

Bureau of Rail, Freight, Ports, and Waterways

Grant Program Policy

Program Description

The Rail Freight Assistance Program (RFAP) and the Rail Transportation Assistance Program (RTAP) provide financial assistance for investment in Pennsylvania's rail freight infrastructure. The intent of the programs is to preserve essential rail freight service where economically feasible and preserve or stimulate economic development through the generation of new or expanded rail freight service in Pennsylvania. The programs provide financial assistance to eligible applicants for the maintenance or construction of rail freight infrastructure. Funding for the programs is subject to annual authorization by the PA General Assembly.

PennDOT's Bureau of Rail, Freight, Ports, and Waterways (Bureau) administers funding from the Multimodal Transportation Fund (PA Act 89) and the Unconventional Gas Well Fee (PA Act 13) for the RFAP and funding from the Capital Budget for RTAP. Subject to authorization of program funds, the Bureau will hold an annual open application period for eligible applicants to submit a project application. The State's share of each project funded through these programs will not exceed 70%.

Eligibility Information

1. The following entities are eligible applicants:
 - Railroad Company,
 - Transportation Organization,
 - Municipality,
 - Municipal Authority, or
 - User of rail freight infrastructure

2. The following are eligible projects:
 - Capital Maintenance of freight or intermodal rail infrastructure
 - Project must functionally restore, improve, or maintain existing railroad line
 - Examples Include: replacement of ties, rail, plates, turnouts, other track materials, and/or ballast
 - Capital Construction of freight or intermodal rail infrastructure
 - Project must construct a railroad line to Bureau's specifications identified in the Project Management Policy
 - Examples Include: acquisition and construction of track, ties, rail, plates, turnouts, other track materials, and/or ballast

3. Work being performed by the grantee/railroad forces are reimbursable and must be individually less than \$5,000 for the items listed in this section. Documentation verifying the item(s) that was/were used solely for the progression of the project will be required at the time of reimbursement. For example:
 - Invoices for materials from home improvement centers, i.e. Lowes, Home Depot, ACE, etc.
 - Fuel (auto/diesel) for railroad owned or rented equipment used for the progression of the project

- Non-Department Maintenance and Protection of Traffic (M&P), in accordance with current FHWA Manual on Uniform Traffic Control Devices (MUTCD)
4. The following are ineligible project activities:
 - Reusable tools (hand/power), clothing, computers or related software equipment, surveying instruments, grant application preparation costs incurred by grantee, grantee in-house administrative and engineering costs, and per diem costs for the grantee/railroad, contractor(s), and/or project manager
 - Any capital maintenance or capital construction project item or activity that does not directly support freight rail operations
 5. The organizational relationship between a grantee that is a wholly-owned subsidiary of an owner parent entity and the proposed force account work force for the grantee's project will be subject to Bureau review prior to bid approval. (Example- ABC Railroad is wholly-owned by XYZ Railroad Corporation. With prior Bureau approval, XYZ may use XYZ and/or ABC labor for XYZ's funded project, while ABC can only use ABC's labor for ABC's funded project.)

Award Information

The following is a list of project limitations:

1. Projects are limited to a maximum of 70% State share
2. RFAP funded projects shall not exceed \$250,000 in State funds for new construction activities
3. No more than 25% of the total project cost shall be used for property acquisition
4. No more than 25% of the total project cost shall be used for at-grade crossings (at-grade crossing elimination is not subject to this 25% limitation)
5. No more than 5% of the total project cost shall be used for the acquisition or rehabilitation of rolling stock
6. No more than 10% of the State share or \$100,000, whichever is less, shall be used for project management services
7. The grantee's share (minimum 30%) shall be of non-State funds, including Federal funds or a loan such as the Pennsylvania Infrastructure Bank (PIB)
 - Materials or property or force account work can not be used as non-State matching funds

Application Information

The following list identifies the general application process:

1. An eligible applicant may submit one (1) electronic application during an open application period using eGrants Public Portal Interface at <https://www.esa.dced.state.pa.us/login.aspx> which requires a Keystone Login ID. Application instructions can be viewed on the web via: <https://www.esa.dced.state.pa.us/Addenda/DOT/BRF/Rail%20Assistance%20Applicant%20Instructions%20Guide.pdf>
2. The Bureau will review each application for completeness and accuracy. Applications may be returned electronically to the applicant for additional information, to address an error, or clarification of project items. Applicants will need to re-submit their application after revisions are made.

3. The Bureau will evaluate each eligible application according to:
 - The intent of the programs
 - The Bureau's Goals and Objectives
 - The Bureau's benefit/cost analysis
 - The applicant's planning efforts (example, is the project on the PA State Rail Plan)
 - Other factors contributing to the transportation of freight by rail
4. Based on the Bureau's evaluation, a list of recommended projects will be presented to the Pennsylvania State Transportation Commission (STC) for approval. The Bureau will identify the most appropriate program(s) to fund approved projects based on available and eligible funding.
5. Approved project applicants will be notified by the Bureau with a funding offer. The funding offer will identify required next steps to accept the offer, execute an agreement, and proceed with the project. Funding offers may be equal to or less than the applicant's requested State amount. Unapproved project applicants will be notified by the Bureau that their project was not approved for funding.

Agreement Requirements

This is a general list of requirements that is included in a RTAP/RFAP funding agreement. This is not a fully inclusive list and is intended to provide applicants with an understanding of the types of requirements.

1. **Reimbursements-** Grantees shall be reimbursed for 70% of the cost of claimed eligible items and activities. These items and activities must directly relate to the construction of the awarded project and project location, as indicated in the Bureau's approved bid package, specifications, plans, etc. The Bureau has the authority to review all requests for reimbursement cost. The resolution of any disputes as to the eligibility of invoiced costs will be at the discretion of the Bureau and the final determination of approved reimbursable costs will be made by the Bureau Director.
2. **Retainage-** The Bureau will retain 10 percent (10%) of the State share of each reimbursement and the Bureau will release the retained amount(s) to the grantee after submission of the final project invoice and the Bureau's acceptance of the completed project. The grantee shall not withhold retainage from their vendor(s) and contractor(s). If a grantee completes their project, it is accepted by the Bureau, and only one (1) invoice is submitted to the Bureau, the Bureau may elect to not retain the 10 percent (10%) of the State share.
3. **Project Management Services-** Total project management services are limited to 10 percent (10%) of the total grant or \$100,000, whichever is less and will only be reimbursed at 70% of the eligible cost. [example- project management services total \$60,000, therefore only \$42,000 can be reimbursed]
 - Invoices must be approved by grantee prior to submission for reimbursement
 - Invoices must be submitted by the grantee and signed by both the consultant and grantee
 - Initial reimbursement may occur at the time of agreement execution and shall not exceed 50 percent (50%) of the total project management fee.
 - Second reimbursement may occur at fifty percent (50%) project completion and will not exceed 40 percent (40%) of the total project management fee.

- Final reimbursement shall be at project close out/final inspection and shall be ten percent (10%) of the total project management fee.
4. **Maintenance-** Grantees shall agree to maintain track infrastructure to the operating class of track achieved at project completion and rail related improvements for a minimum of fifteen (15) years from the date of PennDOT's acceptance of the completed project. If PennDOT determines that a grantee has failed to comply with the agreed project maintenance, then PennDOT will be entitled to a refund of a pro rata share of the reimbursed amount.
 5. **Use-** Grantees shall agree to use the project facilities in compliance with all applicable federal, state, and local laws, ordinance, and regulations in any way relating to the possession, use, and maintenance for rail freight service for a period of fifteen (15) years from the date of PennDOT's acceptance of the completed project. If PennDOT determines that a grantee has failed to comply with the agreed project use, then PennDOT will be entitled to a refund of a pro rata share of the reimbursed amount.
 6. **Carloading Report-** Grantees shall prepare an annual carloading report that identifies the number of loaded freight rail cars transported over the project area improved under the agreement each year, for five (5) years after PennDOT's acceptance of the completed project. The report will be submitted electronically to PennDOT through the eGrants Public Portal Interface within 45 days after the end of each reporting period. Failure to report, or report on time, may impact a grantee's future application(s).
 7. **Carloading Guarantee-** Grantees shall guarantee an average number of carloadings per year over the project area improved under the agreement for five (5) years following PennDOT's acceptance of the completed project. The guarantee represents 50% of the average carloading data submitted to the Bureau in the project application. Failure to meet the guarantee during this period will entitle PennDOT to a refund of a pro rata share of the reimbursed amount.

Letter of Non-Prejudice

An Applicant may request a Letter of Non-Prejudice (LONP) from the Bureau at any time prior to an executed agreement. The LONP is required by the Bureau when the applicant desires to expend project funding (procure materials and/or begin construction activities) prior to the execution of the agreement and be eligible for reimbursement.

- A LONP request must be made in writing to the Bureau Director.
- A LONP does not constitute an award and the Bureau makes no warranty or assurance that funds will be offered to an applicant for the project.
- The applicant must provide a bid package for contracted labor and/or a RFQ for force account labor to the Bureau. The Bureau must approve the bid package/RFQ and the low bid prior to the grantee starting construction.

Pennsylvania Right-to-Know Law

Any record transmitted to PennDOT is presumed to be a public record unless specific by law and is subject to the Pennsylvania Right-to-Know Law (65 P.S. §§67.101-3104).

References

PA House Bill 865 of 1983 and amended 1984 (Act 119)-

<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=1983&sessIn d=0&billBody=H&billTyp=B&billNbr=0865&pn=3181>

PA Senate Bill 1095 of 2006 (Act 65)-

<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2005&sessIn d=0&billBody=S&billTyp=B&billNbr=1095&pn=2113>

PA House Bill 1950 of 2011 (Act 13)-

<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2011&sessIn d=0&billBody=H&billTyp=B&billNbr=1950&pn=3048>

PA House Bill 1060 of 2013 (Act 89)-

<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2013&sessIn d=0&billBody=H&billTyp=B&billNbr=1060&pn=2697>