

**Before the Committee on Transportation and Infrastructure
United States House of Representatives**

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**A Grants Management
Framework and Stakeholder
Agreements Are Key to Fully
Implementing FRA's High
Speed Intercity Passenger
Rail Program**

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Chairman and Members of the Committee:

Thank you for inviting me here to discuss the Federal Railroad Administration's (FRA) progress in implementing the Nation's \$10.1 billion High Speed Intercity Passenger Rail (HSIPR) program. Legislation enacted in 2008 dramatically expanded FRA's role and responsibilities from primarily providing railroad safety regulations to overseeing a large grant program. In April 2010, we testified that for FRA to successfully implement HSIPR, it would need to address several challenges, including developing written policies and practices to guide the program's grant lifecycle process and oversight activities, and obtaining adequate staff to oversee implementation.

We continue to monitor FRA's efforts to carry out its traditional and new roles. While we have seen FRA make noteworthy progress in implementing the HSIPR program—including establishing certain stakeholder agreements for long-term projects prior to obligating funds—challenges remain. To date, FRA has awarded and obligated 99 percent of HSIPR grant funds but has only disbursed about 7 percent due in part to these challenges. My testimony today will focus on FRA's (1) progress in establishing a grants management framework and (2) ongoing challenges in disbursing grant funds.

IN SUMMARY

FRA has made significant progress in establishing a grants management framework but key components to ensure effective program implementation remain incomplete. These include finalizing grant administration guidance to help ensure FRA staff and grantees comply with policies and procedures, establishing clear program goals and measures to assess HSIPR program progress, and completing a comprehensive training curriculum to ensure staff appropriately administer funds across all active grant programs. Completing stakeholder agreements is also needed for the Agency to disburse obligated funds to project grantees and ensure intended benefits are achieved by required deadlines.

BACKGROUND

The Passenger Rail Investment and Improvement Act of 2008¹ (PRIIA) directed FRA to establish a grant program to fund various types of intercity passenger rail improvements, while it continues to carry out its prior responsibilities, including its oversight of Amtrak. Four months after PRIIA's enactment, the American Recovery and Reinvestment Act of 2009² (ARRA) appropriated \$8 billion to FRA to develop and implement the HSIPR grant program. FRA awarded the majority of

¹ P.L. No. 110-432, Div. B.

² P.L. No. 111-5.

the \$8 billion in ARRA funds to two types of HSIPR projects: short-term, “ready-to-go” projects—almost ready for construction—and long-term projects to develop high speed rail corridors. ARRA established aggressive timelines for FRA’s obligations and grantees’ expenditures for both types of projects.

To disburse the funds for HSIPR projects, FRA requires three types of agreements between the freight railroads, which own the majority of the infrastructure on which HSIPR grants will be spent, and other stakeholders: (1) service outcome agreements (SOA), (2) construction agreements, and (3) maintenance agreements. SOAs outline rail owners’ agreements on services and benefits that will be provided once projects are completed. For example, SOAs address passenger rail service frequency, schedule and trip time, and maximum delay minutes.³ Construction agreements outline stakeholders’ roles and responsibilities for managing and completing project construction. Maintenance agreements address stakeholders’ financial and operational responsibilities for maintaining project property in a state of good repair for at least 20 years.

Our previous audits and testimonies have highlighted FRA’s efforts to develop written policies and procedures and obtain adequate staff to administer the HSIPR grant program. In April 2010, we testified that FRA’s expanded role and responsibilities significantly challenged the Agency to effectively implement the high speed rail program, improve intercity passenger rail services, and enhance safety initiatives—challenges that were exacerbated by ARRA’s accelerated timelines.⁴ In September and November 2012, we issued reports on the status of FRA’s progress in implementing the HSIPR program. Our September report focused on FRA’s efforts to develop a grants management framework, which is needed to establish policies, procedures, a workforce structure, performance measurements, and grant oversight.⁵ Our November report focused on FRA’s efforts to assist in developing stakeholder agreements.⁶

FRA HAS MADE PROGRESS IN ESTABLISHING A GRANTS MANAGEMENT FRAMEWORK, BUT KEY COMPONENTS FOR EFFECTIVE IMPLEMENTATION ARE INCOMPLETE

FRA completed its Grants Management Manual for HSIPR grant administration, but it has not developed sufficient guidance for grantees and FRA staff to comply

³ Delay minutes refer to the average amount of time that a passenger train is delayed on a specified route and the identified cause of that delay for purposes of determining responsibility.

⁴ *Federal Railroad Administration Faces Challenges in Carrying Out Expanded Role*, April 29, 2010. OIG testimonies and reports are available on our Web site at <http://www.oig.dot.gov/>.

⁵ *Completing a Grants Management Framework Can Enhance FRA’s Administration of the HSIPR Program*, Sept. 11, 2012.

⁶ *FRA’s Requirements for High Speed Rail Stakeholder Agreements Mitigated Risk, but Delayed Some Projects’ Benefits*, Nov. 1, 2012.

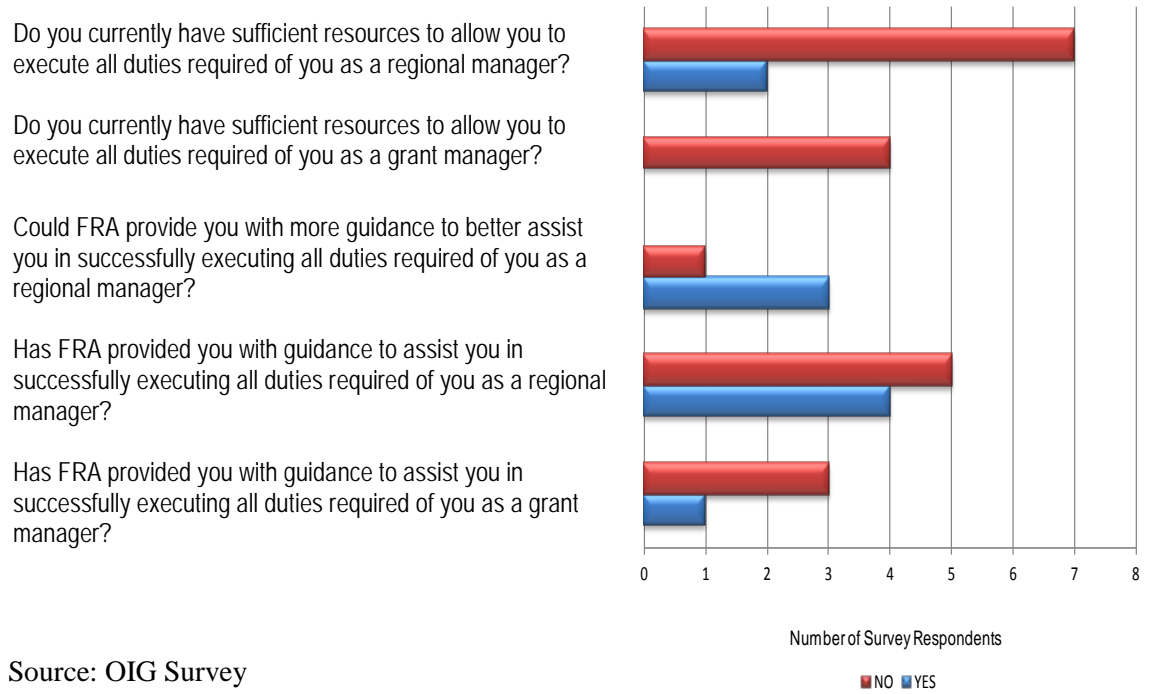
with the policies and procedures set forth in the manual. At the same time, FRA has yet to develop clear goals, measures, and other mechanisms for assessing program and grantee performance. While FRA has almost met its staffing requirements, it continues to work on developing a comprehensive training program that incorporates HSIPR policies and procedures.

FRA Lacks Sufficient Guidance To Ensure Staff and Grantees Comply With HSIPR Grant Administration Policies and Procedures

FRA began drafting its Grants Management Manual, which sets forth the policies and procedures for HSIPR grant management, in April 2010 and released the completed manual in April 2012—almost 3 years after it assumed responsibility for administering HSIPR funds. During this period, the Agency obligated nearly \$9.6 billion of HSIPR funds to comply with ARRA timeframes. FRA officials told us that due to staff constraints they needed to prioritize HSIPR grant awards and obligations over the manual’s completion.

The manual includes chapters on grant solicitation, administration, oversight, and closeout. The manual also provides some guidance on how to manage HSIPR grants. However, according to FRA staff we surveyed, additional guidance is needed to help ensure compliance with policies and procedures (see Figure 1).

Figure 1. FRA Regional and Grant Managers Responses to Selected Survey Questions



Source: OIG Survey

Several FRA grant managers told us that grantees have had trouble completing required grant documentation correctly and in a timely manner due to the lack of

detailed guidance. For example, seven regional managers informed us that grantees could use more guidance on the Agency's requirements for grant obligation, such as project scope, schedule, and budget, as well as general grant management practices. Nine of 12 grantees we interviewed also indicated that FRA could have provided more guidance to help them develop the required application documentation. For example, one grantee stated that due to a lack of detailed guidance, his State had to draft 10 iterations of a statement of work⁷ in order to meet FRA's application requirements. A template could have minimized this type of rework. While FRA provides general grant application guidance to HSIPR grantees through its Notice of Funding Availability⁸ announcements and Webinars on the application process, the guidance does not explain how to navigate the complex grant lifecycle process, which could result in inefficiencies, mismanagement, and project delays.

FRA acknowledged that additional clarification is needed and established workgroups to develop this guidance, but it did not establish timelines for completion for all workgroups.

FRA Continues To Lack Effective Mechanisms for Assessing Program and Grantee Performance

Between April 2009 and February 2012, FRA issued 10 documents containing strategic and performance goals for assessing HSIPR program progress. However, some are inconsistent across these documents, and these inconsistencies cannot be reconciled. For example, several goals in DOT's assessment of FRA's performance and performance plans appear to support a goal in FRA's fiscal year 2013 budget request to improve rail transportation experience. However, the relationship among the goals is not clear (see Table 1). Such inconsistencies make it difficult for grant managers and decision makers, including Congress, to know what goals the program is to achieve.

⁷ A statement of work describes the programmatic aspects of a grant project, including the project itself, a work schedule, deliverables, and any stipulations that require a grantee to complete and submit environmental documentation.

⁸ A Notice of Funding Availability formally announces the availability of Federal funding and solicits grantee applications.

Table 1. Example of Goals Across FRA Planning Documents

	FRA's fiscal year 2013 budget request	DOT's assessment of FRA's performance	DOT performance plans
Goal(s)	Improve rail transportation experience	<ul style="list-style-type: none"> • Improve employment, safety, livability, and travel time • Improve ridership, reliability, and market share for rail passenger service 	<ul style="list-style-type: none"> • Decrease fuel consumption • Increase HSIPR ridership

Moreover, the goals' performance measures are not specific enough to determine overall program progress. For example, the goal to improve reliability, speed, and frequency of rail passenger service, which appears on FRA's Web site, does not include measures that indicate progress, such as anticipated trip time improvements, additional trains, and ridership gains. Some goals that are critical to measuring progress are simply missing. Notably, FRA does not have a goal to determine the extent to which HSIPR is achieving its intended results.

FRA mechanisms for assessing grantee performance are similarly lacking. Specifically, FRA lacks an effective tool to help staff track, manage, and monitor grantee compliance with documentation requirements, including Federal Financial Reports and various ARRA requirements for reporting and certification. In January 2012 we reviewed FRA's tracking tool, which at the time only captured the date a deliverable was received, not the number of days it is overdue—key information for determining the severity of noncompliance. According to FRA officials, a more comprehensive project management tool to track and monitor grantees is under development.

FRA also completed its monitoring plan in March 2012. According to FRA officials, the plan includes information on monitoring timeframes, responsibilities for monitoring personnel, and other components to ensure monitoring activities will be completed—which its interim plan did not include. We have yet to assess the completed plan but will do so in the future.

FRA Lacks a Comprehensive Training Program for Its HSIPR Staff

FRA has not ensured its staff can effectively administer HSIPR grant funds across all its active programs. The Agency updated its workforce plan based on the 51 positions Congress authorized for the division responsible for HSIPR oversight. According to FRA officials, 91 percent of these positions have been filled, including those that the agency previously had difficulty filling.⁹

⁹ In March 2012, FRA officials cited difficulty in hiring candidates with appropriate expertise to fill specialized positions, such as grant managers.

However, the Agency continues to lack a comprehensive training curriculum—due in part to delays in developing its Grants Management Manual. According to FRA officials, in lieu of a curriculum centered around the policies and procedures set forth in the manual, HSIPR personnel have been required to attend Agency-provided training sessions on certain topics, such as grant monitoring and applicant outreach. Officials also stated that grant managers and other personnel have access to external training opportunities. However, FRA does not require personnel to complete fraud awareness training to help staff recognize common fraud schemes, such as conflicts of interest or false statements, claims, and certifications. Historically, large-scale grant projects such as those under the HSIPR program have been particularly vulnerable to these types of fraud.

With the recently completed Grants Management Manual, we recommended in our September 2012 report that FRA develop a comprehensive grants management training curriculum for HSIPR staff that includes a required fraud training component. FRA concurred with our recommendation and stated that the curriculum would be completed by December 2012.

SOME AGREEMENTS FOR LONG- AND SHORT-TERM PROJECTS ARE NOT COMPLETE, DELAYING DISBURSEMENT OF FUNDS

Prior to obligating funds on long-term projects, FRA ensured project grantees completed SOAs with their freight partners. While this action helped mitigate certain risks, completing the SOAs required significant FRA involvement and time and impacted FRA's ability to review and approve stakeholder agreements for other long- and short-term projects—which, in turn, delayed finalizing these agreements and the disbursement of funds.

FRA worked with stakeholders on the 13 long-term corridor projects to develop SOAs and, as of September 2011, had obligated \$3.2 billion in ARRA funds to these projects. However, project stakeholders found the SOA process challenging, in part because FRA's guidance provides little detail on how to structure stakeholder agreements. Ultimately, the process led to repeated rejections of multiple versions of agreements, which resulted in FRA intensifying its assistance to grantees.

This focus on the SOAs delayed FRA's review and approval of stakeholder maintenance and construction agreements, which PRIIA requires prior to fund disbursement. While FRA obligated all of the funds within the ARRA-mandated deadline, the agency is still working with State grantees and other project stakeholders to complete maintenance and construction agreements. The deadline for expending ARRA funds and completing construction is September 30, 2017—

a compressed timeline for complex projects such as creating a new rail corridor or expanding or reconfiguring an existing one. For example, an external peer review questioned California's ability to meet ARRA's 2017 deadline, even though California has all required project stakeholder agreements in place.¹⁰ For projects with maintenance and construction agreements that remain outstanding, the timeline for completion becomes even more compressed.

Short-term projects—and the economic recovery benefits these projects were intended to stimulate—have also been delayed. FRA originally established a deadline of September 30, 2010, to complete short-term project obligations but did not complete obligating funds to these projects until September 2011. According to FRA officials, stakeholder agreement requirements for short-term projects were completed on a case-by-case basis instead of publishing guidance that would provide common instruction on how to complete these agreements. Grantees of short-term projects reported that without written guidance, they had difficulties understanding FRA's expectations regarding the terms for their project stakeholder agreements. Short-term project stakeholders also noted that delays in obligating funds impacted their ability to plan and begin construction on their projects.

In closing, finalizing grant administration guidance, establishing clear program goals and measures, and completing a comprehensive training curriculum—all actions we have recommended—would better position FRA to effectively carry out the responsibilities of its expanded role, ensure the timely implementation of HSIPR, and spur continued interest in high speed rail. We will continue monitoring FRA's progress in these areas, as well other areas we identify as critical to ensuring FRA's successful implementation of HSIPR.

Mr. Chairman, this concludes my prepared statement. I am happy to answer any questions you may have at this time.

¹⁰ California High-Speed Rail Peer Review Group Report to California State Legislature, Jan. 3, 2012.