

49 USC 24911: Federal-State partnership for intercity passenger rail

Text contains those laws in effect on July 5, 2022

From Title 49-TRANSPORTATION

SUBTITLE V-RAIL PROGRAMS

PART C-PASSENGER TRANSPORTATION

CHAPTER 249-NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

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§24911. Federal-State partnership for intercity passenger rail

(a) DEFINITIONS.-In this section:

(1) APPLICANT.-The term "applicant" means-

(A) a State (including the District of Columbia);

(B) a group of States;

(C) an Interstate Compact;

(D) a public agency or publicly chartered authority established by 1 or more States;

(E) a political subdivision of a State;

(F) Amtrak, acting on its own behalf or under a cooperative agreement with 1 or more States;

(G) a federally recognized Indian Tribe; or

(H) any combination of the entities described in subparagraphs (A) through (G).

(2) INTERCITY RAIL PASSENGER TRANSPORTATION.-The term "intercity rail passenger transportation" has the meaning given the term in section 24102.

(3) NORTHEAST CORRIDOR.-The term "Northeast Corridor" means-

(A) the main rail line between Boston, Massachusetts and the District of Columbia;

(B) the branch rail lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York; and

(C) facilities and services used to operate and maintain lines described in subparagraphs (A) and (B).

(b) GRANT PROGRAM AUTHORIZED.-The Secretary of Transportation shall develop and implement a program for issuing grants to applicants, on a competitive basis, to fund capital projects that reduce the state of good repair backlog, improve performance, or expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service if an eligible applicant is involved;¹

(c) ELIGIBLE PROJECTS.-The following capital projects, including acquisition of real property interests, are eligible to receive grants under this section:

(1) A project to replace, rehabilitate, or repair infrastructure, equipment, or a facility used for providing intercity passenger rail service to bring such assets into a state of good repair.

(2) A project to improve intercity passenger rail service performance, including reduced trip times, increased train frequencies, higher operating speeds, improved reliability, expanded capacity, reduced congestion, electrification, and other improvements, as determined by the Secretary.

(3) A project to expand or establish new intercity passenger rail service.

(4) A group of related projects described in paragraphs (1) through (3).

(5) The planning, environmental studies, and final design for a project or group of projects described in paragraphs (1) through (4).

(d) PROJECT SELECTION CRITERIA.-In selecting a project for funding under this section-

(1) for projects located on the Northeast Corridor, the Secretary shall-

(A) make selections consistent with the Northeast Corridor Project Inventory published pursuant to subsection (e)(1), unless when necessary to address materially changed infrastructure or service conditions, changes in project sponsor capabilities or commitments, or other significant changes since the completion of the most recently issued Northeast Corridor Project Inventory; and

(B) for projects that benefit intercity and commuter rail services, only make such selections when Amtrak and the public authorities providing commuter rail passenger transportation at the eligible project location-

(i) are in compliance with section 24905(c)(2); and

(ii) identify funding for the intercity passenger rail share, the commuter rail share, and the local share of the eligible project before the commencement of the project;

(2) for projects not located on the Northeast Corridor, the Secretary shall-

(A) give preference to eligible projects-

(i) for which Amtrak is not the sole applicant;

(ii) that improve the financial performance, reliability, service frequency, or address the state of good repair of an Amtrak route; and

(iii) that are identified in, and consistent with, a corridor inventory prepared under the Corridor Identification and Development Program pursuant to section 25101; and

(B) take into account-

(i) the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project, including-

(I) effects on system and service performance, including as measured by applicable metrics set forth in part 273 of title 49, Code of Federal Regulations (or successor regulations);

(II) effects on safety, competitiveness, reliability, trip or transit time, greenhouse gas emissions, and resilience;

(III) anticipated positive economic and employment impacts, including development in areas near passenger stations, historic districts, or other opportunity zones;

(IV) efficiencies from improved connections with other modes; and

(V) ability to meet existing or anticipated demand;

(ii) the degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project;

(iii) the applicant's past performance in developing and delivering similar projects, and previous financial contributions;

(iv) whether the applicant has, or will have-

(I) the legal, financial, and technical capacity to carry out the project;

(II) satisfactory continuing access to the equipment or facilities; and

(III) the capability and willingness to maintain the equipment or facilities;

(v) if applicable, the consistency of the project with planning guidance and documents set forth by the Secretary or otherwise required by law;

(vi) whether the proposed project serves historically unconnected or underconnected communities; and

(vii) any other relevant factors, as determined by the Secretary; and

(3) the Secretary shall reserve-

(A) not less than 45 percent of the amounts appropriated for grants under this section for projects not located along the Northeast Corridor, of which not less than 20 percent shall be for projects that benefit (in whole or in part) a long-distance route; and

(B) not less than 45 percent of the amounts appropriated for grants under this section for projects listed on the Northeast Corridor project inventory published pursuant to subsection (e)(1).

(e) LONG-TERM PLANNING.-Not later than 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, and every 2 years thereafter, the Secretary shall create a predictable project pipeline that will assist Amtrak, States, and the public with long-term capital planning by publishing a Northeast Corridor project inventory that-

(1) identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels under this section;

(2) specifies the order in which the Secretary will provide grant funding to projects that have identified sponsors and are located along the Northeast Corridor, including a method and plan for apportioning funds to project sponsors for the 2-year period, which may be altered by the Secretary, as necessary, if recipients are not carrying out projects in accordance with the anticipated schedule;

(3) takes into consideration the appropriate sequence and phasing of projects described in the Northeast Corridor capital investment plan developed pursuant to section 24904(a);²

(4) is consistent with the most recent Northeast Corridor service development plan update described in section 24904(d);³

(5) takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years based on information currently available to the Secretary; and

(6) is developed in consultation with the Northeast Corridor Commission and the owners of Northeast Corridor infrastructure and facilities.

(f) FEDERAL SHARE OF TOTAL PROJECT COSTS.-

(1) TOTAL PROJECT COST.-The Secretary shall estimate the total cost of a project under this section based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) FEDERAL SHARE.-The Federal share of total costs for a project under this section shall not exceed 80 percent, except as specified under paragraph (4).

(3) TREATMENT OF AMTRAK REVENUE.-If Amtrak is an applicant under this section, Amtrak may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements.

(g) LETTERS OF INTENT; PHASED FUNDING AGREEMENTS.-

(1) LETTERS OF INTENT.-The Secretary may issue a letter of intent to a grantee under this section that-

(A) announces an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project; and

(B) states that the contingent commitment-

(i) is not an obligation of the Federal Government; and

(ii) is subject to the availability of appropriations for grants under this section and subject to Federal laws in force or enacted after the date of the contingent commitment.

(2) PHASED FUNDING AGREEMENTS.-

(A) IN GENERAL.-The Secretary may enter into a phased funding agreement with an applicant if-

(i) the project is highly rated, based on the evaluations and ratings conducted pursuant to this section and the applicable notice of funding opportunity; and

(ii) the Federal assistance to be provided for the project under this section is more than \$80,000,000.

(B) TERMS.-A phased funding agreement shall-

(i) establish the terms of participation by the Federal Government in the project;

(ii) establish the maximum amount of Federal financial assistance for the project;

(iii) include the period of time for completing the project, even if such period extends beyond the period for which Federal financial assistance is authorized;

(iv) make timely and efficient management of the project easier in accordance with Federal law; and

(v) if applicable, specify when the process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and related environmental laws will be completed for the project.

(C) SPECIAL FINANCIAL RULES.-

(i) IN GENERAL.-A phased funding agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

(ii) STATEMENT OF CONTINGENT COMMITMENT.-The agreement shall state that the contingent commitment is not an obligation of the Government.

(iii) INTEREST AND OTHER FINANCING COSTS.-Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a phased funding agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, to the satisfaction of the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) FAILURE TO CARRY OUT PROJECT.-If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the phased funding agreement. For purposes of this clause, a process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that results in the selection of the no build alternative is not within the applicant's control.

(v) CREDITING OF FUNDS RECEIVED.-Any funds received by the Government under this paragraph, except for interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

(3) CONGRESSIONAL NOTIFICATION.-

(A) IN GENERAL.-Not later than 30 days before issuing a phased funding agreement under paragraph (2) or a letter under paragraph (1), the Secretary shall submit written notification to-

(i) the Committee on Commerce, Science, and Transportation of the Senate;

(ii) the Committee on Appropriations of the Senate;

(iii) the Committee on Transportation and Infrastructure of the House of Representatives; and

(iv) the Committee on Appropriations of the House of Representatives.

- (B) Contents.-The notification submitted pursuant to subparagraph (A) shall include-
- (i) a copy of the phased funding agreement or the proposed letter;
 - (ii) the criteria used under subsection (d) for selecting the project for a grant award; and
 - (iii) a description of how the project meets such criteria.

(4) APPROPRIATIONS REQUIRED.-

(A) IN GENERAL.-The Secretary may enter into phased funding agreements under this subsection that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

(B) APPROPRIATIONS REQUIRED.-An obligation or administrative commitment may be made under this section only when amounts are appropriated for such purpose.

(h) AVAILABILITY.-Amounts appropriated for carrying out this section shall remain available until expended.

(i) GRANT CONDITIONS.-Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the grant conditions under sections 22903 and 22905.

(j) ANNUAL REPORT ON PHASED FUNDING AGREEMENTS AND LETTERS OF INTENT.-Not later than the first Monday in February of each year, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives that includes-

- (1) a proposal for the allocation of amounts to be available to finance grants for projects under this section among applicants for such amounts;
- (2) evaluations and ratings, as applicable, for each project that has received a phased funding agreement or a letter of intent; and
- (3) recommendations for each project that has received a phased funding agreement or a letter of intent for funding based on the evaluations and ratings, as applicable, and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

(k) REGIONAL PLANNING GUIDANCE CORRIDOR PLANNING.-The Secretary may withhold up to 5 percent of the total amount made available for this section to carry out planning and development activities related to section 25101, including-

- (1) providing funding to public entities for the development of service development plans selected under the Corridor Identification and Development Program;
- (2) facilitating and providing guidance for intercity passenger rail systems planning; and
- (3) providing funding for the development and refinement of intercity passenger rail systems planning analytical tools and models.

(Added Pub. L. 114–94, div. A, title XI, §11302(a), Dec. 4, 2015, 129 Stat. 1648 ; amended Pub. L. 115–141, div. L, title I, Mar. 23, 2018, 132 Stat. 994 ; Pub. L. 115–420, §7(b)(3)(A)(i)(IV), Jan. 3, 2019, 132 Stat. 5447 ; Pub. L. 117–58, div. B, title II, §22307(a), Nov. 15, 2021, 135 Stat. 725 .)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (e), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

The National Environmental Policy Act of 1969, referred to in subsec. (g)(2)(B)(v), (C)(iv), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852 , which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021-Pub. L. 117–58, §22307(a)(1), substituted "for intercity passenger rail" for "for state of good repair" in section catchline.

Subsec. (a)(1)(G). Pub. L. 117–58, §22307(a)(2)(A)(i), (iii), added subpar. (G). Former subpar. (G) redesignated (H) to reflect the probable intent of Congress, see below.

Subsec. (a)(1)(H). Pub. L. 117–58, §22307(a)(2)(A)(iv), which directed amendment of "subsection" (H), as redesignated, by substituting "(G)" for "(F)", was executed by making the substitution in subpar. (H), as redesignated, to reflect the probable intent of Congress.

Pub. L. 117–58, §22307(a)(2)(A)(ii), which directed the redesignation of "subsection" (G) as (H), was executed by redesignating subpar. (G) as (H), to reflect the probable intent of Congress.

Subsec. (a)(2) to (4). Pub. L. 117–58, §22307(a)(2)(B), (C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "The term 'capital project' means-

"(A) a project primarily intended to replace, rehabilitate, or repair major infrastructure assets utilized for providing intercity rail passenger service, including tunnels, bridges, stations, and other assets, as determined by the Secretary; or

"(B) a project primarily intended to improve intercity passenger rail performance, including reduced trip times, increased train frequencies, higher operating speeds, and other improvements, as determined by the Secretary."

Subsec. (a)(5). Pub. L. 117–58, §22307(a)(2)(B), struck out par. (5). Prior to amendment, text read as follows: "The term 'qualified railroad asset' means infrastructure, equipment, or a facility that-

"(A) is owned or controlled by an eligible applicant;

"(B) is contained in the planning document developed under section 24904 and for which a cost-allocation policy has been developed under section 24905(c), or is contained in an equivalent planning document and for which a similar cost-allocation policy has been developed; and

"(C) was not in a state of good repair on the date of enactment of the Passenger Rail Reform and Investment Act of 2015."

Subsec. (b). Pub. L. 117–58, §22307(a)(3), substituted ", improve performance, or expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service if an eligible applicant is involved;" for "with respect to qualified railroad assets".

Subsecs. (c) to (e). Pub. L. 117–58, §22307(a)(4), added subsecs. (c) to (e) and struck out former subsecs. (c) to (e) which, respectively, related to projects eligible for grants under this section, set out various project selection criteria, and gave conditions on funds to be used for Northeast Corridor projects.

Subsec. (f)(2). Pub. L. 117–58, §22307(a)(5), inserted ", except as specified under paragraph (4)" after "80 percent".

Subsec. (g). Pub. L. 117–58, §22307(a)(6)(A), inserted "; Phased Funding Agreements" after "Intent" in heading.

Subsec. (g)(1). Pub. L. 117–58, §22307(a)(6)(B), substituted "Letters of intent" for "In general" in heading and "may" for "shall, to the maximum extent practicable," in introductory provisions.

Subsec. (g)(2), (3). Pub. L. 117–58, §22307(a)(6)(C), (D), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (g)(3)(A). Pub. L. 117–58, §22307(a)(6)(E)(i), inserted "a phased funding agreement under paragraph (2) or" after "issuing" in introductory provisions.

Subsec. (g)(3)(B)(i). Pub. L. 117–58, §22307(a)(6)(E)(ii), inserted "the phased funding agreement or" after "a copy of".

Subsec. (g)(4). Pub. L. 117–58, §22307(a)(6)(F), designated existing provisions as subpar. (B), inserted heading, and added subpar. (A).

Pub. L. 117–58, §22307(a)(6)(C), redesignated par. (3) as (4).

Subsec. (i). Pub. L. 117–58, §22307(a)(7), substituted "sections 22903 and 22905" for "section 22905".

Subsecs. (j), (k). Pub. L. 117–58, §22307(a)(8), added subsecs. (j) and (k).

2019-Subsec. (i). Pub. L. 115–420 substituted "22905" for "24405".

2018-Subsec. (e)(1). Pub. L. 115–141 substituted "transportation at the eligible project location" for "transportation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

¹ *So in original. The semicolon preceding the period probably should be a period.*

² *So in original. Probably should be "section 24904(b);".*

³ *So in original. Probably should be "section 24904(a)(3);".*