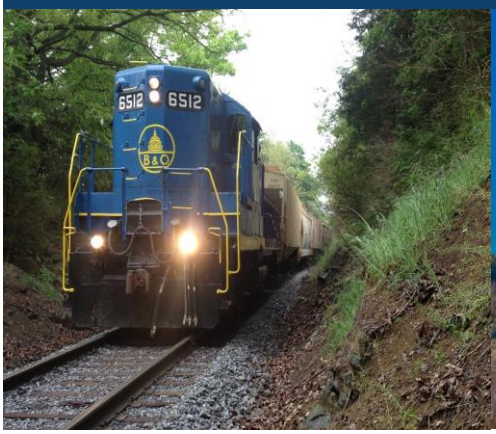
DRPT
Rail Preservation Fund

Application Guidance & Procedures

Application Period: December 1, 2022 – February 1, 2023



Fiscal Year 2023

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1. General Program Description

Under § 33.2-1602 of the Code of Virginia, the Shortline Railway Preservation and Development Fund (RPF) was developed within the Department of Rail and Public Transportation (DRPT) in support of the public interest for the preservation and development of railway transportation facilities. The Virginia General Assembly declared it to be in the public interest that the preservation and development of railway transportation facilities are important elements of a balanced transportation system in the Commonwealth.

It further declares it to be in the public interest that the retention, maintenance, and improvement of the shortline railways and development of railway transportation support facilities are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

The Director of DRPT administers the Program, subject to the review and the approval of the Commonwealth Transportation Board (CTB). In allocating funds for improvement, DRPT and the CTB shall consider the project costs in relation to the prospective use, line capacity, and economic, and public benefits. RPF is intended to provide shortline railroads the ability to acquire or improve:

- Railways or railroad equipment
- Rolling stock
- Rights-of-way
- Facilities directly related to servicing rolling stock

Funding will be at a maximum of 70% state contribution and a minimum of 30% cash or in-kind matching contribution from a local source. At most, 50% of an entire fiscal year program allocation can be funded to one individual project.

Eligible applicants include:

- Railroads
- Local governments, authorities, and agencies
- Transportation District Commissions
- Non-public sector entities

2. Code of Virginia for Rail Preservation Program

§ 33.2-1602. Shortline Railway Preservation and Development Fund

A. For the purposes of this section:

"Fund" means the Shortline Railway Preservation and Development Fund.

"Railway transportation support facilities" means facilities required for the loading, transfer, or additional track capacity to facilitate the shipment of goods by rail other than as provided for in § 33.2-1600 or 33.2-1601.

"Shortline railway" means any Class II or Class III railroad as defined by the U.S. Surface Transportation Board.

B. The General Assembly declares it to be in the public interest that shortline railway preservation and development of railway transportation support facilities are important elements of a balanced transportation system of the Commonwealth for freight and passengers, and further declares it to be in the public interest that the retention, maintenance, and improvement of the shortline railway and development of railway transportation support facilities are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

C. There is hereby created in the state treasury a special nonreverting fund to be known as the Shortline Railway Preservation and Development Fund. The Fund shall be established on the books of the Comptroller and shall consist of such funds from such sources as shall be set forth in the general appropriation act and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Rail and Public Transportation or the Director's designee.

D. To fulfill this purpose, there shall be funding set forth each year in the appropriation act and appropriated by the General Assembly in the Rail Assistance Program of the Department of Rail and Public Transportation. These funds shall be used by the Department of Rail and Public Transportation to administer a Shortline Railway Preservation and Development Program for the purposes described in subsection B. Furthermore, the Board shall include an annual allocation for such purpose in its allocation of transportation revenues.

E. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Board, the Fund for acquiring, leasing, or improving shortline railways and the development of railway transportation support facilities or assisting other appropriate entities to acquire, lease, or improve shortline railways and the development of railway transportation purposes whenever the Board has determined that such acquisition, lease, or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. The Director of the Department of Rail and Public Transportation may consult with other agencies or their designated representatives concerning projects to be undertaken under this section.

F. Tracks and facilities constructed, and property and equipment purchased, with funds under this section shall be the property of the Commonwealth for the useful life of the project, as determined by the Director of the Department of Rail and Public Transportation, and shall be made available for use by all common carriers using the railway system to which they connect under the trackage rights agreements between the parties. Projects undertaken pursuant to this section shall be limited to those of a region of the Commonwealth or the Commonwealth as a whole. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include

a railroad, a regional authority, private industry, a local government source, or a combination of such sources. No single project shall be allocated more than 50 percent of total available funds.

2006, c. 856, § 33.1-221.1:1.2; 2014, c. 805.

3. Intended Project Types

RPF is intended to assist the following project types:

- Constructing rail transportation which supports projects such as passing sidings, marshaling yards, and mainline extensions to serve major industry
- Improving shortline track to Class 2 Track Safety Standards as prescribed in the Track Safety Standards publication as part of the Federal Railroad Administration's Title 49 Part 213 regulations
- Improving bridges to Class 2 Track Safety Standards and a minimum load limit of 286,000 pounds
- Safety improvements such as railroad crossing signalization and crossing surface upgrades
- Property acquisitions and new track facilities (non-safety projects)

Ineligible projects for the RPF Program are:

- Railroad operating expenses
- Track construction with rail smaller than 100 pounds
- Maintenance

4. Applicable Standards

The Applicant must, at a minimum, provide Design and Construction in accordance with the American Railway Engineer and Maintenance of Way Association (AREMA). Design and construction criteria may go beyond AREMA standards to meet any agreed upon basis of design and Grantee established standards which are compliant with FRA Track Safety Standards.

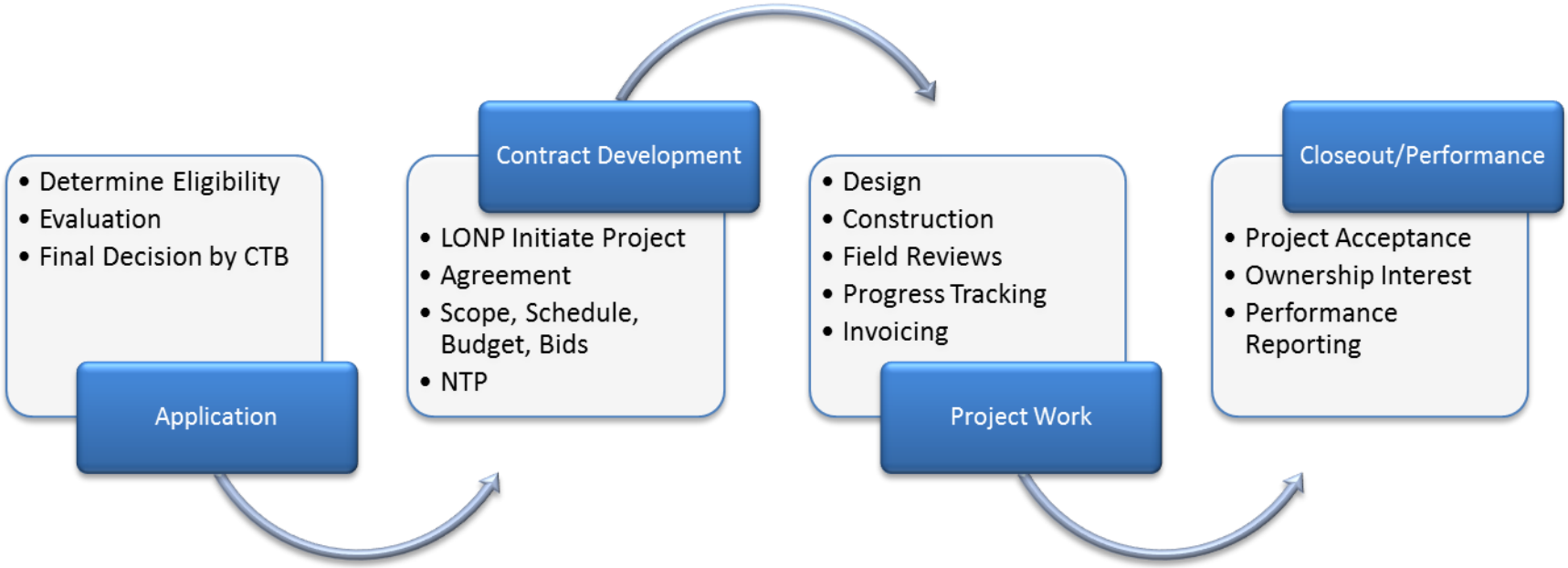
- Rail must be new or meet AREMA Class 1 specifications for relay rail
- Tie replacement projects must utilize AREMA 7-inch grade specifications
- Ballast applied must meet AREMA Number 3 gradation specifications

The applicant also must provide or have provided continuous maintenance of the completed project.

5. Summary of RPF Process

The basic elements of the RPF Program procedures are outlined in the below figure and described in further detail throughout this procedure manual.

a. Rail Preservation Project Process



6. Grant Application Process

a. Initiation

DRPT prepares announcements of the application period and requests applications. Information is also posted on the DRPT website. DRPT may call upon existing applicants to seek interest and offer assistance necessary to enable the potential applicants to submit a timely application. DRPT may also develop projects for consideration.

Applicants must submit applications within the advertisement period as identified by DRPT. The application must include:

- Scope of project
- Projected schedule and budget
- Location sketch
- The estimated annual number of carloads and full-time employees
- Project readiness
- Documentation concerning common carrier status
- Certification of continuous maintenance and liability
- Guarantees of right-of-way
- Prioritization of applications in order of importance to the railroad
- Any other relevant information

Applications are submitted via the Online Grant Application (OLGA) system, located at: https://olga.drpt.virginia.gov . (The OLGA website includes instructions for establishing an account and using the online system). OLGA assigns each application a reference number, provides a submission confirmation to applicants, allows applicants to track applications, and stores and backs-up each application electronically to ensure the application is not lost or compromised.

b. Project Evaluation and Selection

The DRPT Project Manager applies two levels of review to evaluate each application. During the first level of review, the DRPT Project Manager also evaluates the completeness of the application and will request additional information from the applicant, if needed. The first level of review includes:

- Applicant eligibility
- Project eligibility
- Application completeness
- Project functional use
- Documentation of verifiable and acceptable match

The DRPT Project Manager conducts a second level review of applications by the following criteria:

- Project meets Threshold Criteria
    - i. Raise the Class of Track to FRA Class 2 TSS
    - ii. Maintain FRA Class 2 TSS
    - iii. Support 286K load capacity on bridges
    - iv. Improve reliability to serve existing and new customers
    - v. Retain shortline service
- Prioritization Criteria (see attachment: Blank Score Sheet)
    - i. Program Goals
    - ii. Additional State Initiatives
- Cost Effectiveness
    - i. Score of Program Goals plus State Initiatives per annual cost of project
- Applicant Priority

c. Project Recommendation and Approval

Based on the application review, the DRPT Rail Team develops a program of projects for consideration in the Six-Year Improvement Program (SYIP) and presents the Projects to the DRPT Executive Team. DRPT then develops recommendations for the CTB. The CTB will approve and allocate funds to specific projects in the SYIP.

Once CTB approval has been received, the DRPT Project Manager will notify applicants. The final approved SYIP is posted to the DRPT website.

7. Agreement Development

a. Letter of No Prejudice

The letter of no prejudice is an agreement to allow the Grantee to proceed with project development with certain conditions attached. It is generally used to allow the Grantee to begin work on developing a more detailed Scope, Schedule, and Budget. In certain circumstances, the letter of no prejudice can be used as approval to order materials and begin construction at their own risk.

b. Agreement Development

The DRPT Programming Division assigns a project number to each approved application. Using the further developed scope, schedule and budget, and in coordination with the Attorney General's Office, the DRPT Project Manager prepares a Project Agreement and sends two sets of the Agreement to the Grantee for signature. Once the Grantee signs and returns the Agreement, the Director of DRPT reviews and signs the Agreement. The DRPT Project Manager retains one fully executed Agreement for the master project file and returns the other to the Grantee.

c. Project Bids

If using outside forces to complete a project, prior to requesting a Notice to Proceed (NTP), the grantee shall place the project out for bid. The bids and bid summary must be received by the DRPT Project Manager prior to the NTP being issued.

d. Notice to Proceed

The NTP request form is located on OLGA. Upon successful review of the updated scope, schedule, budget and bids, the DRPT Project Manager shall issue the NTP.

8. Project Performance and Monitoring

a. Project Reporting

The Grantee must submit project progress reports quarterly or with the invoice, whichever is most frequent. This report should update the status of the project scope, budget, and schedule. The progress report form is provided as an attachment to the Agreement.

b. Site Visits

Projects require one or multiple site visits which are prompted by the submission of the Grantee's invoice. With each invoice submitted by the Grantee, the DRPT Project Manager will determine whether a site visit is necessary and will then complete a site visit and prepare an invoice releasereport. This report will be included with the invoice. Typical site visits are a part of the invoice verification process verifying expenditures and successful completion of the work in the invoice.

9. Invoicing Process

The following invoicing procedure provides a minimum requirement guideline for reviewing and processing invoices. The DRPT Project Manager is responsible for ensuring that the invoice is reviewed and processed within 20 days of receipt. This ensures that an approved invoice can be paid within the required 30 days. The 30-day turn around time (30-day prompt pay) is mandated by the Virginia Public Procurement Act.

a. Invoice Submission

The grantee will submit invoices through the OLGA system. Using the Grants Management system in OLGA, the Grantee will create and submit a new reimbursement request. The Grantee is responsible for choosing the correct project to invoice against, noting the correct invoice amount, and attaching supporting documentation prior to invoice submission. Using OLGA, the Grantee is able to track the status of each reimbursement request during the DRPT review process.

b. Invoice Review

The invoice review process is a coordinated effort between the DRPT Division of Finance and Administration (Finance) and the assigned DRPT Project Manager. The review process has three basic steps:

1. Finance receives and assigns the invoice to the DRPT Project Manager
2. The DRPT Project Manager reviews and approves the invoice
3. Finance batches the invoice for payment by the Virginia Department of the Treasury

A more detailed description of the invoice review process is included below.

Step 1: Invoice Receipt and Initial Review

After the reimbursement request has been submitted via OLGA by the Grantee, Finance receives the invoice, assigns a voucher tracking number and reviews the invoice for accuracy and completeness. This first step of review is to make sure that the invoice was accurately submitted by the grantee and is assigned to the correct project, and is not missing major pieces of information such as the backup documentation. Finance then assigns a DRPT Accountant to review the invoice.

The assigned DRPT Accountant reviews the invoice to ensure that the backup documentation and sub-categories of charges correctly add to the total invoice amount. Upon review, the DRPT Accountant notes the results of their review and releases the invoice to the DRPT Project Manager.

Step 2: DRPT Project Manager Invoice Review

After the invoice is released to the DRPT Project Manager, the charges included in the invoice and the backup documentation are reviewed for appropriateness and to ensure that reimbursement regulations are followed. The initial review by the DRPT Project Manager includes items such as the following:

- Confirm a signed Agreement and Notice to Proceed are in place
- Review Agreement for terms of invoicing and general requirements of the project
- Confirm invoice matches the project's scope, schedule and budget
- Confirm inclusion of project progress report
- Verify percent of budget expenditure is appropriate with project schedule and progress report

When necessary, the DRPT Project Manager will schedule a site visit with the Grantee.

Once the general project and grant Agreement details have been reviewed and confirmed, a more detailed invoice review by the DRPT Project Manager is required. The DRPT Project Manager is encouraged to make working notes during invoice review and consider items such as:

- Are the charges appropriate for work necessary to complete the project?
- Are materials, locations and personnel appropriate for project work?
- Are Virginia travel guidelines appropriately applied?
- Is the backup sufficient to detail project costs?

- Are receipts for materials and expenses included where applicable?
- Are timesheets for labor included where applicable?

The DRPT Project Manager is responsible for working with the Grantee to gather additional information or clarification when needed.

Step 3: Approval/Rejection for Payment

When the DRPT Project Manager has satisfied their review, completed the site visit, and an internal invoice release report, the invoice is either rejected or approved for payment. Rejection of an invoice may occur if inappropriate charges have been found and/or if the invoice needs to be resubmitted due to extensive clarification needed by the Grantee. In either case, the Grantee is encouraged to correct any issues and resubmit the reimbursement request. If the reimbursement request is resubmitted, the invoice review process begins again (a second site visit may or may not be necessary). The invoice release report will be uploaded to OLGA with the invoice supporting documentation.

If the charges and invoice documentation are appropriate, the DRPT Project Manager approves the invoice for payment. Once approved for payment, the DRPT Controller provides a final QC of the invoice process – ensuring that the appropriate levels of review have taken place – and releases the invoice for payment by the Virginia Department of the Treasury.

10. Grant Closeout and Post Construction Monitoring

a. Project Acceptance

The Grantee must complete the project according to the approved scope, schedule, budget and Agreement. Upon project completion, Grantee has 90 days to submit the final invoice to DRPT. DRPT performs a final site review and processes final payment. Grantee is required to maintain and make available all documentation regarding project cost for a period of three years from the date of final payment from DRPT.

b. Funds Analysis

Upon acceptance and payment of the final project invoice, any unused funds will be deobligated and returned to the RPF. Grantee will initiate the deobligation process on OLGA.

c. Commonwealth Interest of Ownership

Acknowledgement

For each project using DRPT State Funds, DRPT retains an ownership interest in the materials of the project for a given period of time. Any change, sale or transfer of the project improvements must be approved by DRPT, per the terms of the signed Agreement.

Agreement Performance Requirements Schedule

To develop the ownership interest dollar value in the project, DRPT uses the sum of the public funds invested. This amount is amortized over the performance period, as defined in the signed Agreement.

At the end of the ownership period, if all requirements have been reached, the DRPT Project Manager prepares an acknowledgement of expiration of DRPT's interest which is signed by the Director of DRPT.