



TESTIMONY OF

Matthew Dietrich
Executive Director
Ohio Rail Development Commission

REGARDING

America Builds: Improving the Efficiency and Effectiveness of Federal Rail Assistance

BEFORE THE

Subcommittee on Railroads, Pipelines, and Hazardous Materials of the Committee on
Transportation and Infrastructure

ON

Tuesday, May 6, 2025

Good morning Chairman Webster, Vice Chairman Begich, Ranking Member Titus, and members of the Subcommittee, my name is Matthew Dietrich. I am Executive Director of the Ohio Rail Development Commission, part of the Ohio Department of Transportation tasked with rail infrastructure development, rail coordination for highway projects and grade crossing safety. I speak from the perspective of a state department of transportation that routinely administers federal transportation funding. The Rail Commission delivers projects using both Federal Railroad Administration (FRA) and Federal Highway Administration (FHWA) funds and both formula funds and discretionary grant awards. My organization has received multiple grant awards from the US Department of Transportation. Since 2010 the Rail Commission has been awarded and administered twenty-four (24) federal discretionary grants.

These discretionary grants, specifically Railroad Crossing Elimination (RCE) and Consolidated Rail Infrastructure and Safety Investment (CRISI), are critical to improving freight rail infrastructure and safety. My organization has been successful leveraging

private freight railroad and state funding for these programs to complete projects that simply would not have happened without the federal funding.

While the Rail Commission has experience with numerous federal discretionary grant programs funding rail infrastructure, my comments today focus on the FRA's RCE Program. This program shows both the challenges associated with federal discretionary grants but also the opportunities to make the process more efficient and more effective. First, I think it is important to note that grade crossing elimination projects are safety projects. Ohio Governor Mike DeWine created a state program to address grade crossing safety in the state. We have used those funds to leverage the federal RCE Program for grade separations, which are roadway bridges over or under rail lines. We chose this approach for two reasons. First, the safest crossing is one that does not exist and often the only way to eliminate at-grade railroad crossings without causing significant disruption to communities is to separate the roadway from the railroad. Second, we use Section 130 funding from the FHWA to address safety issues at railroad-highway crossings where grade separations are not feasible.

Based on my agency's experience over the years, below are six ways that project delivery could be streamlined while still meeting all federal requirements:

Accept projects developed under the project development process of other US DOT Administrations

Grade separation projects are large, expensive infrastructure projects that, by definition, include multiple transportation modes. A great deal of time and resources are needed just to get a project to a stage that is suitable for submission of a federal grant application. One of the challenges with all discretionary programs is the uncertainty of funding. Therefore, applicants must balance the amount of work undertaken to develop the project with the uncertainty of the funding outcome, source, and timeline. Based on available funds, projects are often initiated following the processes of a different modal agency, such as the FHWA. While there are very good reasons for these differences in project approaches by the modal Administrations, in some cases, these differences create barriers to project implementation. Much work is needed to determine how these projects initiated following the project development process of one USDOT Administration can be retrofitted into the process of another USDOT Administration. This effort adds unnecessary work to both the application process as well as the project development process after the project is selected and funds are awarded. The Rail Commission won an RCE grant for a grade separation in Fostoria, Ohio, in the first year of the program. Between the time of application submission and the award announcement, we secured additional FHWA funding through standard Ohio DOT programs to advance the planning and engineering work and progressed that work following FHWA procedures. Rather than accelerate the project, the additional funding and work created delay and resulted in FRA determining that \$70,000 of the RCE award was no longer eligible because we had progressed the work. It was the first instance in my career that identifying more funding for a project

became an obstacle to overcome. This work could be avoided if the FRA accepted other approved USDOT Administrations' processes, such as NEPA, to develop projects.

Provide Pre-Award Authority Letters with notification of award

The time lags between application due dates, award notifications and kick-off meetings create project downtime that could be utilized by grant recipients to advance projects. My organization has taken the opportunity to seek pre-award authority letters from the FRA for our projects, but even this requires the submission of information to the FRA beyond the application. The statutory language of the RCE Program allows project development work initiated after the creation date of the program in the IIJA to be an eligible part of the project. At the current time, the Rail Commission has five grant awards under this program. Work has stopped on three of the projects because we have not received pre-award authority. These delays could be avoided if the FRA provided a pre-award authority letter with the notification of an award. While not full obligation of funding, these pre-award letters allow grant recipients to continue to develop these projects concurrently with the administrative processes. For several CRISI projects, the Rail Commission has been able to use pre-award authority from the FRA to purchase materials and conduct NEPA work while the rest of the project documentation is finalized. This process not only allowed the projects to advance more quickly but also mitigated some of the impacts of inflation on material costs. At the current time, we have a RCE award for a grade separation in Circleville, Ohio. Despite the fact that we have non-FRA funding allocated to the project, work on the project has stopped because we would jeopardize the FRA funding without pre-award authority.

Streamline the grant documentation process for state DOT recipients

My fellow DOT colleagues are entrusted to administer billions of federal transportation dollars following processes that have been developed over, and informed by, decades of experience. Yet, the documentation for a project awarded to my organization is the same documentation that is required for another entity that has never administered federal funding. If the FRA developed a tiered grant agreement process that considers the recipients' experience and authority administering federal funding, these projects could advance more quickly. For instance, lengthy legal review is required for grant documentation that is not related to the actual project but focused on governance and compliance. As a recipient of federal funding, our entire organizational structure is designed to comply with federal regulations so the need to have standalone documents is redundant and creates additional steps unrelated to project delivery.

Prequalify states to administer grants

Another way for the FRA to streamline project delivery is the creation of a pre-qualification program for states to assume more direct responsibility for project delivery after award. A precedent and possible blueprint for this suggestion is National Environmental Policy Act

(NEPA) Assignment. Many states, including Ohio, have received authority from US DOT Administrations to assume the federal responsibilities regarding NEPA. In Ohio, we have NEPA Assignment for both Federal Highway and Federal Rail programs. Expanding this program to encompass the administration of discretionary grants would reduce the burden on federal staff while simultaneously allowing states to more quickly advance awarded projects. For example, now that Ohio has NEPA Assignment for FRA projects, we have and continue to modify our programmatic agreements with resource agencies to include rail infrastructure projects and we are updating our internal manuals and computer systems to process rail projects. This work will remove the uniqueness of the administering FRA discretionary grants and allow us to use the standard project delivery processes that ODOT uses to deliver its overall program of projects.

Reconsider the obligation process

Until grants are federally obligated, there is risk to all parties. In the case of Ohio's projects, almost all grant awards include construction funding. Historically, federal transportation funding for construction is not obligated until NEPA clearance is achieved. This is not an issue for traditional federal formula funds to states because the states have flexibility to adjust budgets to match project schedules. However, discretionary grants are project specific. The funding cannot be flexed by the recipients to other projects that might be on an accelerated timeline. The result is that for discretionary grant awards, portions of federal grant awards are left committed but unobligated for years. Because all of our infrastructure grants include construction funding, we currently have over \$150 million in unobligated grant funds even though we are actively working on many of those projects. This creates a worst-case scenario for these projects: the grantee must develop the project without certainty of funding even after award and FRA appears to have significant balances of unused funding. If the FRA obligation process were revised to more accurately represent the commitments of the agency, such as entering into grant agreements and obligating funding earlier in the process, the certainty would provide assurance to grantees and accelerate work by eliminating the need to continually revise and renegotiate grant documents to move to the next step in the process.

Allocation to states for project development

In addition to the process changes I have suggested, an additional step to advance projects more efficiently would be to allocate a portion of program funding to states to develop projects. As I stated earlier, these are large infrastructure projects that span multiple federal fiscal years. I think it is telling that of the 123 awards from the FY 23-24 RCE Program, just 34 received construction funding. Allocating a portion of the funding to states based on criteria such as railroad mileage and population would accomplish two goals: allow states to develop projects on timelines that are not dictated by the next Notice of Funding Opportunity and improve the quality and readiness of discretionary grant applications that are submitted to the FRA for funding. The Rail Commission is currently using the one-time state funding provided by Governor DeWine's Administration for grade

crossing safety to conduct project development activities for potential RCE project applications. Allocation of funding to states would allow us to further this work through the NEPA process for new projects.

I provide these comments not as criticism of the US DOT but as suggestions from someone with decades of experience administering federal transportation funding to help collectively move these critical safety projects forward in the quickest, most efficient way possible. While my observations today are focused on the RCE Program, many of these recommendations can also be applied to other federal rail funding programs.

Thank you for the opportunity to offer these suggestions and I am happy to answer any questions.