U.S. Department of Transportation

Federal Highway Administration

Notice of Funding Opportunity (NOFO) Number 693JJ322NF00002

*"Commuter Authority Rail Safety Improvement (CARSI) Grants-Round 2"*

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|---|---|
| NOFO Issue Date: | 2/14/2022 |
| Info Webinar Date: | 3/3/2022 (see page 4 for info) |
| Application Due Date: | 4/14/2022 |
| Estimated Award Date: | July 2022 |

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**The U.S. Department of Transportation is using www.grants.gov for issuance of this Notice of Funding Opportunity and for receipt of all applications. Applicants must register and use the system to submit applications electronically. Applicants are encouraged to register in advance of the submission deadline and to register to receive notifications of updates/amendments to this notice. Approval of user registrations for the site may take multiple weeks. It is the Applicant's responsibility to monitor www.grants.gov for any updates to this notice.**

## SUMMARY INFORMATION

| **Funding Opportunity Summary:** | **$59,744,250 in Federal funding available to award Commuter Authority Rail Safety Improvement Grants to eligible entities.** |
|---|---|
| Federal Agency Name: | U.S. Department of Transportation<br>Federal Highway Administration (FHWA)<br>1200 New Jersey Avenue, SE<br>Mail Drop: E62-204<br>Washington, DC 20590 |
| Funding Opportunity Title: | Commuter Authority Rail Safety Improvement (CARSI) Grants – Round 2 |
| Announcement Type: | This is a follow-on announcement for the CARSI Round 2 funding opportunity.<br>(See CARSI Round 1 project selections at: https://cms8.fhwa.dot.gov/newsroom/us-department-transportation-awards-40-million-grants-improve-safety-highway-railway.) |
| Funding Opportunity Number: | 693JJ322NF00002 |
| Type of Award: | Multiple Grants |
| Assistance Listing Number (ALN): | 20.205 Highway Planning and Construction<br><br>(formerly Catalog of Federal Domestic Assistance) |
| Application Due Date: | April 14, 2022, BY 11:59 PM EASTERN via Grants.gov |
| Questions: | Sarah Tarpgaard, FHWA Agreement Officer<br>FHWA Office of Acquisition and Grants Management<br>Sarah.Tarpgaard@dot.gov |
| Estimated Announcement of Selected Awardees: | July 2022 |

**Funding Opportunity Informational Webinar – Date March 3, 2022**

The FHWA will host an *Informational Webinar* regarding this funding opportunity, to help potential applicants understand the opportunity requirements and answer applicant questions. Participation in this session is not mandatory in order to submit an application under this solicitation. However, we encourage potential applicants to take advantage of this opportunity to gather information regarding this funding opportunity.

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|---|---|
| Webinar Date: | March 3, 2022, from 2:00 to 3:30 pm Eastern |
| To Register: | Send participant name, title, email, and organization name to Sarah.Tarpgaard@dot.gov by March 1, 2022, to receive Meeting Invite with Webinar link. |
| Recording: | FHWA intends to post the webinar recording to the Grants.gov notice. |

## SECTION A – PROGRAM DESCRIPTION

### 1. STATEMENT OF PURPOSE

The purpose of this grant program is to improve safety at public railway-highway crossings. The program provides funding to eligible entities for the construction of projects for the elimination of hazards at railway-highway crossings.

### 2. LEGISLATIVE AUTHORITY

Funding for this Notice of Funding Opportunity (NOFO) is available from two separate Fiscal Year (FY) Appropriations Acts, FY 2020 and FY 2021, as described below.

1. FY 2020: The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2020 (Public Law 116-94) (FY 2020 Appropriations Act), appropriated $50 million to the U.S. Department of Transportation (DOT) to award competitive grants for activities described in Section 130(a) of Title 23, United States Code (U.S.C.) railway-highway crossings.

Per the FY 2020 Appropriations Act, which requires that the funds be administered as if they are apportioned under Chapter 1 of Title 23, and 23 U.S.C. 130(f)(3), the Federal share shall be not more than 90 percent.

In August 2020, DOT issued a NOFO for CARSI round 1 which resulted in the selection and award of five grant projects with a cumulative Federal value of $40,255,750. The DOT announced the selected CARSI round 1 projects in January 2021. A list of the selected projects is available at: https://cms8.fhwa.dot.gov/newsroom/us-department-transportation-awards-40-million-grants-improve-safety-highway-railway.

Federal funding in the amount of $9,744,250, which was not committed to projects during CARSI round 1, is now available through this NOFO for CARSI round 2.

2. FY 2021: The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2021 (Public Law 116-260) (FY 2021 Appropriations Act), appropriated $50 million to DOT to award competitive grants for activities described in Section 130(a) of Title 23, U.S.C. railway-highway crossings, which states:

> 130(a) Subject to section 120 and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, the relocation of highways to eliminate grade crossings, and projects at grade crossings to eliminate hazards posed by blocked grade crossings due to idling trains, may be

paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, subject to section 120 and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

Per the FY 2021 Appropriations Act, which requires that the funds be administered as if they are apportioned under Chapter 1 of Title 23, and 23 U.S.C. 130(f)(3), the Federal share shall be 100 percent.

| **SUMMARY** | **FY 2020 Appropriation Act** | **FY 2021 Appropriation Act** | **Total** |
|---|---|---|---|
| Funding Available under this NOFO | $9,744,250 (Available until expended) | $50,000,000 (Available until September 2024) | $59,744,250 |
| Cost Share Required per Legislation | 10% of project cost | 0% | |

## 3. GOALS

Specific program goals include:

1) Improve safety at railway-highway crossings through the elimination of hazards at public railway-highway crossings;

2) Reduce fatalities, serious injuries, and crashes at public railway-highway crossings;

3) Reduce the number of existing public at-grade crossings by closure or grade separation; and

4) Reduce delays or improve system performance by eliminating hazards posed by blocked grade crossings due to idling trains.

## 4. ELIGIBLE PROJECTS

The funds must support the construction of projects for the elimination of hazards at railway-highway crossings. See Section C, Eligibility Information, for details.

## 5. PROJECT DESCRIPTION

The Recipient shall perform the project in accordance with the Recipient's approved

Project Narrative, which will be incorporated into the award as an attachment.

## 6. MILESTONES/DELIVERABLES

Recipients will be required to meet the following milestones/deliverables:

| Grant Milestones/Deliverables | Approximate Due Date | Section 508 Compliant? |
|---|---|---|
| Kick-off Meeting – conduct a kick-off meeting with FHWA at a mutually-agreed-upon location. Kick-off Meeting may be virtual or in-person based on mutual agreement of the parties, and is estimated not to exceed 2 hours. | Within 3 weeks after the effective date of award. | No |
| Quarterly Progress Reports – document activities performed, anticipated activities, and any changes to schedule or anticipated issues. See Quarterly Progress Report clause for required content. | Within 30 days of the end of each quarter. | No |
| Annual Budget Review and Program Plan – provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming year. See Annual Review and Program Plan clause for required content. | 60 days prior to the anniversary date of this agreement. | No |

## SECTION B – FEDERAL AWARD INFORMATION

### 1. FUNDING AND NUMBER OF AWARDS

This notice announces the availability of up to $59,744,250 in Federal funding for eligible projects, available to eligible entities.

The Government's obligation under the planned grants is contingent upon the availability of funding from which payment for grant purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available for the award and until the awardee receives notice of such availability, to be confirmed in writing by the Agreement Officer (AO) or authorized FHWA personnel.

The FY 2020 funds provided for this program shall remain available until expended. The FY 2021 funds provided for this program shall remain available until September 2024.

The Government anticipates making multiple grant awards under this NOFO, subject to the availability of funds. The Government reserves the right to make one or none if determined to be in the best interest of the Government based on applications received.

Selection of an application to receive grant funding is not a commitment of any future funding.

There are no required minimum or maximum award amounts.

### 2. TYPE OF AWARD

The planned award type is a cost-reimbursable grant agreement by direct award to the applicant, or through an allocation of funding to the relevant State department of transportation (State DOT). Upon completion of a project, funds that are not expended are to be recovered and returned to FHWA.

### 3. PERIOD OF PERFORMANCE

The grant period of performance will vary by award and must be proposed by the applicant depending upon the needs of the proposed project. Estimated duration of grant awards is 1 to 4 years.

### 4. DEGREE OF FEDERAL INVOLVEMENT

The FHWA will monitor performance and conduct financial oversight.

## SECTION C – ELIGIBILITY INFORMATION

To be selected for a grant award, an applicant must be an Eligible Applicant and the projects must be Eligible Projects.

### 1. ELIGIBLE APPLICANTS

This competition is open to all eligible applicants. Applicants MUST meet the following eligibility criteria to be considered for award. Applicants who do not meet the eligibility criteria should not respond to this NOFO.

An applicant must be a "commuter authority" as defined in 49 U.S.C. 24102, which is a State, local, or regional entity established to provide, or make a contract for, commuter rail passenger transportation. An eligible commuter authority must have experienced at least one accident investigated by the National Transportation Safety Board (NTSB) between January 1, 2008, and December 31, 2018, and for which the NTSB issued an accident report.

The applicant must be either: (1) a commuter authority that meets the eligibility requirements listed above; OR (2) a public or non-profit entity partnering with an eligible commuter authority.

NOTE: Applicants are encouraged to partner with their State department of transportation (State DOT) and are encouraged to have their State DOT apply as the prime applicant for receipt of DOT Federal funding. As appropriate, awards may be made to State DOTs as pass-through grantees for administration of the funds to a commuter authority as a subawardee. Per Title 2, Code of Federal Regulations (CFR), Part 200.1, a pass-through entity is a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

NOTE: If eligible commuter authority applicants operate on a rail corridor owned by an entity other than the commuter authority, a letter from the rail owners is required supporting the proposed project. See Section D, below.

NOTE: Those Applicants who received grant awards under CARSI round 1 remain eligible for CARSI round 2 with no restrictions.

### 2. COST SHARING OR MATCHING

Cost sharing or matching is required for the FY 2020 portion of the NOFO funding available as follows. Cost sharing or matching means the portion of project costs not paid by Federal funds. For a more complete definition, please see 2 CFR 200.306 on Cost Sharing or matching. Other Federal funds cannot be considered as part of the matching funds, unless otherwise allowed by statute. No cost sharing or matching is required for the FY2021 portion of the NOFO funding. See table below.

| SUMMARY | FY 2020 | FY 2021 |
|---|---|---|
| Funding Available under this NOFO | $9,744,250 | $50,000,000 |
| Cost Share Required per Legislation | 10% of project costs | 0% |

For selected projects funded with FY 2020 funds, a minimum non-Federal cost share of 10 percent of the project cost is required. For selected projects funded with FY 2021 funds, no cost share is required. The DOT will decide which fiscal year funding is used on individual selected grants, taking into account the cost share requirements of the funding.

Note: If applicable, any program income generated under the project must be handled in accordance with SECTION F.

## 3. ELIGIBLE PROJECTS

Eligible projects under this grant program are limited to the following:

- the separation or protection of grades at crossings;
- the reconstruction of existing railroad grade crossing structures;
- the relocation of highways to eliminate grade crossings; or
- projects at grade crossings to eliminate hazards posed by blocked grade crossings due to idling trains.

NOTE: The proposed location of the project is not required to be the location of the accident previously investigated by the NTSB. The proposed location of the project is up to the discretion of the applicant.

## SECTION D – APPLICATION AND SUBMISSION INFORMATION

### 1. APPLICATION PACKAGE

Applicants may obtain application forms at www.Grants.gov under the NOFO number cited herein. The Applicant must complete and submit all forms included in the application package for this notice as contained at www.Grants.gov.

NOTE: Applicants must have a registered Grants.gov account to use the system. Obtaining an account can involve multiple steps and numerous days. Please see the Grants.gov Website for detailed instructions, training videos, an online user guide, and a help desk.

### 2. CONTENT AND FORMAT OF APPLICATION SUBMISSION

**Format:**

- Application must be prepared on 8½ x 11-inch pages. Pages that exceed this size, such as foldout size or legal size, are not allowable.
- Narrative text must be printed using a font size no less than 12-point font.
- Tables are permitted. Text in tables may be smaller than 12-point font but must be legible.
- Page margins must be a minimum of 1-inch top, bottom and each side.
- Page numbers may be located within the 1-inch margins.
- A Header or Footer identifying the Applicant/Team and the Volume or Part, may be located within the 1-inch margins.
- PAGE LIMITS: Application volumes shall adhere to the page count limitations listed below. In the event an application volume exceeds the page limitation the Government will evaluate only the pages identified within the page limitation. The page count limitations include all narrative, figures, tables, appendices, and all other ancillary materials with the exception of the following.
- EXCEPTIONS ON PAGE LIMITS: The following items do NOT count against the page limitations.
    a. Document covers;
    b. Cover letters/cover pages;
    c. Title pages;
    d. Divider pages;
    e. Tables of contents;
    f. Lists of acronyms;
    g. Letters of support or intent to participate from proposed subcontractors, consultants, partners, and proposed newhires; and
    h. Resumes. (Note: Resumes are not required, but if submitted are limited to two-pages each.)

**Content of Application Submission:**

The application must include the following two Volumes:

1. **Volume 1 – Project Application**
    a. Cover Page
    b. Project Narrative (30-page limit on Project Narrative section)
    c. Project Readiness (no page limit)
    d. Letters of Support (no page limit)
    e. Benefit-Cost Analysis (no page limit)

2. **Volume 2 – Budget Application** - no page limit
    a. Application Forms
    b. Cost Breakdown
    c. Other Business Information

**Volume 1 – Project Application – include the following:**

a. Cover Page. Include the project name, project location, name of eligible entity applying to receive Federal funding, total project cost (from all sources), amount Federal funding requested, and amount of non-Federal share proposed if applicable.

b. Project Narrative (30-page limit). Include the information necessary for FHWA to determine that the project satisfies the eligibility criteria described in Section C above and to assess how the application addresses the selection criteria specified in Section E. Provide the following information at a minimum:

    i. Statement of applicant eligibility. Provide written confirmation and an explanation of how the applicant complies with NOFO Section C.1, Eligible Applicants, which states an Applicant must be a commuter authority, or a public or non-profit entity partnering with an eligible commuter authority, that has experienced at least one accident investigated by the NTSB between January 1, 2008, and December 31, 2018, and for which the NTSB issued an accident report.

    ii. Statement of project eligibility. Provide written confirmation and an explanation of how the project complies with NOFO Section C.3, Eligible Projects.

    iii. Project description. Provide a concise description of the proposed project, the safety problem(s) it is expected to address, and how it will address the identified safety problem(s). Describe the project location and the entities involved in implementation of the project including their respective roles in supporting the project.

NOTE: The proposed location of the project is not required to be the location of the accident previously investigated by the NTSB. The proposed location of the project is up to the discretion of the applicant.

iv. Safety impacts. Provide a description of the safety impacts that will result from the project. Describe how the project will deliver the following safety impacts, as applicable to the project:

1. Improve safety at railway-highway crossings through the elimination of hazards at public railway-highway crossings;
2. Reduce fatalities, serious injuries, and crashes at public railway-highway crossings;
3. Reduce the number of existing public at-grade crossings by closure or grade separation; and
4. Reduce delays or improve system performance by eliminating hazards posed by blocked grade crossings due to idling trains.

v. Safety impact and performance metrics. Provide proposed quantifiable projections, measures and metrics for the project, such as:

- Provide proposed quantifiable system performance improvement projections, such as reducing traffic-related crashes, congestion, and costs; optimizing system efficiency; and improving access to transportation services.

- Provide proposed quantifiable safety, mobility, and environmental benefit projections such as data-driven estimates of how the project will improve the commuter rail authority's system efficiency or reduce delay, fatalities, serious injuries or crashes, or idling.

vi. Quality of Life Impact. Describe how the project addresses quality of life in the following priority areas if applicable.

1. Racial Equity and Barriers to Opportunity: Describe the extent to which the project, (i) increases transportation choices and equity for individuals; (ii) expands access to essential services for communities across the United States, particularly for underserved or disadvantaged communities; (iii) improves connectivity for citizens to jobs, health care, and other critical destinations, or (iv) proactively addresses racial equity and barriers to opportunity, as reflected in Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, through the planning process or through incorporation of design elements.

   Describe how the project addresses equity issues as identified in the

Executive Order, including but not limited to the following examples if applicable: (a) A racial equity impact analysis has been completed for the project; (b) The project sponsor has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall project delivery and implementation.

2. Climate Change and Sustainability: Describe the extent to which the project demonstrates effort to consider climate change and sustainability impacts in support of Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619). Describe how the project addresses climate change and sustainability issues as identified in the Executive Order.

3. Rural Outcomes: If applicable, describe the extent to which the project addresses rural transportation networks, consistent with DOT's R.O.U.T.E.S. initiative (https://www.transportation.gov/rural). The Department recognizes that rural transportation networks face unique challenges in safety, infrastructure condition, and passenger and freight usage.

vii. Summary of benefit-cost analysis. Summarize the conclusions of the project's benefit-cost analysis including estimates of the project's benefit-cost ratio and net benefits. Describe other data-supported benefits that are not included in the benefit-cost analysis. NOTE: The benefit-cost analysis itself should be provided separately in Volume 1, Section e.

c. Project Readiness. The Project Readiness section should include information that, when considered with the project budget information presented elsewhere in the application, is sufficient for the Department to evaluate whether the project is reasonably expected to begin construction in a timely manner and the likelihood of a successful project. Provide the following at a minimum:

i. Technical Feasibility. Demonstrate the technical feasibility of the project with engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the CARSI application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed.

ii. Project Schedule. Include a detailed project schedule that identifies all major project milestones. Examples of such milestones include State and local planning approvals (programming on the Statewide Transportation

Improvement Program (STIP)), start and completion of National Environmental Policy Act (NEPA) and other Federal environmental reviews and approvals including permitting; design completion; right-of-way acquisition; approval of plans, specifications and estimates; procurement; State and local approvals; project partnership and implementation agreements including agreements with railroads; and construction. The project schedule should be sufficiently detailed to demonstrate that:

(1) All necessary activities will be completed to allow CARSI funds to be obligated in a timely manner;

(2) The project can begin construction quickly upon obligation of CARSI funds, and that the grant funds will be spent expeditiously once construction starts; and

(3) All real property and right-of-way acquisition will be completed in a timely manner in accordance with 49 CFR part 24, 23 CFR part 710, and other applicable legal requirements or a statement that no acquisition is necessary.

iii. Required Approvals, Environmental Permits and Reviews. Demonstrate receipt (or reasonably anticipated receipt) of all environmental approvals and permits necessary for the project to proceed to construction on the timeline specified in the project schedule, including satisfaction of all Federal, State, and local requirements and completion of the NEPA process. Specifically, the application should include:

(1) Information about the NEPA status of the project. Indicate the date of completion of the NEPA process and provide a Website link or other reference to the final Categorical Exclusion, Finding of No Significant Impact, Record of Decision, and any other NEPA documents prepared. If the NEPA process is underway, but not complete, detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all milestones and of the final NEPA determination. If the last agency action with respect to NEPA documents occurred more than 3 years before the application date, describe why the project has been delayed and include a proposed approach for verifying and, if necessary, updating this material in accordance with applicable NEPA requirements.

(2) Information on reviews, approvals, and permits by other agencies. Indicate whether the proposed project requires reviews or approval actions by other agencies, indicate the status of such actions, and provide detailed information about the status of those reviews or

approvals. Demonstrate compliance with any other applicable Federal, State, or local requirements, including when such approvals are expected. Provide a Website link or other reference to copies of any reviews, approvals, and permits prepared. NOTE: Projects that may impact protected resources such as wetlands, species habitat, cultural or historic resources require review and approval by Federal and State agencies with jurisdiction over those resources.

(3) Environmental studies or other documents—preferably through a Website link—that describe in detail known project impacts, and possible mitigation for those impacts.

(4) A description of discussions with the appropriate FHWA field or Headquarters office regarding the project's compliance with NEPA and other applicable Federal environmental reviews and approvals.

(5) A description of public engagement about the project that has occurred, including details on the degree to which public comments and commitments have been integrated into project development and design.

(6) State and Local Approvals. Demonstrate receipt of State and local approvals on which the project depends, such as State and local environmental and planning approvals and STIP or Transportation Improvement Program funding. Additional support from relevant State and local officials is not required; however, an applicant should demonstrate that the project has broad public support.

iv. Assessment of Project Risks and Mitigation Strategies. Project risks, such as procurement delays, environmental uncertainties, increases in real estate acquisition costs, uncommitted local match, or lack of legislative approval, affect the likelihood of successful project start and completion. Identify all material risks to the project and the strategies that the lead applicant and any project partners have undertaken or will undertake to mitigate those risks. Assess the greatest risks to the project and identify how the project parties will mitigate those risks.

d. Letters of Support. Include letters of support for all identified partners, if applicable, and if one of the following situations exists:

- If the eligible commuter authority applicant operates on a rail corridor owned by an entity other than the commuter authority, a letter from the rail owners supporting the proposed project is required.
- As applicable, a letter from agencies that will partner on the proposed project by contributing funding or other resources, including the match requirement, or as applicable, serving as the State DOT pass through

entity for the proposed project is required.
- A letter of support from the authority responsible for operation and maintenance, if other than the eligible commuter authority, is required.

e. Benefit-Cost Analysis. This Benefit-Cost Analysis section should include the recommended approach for the completion and submission of a benefit-cost analysis (BCA) as an appendix to the Project Narrative. The results of the analysis should be summarized in the Project Narrative directly.

Applicants should delineate each of their project's expected outcomes in the form of a complete BCA to enable FHWA to consider cost- effectiveness (small projects), determine whether the project will be cost effective (large projects), estimate a benefit-cost ratio and calculate the magnitude of net benefits and costs for the project. In support of each project for which an applicant seeks funding, the applicant should submit a BCA that quantifies the expected benefits and costs of the project against a no-build baseline. Applicants should use a real discount rate (i.e., the discount rate net of the inflation rate) of 7 percent per year to discount streams of benefits and costs to their present value in their BCA.

The primary economic benefits from projects eligible for CARSI grants are likely to include savings in travel time costs, vehicle operating costs, and safety costs for both existing users of the improved facility and new users who may be attracted to it as a result of the project.

Reduced damages from vehicle emissions and savings in maintenance costs to public agencies may also be quantified. Applicants may describe other categories of benefits in BCA that are more difficult to quantify and value in economic terms, such as improving the reliability of travel times or improvements to the existing human and natural environments (such as increased connectivity, improved public health, storm water runoff mitigation, and noise reduction), while also providing numerical estimates of the magnitude and timing of each of these additional impacts wherever possible. Any benefits claimed for the project, both quantified and unquantified, should be clearly tied to the expected outcomes of the project.

The BCA should include the full costs of developing, constructing, operating, and maintaining the proposed project (including both previously incurred and future costs), as well as the expected timing or schedule for costs in each of these categories. The BCA may also consider the present discounted value of any remaining service life of the asset at the end of the analysis period (net of future maintenance and rehabilitation costs) as a deduction from the estimated costs. The costs and benefits that are compared in BCA should also cover the same project scope.

The BCA should carefully document the assumptions and methodology used to produce the analysis, including a description of the baseline, the sources of data

used to project the outcomes of the project, and the values of key input parameters. Applicants should provide all relevant files used for their BCA, including any spreadsheet files and technical memos describing the analysis (whether created in- house or by a contractor). The spreadsheets and technical memos should present the calculations in sufficient detail and transparency to allow the analysis to be reproduced by FHWA evaluators. Detailed guidance for estimating some types of quantitative benefits and costs, together with recommended economic values for converting them to dollar terms and discounting to their present values, are available in DOT's guidance for conducting BCAs for projects seeking funding under the Department's discretionary grant programs (see https://www.transportation.gov/office-policy/transportation- policy/benefit-cost-analysis-guidance).

**Volume 2 – Budget Application – include the following:**

a. Application Forms. Including:

i. SF 424 Application for Federal Assistance
ii. SF 424C Budget Information for Construction Programs
iii. SF 424D Assurances for Construction Programs
iv. SFLLL (Note: The form must be completed and submitted even if no lobbying to report. If no lobbying to report, insert none or n/a in the relevant blocks.)

NOTE: On the SF 424, the information in block 8a (Applicant's "Legal Name") must be the same as entered for registration in www.SAM.gov and for the Applicant's Data Universal Numbering System number.

b. Cost Breakdown. Provide an estimate of the project costs including:

i. Funding. Document all funds to be used for eligible construction costs and the source and amount of those funds, including past or pending Federal funding requests for this project. Include the size, nature, and source of the required match for those funds, if applicable.

ii. Budget Detail.

- Federal Share. Provide a detailed project budget showing how the Federal funds will be spent over the proposed period of performance. The budget should estimate – by dollar amount and percentage of cost – the cost of construction work for each project component.

- Cost Share. If applicable, describe proposed cost share, percent of project costs proposed as cost share, and demonstrate how the cost share can be achieved. Describe how your organization will obtain the necessary resources to fund and fulfill the proposed cost share, as applicable. For

non-Federal (cost share) funds to be used for eligible project costs, documentation of the funding commitments should be referenced and included with the application.

- If subcontractors/subrecipients (lower tiered organizations and individual consultants) will be used in carrying out this project, the following minimum information concerning such, must be furnished:

    1. Name and address of the organization or consultant.
    2. Description of the portion of work to be conducted by the organization or consultant.
    3. Cost details for that portion of work.
    4. Applicant's cost/price analysis of each subrecipient/contractor(s) showing how their price is fair and reasonable.

c. Other Business Information. Provide responses to the following items with respect to the prime Applicant only:

i. Provide a list of past projects managed and completed by the Applicant. The past projects should be of similar size and scope to the project being proposed and have occurred within the past 10 years. Describe the project, cost, dates, and duration. This information will be used to assess past performance capabilities in the risk assessment.

ii. A statement to indicate whether your organization has previously completed an A-133 Single Audit and, if so, the date that the last A-133 Single Audit was completed.

iii. A statement regarding Conflicts of Interest. The Applicant must disclose in writing any actual or potential personal or organizational conflict of interest in its application that describes in a concise manner all past, present or planned organizational, contractual or other interest(s), which may affect the Applicant's ability to perform the proposed agreement in an impartial and objective manner. Actual or potential conflicts of interest may include but are not limited to any past, present or planned contractual, financial, or other relationships, obligations, commitments or responsibilities, which may bias the Applicant or affect the Applicant's ability to perform the agreement in an impartial and objective manner. The AO will review the statement(s) and may require additional relevant information from the Applicant. All such information, and any other relevant information known to FHWA, will be used to determine whether an award to the Applicant may create an actual or potential conflict of interest. If any such conflict of interest is found to exist, the AO may (a) disqualify the Applicant, or (b) determine that it is otherwise in the best interest of the United States to contract with the Applicant and include appropriate provisions to mitigate or avoid such conflict in the agreement pursuant to 2 CFR 200.112.

iv. A statement to indicate whether a Federal or State organization has audited or reviewed the Applicant's accounting system, purchasing system, and/or property control system. If such systems have been reviewed, provide summary information of the audit/review results to include (as applicable) summary letter or agreement, date of audit/review, Federal or State point of contact for such review.

v. Terminated Contracts. List any contract/agreement awarded to the Applicant and subsequently terminated for convenience of the Government within the past 3 years, and any contract/agreement that was terminated for default within the past 5 years. Briefly explain the circumstances in each instance.

vi. The Applicant is directed to review Title 2 CFR 170 (https://www.ecfr.gov/cgi-bin/text- idx?tpl=/ecfrbrowse/Title02/2cfr170_main_02.tpl) dated September 14, 2010, and Appendix A thereto, and acknowledge in its application that it understands the requirement, has the necessary processes and systems in place, and is prepared to fully comply with the reporting described in the term if it receives funding resulting from this notice. The text of Appendix A will be incorporated in the award document as a General Term and Condition as referenced under this notice's Section F, Federal Award Administration Information.

vii. Disclose any violations of Federal criminal law involving fraud, bribery, or gratuity violations. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338 entitled Remedies for Noncompliance, including suspension or debarment. (See also 2 CFR Part 180 and 31 U.S.C. 3321).

viii. If a nonprofit or not-for-profit status, please provide evidence of this status preferably from the Internal Revenue Service.

ix. Acknowledgement of acceptance of the NOFO terms and acknowledgement and acceptance of any Amendments issued to this NOFO. List Amendment numbers and issue dates, if any.

**3. UNIQUE ENTITY IDENTIFIER (UEI) AND SYSTEM FOR AWARD MANAGEMENT (SAM)**

NOTE TO APPLICANTS: Effective April 4, 2022, the Data Universal Numbering System (DUNS) number will no longer be required for entities doing business with the Federal government and will be replaced by the SAM UEI. As of that date, Applicants will need to use a UEI issued during the SAM.gov registration process. Active registrants in SAM.gov have had their SAM UEI automatically assigned and it is currently viewable within SAM.gov; there is no action for registered entities to take at this time to obtain their SAM UEI. Please see https://www.grants.gov/web/grants/applicants/applicant-faqs.html#UEI for more

information on the transition from DUNS to SAM UEI, including what UEI to enter into the UEI field on grants.gov and on application package forms.

The Applicant is required to: (i) be registered in SAM before submitting its application; (ii) provide a valid unique entity identifier (UEI) in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding Agency.

The Federal awarding Agency may not make a Federal award to an Applicant until the Applicant has complied with all applicable unique entity identifier and SAM requirements. If an Applicant has not fully complied with the requirements by the time the Federal awarding Agency is ready to make a Federal award, the Federal awarding Agency may determine that the Applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another Applicant.

NOTE TO APPLICANTS: The SAM requires the registrant to provide a UEI number to complete the registration. These processes can take several weeks to complete so should be started well before the application deadline.

## 4. GRANTS.GOV

Applicants must follow the instructions on Grants.gov to successfully use the website to submit an application. Use of Grants.gov may entail the following steps for those setting up new accounts or first time users.

a. Register with SAM at www.SAM.gov
b. Obtain a valid UEI;
c. Create a *Grants.gov* account; and
d. Respond to the registration email sent to the E-Business Point of Contact from *Grants.gov*, and login at *Grants.gov* to authorize the Applicant as the Authorized Organization Representative (AOR). Please note that there can be more than one AOR for an organization.

****Please note that the *Grants.gov* registration process may take two to four weeks.**

## 5. GRANTS.GOV HELP

For Grants.gov training resources, including video tutorials, refer to: Home | GRANTS.GOV

*Applicant Support*: For assistance with Grants.gov registration and application submittal, refer to the Grants.gov Support Center: Support | GRANTS.GOV. Grants.gov provides applicants 24/7 support, except federal holidays, via the toll-free number 1-800-518-4726, email at support@grants.gov, or generate a ticket for assistance online at Grants.gov **Applicant Support**.

The FHWA will generally not consider late applications that are the result of failure to register or comply with *Grants.gov* Applicant requirements in a timely manner. For information and instruction on each of these processes, please see instructions at http://www.grants.gov/web/grants/applicants/applicant-faqs.html.

If you are experiencing difficulties with your submission, it is best to contact the Grants.gov Support Center and get a ticket number. The Support Center ticket number will assist FHWA with tracking your issue and understanding background information on the system issue in the event of a late application.

## 6. SUBMISSION DATES AND TIMES

The application must be received electronically through Grants.gov by the application due date/time listed in this NOFO, page 3.

The deadline stated is the date and time by which the Applicant must submit the full and completed application to Grants.gov, including all required sections.

A late application will not be reviewed or considered unless the AO determines that doing so is in FHWA's best interest.

If Applicants are unable to use the system due to verifiable technical difficulties, Applicants must email complete applications directly to the FHWA point of contact listed in the NOFO Section G no later than the NOFO application deadline cited herein, with explanation and support regarding the nature of the technical difficulties.

## 7. INTERGOVERNMENTAL REVIEW

An application under this NOFO is not subject to the State review under Executive Order 12372.

## 8. FUNDING RESTRICTIONS

The FHWA will not reimburse any pre-award costs or application preparation costs.

## 9. USE OF INFORMATION FOR OTHER DEPARTMENTAL PURPOSES

Information collected from all applicant submissions may be used for Government purposes. In addition, information gathered through this notice may be used to conduct outreach and engagement related future similar opportunities.

## SECTION E – APPLICATION REVIEW INFORMATION

### 1. CRITERIA FOR SELECTION OF AWARDEES

The FHWA will award the CARSI Program funds based on the selection criteria and policy considerations outlined below.

Note: These criteria are distinct from eligibility criteria (see Section C) that are addressed before an application is accepted for review.

A. SAFETY IMPACTS

The FHWA will assess the safety impacts that will result from the project. Specifically, FHWA will assess the degree to which the project will:

1. Improve safety at railway-highway crossings through the elimination of hazards at public railway-highway crossings;
2. Reduce fatalities, serious injuries, and crashes at public railway-highway crossings;
3. Reduce the number of existing public at-grade crossings by closure or grade separation; and
4. Reduce delays or improve system performance by eliminating hazards posed by blocked grade crossings due to idling trains.

NOTE: Priority will be given to applications that bundle safety improvements to eliminate hazards at more than one public railway-highway crossing.

NOTE: Priority will be given to applications that include grade separation project(s) with closing more than one existing public at-grade railway-highway crossing.

B. PROJECT READINESS

The FHWA will assess project readiness to determine whether the project is reasonably expected to begin construction in a timely manner and the likelihood of a successful project. Specifically, FHWA will assess the following:

NOTE: Priority will be given to applications that propose projects for construction as opposed to engineering and design.

1. Technical Feasibility. The degree to which the project is demonstrated to be technically feasible. This includes feasibility demonstrated through engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the CARSI application, including the identification of contingency levels appropriate to its level of design; any scope, schedule, and budget risk-mitigation measures, and a detailed statement of work that adequately

demonstrates the technical and engineering aspects of the project and describes in detail the project to be constructed.

2. Project Schedule. Adequacy of proposed project schedule including major project milestones.

3. Required Approvals, Environmental Permits and Reviews. Feasibility of receipt (or reasonably anticipated receipt) of all required approvals, environmental permits and reviews necessary for the project to proceed to construction on the timeline specified in the project schedule, including satisfaction of all Federal, State, and local requirements and completion of the NEPA process.

4. Assessment of Project Risks and Mitigation Strategies. Adequacy of project risk assessment and risk mitigation strategies to increase likelihood of successful project start and completion.

C. ECONOMIC VITALITY

The FHWA will consider the extent to which a project would support the economic vitality of either the Nation or a region. To the extent possible, FHWA will rely on quantitative, data-supported analysis to assess how well a project addresses this criterion, including an assessment of the applicant-supplied benefit-cost analysis described in Section D. In addition to considering the anticipated outcomes of the project that align with this criterion, the Department will consider estimates of the project's benefit-cost ratio and net quantifiable benefits.

Based on FHWA's assessment, the Agency will group projects into ranges based on their estimated benefit costs ratio (BCR) and assign a level of confidence associated with each project's assigned BCR ratings. The Department will use these ranges for BCR: Less than 1; 1–1.5; 1.5–3; and greater than 3. The confidence levels are high, medium, and low.

D. COST SHARE

The FHWA will consider the extent to which the project has costs matched by funds that are not provided under the CARSI Program or Titles 23 or 49 by giving preference to:

1. Projects with over 30 percent in non-CARSI Program funding, with additional preference given to projects that exceed even this threshold; followed by
2. Projects with between 20 percent and 29 percent in non-CARSI Program funding; followed by
3. Projects with between 10 percent and 19 percent in non-CARSI Program funding; followed by
4. Projects with between 0 percent and 9 percent in non-CARSI Program funding.

The FHWA will also consider the extent to which the project is supported by funds, other than funds received under the CARSI Program, to construct, maintain, and operate the facility. The FHWA will consider what other funds exist, besides those available for match, to aid in maintenance and operation of the facility, as well as the reasonable expectation that those funds will remain available. Historical trends, current policy, or future feasibility analyses can be used as evidence to substantiate or support the claims in the application.

E. QUALITY OF LIFE: EQUITY, CLIMATE, AND RURAL OUTCOMES

The DOT will consider the extent to which the project incorporates the following priorities:

1. Racial Equity and Barriers to Opportunity. The DOT will consider the extent to which the project: (i) increases transportation choices and equity for individuals; (ii) expands access to essential services for communities across the United States, particularly for underserved or disadvantaged communities; (iii) improves connectivity for citizens to jobs, health care, and other critical destinations, or (iv) proactively addresses racial equity and barriers to opportunity, as reflected in Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (86 FR 7619), through the planning process or through incorporation of design elements. The DOT will assess whether the project addresses quality of life, including but not limited to the following examples:

    - A racial equity impact analysis has been completed for the project.

    - The project sponsor has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall project delivery and implementation.

2. Climate Change and Sustainability. The DOT will consider the extent to which the project demonstrates effort to consider climate change and sustainability impacts in support of Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619).

3. Rural Outcomes. If applicable, DOT will consider the extent to which the project addresses rural transportation networks, consistent with the Department's R.O.U.T.E.S. Initiative (https://www.transportation.gov/rural). The Department recognizes that rural transportation networks face unique challenges in safety, infrastructure condition, and passenger and freight usage.

## 2. REVIEW AND SELECTION PROCESS

The DOT will screen applications received to confirm Applicant eligibility, project

eligibility, completeness of submittal, and compliance with NOFO application requirements. An application determined to be ineligible, incomplete, and/or non-compliant with the NOFO application requirements may be removed from the competition and from further consideration for award or continued evaluation.

The DOT will utilize the following merit review process to evaluate applications: A panel of DOT experts will collectively evaluate and rate all eligible applications using the selection criteria listed above. An application that receives an unacceptable rating in one or more selection criteria may be removed from the competition and from further consideration for award or continued evaluation. The panel will recommend awards to the selection official based on the results of the panel's review. The panel will recommend for award the applications that are considered the most advantageous to DOT using the selection criteria.

NOTE: Award recommendations will consider the best use of the funds, given the differing cost share requirements of the FY 2020 and FY 2021 funding sources. Award recommendations will consist of a group of projects that collectively assign the available CARSI grant funding, and also satisfy the cost share requirements of the funding sources.

As determined necessary to support the evaluation and selection process, FHWA may conduct discussions with Applicants to clarify elements of the technical and budget applications and request additional detailed and itemized cost information.

Applicants should be aware that the NEPA review may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25.

The selection official responsible for final award decisions is the FHWA Administrator or designee.

The Government is not obligated to make any award as a result of this notice.

**Risk Assessment:** Prior to award, each selected Applicant will be subject to a risk assessment required by 2 CFR 200.205. If the Federal awarding Agency determines that a Federal award will be made, special conditions that correspond to the degree of risk assessed may be applied to the Federal award.

This Risk Assessment will include evaluation of some or all of the following items relative to the Applicant and sub-applicants as applicable:

(1) Applicant's financial stability;
(2) Applicant's quality of management systems and ability to meet the management standards prescribed in 2 CFR Part 200;
(3) Applicant's history of performance;
Note: History of performance includes the Applicant's record in managing Federal awards, if it is a prior Recipient of Federal awards, including timeliness

of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards. The Government will evaluate the relevant merits of the Applicant's history of performance based on its reputation and record with its current and former customers with respect to quality, timeliness and cost control. The history of performance will be reviewed to assure that the Applicant has relevant and successful experience and will be considered in the risk assessment. In evaluating history of performance, the Government may consider both written information provided in the application, as well as any other information available to the Government through outside sources.

(4) Applicant's audit reports and findings from audits performed on the Applicant pursuant to 2 CFR Part 200 Subpart F — Audit Requirements or the reports and findings of any other available audits;

(5) Applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities;

(6) Applicant's potential for conflict of interest if applicable; and

Note: FHWA will review information provided by the Applicant, and any other relevant information known to FHWA, to determine whether an award to the Applicant may create an actual or potential conflict of interest. If any such conflict of interest is found to exist, FHWA may (a) disqualify the Applicant, or (b) determine that it is otherwise in the best interest of the United States to award to the Applicant and include appropriate provisions to mitigate or avoid such conflict in the agreement pursuant to 2 CFR 200.112.

(7) Applicant's eligibility to receive Federal funding. Per the guidelines on governmentwide suspension and debarment in 2 CFR Part 180, the Government will confirm that the Applicant and any named sub-applicants are not debarred, suspended or otherwise excluded from or ineligible for participation in Federal programs or activities.

Pursuant to 2 CFR Part 200.205, prior to making a Federal award, the Federal awarding Agency is required to review information available through any Office of Management and Budget (OMB) designated repositories of governmentwide eligibility qualification or financial integrity information, such as Federal Awardee Performance and Integrity Information System (FAPIIS), D&B, and Sam.gov. The Government's review of this information will occur as part of the risk assessment. An Applicant may review information in FAPIIS and comment on any information about itself. The FHWA will consider comments by the Applicant, in addition to other information in FAPIIS, in making a judgment about the Applicant's integrity, business ethics, and record of performance under Federal awards when completing the risk assessment. The FHWA reserves the right to deny an award based on the results of the risk assessment.

# SECTION F – FEDERAL AWARD ADMINISTRATION INFORMATION

## 1. FEDERAL AWARD NOTICES

Following the evaluation outlined in Section E, FHWA will notify the selected Applicants and announce the selected projects. Notice that an Applicant has been selected for award does not constitute approval of the application as submitted. Before the award, FHWA may contact the Applicant's point of contact listed in the SF 424 to initiate negotiation of a project-specific agreement, if applicable. If the negotiations do not result in an acceptable submittal, FHWA reserves the right to terminate the negotiation and decline to fund the Applicant. Only the AO or other authorized representative can commit FHWA and bind the Federal Government to the expenditure of funds.

## 2. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; statutory, regulatory, and public policy requirements, including without limitation, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of DOT; and applicable Federal financial assistance and contracting principles promulgated by OMB. In complying with these requirements, recipients, in particular, must ensure that no concession agreements are denied or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Department determines that a recipient has failed to comply with applicable Federal requirements, the Department may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

GOVERNING REGULATIONS

Performance under this agreement will be governed by and in compliance with the following regulations:

- 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" as adopted by DOT at 2 CFR Part 1201.
- Cost Principles For-profit Organizations: 48 CFR 31 (Federal Acquisition Regulations) Subpart 31.2, as applicable.
- 23 U.S.C. and 23 CFR, as applicable.
- Applicable Federal laws, rules, and regulations also apply.

GENERAL TERMS AND CONDITIONS

NOTE TO APPLICANTS: The following link contains General Terms and Conditions that may be incorporated into grant awards. As needed and appropriate to the awarding agency/office, the General Terms and Conditions may differ to reflect the administrative procedures of the awarding agency/office. However, the following link contains representative General Terms and Conditions to be incorporated into resulting grant awards:

https://www.fhwa.dot.gov/cfo/contractor_recip/gtandc_generaltermsconditions.cfm

SPECIAL TERMS AND CONDITIONS:

NOTE TO APPLICANTS: The following paragraphs contain Special Terms and Conditions that may be incorporated into grant awards. As needed and appropriate to the awarding agency/office, the Special Terms and Conditions may differ to reflect the administrative procedures of the awarding agency/office. However, the following paragraphs are representative Special Terms and Conditions to be incorporated into resulting grant awards:

**A. AVAILABLE FUNDING**

The total estimated amount of Federal funding that may be provided under this agreement is $_____(to be filled in at award) for the entire period of performance, subject to the limitations shown below:

(1) Currently, Federal funds identified on page 1 of the award document, are obligated to this agreement.

(2) Subject to availability of funds, and an executed document by the AO, the difference between the current funding and the total estimated amount of Federal funding may be obligated to this agreement.

(3) The FHWA's liability to make payments to the Recipient is limited to those funds obligated under this agreement as indicated above and any subsequent amendments.

**B. PROGRAM INCOME**

Pursuant to 2 CFR 200.307, program income earned during the agreement period must be added to the Federal award and used for the purposes and under the conditions of the Federal award, unless otherwise approved by the AO. Program income must not be used to offset the Federal or Recipient contribution to this project.

## C. SUBAWARDS

Note: See 2 CFR §200.1, Sub-recipient and contractor determinations, for definitions of sub-recipient (who is awarded a subaward) versus contractor (who is awarded a contract).

Note: Recipients with a procurement system deemed approved and accepted by the Government or by the AO are exempt from the requirements of this clause. See 2 CFR 200.317 through 200.326.

Unless described in the application and funded in the approved award, the Recipient must obtain prior written approval from the AO for the sub-award, transfer, or contracting out of any work under this award above the Simplified Acquisition Threshold. This provision does not apply to the acquisition of supplies, material, equipment, or general support services.

Approval of each sub-award or contract is contingent upon the Recipient's submittal of a written fair and reasonable price determination, and approval by the AO for each proposed contractor/sub-recipient. Consent to enter into subawards or contracts will be issued through written notification from the AO or a formal amendment to the agreement.

The following sub-awards and contracts are currently approved under the agreement by the AO. This list does not include supplies, material, equipment, or general support services which are exempt from the pre-approval requirements of this clause.

| Name |
|---|
| (*** to be filled in at award or by amendment***) |

## D. ORDER OF PRECEDENCE

The Recipient's project narrative and budget application are accepted, approved, and incorporated herein as Attachments A and B. In the event of any conflict between this agreement document and the Recipient's project narrative and budget application, this agreement document shall prevail.

## E. DESIGNATION AS RESEARCH AND DEVELOPMENT OR NON-RESEARCH AND DEVELOPMENT

This agreement is designated as: NON-RESEARCH

## F. DISPUTES

The parties to this agreement will communicate with one another in good faith and in a timely and cooperative manner when raising issues under this provision. Any dispute, which for the purposes of this provision includes any disagreement or claim, between

FHWA and the Recipient concerning questions of fact or law arising from or in connection with this agreement and whether or not involving alleged breach of this agreement, may be raised only under this Disputes provision.

Whenever a dispute arises, the parties will attempt to resolve the issues involved by discussion and mutual agreement as soon as practical. In no event will a dispute which arose more than 3 months prior to the notification made under the following paragraph of this provision constitute the basis for relief under this article unless FHWA waives this requirement.

Failing resolution by mutual agreement, the aggrieved party will document the dispute by notifying the other party in writing of the relevant facts, identify unresolved issues and specify the clarification or remedy sought. The AO will conduct a review of the matters in dispute and render a decision in writing within 30 calendar days of receipt of such written request. Any decision of the AO is final and binding unless a party will, within 5 calendar days, request further review as provided below.

Within 5 working days after receipt of the AO decision, the aggrieved party may, in writing, request a decision from FHWA Director, Office of Acquisition and Grants Management or designee. Upon written request to FHWA Director, Office of Acquisition and Grants Management or designee, made within 5 calendar days after the AO's written decision or upon unavailability of a decision within the stated time frame under the preceding paragraph, the dispute will be further reviewed. This review will be conducted by the Director, Office of Acquisition and Grants Management. Following the review, the Director, Office of Acquisition and Grants Management, will resolve the issues and notify the parties in writing. Such resolution is not subject to further administrative review and to the extent permitted by law, will be final and binding. Nothing in this agreement is intended to prevent the parties from pursuing disputes in a U.S. Federal Court of competent jurisdiction.

**G. INDIRECT COSTS – if applicable**

Indirect costs are allowable under this agreement in accordance with the Recipient's Federally Negotiated Indirect Cost Rates as documented in writing and approved by the Recipient's cognizant Government Agency. In the absence of such Government-approved indirect rates, the following rates are hereby approved for use under this agreement as shown below: **(Information to be filled in at award)**

In the event the Recipient determines the need to adjust the above listed rates, the Recipient will notify the AO of the planned adjustment and provide rationale for such adjustment. In the event such adjustment rates have not been audited by a Federal Agency, the adjustment of rates must be pre-approved in writing by the AO.

This Indirect Cost provision does not operate to waive the limitations on Federal funding provided in this document. The Recipient's audited final indirect costs are allowable only insofar as they do not cause the Recipient to exceed the total obligated funding.

## 3. REPORTING

### A. QUARTERLY PROGRESS REPORT

Once the agreement is signed, the Recipient must submit an electronic copy of the SF-PPR, to the AOR and the Agreement Specialist/AO on or before the 30th of the month following the calendar quarter being reported. Final SF-PPRs are due 90 days after the end of the agreement period of performance. The SF-PPR is available online: http://www.whitehouse.gov/sites/default/files/omb/grants/grants_forms.html.

| Calendar quarters are defined as: | | Reports due on or before: |
|---|---|---|
| 1st: | January – March | April 30th |
| 2nd: | April – June | July 30th |
| 3rd: | July – September | October 30th |
| 4th: | October – December | January 30th |

The quarterly progress report must include the required certification pursuant to 2 CFR 200.415.

The quarterly progress report must consist of the SF-PPR cover page and all the following required attached information:

To fulfill the SF-PPR Block 10, Performance Narrative requirement, the Recipient must complete the Quarterly Reporting Template (expand as necessary) that will provide a formatted report of:

a. Work performed for the current quarter;
b. Work planned for the upcoming quarter;
c. Description of any problem encountered or anticipated that will affect the completion of the work within the time and fiscal constraints as set forth in the agreement, together with recommended solutions to such problems; or, a statement that no problems were encountered; and
d. A tabulation, clearly delineated by Federal share, cost share and total, of the current and cumulative costs expended by quarter versus budgeted costs.

In the SF-PPR Block 11, Other Attachments, include the following information as attached pages:

a. SF-425, Federal Financial Report; and
b. SF-425A, Federal Financial Report Attachment (if applicable).

### B. ANNUAL BUDGET REVIEW AND PROGRAM PLAN

The Recipient must submit an electronic copy of the Annual Budget Review and

Program Plan to the AOR and one electronic copy to the Agreement Specialist 60 days prior to the anniversary date of this agreement. The Annual Budget Review and Program Plan must include the required certification pursuant to 2 CFR 200.415. The Annual Budget Review and Program Plan must provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming year. If there are no proposed deviations from the Approved Project Budget, the Annual Budget Review must contain a statement stating such. The Recipient must meet via teleconference or Webconference with FHWA to discuss the Annual Budget Review and Program Plan. Work proposed under the Annual Budget Review and Program Plan must not commence until AO's written approval is received.

## SECTION G – FEDERAL AWARDING AGENCY CONTACTS

Address any questions to: Sarah.Tarpgaard@dot.gov

Secondary point of contact is: Robin.Hobbs@dot.gov

## SECTION H – OTHER INFORMATION

### PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information you consider to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission "Contains Confidential Business Information (CBI)," (2) mark each affected page "CBI," and (3) highlight or otherwise denote the CBI portions.