

**INFORMATION COLLECTION
SUPPORTING JUSTIFICATION
Railroad Rehabilitation and Improvement Financing Program
OMB Control Number 2130-0548**

Summary

- This submission is a request for a revision of the last approval granted by OMB on July 26, 2012, and which expires July 31, 2015.
- The number of burden hours requested for this submission is 40,865 hours. The number of burden hours previously approved by OMB is 29,540. This request has a difference of an increase of 11,325 hours. The total burden has increased due to incorporation of the Buy America Act policy requirements.
- The total estimate cost to applicants is \$630,576.00; an increase of \$180,000. The cost was previously \$450,576.00. The cost to applicant has increased due to incorporation of the Buy America policy requirements.
- The main change to this package is incorporation of the Buy America policy requirements. The RRIF application process has not changed.

1. EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION. ATTACH A COPY OF THE APPROPRIATE SECTION OF EACH STATUTE AND REGULATION MANDATING OR AUTHORIZING THE COLLECTION OF INFORMATION.

This collection of information is a request for a revision of a currently approved submission. The Federal Railroad Administration (FRA) has revised the information in this collection – where appropriate and necessary – to be as complete and accurate as possible and to reflect FRA’s experience in administering this agency regulation.

Background

Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (Act), 45 U.S.C. 821 et seq., authorized the FRA to provide railroads financial assistance through the purchase of preference shares, and the issuance of loan guarantees. Section 7203 of the Transportation Equity Act for the 21st Century of 1998, Public Law (P.L.) 105-178 (1998) (TEA 21), and subsequent amendments in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, P. L. No. 109-59 (2005) SAFETEA-LU and the Rail Safety Improvement Act of 2008 (RSIA), Division A of Public Law 110-432 have since replaced the previous Title V financing program.

The revised program is referred to as the Railroad Rehabilitation and Improvement Financing (“RRIF Program”). Under the current RRIF program, direct loans and loan guarantees may be provided to State and local governments, certain interstate compacts, government sponsored authorities and corporations, railroads, joint ventures that include at least one railroad, and solely for the purpose of constructing a rail connection between a plant or facility and a second rail carrier, limited option rail freight shippers that own or operate a plant or other facility that is served by no more than a single railroad. Eligible projects include: (1) Acquisition, improvement or rehabilitation of intermodal or rail equipment or facilities (including tracks, components of tracks, bridges, yards, buildings, and shops); (2) Refinancing outstanding debt incurred for these purposes; or (3) Development or establishment of new intermodal or railroad facilities. The aggregate unpaid principal amounts of obligations cannot exceed \$35.0 billion at any one time, and not less than \$7.0 billion is to be available solely for projects benefitting freight railroads other than Class I carriers. The Secretary of Transportation has delegated his authority under the RRIF Program to the FRA Administrator in 49 C.F.R. §1.49.

On July 6, 2000, FRA published a final rule (FR) with procedures and requirements to cover applications of financial assistance in the form of direct loans and loan guarantees consistent with the changes made to Title V of the Act by section 7203 of TEA 21. On September 29, 2010, FRA published a Notice Regarding Consideration and Processing of Applications for Financial Assistance Under the Railroad Rehabilitation and Improvement Financing (RRIF) Program.

As stated in its 2010 RRIF Policy Notice, FRA explained FRA’s RRIF Buy America policy:

“FRA will expect recipients of direct loans or loan guarantees under the RRIF Program to agree to use funds provided to them under the RRIF Program to purchase steel, iron and other manufactured goods produced in the United States for the project.” *Notice Regarding Consideration and Processing of Applications for Financial Assistance under the Railroad Rehabilitation and Improvement Financing (RRIF) Program*, 75 Fed. Reg. 60165 (September 29, 2010).

As explained in the notice, FRA’s RRIF Buy America policy furthers two of the RRIF program’s eight priorities described in 45 U.S.C. 822(c): (3) Promote economic development, and (4) Enable U.S. companies to be more competitive in international markets.

RRIF Buy America means that the steel, iron, and manufactured goods used in projects funded by RRIF must be produced in the United States. This requirement includes the purchase of new or existing goods, or the refinance of assets, including rolling stock and railroad infrastructure.

If the borrower’s (“borrower”, as used in this submission, includes pre-approval

applicants) project includes the financing or refinancing of assets not produced in the U.S., then the applicant can submit a waiver request. Waivers may be granted if FRA finds that:

The steel, iron, and goods produced in the U.S. are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;
Rolling stock or power train equipment cannot be bought and delivered in the U.S. within a reasonable time;
Including domestic material will increase the cost of the overall project by more than 25 percent; and/or
Applying the RRIF Buy America policy would be inconsistent with the public interest.

Without the information collection described in this submission, the FRA Administrator could not fulfill the Administrator's duties under RRIF's Buy America policy. Specifically, the Administrator could not (1) be reasonably certain that the FRA is complying with the Buy America policy of only obligating an amount to carry out a RRIF funded project if the steel, iron, and manufactured goods used in the project are produced in the United States, (2) perform the fact-finding necessary to grant or deny a waiver, (3) justify the Administrator's grants of any waivers, (4) communicate to borrowers through the application and financing agreements negotiation process to verify compliance with the Buy America provision, (5) investigate and document any reported or discovered non-compliance with the Buy America provision, (6) audit borrowers pre-award to verify compliance with the Buy America provision, and (7) encourage domestic production of rolling stock by requesting borrowers submit plans to improve domestic rolling stock to assist borrowers in complying with the Buy America provision.

Meeting Department of Transportation (DOT) Strategic Goals

The information collection directly supports the Department of Transportation's strategic goal of economic competitiveness because the information collection supports FRA's implementation of the Buy America requirements, which bolsters economic benefits to American companies and working families.

2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.

The collection of information is used by FRA staff to determine the legal and financial eligibility of Applicants for direct loans regarding eligible projects. In particular, FRA carefully reviews the information submitted by each Applicant to ascertain and evaluate the specifics of each loan request. In order to make a determination, FRA scrutinizes required documents to learn the nature and full details of the Applicant and the project

being considered by the Applicant, including proposed dates of commencement and completion, and the estimated timing of the expenditure of the proceeds of the obligation. Applicants must submit documentation about their organization and provide an estimate of the economic impact of the project. Financial documents, notably the amount of an Applicant's equity and a description of collateral, if offered as security for the loan, play an important role in FRA's decision making.

FRA reviews Applicants' environmental documents to ensure that relevant Federal and State environmental and historic preservation statutes are taken into account and complied with. FRA also reviews engineering and design plans for projects to ensure safe and reasonable use of project funds.

An important part of FRA's examination of the information collected is assessing risk. A unique feature of the RRIF program is the payment of the Credit Risk Premium in lieu of an appropriation of funds to lower the estimated long-term cost to the Government of a loan. The information collected is critical to the calculation of a sufficient Credit Risk Premium to minimize risk to the Government. Dismissal of potential loans due to lack of supporting documentation would adversely impact the railroad industry as well as various State economies.

The information related to certification of compliance is used by FRA to verify compliance with the Buy America provision. The information related to waivers of the Buy America provision is used by FRA to grant or deny a waiver and by the public to comment on the waiver. The information related to the financing agreement is used by FRA and the borrower to verify compliance with the Buy America provision. The information related to any investigation of compliance is used by FRA to investigate and make findings with respect to compliance with the Buy America provision. The information related to the pre-award audit is used by FRA and the borrower to verify compliance with the Buy America provision. The information related to the domestic content improvement plans is used by FRA and the borrower to guide the borrower's increased use of domestic material.

Finally, FRA carefully reviews each request by an Applicant to keep certain information submitted to FRA in its application package confidential before making a decision to prevent competitive harm and to protect privacy to the extent permitted by law.

Note: FRA received 31 RRIF Program applications over the last three years and has dispersed funds to seven of these railroads.

- 3. DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER TECHNOLOGICAL COLLECTION TECHNIQUES OR OTHER FORMS OF INFORMATION TECHNOLOGY, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.**

FRA strongly encourages the use of advanced information technology, wherever possible, to reduce burden. As noted in previous agency information collection submissions, the information required for a loan application is readily available on the FRA website, (<http://www.fra.dot.gov/Page/P0128>), so that respondents can easily access the necessary information. Furthermore, FRA permits the required annual record keeping information to be submitted via fax.

It should be noted that FRA considered accepting applications and financial reports transmitted to the agency via the Internet. However, some applications and financial reports include confidential information. FRA felt that Applicants would not want to submit information via the Internet due to the highly sensitive nature of some of the information. Moreover, FRA does not have the resources, at this time, to be able to provide the level of security that might allay Applicants' concerns.

FRA will consider what steps can be taken to increase the level of security in order to facilitate electronic submissions. Although this has not been done in the past, we will determine if this option would be beneficial based on the volume of applicants.

- 4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSES DESCRIBED IN ITEM 2 ABOVE.**

The information collection requirements to our knowledge are unique and thus are not duplicated anywhere. Each borrower under RRIF is unique, as are its efforts surrounding compliance with the Buy America provision. Similar data are not available from any other source.

5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF OMB FORM 83-I), DESCRIBE ANY METHODS USED TO MINIMIZE BURDEN.

The definition of small governmental jurisdiction is based on population served. This term means governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than fifty thousand. (5 U.S.C. 601). It is not possible to determine the number of small government entities that may submit applications seeking financial assistance under the RRIF program.

Small governmental entities will likely benefit from the economic opportunities resulting from infrastructure improvements to small railroads that connect small governmental entities to the national railroad system. The cost to governmental entities of applying for the program would be relatively small since these Applicants will normally have available the information needed to prepare applications for funding.

In addition to small governmental entities, the small entities directly affected by this rule are Class III railroads and shippers. "Small entity" is defined in 5 U.S.C. 601 as having the same meaning as a small business concern under the Small Business Act, P.L. No. 85-536, as amended (2008). A small business concern is one that is independently owned and operated and is not dominant in its field of operation. 15 U.S.C. 632. The Small Business Administration (SBA) considers a railroad to be small if it has fewer than 1,500 employees of "line-haul operating" Railroads, and 500 employees for "short line railroads." 13 Code of Federal Regulations (C.F.R) §121.201. FRA does not have information regarding the number of people employed by the railroads; therefore it cannot determine exactly how many small railroads, by SBA definition, are in operation within the United States.

Prior to the SBA regulations establishing size categories, the Interstate Commerce Commission (ICC) developed a classification system for freight railroads as Class I, II, or III, based on annual operating revenues. The Department of Transportation's Surface Transportation Board (STB), which succeeded the ICC, maintained this classification system. A Class II railroad has annual operating revenues greater than \$20 million but less than \$250 million, and a Class III railroad has annual operating revenues of \$20 million or less. 49 C.F.R. §1201.1-1. The ICC classification system has been used throughout FRA and the railroad industry to identify railroads by size. For the purpose of railroad safety regulation, FRA regards "small entities" or "small businesses" as including Class III railroads and commuter railroads. 49 C.F.R. Part. 209, Appendix C. About 550 – 677 of the approximately 700 railroads in the United States are Class III railroads and would be considered small businesses by FRA. Small railroads that would be affected by this rule provide less than 10 percent of the industry's employment, own about 10 percent of the track, and operate less than 10 percent of the freight ton-miles. A previous survey by the American Short Line and Regional Railroad Association (ASLRRRA) and the standing committee on rail transportation of the American

Association of State Highway and Transportation Officials (ASHHTO) found that approximately 100 small railroads need \$950 million in external financing to upgrade their track to safely handle the 286,000 pound cars that the Class I carriers are now using. A subsequent study funded jointly by FRA and the ASLRRRA estimates that it would cost over \$6.8 billion to upgrade all the lines operated by short line and regional railroads to handle 286,000 pound cars.

While these 100 railroads may seek RRIF financing, the cost and time burden will be minimal since the information needed to complete applications will normally be available. In order to further reduce burden on Applicants while still assuring that adequate information is available to accurately evaluate each loan application and proposed project, sections 260.23(h) and 260.25(b)(1) of the RRIF Program regulations provide that audited financial statements will only be required if they are available. Also, in order to provide Applicants more flexibility in controlling the total administrative costs of each application, section 260.29 provides Applicants with the option of contracting out with a third party financial consultant – with agency approval – to prepare a financial evaluation of the project and the Applicant. Cost savings to FRA as a result of receiving such an evaluation will be reflected as reductions to the investigation fee.

With respect to RRIF Buy America requirements, this information collection requirement is the same for large and small businesses. However, in general small businesses will be less affected since the Buy America provision only applies to contracts greater than \$100,000. The burden varies considerably based on the value and complexity of the underlying project, and in particular, the amount of steel, iron or manufactured goods to be purchased by the borrower. It can be expected that larger businesses will purchase more of these types of goods and thus experience a greater burden, while smaller businesses will purchase less and have a smaller burden. Further, information collection related to waivers occurs only if requested by a borrower. Information collection related to investigations occurs only if an investigation is initiated.

It should be noted that participation in the RRIF Program is strictly voluntary.

6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION IS NOT CONDUCTED OR IS CONDUCTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

If the information were not collected or were collected less frequently, FRA would be unable to fulfill its Congressionally mandated responsibilities under the RRIF Program. Specifically, without the information collected in each loan application and other required documents, FRA would be unable to understand and evaluate the merits of proposed projects to improve or rehabilitate existing intermodal or rail equipment and facilities, or any plans/proposals to develop or establish new intermodal or railroad facilities. Rail transportation in this country would then be adversely affected.

If the application information were not collected, FRA would not be able to accurately calculate the amount needed for the Credit Risk Premium. The Credit Risk Premium is a cash payment from a non-Federal entity that covers the estimated long-term cost to the Government of a loan. Failure to accurately calculate the Credit Risk Premium would put the government at greater risk of financial defaults and delinquencies, putting an even greater burden on American taxpayers. If the financial reporting information were not collected at all or collected less frequently, FRA's ability to properly monitor the financial viability of the Applicant and provide any necessary assistance/advice would be severely jeopardized.

Without the collection of the application and financial reporting information, FRA would not be able to effectively implement and administer the RRIF program. Without RRIF financing, almost 100 shortline and regional railroads would not have the possibility to upgrade their track so as to safely accommodate the 286,000 pound cars that the major carriers are now using. As a result, many might lose traffic critical to their viability and continued operation. Moreover, if these railroads cease to exist, rail traffic would be diverted to highways, accelerating their deterioration and increasing their reconstruction costs, and adversely affecting the environment and surrounding communities. Without this financing, some track operated by small railroads might be abandoned and the freight traffic moved by more expensive and less energy efficient means. This could result in higher costs for various products and have a negative impact on the national economy. In sum, the collection of information serves to comply with the law, facilitates RRIF funding, and improves and enhances rail transportation in this country. Greater RRIF program participation, in turn, will help bolster the economy and positively affect energy consumption/efficiency while promoting a cleaner environment and more sustainable communities.

With respect to RRIF's Buy America policy, there are no recurring or periodic information requests, unless the borrower needs to change or update information previously provided. Rather, the information collections are one-time project specific requests. As noted in Section 5 above, some of the information collection (e.g. waivers and investigations) only occur upon request. Without the information collection described in this submission, the FRA Administrator could not fulfill his/her duties under the RRIF Buy America policy as described in Section 1 above.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:

- **REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;**

The only report required more frequently than quarterly is when a loan is in default. In such a case, the lender must submit a delinquency report each month. The practice of monthly monitoring of a delinquent account is typical in the lending industry. The

involvement of a lender at an early stage of default will ensure prompt attention to the loan in this critical and time sensitive situation. This frequency should reduce FRA's and taxpayers' exposure to potential loss.

- **REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;**

Once an Independent Financial Advisor (IFA) is procured, the IFA reviews the RRIF application submitted by the Applicant. If there are any missing items or additional information needed, the Applicant is asked to provide this information in less than 30 days in order to supply the IFA with required information for proper loan evaluation as part of the normal RRIF loan application process.

RRIF Buy America:

Five of the information collection requirements for RRIF's Buy America policy related to the investigation process require special circumstances due to "requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it." The first and second such requirements are Item 4.3 "Bidder/Offeror Documentation of Compliance Submitted to Borrower after FRA Determination to Conduct Investigation and Letter from Borrower" (please refer to Section 12 below) within fifteen (15) working days for the first request and Item 4.7 "Additional Documents to FRA from Borrower/Investigated Party" within five (5) working days for any additional information requested by FRA, unless extended by FRA. The third and fourth information collection requirements are Item 4.9 "Petitioner Comment to FRA on Reply" within ten (10) working days, and Item 4.11 "Borrower / Investigated Bidder/Offeror respond to Petitioner Comment" five (5) day window to respond to the petitioner's comments. The fifth requirement is Item 4.12 "Written request to FRA for information bearing on substance of investigation which has been submitted by petitioner, interested parties, or borrowers" within ten (10) working days.

These special circumstances are only necessary in the event of an investigation related to the borrower's compliance with the Buy America provision. In many respects, the burden of this information is in the control of the borrower and not FRA because the borrower can avoid these requirements by being Buy America compliant and maintaining reasonable documentation to prove compliance. The timely filing of the documentation is essential to allowing FRA to resolve the investigation and to keep the investigation process moving. The quick resolution of the investigation is important because the remedy required by FRA is compliance with the borrower's certification and could require substitute domestic materials. Many goods have long-lead times, and a lengthy investigation process could prevent the successful completion of the underlying.

All other Buy America information collection requirements are in compliance with this section.

- **REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;**

Applicants are required to submit an original application with four paper copies and a CD with the electronic version of the Application and supporting documents and attachments.

- **REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN THREE YEARS;**

FRA requires respondents to submit five years of historical financial data and railroad traffic as part of the RRIF application in order to properly evaluate the creditworthiness.

- **IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;**

The FRA will not be utilizing a statistical survey.

- **REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;**

The FRA will not require the use of a statistical data classification.

- **THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUTE OR REGULATION, THAT IS NOT SUPPORTED BY DISCLOSURE AND DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL USE; OR**

Applicants are required to identify any submitted information that the Applicant wishes not to be released by the agency in response to a request from the public. The Applicant must identify the reasons why the information should not be released, including details as to any competitive harm that might result from the release of the information. The agency has committed to keep such information confidential to the extent permitted by law, which involves primarily Freedom of Information Act (FOIA) exemption 4, 5 U.S.C. 552 (b)(4). This provision exempts from release trade secrets and commercial or financial information obtained from a person that is privileged or confidential. To the extent the information meets exemption 4 standards, the agency could and would refuse to release it to the public.

- **REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.**

There are no provisions specifically requiring Applicants to submit proprietary trade secrets or other confidential information. However, to the extent that Applicants submit such information in connection with an application for financial assistance, the Applicants are required to identify the information which the applicant wishes to be held confidential and to explain why the information should not be released, including details as to any competitive harm that might result from the release of the information. Additionally, to the extent that a borrower submits proprietary trade secrets or other confidential information to FRA during the term of the loan, the Borrower is required to identify the information it believes should be held confidential and explain why the information should not be released, including details as to any competitive harm that might result from the release. The agency will protect the confidentiality of the identified information to the extent permitted by law. As discussed above, this primarily involves application of FOIA exemption 4. The agency's FOIA implementing regulations establish a process for consulting with the submitters of confidential information in connection with public requests for the information. *See* 49 C.F.R. §7.17.

8. **IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 C.F.R. §1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE TO THAT NOTICE AND DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THOSE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.**

DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND RECORD KEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED.

CONSULTATION WITH REPRESENTATIVES OF THOSE FROM WHOM INFORMATION IS TO BE OBTAINED OR THOSE WHO MUST COMPILE RECORDS SHOULD OCCUR AT LEAST ONCE EVERY 3 YEARS-EVEN IF THE COLLECTION OF INFORMATION ACTIVITY IS THE SAME AS IN PRIOR PERIODS. THERE MAY BE CIRCUMSTANCES THAT MAY PRECLUDE CONSULTATION IN A SPECIFIC SITUATION. THESE

CIRCUMSTANCES SHOULD BE EXPLAINED.

In a July 9, 1998, Federal Register notice (63 FR 38448), FRA requested information regarding the types of projects that might benefit from financial assistance available under RRIF and the possible Applicants for such financial assistance.

On September 14, 1998, FRA participated in a DOT public meeting in New York City regarding the RRIF program and the Transportation Infrastructure Finance and Innovation Act program.

On May 20, 1999, FRA issued a Notice of Proposed Rulemaking (NPRM) in the Federal Register (64 FR 27488). FRA received a total of 92 comments in response to the NPRM. Many comments addressed RRIF Program specifics, such as interest rates, investigation fees, and the calculation of the Credit Risk Premium. A large number of comments (approximately 60) suggested that the amount of information required to be submitted with applications will prove an undue burden on small businesses. Commenters suggested that FRA should limit the amount of information required and eliminate the requirement that financial statements be audited. In an effort to reduce the burden on Applicants while still assuring that adequate information is available to accurately evaluate each loan application and proposed project, FRA amended section 260.23(h) and 260.25(b)(1) of the regulation to provide that audited financial statements will only be required if they are available. Further, FRA amended sections 260.25(b) and 260.25(c), and eliminated 260.29. FRA issued a Final Rule on July 6, 2000, (65 FR 41838), implementing the RRIF Program. The Final Rule reflected FRA's consideration of the comments filed in response to the NPRM.

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the Federal Register on 3/03/2015 (Vol. 80, No. 41), soliciting comment on this particular information collection; FRA received no comments in response to this notice.

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.

No payments or gifts are provided to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

Applicants and Borrowers are required to identify any information submitted to the agency in connection with an application or loan that the Applicant or Borrower believes should not be released to the public, including providing an explanation of the basis for the request and the competitive harm that would result from the release of the information. The agency agrees to protect the information from release to the extent

permitted by law, primarily to the extent the information qualifies for FOIA exemption 4 protection. The agency is committed to protecting the information from release. FRA does not want to put Applicants at a competitive disadvantage through the release of trade secrets or confidential commercial information because of their choice to participate in the program. Confidentiality is also assured because of the applicability of the Trade Secrets Act (18 U.S.C. §1905). The Department's FOIA implementing procedures establish a process for consulting with submitters of confidential information in connection with public requests for the information. See 49 C.F.R. §7.17.

11. **PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USE TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.**

No questions of a sensitive nature and other matters commonly considered private are contained in the RRIF regulation.

12. **PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION. THE STATEMENT SHOULD:**

- A **INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCES IN ACTIVITY, SIZE, OR COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDENS HOUR FOR CUSTOMARY AND USUAL BUSINESS PRACTICES.**
- B **IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEMS 13 OF OMB FORM 83-1.**
- C **PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES. THE COST OF CONTRACTING OUT OR PAYING OUTSIDE PARTIES FOR INFORMATION COLLECTION ACTIVITIES SHOULD NOT BE INCLUDED HERE. INSTEAD, THIS COST SHOULD BE INCLUDED IN ITEM 14.**

Note: FRA estimates that there are potentially 75,635 Applicants eligible to apply for financial assistance under the Railroad Rehabilitation and Improvement Financing Program. This respondent universe includes approximately 650 railroads, 50 state governments, and 74,935 local government and government-sponsored authorities and corporations, according to the U.S. Census Bureau's 2007 Census of Governments.

Application Process

49 C.F.R. §260.19 Pre-application meeting.

Potential Applicants may request a meeting with the FRA Associate Administrator for Railroad Development to discuss the nature of the project being considered. Applicants must be prepared to provide at least the following information: (a) Applicant's name, address, and contact person; (b) Name of the proposed infrastructure partner(s), If any, including the identification of potential amounts of funding from each; (c) Amount of the direct loan or loan guarantee request, and a description of the technical aspects of the project including a map of the existing railroad lines with the location of the project indicated; (d) Brief description and estimate of the economic impact, including future demand for service, improvements that can be achieved, the project's relation to the priorities listed in §260.7, along with any feasibility, market or other studies that may have been done as attachments; (e) Amount of Applicant's equity and a description of collateral offered, with estimated values, including the basis of such, to be offered as security for the loan; (f) If applicable, the names and addresses of the Applicant's parent, affiliates, and subsidiary corporations, if any, and a description of the ownership relationship and the level of guarantee, if any, to be offered; (g) For existing companies, a current balance sheet, and an income statement not more than 90 days old and financial statements for the Borrower and any parent, affiliates, and subsidiaries for at least the four most recent years and cash flow statements for the last 5 years if available; and (h) Information relevant to the potential environmental impacts of the project in the context of applicable Federal law.

FRA conducts pre-application meetings with Applicants who are in various stages of readiness for submitting an application. As a result, many pre-application meetings are held without submission of any written materials or preparation on the part of the potential Applicant. Many materials that are submitted have been previously prepared for other purposes and therefore do not impose any additional time burden.

§260.23 Form and content of application generally.

Each application must include, in the order indicated and identified by applicable paragraph numbers and letters corresponding to those used in this section, the following information: (a) Full and correct name and principal business address of the Applicant; (b) Date of Applicant's incorporation, or organization if not a corporation, and name of the government, State or territory under the laws of which it was incorporated or organized. If Applicant is a partnership, association, or other form of organization other than a corporation, a full description of the organization should be furnished; (c) Name, title, and address of the person to whom correspondence regarding the application should

be addressed; (d) A statement of whether the project involves another railroad or other participant, through joint execution, coordination, or otherwise; if so, description of the relative participation of Applicant and such other railroad or participant, including financial statements (if applicable) and financing arrangements of each participant, portion of the work to be performed by each participant, and anticipated level of usage of the equipment or facility of each participant when the work is completed, along with a statement by a responsible officer or official of the other railroad or participant that the information provided reflects their agreement on these matters; (e) A detailed description of the amount and timing of the financial assistance that is being requested and its purpose or purposes, including: (1) Detailed description of the project and its purpose or purposes; (2) A description of all facilities or equipment and the physical condition of such facilities or equipment included in or directly affected by the proposed project; (3) Each part or sub-part into which the project may reasonably be divided and the priority and schedule of expenditure for each part or sub-part; and (4) Proposed dates of commencement and completion of the project and estimated timing of the expenditure of the proceeds of the obligation; (5) A map of Applicant's existing railroad with location of project indicated, if appropriate; (f) A listing and description of the collateral to be offered the Administrator in connection with any financial assistance provided; Applicant's opinion of the value of this security and the basis for such opinion; in the case of leased equipment to be rehabilitated or improved with the proceeds of the obligation proposed to be guaranteed, Applicant must state, in addition to the above, whether the lease provides for, or the lessor will permit, encumbrance of the leasehold or subordination of the lessor's interest in the equipment to the Administrator; (g) A statement, in summary form, showing financial obligations to or claims against the United States or obligations for which the United States is guarantor, if any, by Applicant or any affiliated corporate entity of the Applicant or the Applicant's parent as of the date of the application, including: (1) Status of any claims under litigation; and (2) Any other debits or credits existing between the Applicant and the United States, showing the department or agency involved in such loans, claims and other debts; (h) To the extent such information is available, an analysis that includes: (1) a statement, together with supporting evidence including copies of all market analyses and studies that have been performed to determine present and future demand for rail services or facilities, that the financing is justified by present and future probable demand for rail services or facilities, will meet existing needs for such services or facilities, and will provide shippers or passengers with improved service; (2) Description of the impact of the project upon the projected freight or passenger traffic to be originated, terminated, or carried by the Applicant for at least the five years immediately following completion of the project; (3) Explanation of the manner in which the project will increase the economical and efficient utilization of equipment and facilities; and (4) Description of cost savings or any other benefit which would accrue to the Applicant from the project; (i) A statement as to how the project will contribute to, or enhance, the safe operation of the railroad, considering such factors as the occupational safety and health of the employees and the improvement of the physical and other conditions that have caused or may cause serious injury or loss of life to the public or significant property damage; (j) A statement of Applicant's maintenance program for its entire rail system and planned maintenance program for the

equipment or facilities financed by the proceeds of the financial assistance; (k) A certified statement in the form contained in §260.31(d) that Applicant will pay to the Administrator, in accordance with §260.11, the investigation charge with respect to the application; (l) Information relevant to the potential environmental impacts of the project in the context of applicable Federal laws; (m) Any additional information that the Applicant deems appropriate to convey a full and complete understanding of the project, the project's relations to the priorities listed in §260.7, and its impact or to assist the Administrator in making the statutorily prescribed findings; and (n) Any other information which the Administrator may deem necessary concerning an application filed under this part; (o) Railroad Applicants must also submit a copy of application for financing for the project in the private sector, including terms requested, from at least one commercial lender, and its response refusing to provide such financing.

FRA estimates approximately 18 complete applications (FRA form FRA F 216) will be submitted annually under this requirement. It is estimated that the burden response time per application will average approximately 20 hours. Total annual burden for this requirement is 360 hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	20 hours
Frequency of response:	Annual
Annual number of responses:	18 applications
Annual burden:	360 hours

Calculation: 18 applications x 20 hrs. = 360 hours

§260.25 Additional information for Applicants not Having a Credit Rating

Applicants that do not have a credit rating must provide additional information to enable FRA to determine the Applicant's credit worthiness. Each application submitted by Applicant credit rating from one or more nationally recognized rating agencies must include, in the order indicated and identified by applicable numbers and letters corresponding to those used in this section, the following information: (a) A narrative statement detailing management's business plan to enhance Applicant's ability to provide rail services including a discussion of the following: (1) Applicant's current and prospective traffic base, including by commodity and geographic region, major markets served, major interchange points, and market development plans; (2) Applicant's current operating patterns, and plans, if any, to enhance its ability to serve its current and prospective traffic base; (3) System-wide plans to maintain equipment and rights-of-way at current or improved levels; and (4) Specific plans for rationalization of marginal or uneconomic services; (b) Detailed financial information, including: (1) Financial statements prepared by a Certified Public Accountant (audited, if available), for the four calendar years immediately preceding the date of filing of the application, including: (i) A copy of Applicant's most recent year-end general balance sheet and a copy of Applicant's most recent unaudited general balance sheet; and (ii) Applicant's most recent annual income statement and a spread sheet showing unaudited monthly and year-to-date

income statement data up to the date the application is filed; (2) Projected financial statements, including spread sheets showing for each of the four years subsequent to the year in which the application is filed, both before and after giving effect to the proceeds of the assistance requested in the application: (i) Forecasted annual income statement; (ii) Forecasted year-end balance sheets. These spreadsheets must be accompanied by a statement setting forth the bases for such forecasts; and (iii) A spreadsheet showing changes in financial position for the year in which the application is filed, including the period ending on the date of the application based upon actual data and the period from the date of the application to the end of the year, based upon estimated and forecasted data; (c) Capital spending plans for the next five years; (d) Cash flow projections; (e) Contingency plans for termination of the project before completion, if necessary; and (f) A narrative description of Applicant’s management team, including: (1) Rail experience of top management; (2) Management’s plans for achieving growth and its long-term capital spending plan; and (3) A narrative description of Applicant’s workforce and the historical rate of employee turnover.

FRA estimates that approximately 15 financial document packages will be submitted per year under this requirement. It is estimated that it will take approximately 50 hours for small railroads to gather and develop this information. Total annual burden for this requirement is 750 hours.

Respondent universe:	650 potential Applicants
Burden time per response:	50 hours
Frequency of response:	Annual
Annual number of responses:	15 financial document packages
Annual burden:	750 hours

Calculation: 15 financial document packages x 50 hrs. = 750 hours

§260.27 Additional information for loan guarantees.

Applications for a loan guarantee must also include in the order indicated and identified by applicable numbers and letters corresponding to those used in this section, the following information: (a) With respect to each existing obligation to be refinanced or proposed obligation: (1) A certified copy of proposed or executed obligation agreements; (2) A detailed description of the obligation, and a description of the series or issue of which the obligation is, or will be a part, including: (i) Effective date, or anticipated effective date; (ii) Where a guarantee is sought for an outstanding obligation being refinanced, actual effective rate of interest; or where the obligation is new, the terms of the proposed obligation including the proposed effective rate of interest; and (iii) All related documents, whether executed or proposed; and (3) For an existing obligation, the Applicant’s payment history on that obligation; and (b) With respect to each existing Lender, Holder, or prospective Lender, a statement as to: (1) Full and correct name and principal business address; (2) Reference to applicable provisions of law and the charter or other governing instruments conferring authority to do business on the Lender, Holder, or prospective Lender; (3) Brief statement of the circumstances and negotiations leading

to the agreement by the Lender, Holder, or prospective Lender to make the loan; (4) Brief statement of the nature and extent of any affiliation or business relationship between the Lender, Holder, or prospective Lender and the Applicant or any of Applicant's directors, partners, or principal executive officers; and (5) Full and complete statement of all sums to be provided by the Lender or Holder, or to be provided by the prospective Lender in connection with the proposed obligation including: (i) Name and address of each person to whom the payment has been made or will be made and nature of any affiliation, association, or prior business relationship between any person named in this paragraph and the Lender, Holder, or prospective Lender or any of its directors, partners, or officers; and (ii) Amount of the cash payment, or the nature and value of other consideration.

Based on experience over the past three years, FRA estimates that no Applicants will be requesting loan guarantees. As a result, FRA estimates that there is no burden associated with this requirement.

§260.31 Execution and filing of the application.

- A. The original application must bear the date of execution, be signed in ink by or on behalf of the Applicant, and must bear the corporate seal in the case of an Applicant which is a corporation. Execution must be by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, or if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the Applicant must also sign a certificate in form as stated in this section. 49 C.F.R. §260.31(a).

FRA estimates that approximately 18 certificates will be submitted per year under this requirement. It is estimated that it will take approximately 0.6 hours to complete each certificate. Total annual burden for this requirement is 10.8 hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	0.6 hours
Frequency of response:	Annual
Annual number of responses:	18 certificates
Annual burden:	10.8 hours

Calculation: 18 certificates x .6 hrs. = 10.8 hours

- B. There shall be made a part of the original application a certificate by the Chief Financial Officer or equivalent officer of the Applicant, certifying the authenticity, accuracy, and completeness of the financial statements provided. 40 C.F.R. §260.31(b).

FRA estimates that approximately 18 certificates signed by a Chief Financial Officer/equivalent officer will be submitted per year under this requirement. It is estimated that it will take approximately 0.6 hours to complete each certificate. Total annual burden for this requirement is 10.8 hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	0.6 hours
Frequency of response:	Annual
Annual number of responses:	18 certificates
Annual burden:	10.8 hours

Calculation: 18 certificates x .6 hrs. = 10.8 hours

- C. The application must be accompanied by a transmittal letter requesting the Administrator investigate the application and make findings regarding the eligibility for the loan, and acknowledging that acceptance of the application and investigation charge does not indicate the application is sufficient or meritorious and that a Credit Risk Premium will be due before disbursement if the loan is granted. 49 C.F.R. §260.31(d).

FRA estimates that approximately 18 transmittal letters with a signed seal will be submitted per year under this requirement. It is estimated that it will take approximately 0.6 hours to complete each transmittal letter. Total annual burden for this requirement is 10.8 hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	0.6 hours
Frequency of response:	Annual
Annual number of responses:	18 transmittal letters
Annual burden:	10.8 hours

Calculation: 18 transmittal letters x .6 hrs. = 10.8 hours

- D. The original application and supporting papers, and three copies and one digital copy thereof for the use of the Administrator, must be filed with the Associate Administrator for Railroad Development of the Federal Railroad Administration, 1200 New Jersey Ave., S.E., Mail Stop 20, Washington, D.C. 20590. Each copy must bear the dates and signatures that appear in the original and must be complete in itself, but the signatures in the copies may be stamped or typed.

FRA estimates that approximately 18 mailed application packages, including the original and three copies and one digital copy, will be submitted per year under this requirement. It is estimated that the administrative staff of each Applicant will take approximately 1.5 hours to copy and mail the application package. Total annual burden requirement is 27 hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	1.5 hours
Frequency of response:	Annual
Annual number of responses:	18 application packages
Annual burden:	27 hours

Calculation: 18 application package x 1.5 hrs. = 27 hours

Total annual burden for this “§260.31 execution and filing of the application” requirement is 59.4 hours (10.8 + 10.8 + 10.8 + 27).

Confidential Information

§260.33 Information Requests

If an Applicant desires that any information submitted in its application or any supplement thereto not be released by the Administrator upon request from a member of the public, the Applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would probably result from release of such information. The Administrator will keep such information confidential to the extent permitted by law.

FRA estimates that approximately 18 statements will be submitted per year under this requirement. It is estimated that executive/professional staff of each Applicant will take approximately 30 minutes to gather and organize this information. Total annual burden for this requirement is nine (9) hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	30 minutes
Frequency of response:	One-time
Annual number of responses:	18 statements
Annual burden:	9 hours

Calculation: 18 statements x 30 min. = 9 hours

Environmental Process

§260.35 Environmental assessment.

- A. The provision of financial assistance by the Administrator under this Part is subject to a variety of environmental and historic preservation statutes and implementing regulations including the National Environmental Policy Act (“NEPA”) (42 U.S.C. 4332 et seq.), Section 4(f) of the Department of Transportation Act (49 U.S.C. 303(c)), the National Historic Preservation Act (16 U.S.C. 470(f)), the Coastal Zone Management Act (16 U.S.C. 1451), and the Endangered Species Act (16 U.S.C. 1531). Appropriate environmental/historic preservation documentation must be completed and approved by the Administrator prior to a decision by the Administrator on the Applicant’s financial assistance request. FRA’s “Procedures for Considering Environmental Impacts” (“FRA’s Environmental Procedures”) (65 FR 28545 (May 26, 1999)) or any replacement environmental review procedures that the FRA may later issue and the NEPA regulation of the Council on Environmental Quality (“CEQ Regulation”) (40 C.F.R. Part 1500) will govern the FRA’s compliance with applicable environmental/historic preservation review requirements. 49 C.F.R. §260.35(a).

The Administrator, in cooperation with the Applicant, has the responsibility to manage the preparation of the appropriate environmental document. The role of the Applicant will be determined by the Administrator in accordance with the CEQ Regulation and Environmental Procedures.

FRA estimates that approximately one (1) Applicant will be required to submit environmental impact statement documents once under this program. It is estimated that the total number of hours required of the Applicant and the qualified contractor will be approximately 15,552. This includes the hours required to gather and analyze the data and then develop the appropriate environmental document(s). Total annual burden requirement is 15,552 hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	15,552 hours
Frequency of response:	Annual
Annual number of responses:	1 environmental document
Annual burden:	15,552 hours

Calculation: 1 environmental document x 15,552 hrs. = 15,552 hours

FRA estimates that approximately two (2) Applicants will be required to submit environmental assessment documents once under this program. It is estimated that the total number of hours required of the Applicant and the qualified contractor will be approximately 4,992. This includes the hours required to gather and analyze the data and then develop the appropriate environmental document(s). Total annual burden requirement is 9,984 hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	4,992 hours
Frequency of response:	Annual
Annual number of responses:	2 environmental documents
Annual burden:	9,984 hours

Calculation: 2 environmental documents x 4,992 hrs. = 9,984 hours

FRA estimates that approximately fifteen (15) Applicants will be required to submit a categorical exclusion (FRA form FRA F 217) once under this program. It is estimated that the total number of hours required of the Applicant and the qualified specialist will be approximately 176. This includes the hours required to gather and analyze the data and then develop the appropriate environmental document(s). Total annual burden requirement is 2,640 hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	176 hours
Frequency of response:	Annual
Annual number of responses:	15 environmental documents
Annual burden:	2,640 hours

Calculation: 15 environmental document x 176 hrs. = 2,640 hours

- B. Applicants are strongly urged to consult with the Associate Administrator for Railroad Development at the earliest possible stage in project development in order to assure that the environmental/historic preservation review process can be completed in a timely manner. 49 C.F.R. §260.35(b).

FRA estimates that approximately five Applicants will consult with the Associate Administrator for Railroad Development about project development under the above requirement. It is estimated that it will take approximately one (1) hour to conduct this consultation. Total annual burden requirement is five (5) hours.

Respondent universe:	75,635 potential Applicants
Burden time per response:	1 hour
Frequency of response:	Annual
Annual number of responses:	5 consultations
Annual burden:	5 hours

Calculation: 5 consultations x 1 hr. = 5 hours

Total annual burden for this “§260.35 Environmental Process” requirement is 28,181 hours (15,552 + 9,984 + 2,640 + 5).

Loan Recipients

§260.41 Inspection and reporting.

When RRIF loan proceeds are used by the Borrower, they must submit annually to the Administrator financial records and other documents which demonstrate the Borrower’s condition, including but not limited to the following areas: financial, credit, operational, safety, legal/regulatory and governance.

FRA estimates that approximately 18 financial records and other documents will be submitted per year under this requirement. It is estimated that it will take approximately 10 hours to develop and submit this information. Total annual burden requirement is 180 hours.

Respondent universe:	75,635 Applicants
Burden time per response:	10 hours
Frequency of response:	Annual
Annual number of responses:	18 financial records/other documents
Annual burden:	180 hours

Calculation: 18 financial records/other documents x 10 hrs. = 180 hours

Loan Guarantees

§260.53 Lenders' functions and responsibilities.

Lenders have the primary responsibility for the successful delivery of the program consistent with the policies and procedures outlined in this Part. All lenders obtaining or requesting a loan guarantee from the Administrator are responsible for:

(a) *Loan processing.* Lender shall be responsible for all aspects of loan processing, including: (1) Processing applications for the loan to be guaranteed; (2) Developing and maintaining adequately documented loan files; (3) Recommending only loan proposals that are eligible and financially feasible; (4) Obtaining valid evidence of debt and collateral in accordance with sound lending practices; (5) Supervising construction, where appropriate; (6) Distributing loan funds; (7) Servicing guaranteed loans in a prudent manner, including liquidation if necessary, and (8) Obtaining the Administrator’s approval or concurrence as required in the loan guarantee documentation.

(b) *Credit Evaluation.* Lender must analyze all credit factors associated with each proposed loan and apply its professional judgment to determine that the credit factors, considered in combination, ensure loan repayment. The Lender must have an adequate underwriting process to ensure that loans are reviewed by other than the originating officer. There must be good credit documentation procedures.

(c) *Environmental Responsibilities.* Lender has a responsibility to become familiar with Federal environmental requirements; to consider, in consultation with the prospective Borrower, the potential environmental impacts of their proposals at the earliest planning stages; and to develop proposals that minimize the potential to adversely impact the environment. Lender must alert the Administrator to any controversial environmental issues related to a proposed project or items that may require extensive environmental review. Lender must assist Borrowers as necessary to comply with the environmental requirements outlined in this part. Additionally, Lender will assist in the collection of additional data when the Agency needs such data to complete its environmental review of the proposal; and assist in the resolution of environmental problems.

(d) *Loan Closing.* The Lender will conduct or arrange for loan closings; and

(e) *Fees and Charges.* The Lender may establish charges and fees for the loan provided they are similar to those normally charged other Applicants for the same type of loan in the ordinary course of business.

FRA anticipates no loan guarantees; therefore, no lenders will be involved in the program. Consequently, there is no burden associated with these requirements.

§260.55 Lender's loan servicing.

(a) The lender is responsible for servicing the entire loan and for taking all servicing actions that are prudent. This responsibility includes but is not limited to the collection of payments, obtaining compliance with the covenants and provisions in the loan documents, obtaining and analyzing financial statements, verification of tax payments, and insurance premiums, and maintaining liens on collateral.

(b) The lender must report the outstanding principal and interest balance on each guaranteed loan semiannually.

(c) At the Administrator's request, the lender will periodically meet with the Administrator to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the loan documents are being enforced.

(d) The lender must obtain and forward to the Administrator the Borrower's annual financial statements within 120 days after the end of the Borrower's fiscal year and the due date of other reports as required by the loan documents. The Lender must analyze the financial statements and provide the Agency with a written summary of the Lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the Borrower.

(e) Neither the Lender nor the Holder shall alter, nor approve any amendments of, any loan instrument without the prior written approval of the Administrator.

Since FRA estimates that no Applicants will be requesting loan guarantees, no lenders will be required to provide financial reports. Consequently, there is no burden associated with these requirements.

The total burden for this entire information collection is 29,539.4 hours for all Applicants, assuming that a categorical exclusion is completed. In addition, the total number of responses expected on an annual basis for the collection is 164. This represents the sum of each submission item included in each “Annual Number of Responses” category above (18 applications, 15 financial documents, 18 certificates, 18 certificates, 18 transmittal letters, 18 application packages, 18 statements, 1 environmental document, 2 environmental documents, 15 environmental documents, 5 consultations, and 18 financial records/other documents.) The total number of responses has increased by 40 since the previous submission due to greater interest in the RRIF program and a corresponding increase in FRA’s estimate of the total number of applications it expects to receive.

Buy America Process

Item No.	Respondent Universe	Total Annual Responses	Average Time per Response	Total Annual Burden Hours
1.1 – Certification of Compliance or Non-Compliance with Buy America Requirements for Steel, Iron, or Manufactured Products being produced by Borrower	18 Borrowers	2,376 compliance certifications	3 hours	7,128 hours
1.2 - Certification of Compliance with Buy America for Rolling Stock	18 Borrowers	1 certification	62 hours	62 hours
2.1 – Waivers – Requests/Applications for Waivers, including FRA Form 229	18 Borrowers	12 waiver requests	198 hours	2,349 hours
2.2-- Public Comment on Waiver Requests	6 Rail Car Manufacturers/ 3Associations/ Public	18 comments	4 hours	72 hours
2.3 --Consultations with Organizations/ Associations Knowledgeable about Sources of Domestic Goods	3 Associations/ 6 Rail Car Manufacturers	12 consultations	1 hour	12 hours
3.1 – Financial Assistance Agreements with FRA	18 Borrowers	18 agreements	60 minutes	18 hours
3.2-- Borrower Request for Proposal (RFP) with Buy America Notice	18 Borrowers	18 RFPs	75 minutes	23 hours
3.3-- Bidder/Offeror Written Explanation concerning Incomplete/Incorrect Certification	11 Bidders/Offerors	3 written Explanations	6 hours	18 hours
3.4 -Borrower/Borrower’s Designee Request for Additional Information from Bidder/ Offeror	18 Borrowers 11 Bidders/ Offerors	1 request + 1 document	2 hours + 6 hours	8 hours

3.5--- Borrower Determination to Accept/Reject Bidder's/Offeror's Written Explanation + Notification to FRA of Borrower's Final Determination	18 Borrowers	3 determination /3 notifications	2 hours + 6 minutes	6.25 hours
3.6--Additional Information from Bidder/Offeror/Borrower after FRA Request	11 Bidders/Offerors	1 document	2 hours	2 hours
4.1 – Petition to FRA to Investigate Compliance of Successful Bidder/ Offeror with Bidder's/Offeror's Certification by Interested Party	Interested Parties	1 requests/ petitions	12 hours	12 hours
4.2 -- Borrower Investigations (including FRA initiated investigations)	18 Borrowers	3 investigations	333 hours	999 hours
4.3 --Bidder/Offeror Documentation of Compliance Submitted to Borrower after FRA Determination to Conduct Investigation and Letter from Borrower	11 Bidders/Offerors	2 letters + 2 documents	1 hour + 8 hours	18 hours
4.4 -- Borrower direct reply to FRA after request to conduct investigation of bidder/offeror	18 Borrowers	2 replies	1 hour	2 hours
4.5 --Bidder/Offeror Notice to Borrower that it will respond directly to FRA	11 Bidders/Offerors	2 notices	60 minutes	2 hours
4.6 --Direct Consultation by FRA with Bidder/Offeror	11 Bidders/Offerors	1 consultations	1 hour	1 hour
4.7-- Additional Documents to FRA from Borrower/Investigated Party	18 Borrowers/ 1 Investigated Parties	1 document	4 hours	4 hours
4.8 --Transmission of Borrower/Bidder/Offeror Reply to Petitioner	18 Borrowers	2 replies	30 minutes	1 hours
4.9 --Petitioner Comment to FRA on Reply	1 Petitioners	1 comment	8 hours	8 hours
4.10 --Petitioner Comment Copy to Borrower/ Investigated Bidder/Offeror	11 Bidders/Offerors	12 comment copies	15 minutes	3 hours

4.11-- Borrower/ Investigated Bidder/Offeror respond to Petitioner Comment	11 Bidders/ Offerors	1 comment responses	8 hours	8 hours
4.12 -- Written request to FRA for information bearing on substance of investigation which has been submitted by petitioner, interested parties, or borrowers	Interested Parties	1 requests	4 hours	4 hours
4.13 -- Detailed Statement to FRA Regarding Confidentiality of Previously Submitted Information to Agency	18 Borrowers/ 11 Bidders/ Offerors	1 detailed Statement	8 hours	8 hours
4.14 -- Borrower Determination to make award before resolution of investigation one of this sections specified reasons	18 Borrowers	1 determination	40 hours	40 hours
4.15 --Notification to FRA by Borrower to make award during pendency of investigation	18 Borrowers	1 notification	1 hour	1 hour
4.16 -- Request to FRA for Reconsideration of Initial Decision by Party Involved in Investigations	Interested Parties	1 request	80 hours	80 hours
5.1 – Pre-Award Audit	18 Borrowers	1 audit	33 hours	33 hours
5.2 -- List by Bidder/Offeror Detailing Facility Assembly Activities	11 Bidders/ Offerors	1 list	8 hours	8 hours
5.3 -- Formal Final Contract between Borrower and Bidder/Offeror	18 Borrowers	1 formal contract	16 hours	16 hours
5.4 -- Post Award Audit	18 Borrowers	1 audit	256 hours	256 hours
5.5 -- Written Agreement by Bidder/Offeror/ Successful Contractor to allow Borrower, its Designee, or FRA to Complete All Audits, Inspections, and Provide All Requested Information	11 Bidders/Offerors / Successful Contractors	1 agreement	4 hours	4 hours
5.6—Rolling Stock Domestic Content Improvement Plans	11 Bidders/ Offerors	1 plan	120 hours	120 hours
TOTALS	n/a	2,502	n/a	11,326

13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORD KEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COSTS OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).

- A THE COST ESTIMATES SHOULD BE SPLIT INTO TWO COMPONENTS: (A) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER ITS EXPECTED USEFUL LIFE); AND (B) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE ESTIMATES SHOULD TAKE INTO ACCOUNT COSTS ASSOCIATED WITH GENERATING, MAINTAINING, AND DISCLOSING OR PROVIDING THE INFORMATION. INCLUDE DESCRIPTIONS OF METHODS USED TO ESTIMATE MAJOR COSTS FACTORS INCLUDING SYSTEM AND TECHNOLOGY ACQUISITION, EXPECTED USEFUL LIFE OF CAPITAL EQUIPMENT, THE DISCOUNT RATE(S), AND THE TIME PERIOD OVER WHICH COSTS WILL BE INCURRED. CAPITAL AND START-UP COSTS INCLUDE, AMONG OTHER ITEMS, PREPARATIONS FOR COLLECTING INFORMATION SUCH AS PURCHASING COMPUTERS AND SOFTWARE; MONITORING, SAMPLING, DRILLING AND TESTING EQUIPMENT; AND RECORD STORAGE FACILITIES.**
- B IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.**
- C GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION OR KEEP RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

Total costs to applicants outside of the burden hour costs above, based on an estimate of 18 applicants per year and 6 waiver requests, and is estimated as follows:

Type	Amount
IFA Costs* (average per applicant)	\$24,936.00
Postage (includes overnight costs)	\$70.00
CD (per CD)	\$3.00
Photocopy (approximately 150 pages)	\$23.00
Subtotal - cost per applicant	\$25,032.00
Total Cost for 18 applicants	\$450,576.00
Buy America (6 waiver requests x \$30,000)	\$180,000.00
Total cost for Borrowers/Applicants	\$630,576.00

**IFA Costs cannot exceed one half of one percent of the requested loan amount which provides a ceiling to these costs*

The change in cost to respondents from the last approved submission amounts to an increase of \$180,000. This increase is due to incorporating the Buy America scouting efforts to locate domestic manufacturers; respondents may contract with the National Institute of Standards and Technology's -Manufacturing Extension Partnership (MEP). The estimated annual cost for Buy America is \$180,000 (6 waiver requests x \$30,000).

There is no change to the cost of submitting the application. The total cost for 18 applicants is estimated at \$450,576. This was calculated by taking the number of applicants (18 applicants x an average cost \$25,032). This cost includes copying costs.

14. PROVIDE ESTIMATES OF ANALYZED COST TO THE FEDERAL GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COSTS, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, OPERATIONAL EXPENSES SUCH AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF, AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.

Overall costs for program support that include full time salaries for positions within the department solely responsible for the administration of the program equates to approximately \$650,000. In addition to this, there is a routine operational fee paid to Banclab, who is responsible for maintaining our model used to calculate Credit Risk Premiums. This fee is approximately \$200,000 per year. For Buy America scouting efforts to locate domestic manufacturers, FRA may contract with the National Institute of Standards and Technology's -Manufacturing Extension Partnership (MEP). The estimated annual cost is \$180,000 (6 waiver requests x \$30,000).

Total cost to the Federal Government is estimated at \$1,030,000.00.

15. EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-1.

There is an increase in respondent costs due to the new obligation to comply with FRA's Buy America requirement because respondents may contract with MEP to scout for domestic manufacturers.

There is also an increase in Federal Government costs due to the new obligation to comply with FRA's Buy America requirement because Federal Government may also contract with MEP to scout for domestic manufacturers.

- 16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED, OUTLINE PLANS FOR TABULATION, AND PUBLICATION. ADDRESS ANY COMPLEX ANALYTICAL TECHNIQUES THAT WILL BE USED. PROVIDE THE TIME SCHEDULE FOR THE ENTIRE PROJECT, INCLUDING BEGINNING AND ENDING DATES OF THE COLLECTION OF INFORMATION, COMPLETION OF REPORT, PUBLICATION DATES, AND OTHER ACTIONS.**

FRA plans no publication of any information collected from this submission. The information will be used by Office of Railroad Development staff to accurately calculate Credit Risk Premiums and monitor repayment of the loans made.

- 17. IF SEEKING APPROVAL TO NOT DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL OF THE INFORMATION COLLECTION, EXPLAIN THE REASONS THAT DISPLAY WOULD BE INAPPROPRIATE.**

Upon OMB approval, FRA will publish the approval number for these information collection requirements in the Federal Register.

- 18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-1.**

There are no exceptions at this time.