

## Background

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144). Section 1914 of SAFETEA-LU mandates the establishment of the Motorcyclist Advisory Council as follows: "The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

- (1) Barrier design;
- (2) Road design, construction, and maintenance practices; and
- (3) The architecture and implementation of intelligent transportation system technologies."

In addition, section 1914 specifies the membership of the council: "The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

- (1) At least—
  - (A) One member recommended by a national motorcyclist association;
  - (B) One member recommended by a national motorcycle riders foundation;
  - (C) One representative of the National Association of State Motorcycle Safety Administrators;
  - (D) Two members of State motorcyclists' organizations;
  - (E) One member recommended by a national organization that represents the builders of highway infrastructure;
  - (F) One member recommended by a national association that represents the traffic safety systems industry; and
  - (G) One member of a national safety organization; and

- (2) At least one, and not more than two, motorcyclists who are traffic system design engineers or State transportation department officials."

To carry out this requirement, the FHWA published a notice of intent to form an advisory committee in the **Federal Register** on December 23, 2005 (70 FR 76353). This notice, consistent with the requirements of the Federal Advisory Committee Act (FACA), announced the establishment of the Council and invited comments and nominations for membership. The FHWA announced the ten members selected to the Council in the **Federal**

**Register** on October 5, 2006 (71 FR 58903). An electronic copy of this document and the previous **Federal Register** notices associated with the MAC-FHWA can be downloaded through the Federal eRulemaking Portal at: <http://www.regulations.gov> and the Office of the Federal Register's home page at: [http://www.archives.gov/federal\\_register](http://www.archives.gov/federal_register).

This notice also serves to identify a change in the MAC-FHWA membership due to a change in the relationship between Mr. Steven Zimmer, one of the original members of the MAC-FHWA, and ABATE of Ohio, making him ineligible for the position for which he was nominated. Mr. James D. "Doc" Reichenbach II, from ABATE of Florida, will replace Mr. Zimmer on the Council.

The FHWA anticipates that the MAC-FHWA will meet at least once a year, with meetings held in the Washington, DC, metropolitan area, and the FHWA will publish notices in the **Federal Register** to announce the times, dates, and locations of these meetings. Meetings of the Council are open to the public, and time will be provided in each meeting's schedule for comments by members of the public. Attendance will necessarily be limited by the size of the meeting room. Members of the public may present oral or written comments at the meeting or may present written materials by providing copies to Ms. Fran Bents, Westat, 1650 Research Boulevard, Rockville, MD 20850-3195, (240) 314-7557, 10 days prior to the meeting.

The agenda topics for the meetings will include a discussion of the following issues: (1) Barrier design; (2) road design, construction, and maintenance practices; and (3) the architecture and implementation of intelligent transportation system technologies.

## Conclusion

The fifth meeting of the Motorcyclist Advisory Council to the Federal Highway Administration will be held on November 13, 2008, at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202 from 9 a.m. until 5 p.m.

**Authority:** Section 1914 of Pub. L. 109-59; Pub. L. 92-463, 5 U.S.C., App. II § 1.

Issued on: October 09, 2008.

**Thomas J. Madison, Jr.,**

*Federal Highway Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Funding Availability and Solicitation of Applications for the SAFETEA-LU Magnetic Levitation Project Selection

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

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

**SUMMARY:** Under this Notice, the FRA announces that \$45 million authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) for grants to existing magnetic levitation (maglev) projects located east of the Mississippi River has been appropriated and that project proponents (States or State designated authorities) for the three eligible projects may submit applications for grants to fund such projects. The three eligible projects are the Pittsburgh project, the Baltimore-Washington project, and the Atlanta-Chattanooga project. Funds awarded under this section can be used for preconstruction planning activities and capital costs of the fixed guideway infrastructure of a maglev project. This Notice of Funding Availability does not apply to the \$45 million appropriated specifically for the Nevada Department of Transportation to fund the existing proposed maglev project between Las Vegas and Primm, Nevada (*see* section 102 of the SAFETEA-LU Technical Corrections Act of 2008, Pub. L. 110-244 (June 6, 2008)).

**DATES:** To be considered, applications must be received by February 13, 2009. FRA will begin accepting grant applications on Monday, October 20, 2008.

**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. An 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>. To confirm successful registration on Grants.Gov send an e-mail to [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: Wendy Messenger, 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 assure timely receipt of materials.

**FOR FURTHER INFORMATION CONTACT:**

Wendy Messenger, Office of Railroad Development (RDV-13), Federal Railroad Administration, 1200 New Jersey Avenue, SE., Mail Stop #20, Washington, DC 20590. Phone: (202) 493-6396; 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 102 of the SAFETEA-LU Technical Corrections Act (Pub. L. 110-244, June 6, 2008) (the 2008 Act), amended SAFETEA-LU, which authorized, but did not appropriate, \$90 million for maglev projects, 50 percent of which would go to the maglev project between Las Vegas and Primm, NV, and 50 percent of which would go to an undetermined maglev project located east of the Mississippi River. The 2008 Act made the funding available and modified and clarified the language by dividing the funding equally between fiscal years 2008 and 2009, adding a 20 percent non-Federal match requirement, and allowing the "east of the Mississippi River" funding to potentially be distributed among two or more projects.

In the Joint Explanatory Statement of the House Transportation and Infrastructure Committee and the Senate Environmental and Public Works, Banking Housing and Urban Affairs, and Commerce, Science and Transportation Committees accompanying the 2008 Act (the Joint Committee Statement), Congress explained that by changing the language to allow FRA discretion to award funds to "projects" located east of the Mississippi River, "the intent is to limit the eligible projects to three existing projects east of the Mississippi River: Pittsburgh, Baltimore-Washington, and Atlanta-Chattanooga."<sup>1</sup> Based upon that clear

Congressional direction, the solicitation for applications under this NOFA is limited to those three projects. Through the SAFETEA-LU maglev project selection (Catalog of Federal Domestic Assistance Program Number 20.312), FRA will determine which of the three eligible projects east of the Mississippi River will receive these funds and has the discretion to award funds to one or more of those three projects.

**Background**

In the Transportation Equity Act for the 21st Century (Pub. L. 105-178 (July 22, 1998)) (TEA-21), Congress established the Maglev Deployment Program, the purpose of which was to encourage the development and construction of an operating transportation system employing magnetic levitation capable of safe use by the public at a speed in excess of 240 miles per hour. TEA-21 provided \$55 million for fiscal years 1999 through 2001 for maglev transportation systems. Congress directed FRA to establish project selection criteria, to solicit applications for funding, to select one or more projects to receive financial assistance for preconstruction planning activities, and, after completion of such activities, to select one of the projects to receive financial assistance for final design, engineering, and construction activities.

FRA received eleven applications and selected seven projects to receive funding. After each of the seven projects completed preliminary environmental documentation and FRA issued a programmatic environmental impact statement and record of decision, in January 2000 two projects were selected for additional funding and further study. The first project was a 54-mile system through Pittsburgh, PA, and the second was a 39-mile system between Baltimore, MD and Washington, DC. Extensive environmental and preliminary engineering work has been completed for both of these projects. Proponents of two of the seven projects not selected in January 2000 continued to study maglev or high-speed ground transportation options, including maglev, with funding from other sources. These two projects are a 40 mile segment between Las Vegas and Primm, NV that is envisioned as part of a system eventually extending to Anaheim, CA, and a 110 mile route between Atlanta, GA and Chattanooga, TN.

Science and Transportation, on the SAFETEA-LU Technical Corrections Act of 2008 at 5 (April 30, 2008).

In TEA-21, Congress also authorized, but did not appropriate, \$950 million in Federal funds for final design, engineering and construction of the most promising projects. TEA-21 expired and Congress never appropriated those funds. In SAFETEA-LU, Congress authorized, but once again did not appropriate, \$90 million for a new maglev deployment program. In the 2008 Act, Congress made those funds available. As noted above, half of those funds are allocated to the Las Vegas, NV project. The other half of those funds will be distributed to one or more projects based upon a selection process. By this NOFA, FRA is announcing the initiation of that selection process and notifying the project proponents for the three eligible projects of the selection criteria.

**Authority:** The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109-59, August 10, 2005), and the SAFETEA-LU Technical Corrections Act (Pub. L. 110-244, June 6, 2008).

**Funding:** The 2008 Act provides \$90,000,000 for maglev and directs the Secretary of Transportation to: (1) Allocate 50 percent to the Nevada Department of Transportation for the Las Vegas, NV maglev project; and (2) allocate 50 percent, in the form of one or more grant agreements covering up to 80 percent of the project costs, to one or more of three eligible maglev projects east of the Mississippi River. The Federal share of a selected project or projects shall be 80 percent; the grantee(s) is (are) responsible for providing the other 20 percent. Only expenditures made after the date of enactment of the SAFETEA-LU Technical Corrections Act, provided they are otherwise eligible and covered by an approved scope of work, will be considered potentially eligible as the non-Federal share. The funding provided under these grants will be made available to the grantee(s) on a reimbursement basis. If FRA selects more than one project, FRA may choose to apportion the available funding as the agency determines in its discretion.

**Schedule for Maglev Grant Program:** FRA will begin accepting grant applications on October 20, 2008 and will continue accepting applications until February 13, 2009. Applications submitted before October 20, 2008 will be disregarded. FRA may request that an applicant submit a revised application reflecting a refined scope of work and budget. FRA anticipates making the award(s) made pursuant to this notice during FY 2009.

**Project Eligibility:** Section 1307 of SAFETEA-LU establishes three project

<sup>1</sup> See the Joint Explanatory Statement of the House Committee on Transportation and Infrastructure, and the Senate Committees on Environment and Public Works, on Banking, Housing and Urban Affairs, and on Commerce,

eligibility standards. To be eligible to receive financial assistance under this program, a project must: (1) Involve a segment or segments of a high-speed ground transportation corridor; (2) result in an operating transportation facility that provides a revenue producing service;<sup>2</sup> and (3) be approved by the FRA Administrator based on an application submitted to the Administrator by a State or authority designated by one or more States. The first two criteria are prerequisites to FRA evaluating an application and must be addressed in the cover letter with supporting documentation in the application package. If those two criteria are not met to FRA's satisfaction, the project is not eligible for funding.

If the project proponents propose service in more than one State, a single State or designated State authority should apply on behalf of all participating States. FRA encourages States to submit applications through their respective Departments of Transportation, which have extensive experience in implementing Federally funded transportation programs.

**Eligible Projects:** As explained in the Joint Committee Statement, only the three existing maglev projects located east of the Mississippi River are eligible. These are the Pittsburgh, Baltimore-Washington, and Atlanta-Chattanooga projects.

**Selection Criteria:** Provided the statutory eligibility criteria have been met, FRA will consider the following selection factors in evaluating applications for grants under this program:

1. Whether the project demonstrates the ability to address at least one or more serious technological or financial/economic problem(s) that challenge the feasibility of widespread adaptation of maglev systems. Examples might include methods to make maglev systems more energy efficient or ways to mitigate initial construction costs (e.g., by reducing vehicle weight or demonstrating new, lower cost ways to construct maglev guideway).

2. Whether funds awarded under this section will result in investments that are beneficial not only to the maglev

project, but also to other current or near-term transportation projects. Examples could include the preservation of rights-of-way, and/or the achievement of one or more planning goals. Applicants should keep in mind, however, that Federal funds may not be used for station construction costs.

3. Whether the project demonstrates the potential for a public-private partnership for the corridor in which the maglev project is involved, and/or for the project independently. Any corridor exhibiting partnership potential must meet at least the following two conditions:

- (a) Private enterprise entities must be able to operate the corridor—once built and paid for—as a complete, self-sustaining operation. That is, the total fully allocated operating expenses of the maglev service are projected to be offset by revenues attributable to the service; and

- (b) The total societal benefits of a maglev corridor must equal or exceed its total societal costs.

4. The extent of the demonstrated financial commitment to the construction of the proposed project from both non-Federal public sources and private sources, including any financial contributions or commitment the applicant has secured from private entities that are expected to benefit from the project. If applicable, also include the extent to which the State or private entities exceed the required 20 percent match.

5. Whether the project demonstrates the ability to meet all applicable Federal and State environmental statutes and regulations.

6. The degree to which the project will demonstrate the variety of maglev operating conditions which are to be expected in the United States. For example, these conditions might include a variety of at-grade, elevated and depressed guideway structures, extreme temperatures, and intermodal connections at terminals.

7. Whether the project demonstrates the ability to meet a top speed of at least 240 miles per hour (MPH). FRA will also consider favorably the ability to meet higher speeds as well as the duration that speeds of at least 240 MPH can be attained.

**Requirements for Grant Applications:** All applications must be submitted through Grants.gov, which is the Federal grants portal. 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 their name and contact information, including phone number, mailing address and e-mail address. The point of contact must be an employee of the applicant.

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. Describe the market to be served by the proposed new service, and the existing transportation facilities and service afforded by other public and private modes of transportation in the market area. In addition, the application should describe the operating changes to the target market that are anticipated to result from the introduction of maglev services, as well as assess the major risks or obstacles to maglev's successful deployment and operation.

4. Provide a detailed summary of all work done to date, including any preliminary engineering work, the project's previous accomplishments and funding history, and a chronology of key documents produced and funding events (e.g., grants and contracts).

5. Describe progress toward completing any environmental documentation or clearance required for the proposed project under the National Environmental Policy Act, the National Historic Preservation Act, section 4(f) of the DOT Act, the Clean Water Act, or other applicable Federal or State laws.

Applicants should keep in mind, however, that FRA will not give additional weight to projects that have completed more environmental work. Instead, as explained in the selection criteria, FRA will consider favorably those projects that demonstrate an ability to ultimately fulfill all applicable Federal and State environmental requirements.

6. Include a complete Standard Form 424, "Application for Federal Assistance," a signed Standard Form 424D, "Assurances—Construction Programs," signed copies of FRA's Additional Assurances and Certifications, available at <http://www.fra.dot.gov/downloads/admin/assurancesandcertifications.pdf>, 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>. If the scope of work includes non-construction activities, applications must also include a signed Standard Form 424B, "Assurances—Non-Construction Programs."

<sup>2</sup> Congress titled section 1307 "Deployment of Magnetic Levitation Transportation Projects" and the funding provided through section 1101(a)(18) of SAFETEA-LU, as amended by the 2008 Act is made available for the "deployment of magnetic levitation projects." FRA interprets the statute as a whole as evidencing a Congressional intent that the Federal funds be used to directly advance and result in the construction of a maglev project. Thus, in order to be eligible for funding under this program, an application must include evidence that an operating transportation facility that provides a revenue producing service will be constructed.

7. Define the scope of work for the proposed project and the anticipated project schedule. Describe the proposed project's physical location (as applicable), and the extent to which the proposed project consists of planning and/or implementation of capital improvements. 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 the portion covered by Federal funding.

8. 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; (10) miscellaneous; and (11) contingencies. Also specify the amount of costs in each category that are proposed to be funded from Federal funds, and the amount to be funded by non-Federal matching funds.

9. Describe and provide evidence of the source(s) and amount of matching funds.

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

11. Describe, in as much detail as possible, the next steps that will be required beyond those described in the application to foster implementation of the planned maglev services, such as technological development or testing, additional planning, engineering or site investigation activities, and right-of-way acquisition.

**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.

**Mark E. Yachmetz,**

*Associate Administrator for Railroad Development.*

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**BILLING CODE 4910-06-P**

## DEPARTMENT OF THE TREASURY

### Development of a Guarantee Program for Troubled Assets

**AGENCY:** Department of the Treasury, Departmental Offices.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury invites the general public to comment on a program to guarantee the timely payment of principal of, and interest on, troubled assets originated or issued prior to March 14, 2008, as authorized by Section 102 of the Emergency Economic Stabilization Act of 2008 (EESA).

**DATES:** Written comments should be received on or before October 28, 2008 to be assured of consideration.

**Submission of Comments:** Please submit comments electronically through the Federal eRulemaking Portal—"Regulations.gov." Go to <http://www.regulations.gov> to submit or view public comments. The "How to Use this Site" and "User Tips" link on the Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

Please include your name, affiliation, address, e-mail address and telephone number(s) in your comment. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** *TARPIinsurance@do.treas.gov*.

**SUPPLEMENTARY INFORMATION:** Section 102 of the Emergency Economic Stabilization Act of 2008 (Pub. L. 110-343) (EESA) charges the Secretary of the Treasury to develop a program to guarantee the timely payment of principal of, and interest on, troubled assets originated or issued prior to March 14, 2008. The Secretary is authorized to set and collect premiums from participating financial institutions by category or class of asset, taking into

consideration the credit risk characteristics of the asset being guaranteed. The premium must be sufficient to cover anticipated claims, based on actuarial analysis, and ensure that taxpayers are fully protected. The structure of the guarantee program may take any number of forms and may vary by asset class.

The Treasury Department is soliciting comments to assist in the development of the guarantee program. The Treasury Department is particularly interested in comments on the specific questions set forth below.

1. What are the key issues Treasury should address in establishing the guarantee program for troubled assets?

1.1 Should the program offer insurance against losses for both individual whole loans and individual mortgage backed securities (MBS)?

1.2 What is the appropriate structure for such a program? How should the program accommodate various classes of troubled assets? Should the program differ by the degree to which an asset is troubled?

1.2.1 What are the key issues to consider with respect to guaranteeing whole first mortgages?

1.2.2 What are the key issues to consider with respect to guaranteeing HELOCs and other junior liens?

1.2.3 What are the key issues to consider with respect to guaranteeing MBS?

1.2.4 What are the key issues associated with guaranteeing financial instruments other than mortgage related assets originated or issued before March 14, 2008 that could be important for promoting financial market stability?

1.3 What are the key issues to consider with respect to setting the payout of the guarantee?

1.3.1 Should the payout be equal to principal and interest at the time the asset was originated or to some other value? What should that value be? What would be the impact of offering guarantees of less than 100 percent of original principal and interest?

1.3.2 Should payout vary by asset class? If so, please describe using the same asset classes as enumerated under 1.21-1.24.

1.4 What event should trigger the payout under the guarantee? Should the holder be able to present the claim at will or should there be a set date? Should this date differ by asset class? Should this date differ by the degree to which the asset is troubled?

1.5 Should the holder be permitted to sell the troubled asset with the program guarantee? If appropriate, should asset sales be restricted to eligible financial institutions or should