Roundtable on Funding & Financing Freight Rail and Intermodal Projects

Summary Report

SEPTEMBER 20, 2017

FinancingTransportation.org

444 North Capitol Street NW, Suite 249, Washington, DC, 20001

Summary Outline

Freight Planning and Project Prioritization

National Highway Freight Program

Matt Schmitz from the FHWA California Division Office summarized the key parameters of the National Highway Freight Program (NHFP) and available funding for rail and intermodal projects.

- *National Highway Freight Program* funding of $1.2 billion this year will be apportioned to the states, which may use up to 10% of that funding to invest in any surface transportation project to improve the flow of freight into and out of a freight intermodal or freight rail facility, including those within the boundaries of public or private freight rail or water facilities (including ports), and that provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility.

Matt Schmitz did some follow up work after the roundtable session and provided additional detail on and some corrections to prior information on NHFP obligated funds and matching requirements.

- There are 20 States that have fully obligated their apportioned FY 2017 NHFP funds provided by the FAST Act.
- It appears (but has not been verified) that California, Kansas, Massachusetts, and Nevada have used some of their NHFP funds on non-highway facilities. Roundtable participants may wish to reach out directly to their peers in these States to discuss.
- NHFP funds follow the general non-Federal match requirement per 23 USC 120 (which for many states is 80% Federal/20% non-Federal). A higher Federal share is allowed for certain projects on the Interstate and the Federal share may be adjusted upward for states containing public lands. States also have the option to choose a lower Federal share.

Freight Plans (Purpose and Process)

Matt Schmitz gave some detail on the progress DOTs are making in submitting state freight plans to date, and Paul Baumer from USDOT provided context regarding the goals that drove requirements for the state freight plans.

- In order to utilize the available 10% of NHFP funding for rail and intermodal projects, in FY 2018 states must have FAST Act compliant *freight plans* accepted by December 2017. USDOT will work closely with the Federal Railroad Administration (FRA) and the Maritime Administration (MARAD) to review and approve the plans.
  - 7 states already have approved plans: *Ohio*, *Nevada*, *Idaho*, *Iowa*, *Rhode Island*, *Vermont*, *South Dakota* (Minnesota is close)
- Plans are to be updated annually and will draw upon other planning documents like the state rail plan, the Statewide Transportation Improvement Program (STIP), etc.

- Paul Baumer from USDOT gave some background on the goals that drove the requirements for state freight plans. “The system is multimodal. We have to consider the system as a whole for optimal planning; that was the point of doing a multimodal freight plan instead of just rail and highway plans.” He also noted that getting all the stakeholders in a room can be a powerful tool. The rationale for compelling the identification of specific projects was to force DOTs and other stakeholders to make the tough decisions regarding benefits and priorities. However, they did not anticipate that the pace of investment might be significantly hampered by mandatory project lists, and he plans to take this feedback to the office with him.

Freight Plans (Project Identification and Prioritization)

Nikkie Johnson from Michigan DOT shared the approach Michigan is currently taking to project identification and the challenges they have encountered. Several states noted difficulties associated with assessing investment needs and identifying specific projects in the plan.

- Projects must be included in the freight plan’s fiscally constrained investment list in order for NHFP funds to be committed.
- Inclusion in the freight plan also bolsters the case for freight projects applying for competitive funding through other federal programs by indicating their priority status and showing they have been through a robust planning process.
- These types of projects have short timelines. Railroads move faster than state DOTs are accustomed to with their highway projects and the companies operate on their own business cycles. “A couple months delay [awaiting federal approval to amend the plan] could kill a project.”
- Ohio indicated that it initially submitted its plan with a process for project selection rather than a list of projects and that approach was not approved by FHWA. The final plan did include a project list. These projects flow through a public advisory group that reviews rail projects; if approved they are amended to the state rail plan. ODOT remains concerned that delays in obtaining the approval required to obligate funds could disrupt project investments.
- Texas was able to include rail projects for its state owned short line, but agreed that planning for projects on privately owned lines was more complex.
- Michigan is still in the process of developing its plan and also wants to build in flexibility to adapt to changing freight investment needs. The state would prefer to have a process that provides stable funding for freight rail and intermodal projects and reduces the need for them to compete directly against highway projects on the traditional timeline. The current draft of its plan shows an “illustrative list” including select projects from the separate rail plan, which railroads indicated were their top priorities. But the fiscally constrained “investment list” includes only highway projects from the current STIP that meet freight funding criteria. Michigan would like to develop an evaluation process that can prioritize both highway and rail/ intermodal projects. The state is currently working to obtain data for freight rail projects comparable to the data used to rank highway projects. While it’s apparent that there is need for investment in these areas, precisely defining the needs on private facilities remains challenging.

The group discussed a number of potential programmatic solutions that might address the challenges posed by the requirement to include specific rail and intermodal project in the freight plans.

- One solution would be to allow states the flexibility to include a line item for rail rehabilitation and use eligible funds to respond to market demands. This might be similar to STIP safety programs, which have an aggregate line item that is replaced with specific projects when the STIP is updated.
- Another solution suggested was to reduce the uncertainty introduced when freight plans have to be modified to accommodate new projects by streamlining the amendment process. Some states expressed a desire for a process that makes the freight plan as easy to update as the STIP.

The group discussed approaches to directing NHFP funds to freight intermodal and freight rail projects: setting aside up to 10% of the apportioned amounts for exclusive use on projects of that type or having freight rail/ intermodal projects compete against more traditional highway projects for funding.

- It was suggested that Ohio, Washington, and Vermont plan to set aside their full 10% of NHFP funds while Minnesota and North Carolina are looking at having freight rail compete against highway projects.

The Case for Intermodal Investment

The group discussed contextual factors and strategies that can help state DOT officials make the case for freight rail and intermodal investment at a time when most states have significant highway state of good repair needs.

- States vary in their past experience with funding rail projects, ranging from no prior investment to a history of robust rail planning and existing investment programs. States with experience in this area are able to point to past successes with intermodal investments that yielded positive public benefits and leverage the support of state professionals involved with economic development.
- Several participants noted that small amounts of public capital can go a lot farther in rail compared to highway infrastructure, particularly short line rail, yielding significant economic and/ or social benefits from a modest investment. Benefits may include economic development, safety, and modal shifts that divert freight off of congested highway facilities.
- Many of the projects contemplated are traditional activities (e.g. grade separation), but in new locations, such as within the boundaries of public or private freight rail or water facilities (including ports).
- For states with limited or no prior experience investing in rail and intermodal projects, they face the hurdle of overcoming organizational inertia tied to the idea that “governments and railroads don’t mix.”
- However, for NHFP state programs and federal funding/ credit assistance programs that require rail projects to compete against highway projects, rail projects may be well positioned to demonstrate significant economic development and job creation benefits.

Other Thoughts

- Ed Engle from Iowa DOT shared a bit about their approach to outreach in developing their freight plan. Iowa placed significant emphasis on stakeholder meetings and, while it took effort to get parties to the table, the DOT found the process very productive. Key priorities shared among stakeholders were the need for consistent funding for all modes, a desire for reliable transport above all else, a need for more intermodal connections, and a need to address congestion on key interstate routes.
- A concern was raised that the proliferation of mandatory planning documents places a burden on the states to figure out how they all fit together. Follow on conversation would be helpful in the future as practices continue to evolve and states can share strategies for balancing federal requirements, planning and performance goals, and efficient operations of the programs in question.
- Another recurring theme was the unique nature of short line railroads and state DOT relationships to them. Class I railroads tend to be reticent to share their internal projections or capital planning data on the grounds that (1) it is proprietary and (2) the companies respond rapidly to market changes and projects are added and removed from capital plans in the space of months, compared to the slower pace of public sector planning. Opportunities for partnership with Class I railroads tend to be limited to grade separation and corridor projects, whereas there is a more robust role for partnership with short lines. This is particularly true as states recognize that strategic investments in short line services can alleviate pressure on the congested highway system. However, short line and regional operators have limited administrative capacity to update planning documents or undertake burdensome application processes; they are also very sensitive to market conditions.

Funding and Financing Approaches

USDOT Programs

Paul Baumer from USDOT and Roger Bohnert from USDOT's new *Build America Bureau* reviewed federal funding and financing programs available to freight rail and intermodal projects.

- The *Infra grant program* has $500M out of $4.5B authorized for FY 2016-2020 for non-highway projects. It is anticipated that about 5-10% of applications will be accepted. The criteria are focused on benefit-cost analysis results and leverage of non-federal contributions, which makes freight projects well suited to compete due to private funding. Eligibility is limited to highway and freight, and 90% of funding goes to projects with costs in excess of $100M.
    - *https://www.transportation.gov/buildamerica/infragrants/webinar-series*
- The *TIGER grant program* has $500M available with broader eligibility (any type of surface transportation) and is more focused on smaller projects. The maximum award is $25M ($1-5M minimum award). About 5-10% of applications are typically accepted for this program too.
- *What is a competitive match percentage?* Leverage is evaluated relative to other applicants in the cycle and to the perceived availability of matching funds for the project. Successful applications give context to show how they have maxed out the non-federal match possible for their project.

- Financing programs *RRIF* and *TIFIA* currently are not capacity constrained and acceptance of applications is dependent on the creditworthiness of the pledged repayment stream. Both programs offer beneficial terms including interest rates equal to the U.S. Treasury rate and loan terms up to the lesser of 35 years or the approximate asset life. TIFIA will finance up to 33% of project costs with no upfront credit risk premium; intermodal projects and surface transportation elements within seaports are eligible. RRIF can finance up to 100% of project costs and offers broader rail eligibility, but the cost of the credit risk premium must be paid in full before the loan is disbursed or reduced with pledged collateral at the time of financial close.
- *Private Activity Bonds* are available for qualified private highway and surface transportation facilities. There is a $15B national volume cap and borrowers apply to USDOT for allocation of available volume cap (currently the unallocated amount potentially available is about $4.1 billion).

Buy America

The group discussed the ways that the Buy America requirements attached to various funding and financing programs can present challenges for both railroads and state DOTs in advancing freight projects.

- Buy America regulations are currently interpreted differently depending on USDOT regulatory supervision (FRA, FHWA, etc.). The Build America Bureau is working to establish guidelines to de-conflict the rules. The current policy is that the Bureau identifies the responsible mode for the project and attempts to only apply that set of rules.
- The group discussed issues that railroads have had with navigating Build America requirements. Many feel the process of seeking waivers is not transparent enough and noted that small project sponsors require more guidance, help, and flexibility. Additional assistance for small entities, like short line railroads, would be helpful.
- FRA offers Buy America resources on its *website*.

Opportunities for Improvement of RRIF

- The group cited a number of common complaints about the RRIF program: that the process takes too long, application fees are prohibitive, upfront payment of the credit risk premium (CRP) is a major financial hurdle, and requirements regarding NEPA and Buy America regulations are often unclear to borrowers.
- Although NHFP (and other federal) funds cannot be used to pay the CRP, USDOT is working on strategies by which states may use their money to fund it, by making a grant or possibly a short term loan to the project to cover the CRP. This solution would also allow states the ability to select which borrowers to assist.
- The Bureau is also considering a 'RRIF Express' pilot program, which would be available for short line and regional railroads for loans $35M and under (presumably with limited Build America and NEPA issues). USDOT would cover or waive application fees and aim to have a 6 month turnaround to financial close.
- The group discussed the chronic underutilization of both RRIF and state rail loan programs like one in Michigan. Operators there indicate that there is insufficient ROI on their systems at this point to support loans, however the longer terms and flexibility offered by RRIF might make it possible to recoup their investments. Another issue is that many operators have significant outstanding debt, and RRIF can be used to refinance debt issued for RRIF-eligible purposes. Regulatory issues affecting prior investments can complicate the process.

ATTENDEES

State	Name	Organization	Position
Iowa	Edward Engle	Iowa Department of Transportation	Transportation Engineer Specialist, Office of System Planning
Louisiana	Kevin Lawson	Louisiana Department of Transportation & Development	SSO Program Manager
Michigan	Nikkie Johnson	Michigan Department of Transportation	Economic Development & Freight Operations Project Manager
Mississippi	Josh Stubbs	Mississippi Department of Transportation	Rails Engineer
Ohio	Matt Dietrich	Ohio Department of Transportation	Executive Director, Ohio Rail Development Commission
Texas	Peter Espy	Texas Department of Transportation	Rail Division Director
	Labony Chakraborty	Federal Railroad Administration	Writer / Editor – Strategic Communications
	Nate Vomocil	Federal Railroad Administration	Economist
	Stephen O'Connor	Federal Railroad Administration	Chief of Freight Rail Policy Division
	Matt Schmitz	FHWA, California Division Office	Director, Project Delivery
	Jeff Van Schaik	Genesee & Wyoming Inc.	Assistant Vice President of Government Affairs
	Jerry Vest	Genesee & Wyoming Inc.	Senior Vice President of Government & Industry Affairs
	Joe Arbona	Genesee & Wyoming Inc.	Assistant Vice President of Government Affairs
	Paul Baumer	U.S. Department of Transportation	Policy Analyst
	Leo Wetula	U.S. Department of Transportation, Build America Bureau	Program Manager
	Roger Bohnert	U.S. Department of Transportation, Build America Bureau	Director, Outreach and Project Development

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AGENDA

Roundtable on Funding & Financing Freight Rail and Intermodal Projects
September 20, 2017
2:30-5:00 PM PT
Marriott Oakland City Center
Oakland Convention Center 210-211

The *Build America Transportation Investment Center (BATIC) Institute* is hosting a Roundtable on Funding & Financing Freight Rail and Intermodal Projects in conjunction with the 2017 Standing Committee on Rail Transportation (SCORT) Annual Meeting. This roundtable discussion will provide a forum for State DOTs to exchange ideas and best practices, and identify common challenges and opportunities in funding and financing freight / intermodal projects. The roundtable will help assess the state of practice and identify topics of particular interest that might warrant further exploration.

AGENDA

WELCOME & INTRODUCTIONS

(2:30 – 2:45) 15 min.

Jennifer Brickett, BATIC Institute: An AASHTO Center for Excellence

Roger Bohnert, US DOT

1 Freight Planning and Project Prioritization

(2:45 – 3:35) 50 min.

- What is the current state of development of freight plans?
- Are the right projects getting identified and prioritized?
- To what extent are federal requirements an issue for freight rail and intermodal projects?

Introductory Remarks

Matt Schmitz, FHWA California Division Office

Ed Engle, Iowa DOT

BREAK (3:35-3:50) *15 min.*

2 Funding and Financing Approaches

(3:50 - 4:40) 50 min.

- Existing or potential assistance programs:
  - State initiatives / programs
  - NHFP flex funding (10% set-aside)
  - Other federal grants (Infra, TIGER)
  - Federal credit assistance (RRIF, TIFIA)

Introductory Remarks

Paul Baumer, US DOT

Nikkie Johnson, Michigan DOT

3 Wrap Up & Closing Discussion

(4:40 – 5:00) 20 min.