing Director shall terminate the contract by delivering to the supplier a Notice of Termination for Convenience specifying the terms and effective date of Contract termination. The Contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the State Purchasing Director.
- A.25.2. If the Contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the supplier.

#### **A.26. Insurance**

The successful supplier(s) awarded the Contract shall obtain and retain insurance, including workers' compensation, automobile insurance, medical malpractice, and general liability, as applicable, or as required by State or Federal law, prior to commencement of any work in connection with the Contract. The supplier awarded the Contract shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the procuring agency with evidence of such insurance and renewals.

**A.27. Employment Relationship**

The Contract does not create an employment relationship. Individuals performing services required by this Contract are not employees of the State of Oklahoma or the procuring agency. The supplier's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to state employees.

**A.28. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007**

By submitting a bid for services, the bidder certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security and available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify).

**A.29. Compliance with Applicable Laws**

The products and services supplied under the Contract shall comply with all applicable Federal, State, and local laws, and the supplier shall maintain all applicable licenses and permit requirements.

**A.30. Special Provisions**

Special Provisions set forth in SECTION B apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

## **B. SPECIAL PROVISIONS**

### **B.1.0. The Solicitation is let pursuant to Oklahoma Statute, Title 74, Section 85.12.B.3.**

### **B.2.0. Form of Contract Agreement**

**B.2.1.** A contract is to be used as the agreement between the Oklahoma Department of Transportation (Department or ODOT) and the successful Vendor (Consultant).

### **B.3.0. Contractual Terms and Conditions**

**B.3.1. Length, start date and end date of contract:** The contract shall start from the date that the contract is fully executed and will extend until December 31, 2021.

### **B.4.0. Response Documents**

#### **B.4.1. Copies**

**B.4.1.1** Vendors shall use complete sets of Response Documents obtained from the source indicated in the Solicitation for Responses.

#### **B.4.2. Addenda/Amendments**

**B.4.2.1** Addenda/Amendments will be posted on the website and sent electronically, or delivered to all who are known by the Department to have received a complete set of Response Documents from the Department.

**B.4.2.2** Copies of the Addenda/Amendments will be made available for inspection at the Department.

**B.4.2.3** No Addenda/Amendments will be issued later than seven (7) calendar days prior to the date for receipt of Responses except an Addendum withdrawing the request for Responses or one which includes postponement of the date for receipt of Responses.

**B.4.2.4** Each Vendor shall acknowledge that all Addenda and Amendments were received, by signing the Addenda and Amendment Forms.

### **B.5.0 Taxation Status**

**B.5.1. PLEASE BE ADVISED THAT ALL GOVERNMENTAL ENTITIES OF THE STATE OF OKLAHOMA, FEI 73-6017987 ARE EXEMPT FROM OKLAHOMA SALES OR USE TAXES PURSUANT TO TITLE 68, O.S. 2001, SECTION 1356(1). THEREFORE, DIRECT PURCHASES MADE BY A STATE ENTITY ARE EXEMPT FROM SALES TAX WHEREAS PURCHASES MADE BY A CONTRACTOR IN FULFILLING A STATE CONTRACT ARE TAXABLE TO THE CONTRACTOR.**

### **B.6.0. Travel**

**B.6.1.** No reimbursable travel is contemplated under the terms of this contract.

## **C. SOLICITATION SPECIFICATIONS**

### **C.1.0. Background**

**C.1.1.** Every 4 years the Rail Programs Division (Rail) is required by section 303 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and Section 11315 of the Fixing America's Surface Transportation Act of 2015 (FAST Act) to develop FRA-accepted state rail plans and encourage state involvement in rail policy, planning and development. The 2022 Oklahoma State Rail Plan will meet these requirements.

## C.2.0. Purpose

**C.2.1.** The purpose of the Request for Proposal (RFP) is to prepare the 2022 Oklahoma State Rail Plan (SRP) which will involve data collection, public and stakeholder outreach and input. The rail plan update will review past, present and future Oklahoma rail needs for freight and passenger service. The SRP will follow the State Rail Plan Guidance (GUIDANCE) issued by the Federal Railroad Administration in September 2013 (attached in Appendix B) requires the following plan format, addressing content and organization, as shown below:

### Executive Summary

1. The Role of Rail in Statewide Transportation (Overview)
  2. The State's Existing Rail System:
    - 2.1. Description and Inventory
      - 2.1.1. Oklahoma Law
    - 2.2. Trends and Forecasts
    - 2.3. Rail Service Needs and Opportunities
  3. Proposed Passenger Rail Improvements and Investments
  4. Proposed Freight Rail Improvements and Investments
  5. The State's Rail Service and Investment Program
  6. Coordination and Review
- Technical Appendix

## C.3.0. Nature of Contract

**C.3.1. Project Management** will include time for the project manager to conduct internal and external coordination calls/meetings, develop project management and communications plans, and perform administrative functions such as QA/QC, invoicing, and monitoring sub consultant work.

The consultant will conduct monthly project status meetings with key ODOT staff and consultant team members via conference calls and in-person meetings, with critical path team members participating on an as-needed basis.

**C.3.2. Public & Stakeholder Engagement** will include time for the consultant to interact with the public and stakeholders. To initiate this effort, the consultant will develop an SRP public involvement plan (consistent with the ODOT Public Involvement Plan) to ensure the SRP update process provides the public with reasonable opportunities to participate in and comment on development of the SRP. This engagement effort will include consultation and coordination with all Railroads (Class I and III) that operate within Oklahoma, metropolitan planning organizations (MPOs), tribal governments, resource agencies, and other stakeholders.

We will use MetroQuest to facilitate broader and more meaningful public input during the development of the LRTP. The consultant will coordinate with ODOT staff to identify the MetroQuest SRP input screens. Input screens include priority ranking, rating, survey questions, mapping needs, comments, and scenario/trade-off exploration. The consultant team will be responsible for all aspects of creating the MetroQuest site, once the input screens have been selected. After the MetroQuest survey is complete, the consultant will develop a report summarizing the results. The consultant will create an English version and a Spanish version of the MetroQuest site.

We will conduct two stakeholders public meetings during development of the SRP at key milestones. The consultant will coordinate with ODOT staff to identify meeting locations and the consultant will provide all the meeting materials needed to conduct the meeting (i.e. boards, presentations, handouts, etc.).

The consultant will provide SRP documents and deliverables for the SRP website ([www.ok.gov/odot/rail\\_planhtml](http://www.ok.gov/odot/rail_planhtml)) that will be supported by ODOT staff.

**C.3.3. State Rail Plan** will be documented and written in accordance with all sections of the GUIDANCE in Appendix B. Meet all requirement from the GUIDANCE and provide a final federally compliant SPR by December 1, 2021.

In addition to the GUIDANCE, The consultant will research and document all state laws concerning railroads and any precedents. This state law inventory will be included into section 2.1. The State's Existing Rail System: Description and Inventory.

#### **C.4.0. Deliverables**

##### **State Rail Plan – Final Draft due December 1, 2021**

- a) Federally Compliant 2022-2025 Oklahoma State Rail Plan

#### **C.5.0 Contract Term**

The term of this contract will be from date of Notice to Proceed to December 31<sup>st</sup>, 2021.

#### **C.6.0. Payment Schedule**

The contract will be a lump sum with the consultant billing by milestones (Task Orders). Milestones shall be broken out by the consultant in the bid package with a time table for completion of the SRP by December 1, 2021. The consultant may only bill up to 90% until the delivery and acceptance of the federally compliant 2022-2025 Oklahoma State Rail Plan. The Consultant may invoice the Department for up to 90% of each Milestone upon completion of each Milestone.

#### **C7.0. Definitions**

- C.7.1.** The Department or Division is the Oklahoma Department of Transportation, Procurement Division.
- C.7.2.** Response Documents include the Solicitation for Responses, these Instructions for Vendors, the Response Forms, other sample response forms, and any addenda issued prior to the receipt of Responses.
- C.7.3.** Addenda/Amendments are written or graphic instruments issued by the Department prior to the execution of the contract, which modify or interpret the Response Documents by additions, deletions, clarifications, or corrections.
- C.7.4.** A Response is a complete and properly signed proposal to do the work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Responding Documents.
- C.7.5.** A Unit Price is an amount stated in the Response as a price per unit of measurement for materials or services as described in the Response Documents or in the proposed contract documents.
- C.7.6.** A Vendor or Contractor is a person or entity that submits a Response.
- C.7.7.** The Owner is the State of Oklahoma represented by the Department of Transportation.

#### **C.8.0. Insurance Requirements**

- C.7.1.** The Vendor shall carry on his work in accordance with the Worker's Compensation Act (85 O.S. § 1 et seq.) of the State of Oklahoma and shall not reject the provisions thereof during the life of the contract. A certificate of coverage must be returned with the contract.
- C.7.2.** General and Automobile Liability Insurance in the amount of not less than \$100,000/\$300,000, and Property Damage Insurance of not less than \$50,000/\$100,000 shall be carried by the vendor during the life of the contract. Certificates of such coverage must be returned with the contract.

#### **C.6.0. Labor**

- C.6.1.** The Vendor shall comply with all State and Federal Laws in the employment and payment of labor.
- C.6.2.** There is Federal funding for this project and Davis Bacon Wages do apply for this project.

**C.7. Information Links**

- C.7.1 ODOT Rail Data Viewer - <https://okdot.maps.arcgis.com/apps/webappviewer/index.html?id=cbeb538d064b4490a09eb45e5a57f2f4>
- C.7.2. Link to 2018 SRP – [https://www.ok.gov/odot/documents/OK\\_StateRailPlan\\_Final\\_2018.pdf](https://www.ok.gov/odot/documents/OK_StateRailPlan_Final_2018.pdf)
- C.7.3. 2012 - Law Review - Section 8 pg117-126 - [https://www.odot.org/rail/rail-plan/pdfs/2012\\_RailPlan.pdf](https://www.odot.org/rail/rail-plan/pdfs/2012_RailPlan.pdf)

**D. EVALUATION**

**D.1.0. Evaluation**

**D1.1. This RFP will be evaluated as follows:**

- D.1.1. Electronic Proposal - Past Performance (Minimum of 3 Other State Rail Plan with References); Ability of the Consultant Team to Perform the type of work contemplated; Specialized qualification of the Consultant Team applicable to the type of work contemplated; and pricing response.
- D.1.2. Presentation – Project Management Approach; Public Involvement Plan; Timeline; and Milestones.

D.3.0. To be considered for award, the Vendor should provide three (3) Other State Rail Plan with References.

**D.4.0. Negotiation**

D.4.1. The Department of Transportation may negotiate with vendors to get the best price, value, and terms. Once the Department of Transportation identifies the candidates, negotiations may take place through the Oklahoma Department of Transportation Purchasing Office. The Oklahoma Department of Transportation considers all costs and business terms negotiable. The Department of Transportation reserves the right to make an award to the lowest, responsive bid if it is deemed in the best interest of the Department.

**E. INSTRUCTIONS TO BIDDERS**

**E.1. Important Information**

Important Dates	
Tuesday, September, 15, 2020 by 12:00 P.M. CST	Written Questions Due
Tuesday, September 22, 2020 by 3:00 P.M. CST	Responses to Questions Posted on Website
Tuesday, Sept. 29, 2020 2:00 P.M. CST	Solicitation Closed
Tues. & Weds., October 13 & 14, 2020	Presentation (See Appendix C)

## **E.2. Bidding Procedures**

### **E.2.1. Electronic Proposal Package Requirements**

**E.2.1.** Proposals shall be submitted with a lump sum which Responding Vendors will then divide up into milestones. It is the responsibility of responding Vendors to determine the milestones that they will need in order to complete this project. Section E.2.3. provides a minimum requirement of the number of milestones.

### **E.2.2. Sections of the proposals**

All proposals shall have at the minimum the following sections

- Introduction
- Project Management Plan
- Public Involvement Plan
- Previous State Rail Plans with contacts (up to 5 states with Hyperlinks to the states website)
- Team Experience and Qualification
- Timeline / Milestones / Bid

### **E.2.3. Timeline / Milestones / Response**

Provide a timeline of expected events along with the milestones dates throughout the entire development of the SRP. The budget shall be broken out by milestone and summed for a total bid.

At a minimum the following milestones should be included:

- Project Management
- Public Involvement
- Existing Inventory
- Data Analysis
- Proposed Improvements and Investments
- Oklahoma Law Review
- Rough Draft
- Final Accepted Draft December 1, 2021

**For each milestone responding vendors should include a detailed description, delivery date, and price.**

## **E.3. Interview**

**E.3.1.** All interviews will be accomplished by video conference that will be provided by the proposer and scheduled through Cheryl Emerson (cemerson@odot.org). Duration will be 30 min with a 20 min presentation and 10 min question answer.

**E.3.2.** Interviews will be scheduled to take place two weeks after the Solicitation closes. Attached is Appendix C which provides the available times and dates for the interviews. Responding Vendors should select their preferences in order of 1 through 3 on the attached Appendix C and return it with your responses. Actual scheduling will be assigned based upon the order in which the responses are received.

**E.3.3.** Responding Vendors will be contacted with the time and date of their video conference and contact information of the ODOT Employees who will be participating in the meeting. It will be the responsibility of responding Vendors to set up the video conference meetings.

#### E.4. Information Links

##### E.4.1. ODOT Rail Data Viewer -

<https://okdot.maps.arcgis.com/apps/webappviewer/index.html?id=cbeb538d064b4490a09eb45e5a57f2f4>

##### E.4.2. Link to 2018 SRP –

[https://www.ok.gov/odot/documents/OK\\_StateRailPlan\\_Final\\_2018.pdf](https://www.ok.gov/odot/documents/OK_StateRailPlan_Final_2018.pdf)

##### E.4.3. 2012 - Law Review - Section 8 pg117-126 -

[https://www.odot.org/rail/rail-plan/pdfs/2012\\_RailPlan.pdf](https://www.odot.org/rail/rail-plan/pdfs/2012_RailPlan.pdf)

#### E.5.0. Modification, Withdrawal or Cancellation of Responses

**E.5.1.** Vendors may withdraw, change and resubmit their Responses by appearing in person prior to the time set for the closing of the Response period. Upon presenting proper picture identification to Cheryl Emerson, CPO, the sealed Response will be returned to the Vendor. A new or changed sealed Response will be accepted until the time designated for the closing of the response period.

##### E.5.2. Bid Change

If the Bidder needs to change a Bid prior to the Solicitation Closing Date and Time, a new Bid shall be submitted to the State with the following statement: "This Bid supersedes the Bid previously submitted" in the body of the email. The email should include the Solicitation Number, Subject of Solicitation, Closing date, and an attachment of the response that is replacing the original response.

#### E.6.0. Solicitation Amendments

**E.6.1.** If an "Amendment of Solicitation", OMES Form 011 (or other format as provided), is issued, then the Bidder shall acknowledge agreement with each such Amendment of Solicitation by signing and returning the Solicitation Amendment. An executed Amendment may be submitted with the Bid or may be forwarded separately. If forwarded separately, the executed Amendment must contain this Solicitation number and Closing Date and Time on the front of the envelope. The Department must receive the executed Amendment by the Closing Date and Time specified for receipt of bids for the Bid to be deemed responsive. Failure to agree to a Solicitation Amendment may be grounds for rejection.

**E.6.2.** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Solicitation. All Amendments to this Solicitation shall be made in writing by the Department.

**E.6.3.** It is the Bidder's responsibility to check the Department's website frequently for any possible Amendments to this Solicitation that may be issued. The Department is not responsible for the Bidder's failure to download any amendment documents required to complete its Bid.

#### E.7.0. Submission of Responses

**NOTE: As of 03/18/2020 and until further notice, due to concerns about the possible spread of the coronavirus on packages, bids should be submitted to ODOT via email. Electronic bids will still be considered sealed bids and the attachments will not be opened until bid closing. Electronic bids should be emailed to the Buyer handling the solicitation. The Subject Line of the Email should include the Solicitation Number and Closing Date & Time. This super cedes Section E.7.1 and E.7.4 of the Solicitation Package.**

**E.7.1.** All the copies of the Response, the Bid Security, if any, and any other documentation required to be submitted with the Response shall be enclosed in a sealed, opaque envelope. The Response shall be addressed and delivered to the Oklahoma Department of Transportation, Purchasing Division, 200 NE 21<sup>st</sup> St, Room 3C9, Oklahoma City, OK 73105. Place on the outside of the envelope the name of the Vendor, the Solicitation #, the words "Sealed Response" and the date set for Opening.

- E.7.2. The Vendor shall assume full responsibility for timely delivery at the location designated for receipt of Responses.
- E.7.3. Responses received after the opening of Responses will not be considered and will be returned unopened to the Vendor.
- E.7.4. Oral, telephonic, or telegraphic Responses are invalid and will not receive consideration.

**E.7.0 Consideration of Responses**

- E.7.1. Responses will be opened after the time set for receipt of Responses. This Solicitation is being bid out as an RFP. A copy of the Responding Vendors List will be posted on the ODOT website after the solicitation closes. Vendors may receive a copy of the response tabulation on the solicitation website after a Contract has been awarded.

**F. CHECKLIST**

- Responding Bidder Information page completed and signed
- Non-Collusion Certification page completed and signed
- Certificate of Workers' Compensation Insurance Coverage
- Pay Item Response Form (Appendix A) completed and signed
- Amendment Receipt Form(s) Completed and signed
- Complete Appendix C – Proposal Scheduling
- Proposer's Statutory Certification Form (Appendix D) completed
- Federal Contract Requirements (Appendix E) completed
- Read Section G.1 regarding communication during the Solicitation Period
- Read Section B.5 regarding Taxation Status Item
- Include mandatory documents with your Vendor response
- Minimum of 3 Other State Rail Plan with References
- Timeline of expected events along with milestones

**G. OTHER**

**G.1.0. Communications During the Solicitation Process**

- G.1.1. Communication with anyone but the Buyer may result in a Vendor not be allowed to bid on this project.

**G.2.0 Questions**

- G.2.1. **Questions regarding this solicitation are due no later than Tuesday, September 15, 2020 by 3:00 P.M. Questions must be writing and are to be sent to the CPO's attention listed on the solicitation. Questions must have the Section and Item Number that the Vendor is questioning.**

**G.3.0. Vendor's Representations and Prequalification**

- G.3.1. Each Vendor, by making a response, represents that:
- G.3.2. The Vendor has read and understands the Response Documents and the Response is made in accordance therewith.
- G.3.3. The Vendor has visited the site, is familiar with the local conditions under which the work is to be performed and has correlated observations with the requirements of the proposed contract documents.
- G.3.4. The submitted Response is based upon the materials, systems and equipment required by the Response Documents without exception.
- G.3.5. Pre-qualification of Vendors is not required but a minimum of three (3) Other State Rail Plan with references must be included with the Response.

#### **G.4. FORMS**

- G.4.1.** Appendix A - Pay Item Response Form
- G.4.2.** Appendix B - State Rail Plan Guidance
- G.4.3.** Appendix C - Presentation Schedule
- G.4.4.** Appendix D - Statutory Certification
- G.4.5.** Appendix E - Federal Contract Requirements

#### **H. PRICE AND COST**

##### **H.1. PRICING SUBMISSION**

- H.1.1.** Vendors are to submit pricing using the Pay Item form included in Appendix A. Vendors should list the Milestones with related costs and total project cost on this form.

PAY ITEM SHEET

Milestone	Description	Milestone Dates (Per Section E.32.3)	Price
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
20			
	TOTAL		

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Company Name

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Prepared By

# STATE RAIL PLAN GUIDANCE

## FEDERAL RAILROAD ADMINISTRATION

September 2013

### Summary

#### *About this Guidance*

This guidance provides an explanation of the process to be followed in developing State rail plans (SRPs), the procedure to be followed by the Federal Railroad Administration (FRA) for review and acceptance of submitted State rail plans, the standardized State rail plan format, a list of the minimum State rail plan content requirements, and procedural requirements for State rail plan preparation, as established by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). An overview of PRIIA and the High-Speed Intercity Passenger Rail (HSIPR) program is also provided.

#### *Effect on Existing State Rail Plans*

State rail plans completed before publication of this guidance that substantially meet the requirements of PRIIA as determined by FRA (acting for the Secretary of Transportation), will be accepted by FRA as satisfying the State rail plan requirement for States seeking capital grants under Sections 301, 302, and 501 of PRIIA. Because individual State rail plans must be updated at least every five years and State update cycles vary, there is no set schedule when States will submit rail plans to FRA for review and acceptance.

Further, State rail plans that are the product of planning efforts underway prior to issuance of this final guidance, and that substantially meet the requirements of PRIIA, will also be deemed by FRA to satisfy the State rail plan requirement for States seeking capital grants under Sections 301, 302, and 501 of PRIIA. A State rail plan effort that has reached the “notice-to-proceed” (NTP) stage between a State Rail Transportation Authority and a consultant will be considered “underway”.

#### *Standard Format for State Rail Plans*

With this guidance, FRA is establishing a standard format for State rail plans submitted by States to FRA. States are also encouraged to adopt this standard format for State rail plans that are currently underway to make it easier to integrate State rail plans with other plans including those of neighboring states, to assist FRA in reviewing individual State rail plans for acceptance in a timely and efficient manner, as well as for preparing national program needs assessments.

The State rail plan format, addressing content and organization, is shown below with a detailed description of each chapter provided in Section V of this Guidance.

#### Executive Summary

1. The Role of Rail in Statewide Transportation (Overview)
2. The State's Existing Rail System:
  - 2.1. Description and Inventory
  - 2.2. Trends and Forecasts
  - 2.3. Rail Service Needs and Opportunities
3. Proposed Passenger Rail Improvements and Investments
4. Proposed Freight Rail Improvements and Investments
5. The State's Rail Service and Investment Program
6. Coordination and Review

#### Technical Appendix

The State rail plan may be published and presented to FRA either as a stand-alone document or as an element of the State's Long-Range Transportation Plan, as required in 23 U.S.C. 135 and 49 U.S.C. 5304, in accordance with the Moving Ahead for Progress in the 21st Century Act (MAP-21). Incorporation of the State rail plan within the statewide Long-Range Transportation Plan may provide an opportunity for States to more fully envision and present their rail program within a broader context of the State's multimodal statewide transportation system. If the State rail plan is incorporated within the State's Long-Range Transportation Plan, it is important that the State rail plan standard format be used (for the State rail plan section of the statewide Long-Range Transportation Plan) and that the State Rail Plan Approval Authority, as described in Section III of this Guidance, explicitly approves the State rail plan element.

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- I. Introduction
- II. Overview of PRIIA and the State Rail Plan Requirement
  - A. State Rail Plan Requirement
  - B. Capital Grant Programs
  - C. Federal Funding for Rail Planning
- III. Role of State and Local Officials and Other Stakeholders
  - A. State Authorities
  - B. Coordination with Statewide/Nonmetropolitan and Metropolitan Transportation Planning
  - C. Public and Stakeholder Involvement
  - D. Coordination with Neighboring States
- IV. Federal Role
  - A. Minimum Content Requirements, Recommended Format, and Submittal Guidelines
  - B. FRA Cooperative Agreements with States
  - C. Coordination of State Rail Plans with Multi-State and National Rail Planning Efforts
  - D. FRA Technical Assistance
- V. Standard Format for State Rail Plans and Data Requirements
- VI. Preparation and Revision of State Rail Plans
  - A. Coordination with FRA
  - B. State Approval
  - C. Submission to FRA
  - D. FRA Review
  - E. State Rail Plan Updates

Appendix 1: Additional Data Requirements with Corresponding Element in Standardized Format

Appendix 2: PRIIA Requirements for State Rail Plan Content

Appendix 3: PRIIA Capital Grant Programs

## I. Introduction to this Guidance

The U.S. Census estimates that by 2050, the nation will add another 100 million people, most of them in already-congested “megaregions.”<sup>1</sup> According to Federal Railroad Administration (FRA) analysis, the domestic U. S. economy requires the movement of approximately 40 tons of freight per capita per year, meaning that 4 billion additional tons of freight will need to be transported annually by 2050. Significant increases in passenger travel will also be generated by this projected population growth. At the national, regional, and state levels, proper planning and strategic investments in transportation infrastructure will be necessary to accommodate this growth in order to maintain the Nation’s global economic competitiveness and quality-of-life. Rail will play a pivotal role in the Nation’s transportation future, especially given the financial and environmental challenges associated with increasing capacity on other modes.

The Passenger Rail Investment and Improvement Act of 2008<sup>2</sup> (PRIIA) reauthorized the National Railroad Passenger Corporation (Amtrak) and strengthened the U.S. intercity passenger rail network by directing Amtrak, the FRA – an operating administration of the U.S. Department of Transportation (USDOT), States, and other stakeholders to improve service, operations, and facilities, and by authorizing funding for these activities. Section 303 of PRIIA<sup>3</sup> provides for enhanced State involvement in rail policy, planning, and development efforts, including requiring States to develop FRA-accepted SRPs in order to be eligible for the capital grants authorized in PRIIA.<sup>4</sup>

State rail plans must reflect both the primarily private ownership of the rail network and the fact that, in most cases, some form of private/public partnership arrangement must characterize planning for and investment in that network, both in States and in metropolitan areas. Successful private/public partnerships create situations where both freight and passenger operations can expand and flourish.

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<sup>1</sup> The “Megaregion” concept was addressed on page 5 of FRA’s 2010 National Rail Plan Progress Report. The megaregion concept is a framework for planning investments within those regions. However, FRA realizes that megaregions cover only portions of the United States and many vital transportation investments are necessary in all States.

<sup>2</sup> Public Law 110-432.

<sup>3</sup> 49 U.S.C. Ch. 227.

<sup>4</sup> Although PRIIA requires a State to have a rail plan to be eligible for the capital grants authorized in the Act, Congress has made exceptions and, for example, waived this requirement when appropriating funds for the American Recovery and Reinvestment Act of 2009 (Public Law 111-5, enacted February 17, 2009) as well as the FY 2010 appropriations act (Public Law 111-117, enacted December 16, 2009).

In order to be eligible for capital grants authorized under PRIIA, States must establish or designate a State Rail Transportation Authority to develop State rail plans that set policy involving freight and passenger (intercity and commuter) rail transportation within their boundaries, establish priorities and implementation strategies to enhance rail service in the public interest, and serve as the basis for Federal and State rail investments within the State. PRIIA requires USDOT to establish minimum standards for the preparation and periodic revision of State rail plans. FRA has developed this Guidance to assist States in fulfilling that requirement.

In brief, State rail plans should address a broad spectrum of issues, including an inventory of the existing passenger and freight rail transportation system, rail services, and facilities within the State. Plans should also include an explanation of the State's passenger and freight rail service goals and objectives within the context of the State's overall transportation system; an analysis of the public benefits of freight and passenger rail to the State; and a long-range investment program for current and future freight and passenger rail infrastructure in the State. State rail plans are to be coordinated with, and incorporated within, as appropriate, other State transportation planning programs for the purpose of considering a statewide multimodal context when identifying the long and short-term rail service and investment needs and requirements of States. In addition, where appropriate, State rail plans should be coordinated with the transportation planning programs of neighboring States and others within the megaregion.

## II. Overview of PRIIA and the State Rail Plan Requirement

The enactment of PRIIA served to strengthen the U.S. passenger rail network by encouraging a long-term view of the rail system. It also engaged stakeholders in considering the potential benefits that flow to the public and private entities by including passenger and freight rail into the transportation planning processes conducted at the statewide and metropolitan levels. PRIIA authorized the Secretary of Transportation, through FRA, to make grants to assist in the financing of capital costs to improve intercity passenger rail transportation. PRIIA also required that consideration be given to the important role commuter rail and freight rail play in meeting the transportation needs of the Nation. Therefore, States should address all markets and types of passenger and freight rail service in formulating their State rail plans.

### *A. State Rail Plan Requirement*

Under Section 303 of PRIIA, States must develop their State rail plans according to specific requirements as a condition of eligibility for high-speed and intercity passenger rail capital assistance grants authorized in Section 301 and Section 501 of PRIIA. High priority corridors that are candidates for congestion grants (Section 302) also must be included in the State rail plan. Submittal of a State rail plan that conforms to PRIIA and this Guidance is a key element in project eligibility under these capital grant programs authorized by the legislation.<sup>5</sup>

Requiring State rail plans as a prerequisite to eligibility for rail improvement funding under the FRA programs noted above enables States to develop strategies and policies for enhanced passenger and freight rail service on a comprehensive scale, in consideration of benefits to the public at large. There are many public benefits from rail that can be calculated. A broad view of these public benefits should encompass how rail transportation improves transportation safety, economic competitiveness, environmental sustainability, energy efficiency, state of good repair, and livability. These benefits represent the Department of Transportation's strategic goals which are in parallel with the language in PRIIA that states:

“[A] benefit accrued to the public, including Amtrak, in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, enhanced public safety or security, transportation efficiency

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<sup>5</sup> Intercity passenger rail projects funded under the American Recovery and Reinvestment Act of 2009 and by the Fiscal Year 2009 and 2010 Transportation Appropriations Acts were exempted from the State Rail Plan requirement.

or infrastructure preservation, and any other positive community effects as defined by the Secretary[.]<sup>6</sup>

Accordingly, to identify and maximize strategic opportunities to serve communities and the public at large, FRA encourages all States to develop State rail plans, including States that do not intend to pursue Federal funding for rail capital projects under the programs established by PRIIA in sections 301, 302, and 501.

### *B. Capital Grant Programs*

PRIIA established three new competitive capital grant programs (Sections 301, 302, and 501) for funding high-speed and intercity passenger rail improvements, each of which, as authorized, requires a 20 percent non-Federal match. The grant programs are described below:

- Section 301 of the Act creates the framework for a new intercity passenger rail service corridor capital assistance program.
- Section 302 of the Act authorizes the appropriation of funds for “congestion grants” to States or to Amtrak (in cooperation with States) for capital projects to reduce train delay and increase ridership on high priority rail corridors.
- Section 501 of the Act authorizes the USDOT to establish and implement a high-speed rail corridor development program.

### *C. Federal Funding for Rail Planning*

FRA’s High-Speed Intercity Passenger Rail Program (HSIPR) consolidates all three PRIIA-authorized grant programs into a single, coordinated program. FRA recognizes the strategic importance of State rail plans and other supporting planning activities to the long-term success of the HSIPR program and, to the extent possible, makes HSIPR funding available for rail planning activities.

As mentioned previously and described later in this Guidance, States are required to coordinate their State rail plan development activities with the applicable Statewide/Nonmetropolitan and/or Metropolitan Transportation Planning processes administered jointly by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA). Beyond the importance of demonstrating policy and program consistency with the State’s overall transportation vision, preparing State rail plans in full coordination with – or as part of – broader multimodal planning programs may provide access to additional funding sources to support the preparation of successive State rail plans and related planning activities. FHWA/FTA may consider funding rail-related intermodal planning activities, particularly for terminal and

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<sup>6</sup> 49 U.S.C. § 22701(2)(A)(i).

station area activities that require coordinated highway and transit planning focused on travel within or between metropolitan areas or States. Funding available through FHWA's metropolitan transportation planning (PL) program<sup>7</sup> and State Planning and Research (SP&R) Program<sup>8</sup>, as well as FTA's Metropolitan Planning Program (MPP)<sup>9</sup> and State Planning and Research Program<sup>10</sup>, may be used by Metropolitan Planning Organizations (MPOs) and States to augment FRA funding, provided there is a clear nexus between State rail plan development and preparation of metropolitan and statewide transportation plans, including State freight plans.

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<sup>7</sup> 23 U.S.C. § 134

<sup>8</sup> 23 U.S.C. § 505

<sup>9</sup> 49 U.S.C. § 5305(d)

<sup>10</sup> 49 U.S.C § 5305(e)

### III. Role of State and Local Officials and Other Stakeholders

States are called upon to prepare State rail plans and to assume four primary responsibilities, as set forth in PRIIA:

- A. Establish a State authority to develop the State rail plan and designate officials with approval authority of the plan;
- B. Coordinate with other planning activities being carried out in the statewide/nonmetropolitan and metropolitan transportation planning processes funded by FHWA and FTA;
- C. Involve the public and key stakeholders in the planning process; and
- D. Coordinate with, and secure program implementation commitments as needed, from neighboring States, especially where multi-state corridors and transportation systems are involved.

#### *A. State Authorities*

PRIIA requires States to establish or designate, by State law or the direction of the Governor, a “State Rail Transportation Authority” (SRTA). The SRTA is a State agency or official responsible for preparing, maintaining, coordinating, and administering the State rail plan. Usually, the SRTA is the State department of transportation. The SRTA establishes priorities and implementation strategies to enhance rail service in the public interest and works to ensure that the State rail plan fully reflects the State’s policy on freight and passenger rail transportation, including commuter rail.

PRIIA also requires States to establish or designate a “State Rail Plan Approval Authority” (SRPAA), with responsibility to review and approve the State rail plan. The SRPAA serves as the State approval authority for investment of public funds in rail projects. In most cases, the State Secretary of Transportation is designated as the authority that provides the final approval of the State Rail Plan. As with the SRTA, States have flexibility to designate the most appropriate official or organization within their State government as the SRPAA. It is allowable for the SRTA and SRPAA to be the same State entity or official.

#### *B. Coordination with Statewide/Nonmetropolitan and Metropolitan Transportation Planning*

State rail plans are an important part of a comprehensive approach to identifying and addressing a State’s future mobility needs for passengers and freight in a coordinated and integrated fashion across modes. Therefore, PRIIA requires States to coordinate State rail plan efforts with statewide/nonmetropolitan transportation planning goals and programs and to set forth policy for the role of rail within the State’s transportation system. State rail plans must prioritize public investment in rail transportation on a comprehensive, system wide level,

ensuring that those investments are integrated with other State and metropolitan transportation plans and priorities.

Coordination of the preparation of a State rail plan with other transportation planning efforts at both the statewide/nonmetropolitan and metropolitan area levels, and vice versa, offers the potential for States to leverage the effectiveness of their combined rail and non-rail public infrastructure investment programs, as well as to identify opportunities for integrated operation and management across services and systems, including passenger and freight rail. Coordination at both the capital investment and operations levels can enable rail, as well as service providers across other modes, to collaborate on a comprehensive strategy to maximize the public benefits delivered. PRIIA directs States to prioritize options to maximize service integration and efficiency between rail and other modes of transportation within the State.<sup>11</sup> An effective method of accomplishing this is for States to prepare State rail plans as integral parts of the State's Long-Range Transportation Plan. Components of State rail plans affecting urbanized areas should be included as integral parts of the Metropolitan Transportation Plan prepared by the MPO for that area.

State rail plans should be coordinated with the policies and programs of the statewide/nonmetropolitan and metropolitan transportation planning documents required under 23 U.S.C. §§ 134 and 135 and 49 U.S.C. §§ 5303 and 5304. These sections require continuing, cooperative, and comprehensive multimodal transportation planning processes at the statewide/nonmetropolitan and metropolitan levels, including the development of statewide and metropolitan long-range transportation plans, and short-range Statewide Transportation Improvement Programs (STIPs) and metropolitan area Transportation Improvement Programs (TIPs) for States and metropolitan areas respectively. Preparing the State rail plan in coordination with, or as part of, the multimodal planning process will ensure consistency across the programs.

With the enactment of Public Law 112-141, Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), on July 6, 2012, Section 1118 directs the Secretary of Transportation to encourage each State to develop a comprehensive State freight plan. As part of the coordinating requirement for State rail plans noted previously, States should coordinate the freight provisions of the two plans. In addition, as other planning requirements are put in statute, States should work to continue to coordinate State Rail Planning efforts with additional statutory requirements.

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<sup>11</sup> 49 U.S.C. § 22705(a)(8)

For information and coordination purposes, States are encouraged to list FRA-funded rail planning studies in the approved Statewide Planning and Research (SPR) Work Program and/or Unified Planning Work Program (UPWP) of the State and/or applicable MPO. Together, the UPWP and SPR Work Program should list the key data collection and analysis tasks, as well as public and stakeholder involvement activities associated with preparation of the State rail plan, identifying opportunities for coordination with other data collection and planning analysis activities.

For information and coordination purposes, States are encouraged to incorporate the policies, visions, and priorities of the State rail plan, as one of many transportation modes, in the statewide Long-Range Transportation Plan. This could be presented within the narrative directly or as an addendum to the plan. Similarly, short-range rail improvement priorities could be included in the TIP/STIP for information and coordination purposes only.

Among the many benefits of integrating preparation of the State Rail Plan with transportation planning conducted at the statewide and metropolitan levels is the opportunity for identifying potential environmental concerns and mitigation during early systems planning. MAP-21 calls for the transportation plans of States and MPOs to include a discussion of potential environmental mitigation activities that could, under certain conditions, provide information that could be incorporated into subsequent work conducted in accordance with the environmental review requirements of the National Environmental Policy Act (NEPA).

In addition, the freight planning provisions enacted in MAP-21 provide another important opportunity area for coordination with State rail plan development. States are strongly encouraged to coordinate development of their State rail plans with their freight planning efforts, including preparation of the State freight plan, considering shifts in the nature of freight demand and the type of freight in assessing emerging freight markets for rail. Similarly, coordination of State rail plan development and freight planning, including the state freight plan, can allow States to leverage the benefits of investments in either mode, such as the ability of a highway investment in an intermodal facility to add value to the rail network.

MAP-21 also calls for establishment of a performance-based approach to statewide/nonmetropolitan and metropolitan transportation planning, supporting the achievement of locally established performance targets related to national performance goals, as well as other measures deemed appropriate by State and local officials. Similarly, PRIIA provides a list of performance indicators for use in developing State rail plans. In coordinating State rail plan development with transportation planning processes carried out at the statewide/nonmetropolitan and metropolitan levels, States are advised to utilize consistent sets of performance measures, to the extent practicable. For rail assets in particular, States are encouraged to prepare and maintain inventories and analyses of their rail facilities consistent

with the transit asset management plans required in MAP-21 and other transportation facility and service-based performance plans, as appropriate. Similarly, the development and use of safety-focused performance metrics should be coordinated with the safety-related performance measures and targets established by States and public transportation service providers, in accordance with MAP-21.

Similar to planning for capital investments, important opportunities exist to enhance the efficiency and effectiveness of rail services by harmonizing operations and management with other modes. While rail offers important benefits to intermediate and long-distance travel for people and freight, these efficiencies depend upon the quality of access and egress at trip origins and destinations. Intercity passenger rail services should be coordinated with public transit and commercial intercity bus operators and timetables in order to extend the range of destinations that can be reached through seamless intermodal connections. The same concept applies to freight, as well-located intermodal terminals with good connections to highway and port facilities provide similar opportunities to enhance the quality of rail freight service and add value to both the rail and highway network while improving the economic competitiveness of the Nation. There are also opportunities for rail and aviation to provide access and egress benefits to each other and they should be discussed in the State rail plan where applicable.

Coordination and integration of planning and operations across modes is encouraged. Rail interests should seek-out opportunities for interagency, intergovernmental, and multimodal coordination through the ongoing transportation planning process. The various committees and task forces serving the planning processes administered by States and MPOs can provide useful venues for this coordination and integration.

In summary, there are many reasons for rail interests to become active participants in the statewide/nonmetropolitan and metropolitan transportation planning processes being carried out in their service areas. MAP-21 enhanced the role of transportation system administrators and operators by requiring MPOs in urbanized areas with populations over 200,000 to include officials of public agencies that administer or operate major modes of transportation operating in their areas. Rail interests serving these large metropolitan areas should explore the opportunity to have a voice in the transportation planning process, representing the needs of the rail industry to State and local officials.

### *C. Public and Stakeholder Involvement*

PRIIA requires States to involve public and private stakeholders – including the private railroads that own the majority of rail related infrastructure – in the development and review of State rail plans. These stakeholders must be notified and given the opportunity to provide input on the State rail plan as it is being prepared, as well as on the draft plans produced, with a reasonable

period of time allowed for public and stakeholder review. The occasions for public involvement within the State rail plan development effort, as well as the method and period of time for public involvement, should be determined by States in collaboration with the public and stakeholder community. States are encouraged to incorporate the public involvement activities associated with State rail plan development within the documented public involvement process established for the overall statewide/nonmetropolitan planning process with appropriate expansion of the range of interested stakeholder groups, including, for example, the state freight advisory committees encouraged by MAP-21. Additionally, the States' public involvement processes should include provisions for engaging typically under-represented populations.

As defined by PRIIA, stakeholders must include all freight and passenger rail (intercity and commuter rail) carriers and transit authorities operating in, or affected by rail operations within, the State, units of local government, and metropolitan areas.<sup>12</sup> Stakeholders should also include major shippers, freight and passenger rail organizations, rail labor organizations, intercity bus operators, airlines, airport authorities, port authorities, chambers of commerce, tourism organizations, and other public or private entities interested in improving rail services and multi-modal integration within the State. SRPAs must work cooperatively with State, regional and municipal transportation and land use planning, environmental and economic development agencies; review their freight and passenger rail activities and initiatives; and consider their recommendations. Additionally, where Federal installations are involved and/or military preparedness is affected by rail facilities and services, the appropriate Federal agencies should be included among the group of stakeholders supporting development of the State rail plan.

States shall work with MPOs to involve the appropriate public and stakeholder interests from urbanized areas of the State in the preparation of State rail plans. Public involvement in support of state rail plan development would be enhanced if coordinated with, or incorporated within, the public involvement processes carried out both by States and MPOs through their respective statewide/nonmetropolitan and metropolitan transportation planning processes, as described above. Because State rail plans will include proposed improvements throughout the State - in both metropolitan and nonmetropolitan areas, working through the public engagement

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<sup>12</sup> States must involve private sector stakeholders such as freight railroads in preparing State rail plans. While private rail interests are under no obligation to provide proprietary information of any kind, their observations and perspectives are invaluable to the State rail plan development effort. Similarly, to the extent that private rail interests may voluntarily submit confidential information for use in preparing State rail plans, States should take appropriate measures to safeguard the confidentiality of that potentially sensitive information. States should comply with antitrust laws when preparing State rail plans.

processes of both States and MPOs can afford the public and stakeholders a comprehensive view of transportation decision-making across modes and across regions.

In summary, it is important to establish and maintain coordination between State rail plan development and the overall statewide/nonmetropolitan transportation planning activities of a State, as well as the metropolitan transportation planning process administered by MPOs. MPOs are required to prepare public Participation Plans that document the full range of organizations involved in the metropolitan transportation planning process along with procedures for their involvement. With similar provisions for collaboratively developed and documented arrangements for stakeholder participation in the statewide/nonmetropolitan transportation planning process, rail operators, agencies, and authorities are encouraged to participate in the planning processes of States and metropolitan areas where they have an operational presence.

#### *D. Coordination with Neighboring States*

The railroad network and the flow of goods and passengers on trains routinely cross State boundaries, as well as international borders. Many intercity corridors serve multiple States, as well as Canadian provinces, and several metropolitan areas' existing or proposed commuter rail services straddle State boundaries. Therefore, it is necessary that SRPAs coordinate their planning efforts with neighboring States and countries, where applicable.<sup>13</sup> Multi-state rail plans can serve as visioning and strategy documents for improved passenger and freight rail networks within multi-state megaregions.

FRA encourages all States to participate in the development of multi-state rail plans, as appropriate, in addition to the required State rail plan. However, it is also necessary to coordinate State rail planning among neighboring States for facilities and services that cross, or someday may cross, State boundaries. This need persists whether or not larger-scale regional multi-state planning processes have been established.

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<sup>13</sup> Where appropriate, States where a significant portion of passenger and freight rail travel has origins and/or destinations outside of the U.S., should describe how international travel markets are reflected in State rail plan development.

## IV. Federal Involvement

PRIIA requires that the USDOT Secretary develop procedures for States to submit State rail plans for review, including a standardized format and data requirements. This requirement was delegated to FRA. FRA review of the initial State rail plan and subsequent updates ensures the State of continuous eligibility for rail capital assistance authorized under PRIIA. Before awarding capital grants under Sections 301, 302, and 501, FRA, on behalf of the DOT Secretary, must verify that candidate projects for funding are included in the State rail plan and that the State rail plan includes the minimum content required by PRIIA.

FRA's role in State rail planning includes four primary responsibilities:

- to establish minimum content requirements and a recommended format for the preparation, update, and submittal of State rail plans;
- to offer funding through cooperative grant agreements to States for the completion of State rail plans and other planning activities;
- to coordinate State rail plans with national and multi-state rail planning efforts;
- to provide technical assistance, guidance, analytic tools, and training to support preparation of State rail plans.

### *A. Minimum Content Requirements, Recommended Format, and Submittal Guidelines*

Acting for the Secretary, FRA is establishing, through this guidance, the minimum content and standard format for preparation and periodic updates of State rail plans. This guidance also establishes the process for submitting a State rail plan for FRA review and acceptance. Additional information on these issues can be found in Sections V and VI.

### *B. FRA Cooperative Funding Agreements with States for State Rail Plan Development*

Subject to availability of federally appropriated resources, FRA funds State rail plan development efforts through cooperative agreements. This enables FRA to work closely with States throughout the planning process – providing ongoing review and feedback to States, which may also enable FRA to shorten the amount of time required to review the final plan.

### *C. Coordination of State Rail Plans with Multi-State and National Rail Planning Efforts*

PRIIA contains provisions for two other large-scale rail planning efforts led by FRA. First, Section 307 of PRIIA directed the Administrator of FRA to develop a long-range National Rail Plan consistent with both approved State rail plans and the rail needs of the Nation. FRA released a Preliminary National Rail Plan in October 2009 and a National Rail Plan Progress Report in September 2010. The findings and recommendations from State rail plans and multi-state

regional rail plans are furthering development of regional rail networks that cross State lines and will be used to inform continued national rail planning efforts.

The individual corridors comprising such networks should eventually be studied through a Passenger Rail Corridor Investment Plan (PRCIP). A PRCIP is comprised of a Tier 1 (i.e., Service-level) NEPA environmental document and a companion Service Development Plan (SDP). PRCIPs are used to determine alignments, service characteristics, and the improvements required to operate the proposed service, with consideration for the role the corridor plays in the current and planned regional network. The results of multi-state planning studies and SDPs should be considered in State rail plans and future updates. Likewise, it is envisioned that projects first identified in State rail plans should be adopted into multi-state and national plans as they are developed.<sup>14</sup>

#### *D. FRA Technical Assistance*

States are welcome to request technical assistance from FRA to support their work to prepare State rail plans. FRA is sponsoring training and technical assistance activities, and the development of technical analysis tools to support preparation of State rail plans. Informational resources will be made available by FRA on request.

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<sup>14</sup> To the extent possible, the State rail plan should reflect locally agreed upon approaches to multi-state coordination and decision-making, if available. Accordingly, States are encouraged to include discussions of the techniques and institutional frameworks for multi-state, mega-regional planning in a technical appendix to their State rail plans.

## V. Standard Format and Data Requirements

In accordance with PRIIA, State rail plans must include a comprehensive description and assessment of a State's current rail system, an analysis of the role of rail transportation within the State's transportation system, and a vision of the future passenger and freight rail system in the State. The State rail plan should also describe how that vision is integrated into planning for the overall multimodal transportation system for the State. The State rail plan must include a Rail Service and Investment Program (RSIP) that provides guidelines and lists the rail investment needs to achieve the State's vision for the rail system in the short- and long-term.

PRIIA Section 303<sup>15</sup> requires that State rail plans address twelve minimum content areas. These content areas are addressed in the standardized format and listed for reference in Appendix 1, along with a list of additional FRA-required data.

The following outline represents the required standard format for State rail plans:

### Executive Summary

1. The Role of Rail in Statewide Transportation (Overview)
2. The State's Existing Rail System
  - 2.1. Description and Inventory
  - 2.2. Trends and Forecasts
  - 2.3. Rail Service Needs and Opportunities
3. Proposed Passenger Rail Improvements and Investments
4. Proposed Freight Rail Improvements and Investments
5. The State's Rail Service and Investment Program
6. Coordination and Review

### Technical Appendix

#### Executive Summary

**Objective:** *A summary that highlights key facts and findings of the State rail plan, with an emphasis on the desired outcomes and program effects of the State's vision for rail and how that vision will be achieved through the projects, programs, and policies identified in the Rail Service and Investment Program.*

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<sup>15</sup> 49 U.S.C. § 22705

## Chapter 1: The Role of Rail in Statewide Transportation (Overview)

**Objective:** *Illustrate the current and proposed future role of rail in the State's multimodal transportation system. Describe how the State is organized to provide political, legal, and financial support to rail development.*

- 1.1. The State's goals for the multimodal transportation system.
- 1.2. A conceptual analysis of rail transportation's role within the State's transportation system.<sup>16</sup>
- 1.3. A description of the institutional governance structure of the State rail program(s) including: SRTA, SRPAA, State and local agencies involved in delivering rail services, such as rail authorities, transit agencies and MPOs, and State authorizing (and limiting) laws and powers for planning, funding, and operating rail services; and a statement that the State is in compliance with the requirements of Section 22102 (which stipulates eligibility requirements for a long-established FRA rail freight grant assistance program pertaining to State planning and administration).<sup>17</sup>
- 1.4. A description of the State's authority for grant, loan, and public/private partnership financing; how the State has used these authorities in the past; State revenue sources that are dedicated to rail funding (if any); and how much the State has provided in funding over the past five years.
- 1.5. A summary of the freight and passenger rail services, initiatives and plans, such as environmental reviews required by NEPA, and Service Development Plans (SDP), sponsored by State rail transportation authorities, regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, that have been considered while preparing the plan. A summary of services, initiatives, and plans of private sector railroads, as well as connections between rail services and other modes in the State transportation system, to the extent known to the State, are to be included here as well.<sup>18</sup>

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<sup>16</sup> 49 U.S.C. § 22705(a)(1)

<sup>17</sup> 49 U.S.C. § 22705(a)(12)

<sup>18</sup> 49 U.S.C. § 22705(a)(11)

## Chapter 2: The State's Existing Rail System

**Objective:** *Provide an overview and inventory of the State's existing rail system as a baseline for planning and decision making, describe the trends that will impact the need for rail in the State, and identify the needs and opportunities for passenger and freight rail service in the State.*

### 2.1. The State's Existing Rail System: Description and Inventory

Describe the following in text, maps, tables, and graphics for the existing rail system:

- 2.1.1. The existing freight, intercity passenger, and commuter rail transportation system, services currently operating, operating objectives, and system performance, including: a review of all rail lines and corridors, existing and proposed for freight, commuter, and intercity passenger service, including high speed lines as well as railway assets currently out of service or rail banked. The ownership of, and operating rights over, each segment of the railroad network, whether private or public, is to be clearly identified.<sup>19</sup>
- 2.1.2. Major freight and passenger terminals and stations that serve as intermodal connections, including seaports and airports.<sup>20</sup>
- 2.1.3. Objectives for the passenger rail services operating within the State, including minimum service levels by route, including service frequency, capacity, and projected ridership.<sup>21</sup>
- 2.1.4. A performance evaluation of intercity passenger services operating in the State (both interstate and intrastate services) according to metrics such as those established under PRIIA Section 207: FRA Metrics and Standards for Intercity Passenger Service. Only currently available data for PRIIA Section 207 analysis is requested. Identify possible improvements in existing services and a describe strategies to achieve those improvements).<sup>22</sup>

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<sup>19</sup> 49 U.S.C. § 22705(a)(1) and (2)

<sup>20</sup> 49 U.S.C. § 22705(a)(8)

<sup>21</sup> 49 U.S.C. § 22705(a)(3)

<sup>22</sup> 49 U.S.C. § 22705(a)(10)

- 2.1.5. A statement on public financing for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail operations and infrastructure development. This section should also address existing challenges to State investment or involvement in rail transportation as posed by the State’s constitution, laws, or regulations, or by implementation of current or proposed federal regulations.<sup>23</sup>
- 2.1.6. Ongoing programs and projects intended to improve the safety and security of rail transportation, including all major projects funded under section 130 of Title 23.<sup>24</sup>
- 2.1.7. A general analysis of rail transportation’s economic and environmental impacts in the State including, but not limited to, congestion mitigation, safety impacts including the benefit of freight rail compared to freight on public highways, trade and economic development, air quality, land use, energy use, resiliency to climate change impacts, and community impacts.<sup>25</sup>

## **2.2. The State’s Existing Rail System: Trends and Forecasts**

Describe trends and forecasts for demographic, economic and transportation demand growth in the State and for the likely demand for freight and passenger (intercity and commuter) rail service, including:

- 2.2.1. Demographic and Economic growth factors, including:
  - Population.
  - Employment.
  - Personal income.
  - Industrial outlook by sector.
- 2.2.2. Freight demand and growth by type of service, e.g. intermodal, commodity, manifest.
- 2.2.3. Passenger travel demand and growth.

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<sup>23</sup> 49 U.S.C. § 22705(a)(6)

<sup>24</sup> 49 U.S.C. § 22705(a)(9)

<sup>25</sup> 49 U.S.C. § 22705(a)(4)

2.2.4. Fuel cost trends.

2.2.5. Rail congestion trends.

2.2.6. Highway and airport congestion trends.

2.2.7. Land use trends.

### **2.3. The State's Existing Rail System: Rail Service Needs and Opportunities**

Based on the findings above, summarize the key issues, service gaps, improvement needs (including connectivity to other modes), and financial deficits facing the State's rail system. Identify the opportunities to address those issues, gaps, needs, and deficits for freight, intercity, and commuter rail. The rationale and basis for the rail improvements proposed in Chapters 3 and 4 should be presented, included projected shifts in the nature and type of passenger and freight movement and emerging markets.

### **Chapter 3: Proposed Passenger Rail Improvements and Investments**

**Objective:** *Describe the improvements and investments that could address the passenger rail needs of the State.*

For the intercity and commuter passenger opportunities described in Chapter 2, describe in summary terms - at minimum at a program level - all passenger rail proposals under consideration, including new services, station improvements, improved intermodal connections to other passenger modes, state of good repair projects, rolling stock improvements, opportunities for improved coordinated or integration with freight rail services, and unfunded concepts.<sup>26</sup> Identify projects such as service changes or physical improvements and whether they are improvements or new additions to the existing rail network in the State. Organized by corridor and type of service (i.e. intercity, commuter or both), describe how each proposal would address gaps in service, climate change adaptation, and financial deficits identified in Chapter 2, identify potential operating subsidies and sources, and reference relevant studies and reports.

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<sup>26</sup> Because PRIIA requires information on "major passenger and freight intermodal connections and facilities", this guidance requests detailed information on major stations and all stations with rail-to-rail, rail-to-public transportation, and other significant intermodal transfer opportunities.

## **Chapter 4: Proposed Freight Rail Improvements and Investments**

**Objective:** *Describe the improvements and investments that could address the freight rail needs of the State.*

For the freight opportunities described in Chapter 4, describe in summary terms all freight rail proposals under consideration, including intermodal connections and facilities. Identify projects as service changes or physical improvements and whether they are improvements or new additions to the existing rail network in the State. Organized by railroad company and corridor, describe how each proposal would address gaps in service, climate change adaptation, financial needs, and options for improvement identified in Chapter 2 and reference relevant studies and reports. Also, describe how investments in the freight rail network both leverage, and are leveraged by, investments to the highway and transit systems, as well as port and air facilities. This section also can complement the preceding section by identifying opportunities for improved coordination or integration with passenger rail services.

FRA understands that private railroads are under no obligation to provide information on their capital improvement plans, thus the information States are able to collect for Chapter 4 may be incomplete.

## **Chapter 5: The State's Rail Service and Investment Program**

**Objective:** *Describe the State's long-term vision for rail service and its role in the statewide multimodal transportation system. Prioritize the specific projects, programs, policies, laws, and funding necessary to achieve that vision and describe their financial and physical impacts.*

The Rail Service and Investment Program (RSIP) is the key component of the State rail plan. Essentially, it is the project-focused "action plan" component of the State rail plan. It lays out the State's long-range, 20-year vision for the passenger and freight rail system in a coordinated and integrated way, describes how that vision will be implemented and integrated with other statewide and regional transportation plans, and identifies the highest priority needs for funding within the immediate, short-range (4-year) program period. The RSIP should identify improvements to achieve the vision, including an estimate of investment needs and benefits resulting from those investments.<sup>27</sup> The RSIP will also detail potential approaches to securing funding and programming the financing of improvements, as well as suggest policy and programmatic changes, such as refining existing rail programs and institutional responsibilities for coordinated rail service and infrastructure development for passenger and freight service.

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<sup>27</sup> As described further below, the level of information required for projects in the short-range (4-year) program period is more detailed than that for projects in the long-range, 20-year vision.

As stated previously, States must closely coordinate State rail plan development with their statewide/nonmetropolitan and metropolitan planning processes, or, optimally, prepare the State rail plan as an element of the statewide/nonmetropolitan transportation planning process. For information and coordination purposes, States are encouraged to incorporate improvements identified in the RSIP into the statewide Long-Range Transportation Plan, the STIP, and, for improvements located in urbanized areas, the applicable Metropolitan Transportation Plans and TIPs. Some States use a longer horizon than 4 years for their short-term planning efforts or 20 years for their long-range plans. In such instances, a State rail plan could incorporate information consistent with longer cycle plans as long as the document contains a 4-year short-term and 20-year vision RSIP as described in this guidance.

The RSIP shall include the following sections:

**5.1 Vision:** Describe the State’s vision for rail transportation for the long-range, 20-year time horizon. States may also include an even longer-term vision, if desired. The vision should be based on input from all stakeholders, inform the State’s goals for a multimodal transportation system, and describe the intended role for rail in the State’s transportation system.

Goals and objectives that help the State achieve the vision should be identified. These goals and objectives will help prioritize the components of the RSIP that achieve the desired outcomes of the vision.

States should include a map depicting the proposed, long-term vision for a passenger rail network, including intercity and commuter corridors, as well as potential communities where intercity rail stations could be located. In addition, the statewide vision map should depict opportunities for improved or expanded freight rail service that relate to the goals and policies described in the plan.

**5.2 Program Coordination:** Describe how the State’s long-term vision integrates with other transportation planning efforts, including the State’s Long-Range Transportation Plan, national rail planning efforts and associated activities, the State rail plans of neighboring States and countries, if appropriate, and regional multi-state rail plans, as appropriate.

**5.3 Rail Agencies:** Describe any planned State rail agency organizational changes and proposed policy or legislative changes and new programs within the 4 and 20-year time horizons.

**5.4 Program Effects:** So as to prioritize individual projects or corridor programs, describe, with specific detail for projects in the short-range, 4-year program, and with the best

available information for projects in the long-range, 20-year vision, the effects of the passenger and freight rail elements on:

- 1) The State's transportation system.
- 2) Public and private benefits that exist and are anticipated with the 4 year phase and full 20-year plan and the correlation between public funding contributions and the expected public benefits.<sup>28</sup>
- 3) Rail capacity and congestion by corridor.<sup>29</sup>
- 4) Transportation system capacity, congestion, safety, and resiliency including the individual and combined effects on local transit, highway, aviation, and maritime modes.<sup>30</sup>
- 5) Environmental, economic, and employment conditions<sup>31</sup>, including energy consumption and greenhouse gas emissions.
- 6) Distribution of benefits to regions (regional balance).<sup>32</sup>

The program effects of the 4-year program phase of the plan should be described at a project level, while more aggregate, corridor level data can be used to describe the program effects of the long-range, 20-year vision.

## 5.5 Passenger Element:

- 5.5.1. Describe how passenger rail capital projects were analyzed for their effects on:
- Projected ridership, passenger miles traveled, modal diversion from highway and air travel, revenue, and operating expenses associated with existing, 4 and 20-year passenger rail services in aggregate and broken down by commuter, intercity and high-speed rail projects. The revenue assumptions section should include a short discussion substantiating the likely availability of the 4-year projected stream of revenues and the reasonableness of the 20-year forecast of revenue/cost alignment.<sup>33</sup>

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<sup>28</sup> 49 U.S.C. §§ 22705(b)(2)(A) and (B)

<sup>29</sup> 49 U.S.C. § 22705(b)(3)(B)

<sup>30</sup> 49 U.S.C. § 22705(b)(3)(C)

<sup>31</sup> 49 U.S.C. §§ 22705(b)(3)(E) and (F)

<sup>32</sup> 49 U.S.C. § 22705(b)(3)(D)

<sup>33</sup> 49 U.S.C. § 22705(b)(3)(G)

- Livability, including land use changes and improvements to walkability.<sup>34</sup>

5.5.2. Capital Financing Plan: describe the 4 and 20-year financing plans for capital expenditures associated with the project lists including potential funding sources, capital costs required both initially and in subsequent years to maintain a state-of- good-repair and to recapitalize as necessary to sustain the initially proposed level of service or higher levels of service. Present the estimates for capital expenditures annually in year of expenditure cost. Specify the strategy for using grants, loans, private activity bonds (PABs), public-private partnerships (P3s), or other finance mechanisms for each project. Definitive financial data should be provided on a year-by-year basis for projects listed in the first 4 years of the State rail plan. Projects in the outer years of the long-range, 20-year plan may include prospective financial data in an aggregated, more general format.

5.5.3. Operating Financing Plan: Describe the 4 and 20-year financing plans for supporting operating costs associated with the State’s publicly-financed passenger rail services, including funding sources.

5.5.4. Describe the public and private economic benefits that exist and are anticipated with the 4 and 20-year plans and the correlation between public funding contributions and the expected public benefits.<sup>35</sup>

## **5.6 Freight Element**

5.6.1. Financing Plan: describe the 4 and 20-year capital financing plans for public and private investments in freight rail (Class I, II and III) capital expenses associated with the project lists in section 7.8 exclusive of operating and maintenance costs. If there are publicly-financed freight rail services in the State, an operating financing plan for any operating deficits (with funding sources) should be included and public capital contributions estimated annually in year of expenditure cost. Specify the strategy for using grants, loans, PABs, P3s, or other finance mechanisms for each project.

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<sup>34</sup> See FRA’s Station Area Planning Guidance for further information on the topics of livability, land use, and walkability.

<sup>35</sup> 49 U.S.C. § 22705(b)(2)(B)

It is understood that much of this information for freight rail lines is private and proprietary and will be shared voluntarily for use by States in preparing State rail plans only to the extent acceptable to public and private interests. However, this information is required for those freight projects for which public funding is envisioned.

- 5.6.2. Describe the public and private economic effects that exist and are anticipated with the 4 and 20-year plans and the correlation between public funding contributions and the expected public benefits.<sup>36</sup>

**5.7 Rail Studies and Reports:** Describe existing and needed planning studies to: develop corridor service plans for passenger rail (including high speed rail);<sup>37</sup> develop coordinated regional or multi-state rail policies and plans; evaluate freight operations and policies; address economic, environmental, or safety topics; or address other rail and rail-related transportation system topics. List all planned studies for the next 4 years, organized by rail corridor, and provide the following information for each study:

- 1) Title.
- 2) Short description of study.
- 3) Estimated total cost by year in current year dollars and source of funding.
- 4) Estimated completion date (year and quarter).

**5.8 Passenger and Freight Rail Capital Program:** List all selected projects organized by rail corridor for the short-range, 4-year program and provide another list for projects in the long-range, 20-year vision that present the following information by project:

- 1) Title.
- 2) Short project description, including the need it addresses.
- 3) Estimated total capital cost, by year, in year of expenditure dollars.
- 4) Non-public involvement and identify sources of funds.
- 5) Non-Federal public cost and identify sources of funds.
- 6) Federal cost.
- 7) Estimated impact, by year, on operating subsidy requirements for the affected service(s).

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<sup>36</sup> 49 U.S.C. § 22705(b)(2)(B)

<sup>37</sup> 49 U.S.C. § 22705(a)(11)

Note: FRA recognizes that specific dollar estimates for individual projects in the long-range, 20-year vision portion of the RSIP are not likely to be available, in which case rough estimates may be used. States should identify the potential public and private benefits of RSIP projects as early as possible.

## **Chapter 6: Coordination and Review**

**Objective:** *Indicate how stakeholders were involved in the development and coordination of the RSIP component of the State rail plan.*

- 6.1. Describe the approach to public and agency participation in the development of the State rail plan including public noticing, opportunities for public and agency participation, and how comments were accepted.
- 6.2. Where applicable, describe how the State rail plan was coordinated with neighboring States with respect to facilities and services that cross State boundaries.
- 6.3. Address how the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties were involved in the preparation and review of the State Rail Plan.<sup>38</sup>
- 6.4. In general, describe issues raised during the preparation of the State rail plan and how they were addressed.<sup>39</sup>
- 6.5. Describe how recommendations made by participants such as railroads, agencies, authorities, and municipalities within the State, or in the region in which the State is located, were appropriately considered and presented in the State rail plan.<sup>40</sup>
- 6.6. Describe how the State coordinates State rail planning with other transportation planning programs and activities of the State and metropolitan areas, including those conducted under Sections 134 and 135 of Title 23 and Sections 5303 and 5304 of Title 49.

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<sup>38</sup> 49 U.S.C. § 22705(a)(7)

<sup>39</sup> Id.

<sup>40</sup> Id.

### **Technical Appendix: Documentation of Technical Assumptions and Procedural Steps**

Documentation of key policy assumptions and planning methodologies underlying the planning studies supporting preparation of the State rail plan should be provided in a Technical Appendix to the State rail plan. This is important to substantiate and establish the credibility of the planning studies supporting the State rail plan.

## **VI. Preparation and Revision of State Rail Plans**

State rail plans completed before publication of this guidance that substantially meet the requirements of PRIIA, as determined by FRA, will be accepted as satisfying the State rail plan requirement for capital grants under Sections 301, 302, and 501 of PRIIA. Because State rail plans must be updated at least every five years and State update cycles vary, there is no set schedule when States will submit rail plans to FRA for review and acceptance.

Further, State rail plans that are the product of planning efforts underway prior to issuance of this final guidance, and that substantially meet the requirements of PRIIA, will also be deemed by FRA to satisfy the State rail plan requirement for States seeking capital grants under Sections 301, 302, and 501 of PRIIA. A State rail plan effort that has reached the “notice-to-proceed” (NTP) stage between a State Rail Transportation Authority and a consultant will be considered “underway”.

### *A. Coordination with FRA*

FRA’s aim is to provide technical assistance and work with States throughout the State rail plan development and review process. State rail plans that are created through cooperative grant agreements with the FRA are developed with ongoing technical guidance from FRA staff. This allows States to receive comments from the FRA at critical points in the plan development process. States are encouraged to submit State rail plans in preliminary draft form to FRA for review and comment before officially submitting the approved State rail plan. FRA encourages this practice in order to streamline the State rail plan review process and support delivery of State rail plans of the highest quality.

### *B. State Approval*

In the final stages of preparing a rail plan, the SRPAA must approve a final draft State rail plan for submission to FRA. If the plan does not meet the minimum requirements, FRA will send a letter to the State describing the deficiencies. In order to become eligible for grants available under the Act, the State must make the necessary revisions, approve and resubmit a revised final draft State rail plan that addresses the deficiencies noted by FRA. Upon confirmation from FRA that the minimum requirements have been met, the SRPAA may finalize the rail plan and notify FRA.

### *C. Submission to FRA*

When a final draft State rail plan has been approved by the designated SRPAA, one electronic and one printed copy shall be submitted for review to FRA. Electronic and hard copies should be sent to the appropriate FRA Regional Manager. A list of the Regional Managers and their

contact information is available at <http://www.fra.dot.gov/>. FRA, acting for the Secretary, will confirm that the State rail plan meets the minimum requirements established in the Act and described in this guidance.

#### *D. FRA Review*

FRA will notify a State once it has received its State rail plan. Following notification, FRA will review the plan to ensure that it is responsive to the minimum requirements. FRA will inform the State within 90 days following notification if its plan meets the minimum requirements or if there are deficiencies.

Once FRA determines that the State rail plan meets all minimum requirements, the agency will inform the State by issuing a letter from the Federal Railroad Administrator or his designee. The letter may contain recommendations that could be addressed in the next version of the State rail plan. This letter can be included in the final State rail plan document to indicate the document has been reviewed by FRA for legal compliance.

Similarly, States submitting State rail plans for FRA review that do not meet the minimum requirements will receive a letter describing any deficiencies.

#### *E. State Rail Plan Updates*

PRIIA requires that States revise and resubmit to USDOT a State-approved plan no less frequently than once every 5 years. However, this 5-year update cycle should be viewed only as a minimum requirement. States are strongly encouraged to prepare State rail plans as elements of, and on the same schedule as, development of statewide Long-Range Transportation Plans and/or Statewide Transportation Improvement Programs, or more frequently if they wish. When preparing updated plans States should consider:

- A response to FRA recommendations on previously submitted updates, revisions, amendments, or the original State Rail Plan.
- An update of information in the previous plan, which is no longer accurate as a result of plan implementation, action by a government entity or railroad, or changed conditions.
- Updates to rail system maps and rail line descriptions that should include the operating carrier and the location of the freight, commuter, and intercity passenger routes.

States optionally may update their State rail plans more frequently - at any time when new or changed information is of sufficient scope as to warrant such action by the State. Situations that the State may consider warranting a plan update could be the availability of new sources of funding, significantly changed development assumptions and forecasts, and new or changed passenger or freight rail needs not envisioned in the current plan. FRA will follow the same

process of review, comment, and acceptance of State rail plans regardless of the frequency of updates.

## Appendix 1: Additional Data Requirements with Corresponding Element in Standardized Format

Element	Required Data	Suggested Data Sources/Notes
1.2	<ul style="list-style-type: none"> <li>• Describe the percentage of freight tonnage and value of goods shipped over 500 miles within, to, or from the State by rail.</li> <li>• Freight rail tonnage by major commodity that is originated, terminated, originated &amp; terminated within the State, or overhead (passed-through).</li> <li>• Intercity passenger rail mode share of intercity trips if mode share data or statewide travel data to infer mode share is available.</li> <li>• Commuter rail mode share in metropolitan areas that have such service.</li> <li>• Optionally, States can choose to describe the population with access to passenger rail service. FRA’s preferred methodology to determine this population is to determine population of Census tracts within a 10- and 30-mile radius of rail stations. (FRA encourages States to investigate other measures of accessibility, including the population within a 30-minute drive of a rail station and the population within a 30-minute transit ride of a rail station).</li> <li>• Optionally, present the accessibility factor above in terms of service frequency. For example, calculate the population within 10 and 30 miles of stations with trains departing in each direction less than once per day, at least once per day, at least twice per day, at least four times per day, and at least 10 times per day.</li> <li>• Optionally, FRA encourages States to experiment with creative ways to assess station accessibility for transit and non-motorized modes of transportation, such as by reporting “Walk Score” and “Bike Score” factors for station locations or the capacity and frequency of transit services at a station.</li> </ul>	Waybill sample; Freight Analysis Framework; Commodity flow survey tables.
2.1.1	<p>Inventory and map all rail lines (operating and inactive) with description by line of:</p> <ul style="list-style-type: none"> <li>• Surface Transportation Board railroad classification of owner railroad.</li> <li>• Signal type data (e.g. TWC, DTC, ABS, CTC, ATS, ATC, PTC, etc.).</li> <li>• Significant clearance and weight restrictions.</li> <li>• Rail line route mileage categorized by number of main tracks and track classification.</li> <li>• Rail-banked lines that may be considered for service reintroduction.</li> <li>• Passenger services including passengers per route and station, trains per day, train miles and passenger miles).</li> <li>• Locations of intermodal connections for both passenger and freight services, including type of mode(s) available for connections.</li> </ul>	<p>FRA Bridge Inspections;</p> <p>FHWA Freight Analysis Framework (FAF); National Transportation Atlas Database (NTAD)</p> <p>(Note: Portions of the NTAD may be incomplete. States</p>

	<ul style="list-style-type: none"> <li>• Strategic Rail Corridor Network (STRACNET) facilities.</li> </ul> <p>Additional performance measures could include:</p> <ul style="list-style-type: none"> <li>• Safety– number of at-grade crossings and those on hazmat routes.</li> <li>• Financial/Economic – public sector operating costs, real estate and other taxes paid, jobs, economic development impacts.</li> </ul>	should verify the data with the railroad operators.)
<b>2.1.2</b>	<p>Inventory of intercity and commuter passenger stations including:</p> <ul style="list-style-type: none"> <li>• Service frequency for each station, by type of service and route.</li> <li>• Station location type (i.e., urban, suburban, rural/small community, park &amp; ride, airport).</li> <li>• Local transit and intercity bus connections, parking availability, and assessment of non-motorized transportation access including bicycle parking facilities.</li> </ul> <p>Inventory of freight terminals including freight intermodal transfer facilities, seaports, Marine Highway routes, and their rail capacity, including:</p> <ul style="list-style-type: none"> <li>• Capacity of freight terminal by commodity type (bulk material, containers, autos, etc.).</li> <li>• Current operational level of the freight terminals in similar terms.</li> </ul>	
<b>2.1.3</b>	<p>Minimum passenger service objectives by corridor in terms of:</p> <ul style="list-style-type: none"> <li>• Service frequency and train miles.</li> <li>• Capacity (Seat Miles).</li> <li>• On-time performance (OTP).</li> </ul>	
<b>2.1.4</b>	<ul style="list-style-type: none"> <li>• On-time performance (OTP), delays and causes of delay by route.</li> <li>• Ridership and passenger-miles by route and by station for each of the previous 5 years. Data from earlier years may be used if available to show longer ridership trends.</li> <li>• Passenger train-miles operated (a general estimate is acceptable).</li> <li>• Passenger-miles/Train-mile (on a route and intrastate basis for state-supported services and on a route basis for long-distance services).</li> <li>• Operating and maintenance costs for state-supported services.</li> <li>• Farebox recovery ratio for existing state-supported services.</li> <li>• State operating assistance for existing state-supported services.</li> <li>• Operating subsidy/rider for commuter rail at the route and system-wide level.</li> </ul>	Much of this information is available in Amtrak's "State Fact Sheets" and Amtrak monthly/annual reports.
<b>2.1.5</b>	A comprehensive public funding list to include public capital and operating funding resources, public subsidies, State revenue, and other financial policies relating to rail infrastructure development, including a discussion of the reasonableness of the revenue assumptions.	

<p><b>2.1.7</b></p>	<ul style="list-style-type: none"> <li>• Amtrak's salary and expenditures per State.</li> <li>• Metropolitan and statewide/non-metropolitan transportation plans and transportation improvement programs.</li> <li>• Provide a summary level discussion of local land use and transportation plans - especially Station Area Plans - for cities and regions with existing and proposed passenger rail service, especially for projects that have advanced to environmental analysis.</li> <li>• Analysis of potential land use policies and strategies for areas near stations.</li> <li>• Vehicle Miles of Travel avoided.</li> <li>• Greenhouse Gases Reduced.</li> </ul>	<p>Amtrak salary and expenditure data is available in Amtrak's "State Fact Sheets";</p> <p>FRA's "Station Area Planning Guidance"</p>
<p><b>2.2.1</b></p>	<ul style="list-style-type: none"> <li>• Current statewide population and employment with growth projections for the 20-year horizon.</li> </ul>	
<p><b>2.2.2</b></p>	<ul style="list-style-type: none"> <li>• Gross State Product by industry sector.</li> <li>• Freight tonnage by mode and commodity.</li> </ul>	
<p><b>2.2.3</b></p>	<ul style="list-style-type: none"> <li>• Projected Vehicle Miles Traveled and Passenger Miles Traveled growth for statewide intercity travel.</li> <li>• Passenger demand by intrastate and regional interstate city pairs from statewide transportation demand models, if available.</li> </ul>	<p>Statewide travel demand model or independent modeling.</p>
<p><b>5.1</b></p>	<p>Provide a map showing the proposed vision for a passenger rail route network, including intercity and commuter corridors as well as potential communities where intercity stations could be located, and opportunities for improved or expanded freight rail service.</p>	
<p><b>5.4</b></p>	<p>To assess costs and benefits consider traditional costs (e.g. capital, credit for residual value, operations and maintenance) with traditional benefits (e.g. revenue, travel time savings, safety improvements, congestion reduction), and wider economic benefits (e.g. commuter/freight capacity improvements, state of good repair, productivity improvement) of providing rail service in a given corridor or network.</p>	

## Appendix 2: State Rail Plan Content Requirements

These are the requirements of 49 U.S.C. Section 22705:

- (a) In General.—Each State rail plan shall, at minimum, contain the following:
- (1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State’s surface transportation system.
  - (2) A review of all rail lines within the State, including all freight rail lines, intercity passenger rail lines, commuter rail lines, and proposed high-speed rail corridors and significant rail line segments not currently in service.
    - i. Contain an illustration of the State’s entire rail system to include: (1) the operating carrier or carriers, (2) location of freight, intercity passenger, high- speed, and commuter rail service, and (3) rail rights-of-way that have been preserved for potential reactivation;
    - ii. Contain most recent available data on freight rail tonnage originated and terminated within the State by major commodity;
    - iii. Contain information on the use of passenger and freight rail facilities.
  - (3) A Statement of the State’s passenger rail service objectives, including minimum service levels, for rail transportation routes.
  - (4) A general analysis of rail’s transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land use, energy-use, and community impacts.
  - (5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b) [of this section – “Long-Range Service and Investment Program”].
  - (6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.
  - (7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stakeholders.
  - (8) A review of the major passenger and freight intermodal connections and facilities within the State, including seaports and Marine Highway routes, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.
  - (9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

- (10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services and a description of strategies to achieve those improvements.
- (11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this subchapter, and a plan for funding any recommended development of such corridors in the State.
- (12) A statement that the State is in compliance with Title 49 United States Code Section 22102 as follows:

*“A State is eligible to receive financial assistance under this chapter only when the State complies with regulations the Secretary of Transportation prescribes under this chapter and the Secretary decides that:*

*(1) the State has an adequate plan for rail transportation in the State and a suitable process for updating, revising, and modifying the plan;*

*(2) the State plan is administered or coordinated by a designated State authority and provides for a fair distribution of resources;*

*(3) the State authority –*

*a. is authorized to develop, promote, supervise, and support safe, adequate, and efficient rail transportation;*

*b. employs or will employ sufficient qualified and trained personnel;*

*c. maintains or will maintain adequate programs of investigation, research, promotion, and development with opportunity for public participation; and*

*d. is designated and directed to take all practicable steps (by itself or with other State authorities) to improve rail transportation safety and reduce energy use and pollution related to transportation.*

*(4) the State has ensured that it maintains or will maintain adequate procedures for financial control, accounting, and performance evaluation for the proper use of assistance provided by the United States Government.”*

As a minimum requirement noted in subsection (a)(5) for:

(b) Long-Range Service and Investment Program

- (1) Program content. A long-range rail investment program included in (a)(5) above shall, at minimum include the following matters:

“(A) A list of any rail capital projects expected to be undertaken and supported in whole or in part by the State.

“(B) A detailed funding plan for those projects.

- (2) Project List Content. The list of rail capital projects shall contain--

“(A) A description of the anticipated public and private benefits of each such project; and

“(B) A statement of the correlation between –

“(i) public funding contributions for the projects; and

“(ii) public benefits.

- (3) Considerations for Project List.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority should take into consideration the following matters:

“(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

“(B) Rail capacity and congestion effects.

“(C) Effects on highway, aviation, and maritime capacity, congestion, or safety.

“(D) Regional balance.

“(E) Environmental impact.

“(F) Economic and employment impacts.

“(G) Projected ridership and other service measures for passenger rail projects.

### Appendix 3: PRIIA Capital Grant Programs

PRIIA authorized three new capital grant programs to fund the development of high-speed and intercity passenger rail:

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

Each of these sections includes distinct eligibility criteria and other provisions, but the three programs are closely related and address several overlapping activities. To streamline administration of these provisions, FRA consolidated the three grant fund authorizations into a single program, the High-Speed Intercity Passenger Rail (HSIPR) program, as described further in the April 2009 *Vision for High-Speed Rail in America* and the June 2009 notice of funding availability.

Projects and programs eligible for HSIPR program capital grants and general project selection criteria are summarized below:

- *High Speed Rail Corridor Development and Capital Assistance for Intercity Passenger Rail Service* grants (Sections 501 and 301) can be used for acquiring, constructing, improving, or inspecting equipment, track, 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, locating, 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 or intercity passenger rail service; expenses for mitigating environmental impacts; communications and signalization improvements; relocation assistance; acquiring replacement housing sites; and acquiring, constructing, relocating, and rehabilitating replacement housing.
  - *High-Speed Rail Corridor Development Grants* can be used to fund capital projects listed above on eligible corridors including the ten high-speed rail corridors previously designated by the Secretary of Transportation.
  - *Capital Assistance for Intercity Passenger Rail Service* grants can also be used for rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail; to cover the costs associated with

developing State rail plans; and the first-dollar liability costs for insurance related to the provision of intercity rail.

- *Congestion Capital Grants* (Section 302) can be used for facilities, infrastructure, and equipment for high priority rail corridor projects necessary to reduce congestion or facilitate ridership growth in intercity passenger rail transportation. Eligible projects would be those identified by Amtrak to reduce congestion or facilitate ridership growth in heavily traveled rail corridors, those identified by the Surface Transportation Board (STB) to improve on-time performance and reliability, and those designated by USDOT as meeting the purpose of the program and being sufficiently advanced so as to be ready for implementation.

The American Recovery and Reinvestment Act (Public Law 111-5) and the Consolidated Appropriations Act, 2010 (Public Law 111-117) provided the first substantial appropriations for the HSIPR program. However, these appropriation bills waived the PRIIA requirement that proposed projects must be included in a State rail plan to be eligible for federal funding. In the notice of funding availability, FRA provided detailed grant application instructions and project selection criteria that could be used as interim guidance for States in developing intercity passenger rail plans.<sup>41</sup>

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<sup>41</sup> Federal Register/Vol 74, No. 119/Tuesday, June 23, 2009/Notices at [http://www.fra.dot.gov/downloads/rrdev/fr\\_hsipr\\_guidance.pdf](http://www.fra.dot.gov/downloads/rrdev/fr_hsipr_guidance.pdf)

PRESENTATION SCHEDULING

Date	Time	Vendor Preference
10/13/20	9:00 AM – 9:30 AM CST	
10/13/20	09:45 PM AM – 10:15 AM CST	
10/13/20	10:30 AM – 11: 00 AM CST	
10/13/20	1:15 PM – 1:45 PM CST	
10/13/20	2:00 PM – 2:30 PM CST	
10/14/20	9:00 AM – 9:30 AM CST	
10/14/20	09:45 PM AM – 10:15 AM CST	
10/14/20	10:30 AM – 11: 00 AM CST	

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Vendor Name

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
TMS ANNUAL DATA COLLECTOPM CONTRACT NO. 21-SPR-0008 / 01946(74)  
STATUTORY CERTIFICATION**

\_\_\_\_\_, of lawful age, hereby certifies under the laws of the United States and the State of Oklahoma, states:

1. (S)he is the duly authorized agent of \_\_\_\_\_, the Contractor under the Contract which is attached to this statement, for the purpose of certifying the facts pertaining to the giving of things of value to government personnel in order to procure said Contract;
2. (S)he is fully aware of the facts and circumstances surrounding the making of the Contract to which this statement is attached and has been personally and directly involved in the proceedings leading to the procurement of said Contract;
3. Neither the Contractor nor anyone subject to the Contractor's direction or control has paid, given or donated or agreed to pay , give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the Contract to which this statement is attached;
4. That the Contractor has registered and fully participates in the Status Verification system, as required by Title 25 O.S. § 1313(B)(1), to verify the work eligibility status of all new employees of the Contractor; and

The Contractor further certifies that no person who has been involved in any manner in the development of that Contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said Contract.

If this Contract is for professional services and if the final product is a written proposal, report, or study, the Contractor further certifies that (s)he has not previously provided the state agency with a final product that is a substantial duplication of the final product of the proposed Contract.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
CONTRACT NO. 21-SPR-0008 / 01946(74)  
ATTACHMENT D1  
US DOT CERTIFICATION FOR FEDERAL-AID CONTRACTS**

The Prospective Participant, \_\_\_\_\_, (Vendor), certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report lobbying", in accordance with its instructions.
3. The vendor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
CONTRACT NO. 21-SPR-0008 / 01946(74)  
ATTACHMENT D2  
US DOT CERTIFICATION OF ELIGIBILITY**

The Prospective Participant, \_\_\_\_\_, (Vendor), certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, states:

a) That he or she is the Prospective Participant or fully authorized agent of the Prospective Participant in this project which involves federal funding, and has full knowledge and authority to make this certification.

b) That, except as noted below, \_\_\_\_\_  
(Prospective Participant)  
or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor or accountant, project superintendent, or any person in a position involving the administration of federal funds:

a. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; and

b. has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; and

c. does not have a proposed debarment pending; and

d. has not had any public transaction (federal, state, or local) terminated within the preceding three (3) years for cause or default; and

e. has not been indicted, convicted, or had a civil judgment rendered against any of the aforementioned by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years, except:

\_\_\_\_\_

**(IF NONE, SO STATE BY ENTERING THE WORD NONE).** For any exception noted, indicate on the reverse side of this page to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
CONTRACT NO. 21-SPR-0008 / 01946(74)  
ATTACHMENT D3  
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964  
ASSURANCES**

(hereinafter referred to as the Vendor) HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives to the end that, in accordance with the Act, regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Vendor receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration; and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Subsection 21.7(a) (1) of the Regulations, a copy of which is attached.

More specifically and without limiting the above general assurance, the Vendor hereby gives the following specific assurances with respect to its Federal-aid Highway Program:

1. That the Vendor agrees that each “program” and each “facility,” as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted or will be (with regard to a “facility”) operated in compliance with all requirements imposed by or pursuant to the Regulations.
2. That the Vendor shall insert the following notification in all solicitations for bids for work or materials subject to the regulations made in connection with the Federal-aid Highway Program and, in adapted form, in all proposals for negotiated agreements:

in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated

against on the grounds of race, color, sex, age, national origin, religion, disability/handicap, or income status in consideration for an award.

3. That the Vendor shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the clauses of Appendix B of this assurance shall be included, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Vendor receives federal financial assistance to construct a facility or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Vendor receives federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
7. That the Vendor shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Vendor with other parties (a) for the subsequent transfer of real property acquired or improved under the Federal-aid Highway Program; and (b) for the construction or use of, or access to space on, over, or under, real property acquired or improved under the Federal-aid Highway Program.
8. That this assurance obligates the Vendor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein, or structures or improvements thereon; in which case the assurance obligates the Vendor or any transferee for the longer of the following periods: (a) the period during which the property used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; of (b) the period during which the Vendor retains ownership or possession of the property.
9. The Vendor shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom he or she delegates specific authority, to give reasonable guarantee that it, other recipients, sub-grantees, vendors, sub-contractors, transferees, successors in interest; and other participants of federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, the Regulations, and this assurance.

10. The Vendor agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts, or other federal financial assistance extended after the date hereof to the Vendor by the Department of Transportation under the federal-aid Highway Program and is binding on it, other recipients, sub-grantees, vendors, sub-contractors, transferees, successors in interest, and other participants in the federal-aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Vendor.

Attachments:  
Appendices A, B, C, and D

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “vendor”) agrees as follows:

- 1. Compliance with Regulations:** The contractor (hereinafter includes Vendors) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination:** The contractor (hereinafter includes Vendors) with regard to the work performed by it during the contract, shall comply with the Americans with Disabilities Act Non-Discrimination Clause referenced at <https://www.ok.gov/odot/documents/ADA%20Clause.pdf> and will not discriminate on the grounds of race, color, sex, age, national origin, religion, disability/handicap, or income status, in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- 4. Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
- 6. Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## **APPENDIX B**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the Grantee will accept title to the lands and maintain the project constructed thereon in accordance with the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113-6, March 26, 2013), the Regulations for the Administration of FY 2013 TIGER Discretionary Grant Program, and the policies and procedures prescribed by the Federal Highway Administration (FHWA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Grantee all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

### **(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto Grantee and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Grantee, its successors and assigns.

The Grantee, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person on the grounds of race, color, sex, age, national origin, religion, disability/handicap, or income status shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the Grantee will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the

absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.

## APPENDIX C

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Grantee pursuant to the provisions of Assurance 7(a):

1. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - A. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Grantee will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
3. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Grantee will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Grantee and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX D

During the performance of this contract, the Vendor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Vendor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### Pertinent Non-Discrimination Authorities:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49CFR Part 21.
2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
3. Federal-Aid highway Act of 1973, (29 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-209), Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and vendors, whether such programs or activities of the Federal-aid recipients, sub-recipients and Vendors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. § § 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

9. The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
CONTRACT NO. 21-SPR-0008 / 01946(74)  
ATTACHMENT D4  
DRUG FREE WORKPLACE**

1. The Vendor, \_\_\_\_\_, certifies that (s)he will continue to provide a drug free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Vendor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - b. Establishing an ongoing drug free awareness program to inform employees about:
    - i. The dangers of drug abuse in the workplace;
    - ii. The Vendor's policy of maintaining a drug free workplace;
    - iii. Any available drug counseling, rehabilitation and employee assistance programs; and
    - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - c. Making it a requirement that each employee that will be engaged in the performance of the project be given a copy of the statement required by paragraph a;
  - d. As a condition of employment under the project, the employee will:
    - i. Abide by the terms of the statement, and;
    - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

- e. Notifying the Department and the Federal Highway Administration in writing, within ten (10) calendar days after receiving notice under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working, unless the Federal Highway Administration has designated a central point for the receipt of such notices. Notice shall include the identification numbers of each affected project.
- f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(ii), with respect to any employee who is so convicted.
- g. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973; as amended, or;
- h. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- i. Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

**OKLAHOMA DEPARTMENT OF TRANSPORTATION  
CONTRACT NO. 21-SPR-0008 / 01946(74)  
ATTACHMENT D5  
DISADVANTAGED BUSINESS ENTERPRISES POLICY STATEMENT**

1. It is the policy of the Department to ensure that Disadvantaged Business Enterprises (D.B.E.) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Contract. Consequently the D.B.E. requirements of 49 CFR Part 26 applies to this Contract. These provisions apply to all federal-aid projects, regardless if there is a DBE goal.
2. The Department or its Vendor which are recipients of Federal-aid funds agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and sub-contracts financed in whole or in part with federal funds provided under this Contract. In this regard, the Department and its Vendors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts.
3. The Vender must follow the requirements outlined in the DBE Program Manual, located at [https://www.ok.gov/odot/Doing\\_Business/Civil\\_Rights/Civil\\_Rights - Publications, Posters and Brochures.html](https://www.ok.gov/odot/Doing_Business/Civil_Rights/Civil_Rights_-_Publications,_Posters_and_Brochures.html).
4. Failure to carry out the requirements set forth above shall constitute a breach of Contract, and, after the notification of the Department, may result in termination of the Contract by the Department or other such remedy as the Department deems appropriate.

