

determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for denying or, in the alternative, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

#### Request for Exemption

Volvo has applied for an exemption from the commercial driver's license (CDL) rules, specifically 49 CFR 383.23 that prescribes licensing requirements for drivers operating commercial motor vehicles (CMVs) in interstate or intrastate commerce. Volvo requests the exemption because this driver-employee is a citizen and resident of Sweden, and therefore cannot apply for a CDL in any of the United States. A copy of the application is in Docket No. FMCSA–2006–25756.

The exemption would allow one driver to operate CMVs in interstate commerce as part of a team of drivers who will support a Volvo field test to meet future air quality standards, to test-drive Volvo prototype vehicles at its test site and in the vicinity around Phoenix, Arizona, to verify results in “real world” environments, and to deliver the vehicles if necessary in the U.S. The driver is Fredrik Eriksson, and Volvo requests that the exemption cover a 2-year period beginning February 2009.

This driver holds a valid Swedish CDL, and as explained by Volvo in previous exemption requests, drivers applying for a Swedish-issued CDL must dergo a training program and pass knowledge and skills tests. Volvo also stated in prior exemption requests that the knowledge and skills tests and training program that Swedish drivers undergo to obtain a Swedish CDL ensure the exemption provides a level of safety that is equivalent to, or greater than, the level of safety obtained by complying with the U.S. requirement for a CDL.

FMCSA has previously determined the process for obtaining a Swedish-issued CDL is comparable to, or as effective as the Federal requirements of Part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. On other prior occasions FMCSA has published notices concerning

similar Volvo requests. The initial notice of a similar nature was published by FMCSA on May 12, 2006, granting this exemption to Volvo for 11 Swedish CDL drivers permitting them to operate CMVs in the U.S. (71 FR 27780).

#### Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Volvo's application for an exemption from the CDL requirements of 49 CFR 383.23. The Agency will consider all comments received by close of business on October 6, 2008. Comments will be available for examination in the docket at the location listed under the “ADDRESSES” section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: August 29, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Funding Availability and Solicitation of Applications for the Program for Capital Grants for Rail Line Relocation and Improvement Projects

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of funding availability; solicitation for applications.

**SUMMARY:** Under this Notice, the FRA encourages eligible applicants to submit applications for grants to fund rail line relocation and improvement projects. This Notice of Funds Availability does not apply to the nine (9) projects specifically enumerated in the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (Division K of Pub. L. 110–161 (December 26, 2007)). **DATES:** FRA will begin accepting grant applications on September 15, 2008. Applications may be submitted until the earlier of Friday, November 28, 2008, or the date on which all available funds will have been committed under this program. The last-mentioned date will be announced in the **Federal Register**.

**ADDRESSES:** Applications must be submitted electronically to <http://www.grants.gov> (“Grants.Gov”).

Grants.Gov allows organizations electronically to find and apply for competitive grant opportunities from all Federal grant-making agencies. Any eligible applicant wishing to submit an application pursuant to this notice should immediately initiate the process of registering with Grants.Gov at <http://www.grants.gov>. Please confirm all Grants.Gov submissions by e-mailing [paxrail@dot.gov](mailto:paxrail@dot.gov).

For application materials that an applicant is unable to submit via Grants.Gov (such as oversized engineering drawings), applicants may submit an original and two (2) copies to the Federal Railroad Administration at the following address: Federal Railroad Administration, Attention: John Winkle, Office of Railroad Development (RDV–13), Mail Stop #20, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are encouraged to use other means to ensure timely receipt of materials.

**FOR FURTHER INFORMATION CONTACT:** John Winkle, Office of Railroad Development (RDV–11), Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. *Phone:* (202) 493–6067; *Fax:* (202) 493–6330, or Robert Carpenter, Grants Officer, Office of Acquisition and Grants Services (RAD–30), Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. *Phone:* (202) 493–6153; *Fax:* (202) 493–6171.

**SUPPLEMENTARY INFORMATION:** Section 9002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, August 10, 2005) amended chapter 201 of title 49 of the United States Code by adding § 20154 which authorized, but did not appropriate, \$350,000,000 per year for each of the fiscal years (FY) 2006 through 2009 for the purpose of funding the Program for Capital Grants for Rail Line Relocation and Improvement Projects (the Program) (Catalog of Federal Domestic Assistance (CFDA) Program Number 20.314). SAFETEA–LU also directed FRA to promulgate a regulation that establishes the Program. That Final Rule was published on July 11, 2008 and can be found at 73 FR 39875 (49 CFR part 262).

In FY 2008, Congress, through the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (Division K of Pub. L. 110–161 (December 26, 2007)) appropriated \$20,145,000 to FRA to fund the Program. Of that amount, Congress directed that \$5,240,000 be

spent on nine specific projects. This amount was reduced by rescission to \$5,135,000 leaving \$20,040,200 to be spent on the Program, \$14,905,000 of which is to be awarded through discretionary (competitive) grants. This Notice of Funding Availability and Solicitation of Applications applies to the \$14,905,000 in discretionary grants. FRA intends to directly contact the sponsors (or potential sponsors) of the nine projects specifically identified by Congress in the Appropriations Act and identify for them the application requirements that will apply to the congressionally designated projects, which will also be required to be submitted through Grants.Gov.

An approved applicant, or other non-Federal party, shall pay at least 10 percent of the costs of any project funded by a grant awarded through the Program. FRA expects to award grants to multiple eligible participants. FRA anticipates that no further public notice will be made with respect to selecting grantees under this program.

**Purpose:** In many places throughout the country, rail infrastructure that was once critical to communities now presents problems as well as benefits. While rail offers significant benefits over other modes of transportation (e.g., rail is more fuel efficient than trucking), changes in land use and development over the last century have created some challenges. For example, tracks that run down the middle of towns and were once vital for economic survival now separate the communities on either side. Rail yards and tracks occupy valuable real estate. Trains parked in sidings may present attractive nuisances to children and vandals, and, in the case of tank cars containing hazardous materials, may create serious security risks. Grade crossings may present safety risks to the vehicles and pedestrians that must cross the tracks. These same crossings create inconveniences when long trains block crossings for extended periods of time and sound horns as they operate through crossings in neighborhoods. In some cases, trains operate over lines at speeds that are suited for the class of track, but often these speeds concern the surrounding community. In an increasing number of locations, rail lines have become so congested that communities experience almost continuous train traffic that often leads to lengthy backups at grade crossings. In short, rail lines that once brought economic prosperity and social cohesion are now sometimes viewed as factors in the decline of both.

As a result, State and local governments are looking for ways to eliminate the problems created by the

presence of railroad infrastructure while retaining the transportation advantages of this mode. Many times, potential solutions include relocating track to an area that is better suited for it or raising or lowering track so that it is not at-grade. In addition to these track relocation projects, many communities are eager to improve existing rail infrastructure in an effort to mitigate the perceived negative effects of rail traffic on safety in general, motor vehicle traffic flow, economic development, or the overall quality of life on a community in general.

To assist State and local governments in this effort, Congress in SAFETEA-LU authorized the Program for Capital Grants for Rail Line Relocation and Improvement Projects. In FY 2008, Congress appropriated \$20,145,000, reduced by rescission to \$20,040,200, for the Program, \$14,905,000 of which is available for discretionary (competitive) grants. No funds were appropriated in FY 2006 or FY 2007.

**Authority:** The authority for the Program can be found in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, August 10, 2005), and at 49 CFR part 262.

**Funding:** The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008, provides \$14,905,000 for discretionary grants, which allows FRA to award one or more grants covering up to 90 percent of the cost of rail line relocations and improvements. The funding provided under these grants will be made available to grantees on a reimbursement basis. It is anticipated that the available funding could support projects proposed by multiple applicants. FRA may choose to award a grant or grants within the available funds in any amount. Applicants should indicate whether funding made available through grants provided under this Program, together with committed funding from other sources, including the required match, will be sufficient to complete the overall project or a discrete portion of the project.

**Schedule for Capital Grant Program:** FRA will begin accepting grant applications on September 15, 2008. Applications must be submitted by November 28, 2008 or the date (to be announced) on which all available funds will have been committed. Due to the limited funding available under this program: (1) applicants are encouraged to submit their applications at the earliest date practicable in order to maximize the consideration of their application in the competition; and (2)

FRA may request that an applicant submit a revised application reflecting a refined scope of work and budget. FRA anticipates making the first award(s) pursuant to this notice by the second quarter of FY 2009.

**Eligible Participants:** Only States, political subdivisions of States, and the District of Columbia are eligible for grants under the Program (*see* 49 CFR §§ 262.3 and 262.7).

**Eligible Projects:** Construction projects undertaken for the improvement of the route or structure of a rail line that either: (1) Is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development; or (2) involve a lateral or vertical relocation of any portion of the rail line (*see* 49 CFR 262.7) are eligible. Pre-construction activities, such as preliminary engineering and design work and environmental compliance, are considered part of the overall construction project (*see* 49 CFR 262.3(6)). Only new projects will be eligible; projects for which construction has commenced prior to the date of the application will not be considered. In addition, only costs incurred from the date of the application will be considered as allowable for both reimbursement and matching purposes. For pre-application costs associated with environmental and historic preservation compliance, *see* 49 CFR § 262.15.

**Selection Criteria:** FRA will consider the following selection factors in evaluating applications for grants under this program (*see* 49 CFR § 262.9):

1. The capability of the applicant to fund the project without Federal grant funding;
2. The effects of the rail line, relocated or improved as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce;
3. The effects of the rail line, relocated as proposed, on the freight rail and passenger rail operations on the line;
4. Equitable treatment of the various regions of the United States;
5. Any other factors FRA determines to be relevant in assessing the effectiveness and/or efficiency of the grant application, including the cost-effectiveness of the proposed project in terms of benefits achieved in relation to the funds expended. In the preamble to the Final Rule, FRA provided an extensive, but not exhaustive, list of possible data items that could be used to support a cost-effectiveness determination. That list can be found at 73 FR 39880.

*Requirements for Grant Applications:* The following points describe the minimum content which will be required in grant applications. These requirements may be satisfied through a narrative statement submitted by the applicant, supported by spreadsheet documents, tables, drawings, and other materials, as appropriate. Each grant application will:

1. Designate a point of contact for the applicant and provide his or her name and contact information, including phone number, mailing address and e-mail address. The point of contact must be an employee of an eligible applicant (i.e., a state employee, or an employee of a political subdivision of a state, or an employee of the District of Columbia).

2. Include a detailed project description, including an explanation of why the project is an eligible project and a thorough discussion of how the project meets all of the selection criteria.

3. Include a complete Standard Form 424, "Application for Federal Assistance," Standard Form 424D, "Assurances—Construction Programs," and the most recent audit performed in compliance with OMB Circular A-133. Information on Circular A-133 can be found at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. Also include signed copies of FRA's Additional Assurances and Certifications, available at <http://www.fra.dot.gov/downloads/admin/assurancesandcertifications.pdf>.

4. Define the scope of work for the proposed project, including the anticipated project schedule. Describe the proposed project's physical location (as applicable), and include any drawings, plans, or schematics that have been prepared relating to the proposed project.

If the funding from the Program is only going to be a portion of the overall funding for the project, describe the complete project and specify which portion will involve Federal funding. In addition, FRA strongly encourages applicants to preliminarily determine the feasibility of the project, as well as to estimate complete project costs before submitting an application. Applications should include these feasibility determinations and cost estimates, if completed. FRA will consider favorably applications that include these types of studies as they demonstrate that an applicant has a definite understanding of the scope and cost of the project.

In submitting applications, applicants should be mindful that the Program as created by Congress and as further described in the Final Rule is focused on constructing projects (see 49 CFR

262.3 and 262.7). If FRA approves a project for funding, allowable costs (i.e., costs that can qualify for reimbursement from Federal funds or as part of the required non-Federal match) will have to directly support project construction. Section 262.3 identifies the types of activities that are associated with "construction" and thus potentially allowable. In terms of project development, FRA will consider as potentially allowable costs associated with the preparation of architectural and engineering plans, project cost estimates, and related project-specific construction-related costs (including costs associated with securing environmental clearance as described in § 262.15 of the Final Rule). FRA will not consider costs associated with planning studies and similar analyses as allowable. For approved projects, construction related expenditures may qualify as allowable even if they are incurred in advance of the execution of the grant agreement between the applicant and FRA so long as such costs are incurred after the date of the application (except for pre-application costs associated with compliance with environmental and historic preservation statutes and regulations, see 49 CFR 262.15) and otherwise satisfy eligibility standards; an applicant will bear all risk for such costs in the event no award is made.

5. Present a detailed budget for the proposed project. At a minimum, the budget should separate total cost of the project into the following categories, if applicable: (1) Administrative and legal expenses; (2) Land, structures, rights-of-way, and appraisals; (3) Relocation expenses and payments; (4) Architectural and engineering fees; (5) Project inspection fees; (6) Site work; (7) Demolition and removal; (8) Construction labor, supervision, and management; (9) Materials, by type (e.g., ties, rail, signals, switches); (10) Miscellaneous; and (11) Contingencies.

6. Describe the source and amount of matching funds, including any in-kind contributions.

7. Describe proposed project implementation and project management arrangements. Include descriptions of expected arrangements for project contracting, contract oversight, change-order management, risk management, and conformance to Federal requirements for project progress reporting.

8. Describe the anticipated public and private benefits associated with the proposed project and the applicant's assessment of how those benefits outweigh the costs of the proposed project (see 49 CFR 262.11(b)). Identify

any financial contributions or commitments the applicant has secured from private entities that are expected to benefit from the project.

Although FRA will weigh all of the selection criteria, potential applicants should be aware that FRA is seeking the maximum public benefit from these limited funds and that, in directing FRA to establish the Program, Congress instructed FRA to consider the feasibility of seeking financial contributions or commitments from private entities involved with the project in proportion to the expected benefits that would accrue to those entities. As FRA explained in the preamble to the Final Rule, however, FRA will apply all the selection criteria and will not disfavor one application over another because of the amount requested.

9. Describe anticipated environmental or historic preservation impacts associated with the proposed project, any environmental or historic preservation analyses that have been prepared, and progress toward completing any environmental documentation or clearance required for the proposed project under the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), section 4(f) of the DOT Act, the Clean Water Act, or other applicable Federal or State laws. Refer to 49 CFR 262.15 for further guidance. Applicants are advised to consult with the FRA's Office of Railroad Development before initiating any NEPA, NHPA or Section 4(f) environmental or historic preservation reviews. Contact information is included under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

*Format:* Excluding spreadsheets, drawings, and tables, the narrative statement for grant applications may not exceed thirty pages in length. With the exclusion of oversized engineering drawings (which may be submitted in hard copy to the FRA at the address above), all application materials should be submitted as attachments through Grants.Gov. Spreadsheets consisting of budget or financial information should be submitted via Grants.Gov as Microsoft Excel (or compatible) documents.

Issued in Washington, DC, on August 29, 2008.

**Mark E. Yachmetz,**

*Associate Administrator for Railroad Development.*

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