

# Bureau of Rail Freight, Ports and Waterways

## Grant Program Policy

### Background

The Rail Freight Assistance Program (RFAP) and Rail Transportation Assistance Program (RTAP) provide financial assistance for investment in 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. The programs provide financial assistance to eligible applicants for the maintenance or new construction of rail freight infrastructure. Funding for the RFAP and RTAP is subject to annual authorization by the PA General Assembly.

### Grant Funding

PennDOT's (Department) Bureau of Rail Freight, Ports & Waterways (Bureau) administers funding from the Multimodal Transportation Fund (MTF) for the RFAP and funding from the Capital Budget for RTAP. Funding is available annually on a matching grant basis to eligible applicants that meet program and project eligibility requirements.

Because the dollar value of requests for financial assistance through the RFAP and RTAP usually exceeds the available funding, not all eligible applications receive funding or the full amount requested.

#### **RFAP**

- Maximum RFAP funding for a project is 70% of the total project cost and the RFAP funding shall not exceed \$700,000.
- No more than \$250,000 of the total grant award shall be used for new construction activities.
- The grantee's share (30%) shall be of local funding and can be in the form of a loan (example- Pennsylvania Infrastructure Bank (PIB)).
- No more than 15% of the total grant award shall be used for railroad at-grade crossing activities.
- No more than 5% of the total grant award or \$60,000, whichever is less, shall be used for project management services.

#### **RTAP**

- Maximum RTAP funding for a project is 70% of the total grant award and RTAP funding shall not exceed the amount the capital budget line.
- The grantee's share (30%) shall be of local funding and can be in the form of a loan (example- Pennsylvania Infrastructure Bank (PIB)).
- No more than 50% of the total grant award shall be used for right-of-way acquisition.
- No more than 15% of the total grant award shall be used for railroad at-grade crossing activities.
- No more than 5% of the total grant award shall be used for acquisition or refurbishment of rolling stock.
- No more than 5% of the total grant award or \$60,000, whichever is less, shall be used for project management services.

## Eligibility

**Applicants** must be one of the following:

- Railroad Company;
- Transportation Organization;
- Municipality;
- Municipal Authority; or
- User of rail freight Infrastructure

**Projects** must be classified as one or both of the following:

1. **Maintenance** of rail freight or intermodal infrastructure
  - Project must have a minimum useful life of 15 years.
  - Project must be maintained to a minimum of FRA Class 1 track for a minimum of 15 years.

Examples include: replacement of ties, rail, plates, turnouts, other track materials, and/or ballast that functionally restore, improve, or maintain an existing railroad line

2. **Construction** of rail freight or intermodal infrastructure
  - Project must have a minimum useful life of 15 years.
  - Project must be maintained to a minimum of FRA Class 1 track for a minimum of 15 years.

Examples include: acquisition and construction of track to include but limited to crossties, rail, plates, turnouts, other track materials, and/or ballast to construct a railroad line.

### **Exclusions and Limitations**

- Equipment, land, infrastructure, buildings, and building materials that do not directly support rail freight operations are not eligible for RFAP or RTAP funding (see Track Construction section of the Project Management Policy for details).
- Costs for ineligible activities shall not be used to match RFAP or RTAP funds.

## Grant Application

The Bureau endeavors to hold an application period at least once per year and a notification of the open application period will be issued on PennDOT's website. ([www.penn.dot.gov](http://www.penn.dot.gov)) The Bureau will only accept fully completed RTAP and RFAP applications during the specified application period. Applications submitted outside of the application period will not be accepted.

### **Application Information**

The following sections of the electronic application must be completed and submitted:

- 1) Project Information- general information on applicant's project
- 2) Project Details- detailed information about the applicant and project's use
- 3) Project Location- location of project, owner information, and project area details
- 4) Project Budget- a cost breakdown of the project
- 5) Carloading- loaded freight car movements within project area
- 6) Employment- the project's impact on created or maintained jobs

### **Requirements**

- Applications must be completed and submitted through the Bureau's electronic grants management system, dotGrants, (<https://dotgrants.penndot.gov/dotGrants/Welcome/>) during an open application period.

- Only one (1) RTAP application may be submitted per applicant per program year.
- Only one (1) RFAP application may be submitted per applicant per program year.
- Applicants and Projects must meet all eligibility requirements.

### **Application Review and Selection**

The Bureau will review each application for completeness and accuracy and may require the applicant to revise or clarify information on their application. In addition, the Bureau may request a site visit to the project location. Upon request by the Bureau, the applicant will be required to formally present their project to the Bureau staff in Harrisburg, PA.

The Bureau will evaluate each eligible application according to:

1. the intent of the RTAP and RFAP,
2. the Bureau's Goals & Objectives,
3. the Bureau's cost/benefit analysis,
4. planning effort (i.e. PA State Rail Plan), and
5. other factors contributing to the transportation of freight by rail.

Recommended projects are presented to the State Transportation Commission (STC) for approval. Once approved by the STC, the Bureau will notify each applicant of the Bureau's decision to offer or not offer a grant for each project application. The notification will be in the form of a letter (paper or electronic) and sent to each applicant with instructions to either accept or reject the offer. Each applicant will receive one (1) Offer or Non-Offer from the Bureau per eligible project.

### **Letter of Non-Prejudice**

An Applicant may request a Letter of Non-Prejudice (LONP) from the Bureau at any time prior to or after a grant offer or execution of a grant 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 grant agreement.

- 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 grant 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.

### **Post Grant Award**

Each grant recipient must sign and agree to the terms and conditions of the grant agreement. Part of the agreement requires the grantee to keep adequate records relating to the project. The Bureau or representative of the Bureau may conduct a review/audit of the grantee's records during the project and throughout the useful life of the project.

### **Maintenance and Use of Project Facilities**

Each grant recipient must agree to maintain track infrastructure to the operating class of track for a minimum period of fifteen (15) years from the date of the completion of the project.

Each grant recipient must agree to use the project facilities in compliance with all applicable federal, state, and local laws, ordinances, and regulations in any way relating to the possession, use, and

maintenance for rail freight service for a period of at least fifteen (15) years from the date of completion of the project.

If the Department determines that the grantee has failed to comply with maintenance and use of the project facilities, then the Department will be entitled to a refund of a pro rata share of the grant award.

### **Carloading Guarantee**

Each grantee, per project, shall guarantee an average number of carloadings per year over the project area for five (5) years following completion and acceptance of project work. The guarantee represents fifty percent (50%) of the average carloading data for the three (3) years following the project's completion reported in the grantee's application. Failure to meet the guarantee during this period will entitle the Department to a refund of a pro-rata share of the grant provided through the grant agreement. If the grantee must reimburse the Department in this manner, the Department may render the grantee ineligible to receive Department's Rail Freight Assistance (RFAP, RTAP, and Multimodal Transportation Funding) grants for up to three (3) years after closing of the project.

### **Carloading Report**

The grantee, per project, shall prepare an annual carloading report to be submitted to the Department through its dotGrants system or other Internet based reporting system no later than forty-five (45) days after the end of each reporting period. The reporting period is twelve (12) consecutive months beginning on the first day of the quarter after completion and final inspection of the project. The report shall reflect the actual carloadings for the previous year and shall be submitted each year for the next five (5) years.

### **Reimbursements**

The Bureau will reimburse the grantee 70% of the cost of claimed and eligible items and activities. Eligible items and activities must directly relate to the construction of the awarded project and project location, as indicated in the Bureau approved bid package, specifications, plans, etc. The Bureau has the authority to review all requests for reimbursement costs. 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.

#### **Eligible Items and Activities**

- Project labor
- Project materials
- Project equipment

**Ineligible Items and Activities** -Costs that are indirectly associated with the progression of the construction of the project. These include but are not limited to:

- Reusable Tools (hand/power)
- Clothing
- Computers or related software equipment
- Surveying instruments
- Grant application preparation costs incurred by the grantee
- Grantee in-house administrative and engineering costs
- Pier diem costs for the grantee/railroad, contractor, and/or project manager

#### **Force Account Labor**

For work being performed by the grantee/railroad forces, the following costs are reimbursable and must be individually less than \$5,000:

1. Invoices for materials from home improvement centers, i.e. Lowes, Home Depot, ACE, etc.
2. Fuel (auto/diesel) for railroad owned or rented equipment used for the progression of the project.
3. Non-Department Maintenance and Protection of Traffic (M&P), in accordance with current FHWA Manual on Uniform Traffic Control Devices (MUTCD).

Documentation verifying the item(s) was/were used solely for the progression of the project will be required at the time of reimbursement.

**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.**

### **Project Management Services**

Total project management services are limited to five percent (5%) of the total grant or \$60,000, whichever is less and will only be reimbursed at 70% of the state share. For instance, if the project management services total \$60,000 then only \$42,000 will be reimbursed. The following only apply to reimbursement for project management services:

- Invoices must be approved by the grantee prior to submission for reimbursement to the Bureau.
- Invoices must be submitted by the grantee and be signed by both the consultant and grantee.
- Initial reimbursement may occur at the time of agreement execution and shall not exceed 25 percent (25%) of the project management fee.
- Second reimbursement may occur at fifty percent (50%) project completion and will not exceed 32.5 percent (32.5%) of the project management fee.
- Third reimbursement may occur at seventy five percent (75%) project completion and will not exceed 32.5 percent (32.5%) of the project management fee.
- Final reimbursement shall be at project close out/final inspection and shall be ten percent (10%) of the project management fee.

### **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), contractor(s), or subcontractor(s).

In the event a grantee completes their project, it is accepted by the Bureau, and only one (1) invoice/reimbursement is submitted to the Bureau, the Bureau may elect to not retain 10% of the state share.

## **Pennsylvania Right-to-Know Law**

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