

## Rail Enhancement Fund 2015 Policy Goals

House Bill 1887 charged the Commonwealth Transportation Board (CTB) with developing a legislative proposal to revise the public benefit requirements of the Rail Enhancement Fund. The 2015 Appropriations Act further required the Secretary of Transportation, in consultation with the Department of Rail and Public Transportation (DRPT), to conduct an expenditure analysis of rail funding programs. Working with rail stakeholders, grantees, and DRPT staff, the CTB Rail Committee reviewed DRPT rail programs, developed revised policy goals, recommended prioritization criteria, and reviewed new administrative practices. The following policy and prioritization goals for the Rail Enhancement Fund Program are based on the CTB Rail Committee's review and recommendations.

The Benefit-Cost Analysis of the Rail Enhancement Fund project cost remains a pass/fail test for project applications, as it is a legislative requirement of the Program. Furthermore, any measures of the project benefit analysis and agreement terms must fall within the parameters of Article X, § 10 of the Constitution of Virginia, demonstrating a measurable benefit tied to removing traffic from Virginia's highways.<sup>1</sup>

DRPT staff will evaluate and prioritize Rail Enhancement Fund applications based on the following policy goals:

1. **Prioritization should be considered for projects where project benefits exceed the total project cost in the benefit-cost analysis.** The benefit-cost analysis of the Rail Enhancement Fund remains a pass/fail test based on the cost of the Rail Enhancement Fund investment only, and not on the total cost of the project. However, the project may also be evaluated on the total project cost to ensure the overall worthiness of the project to the Commonwealth.
  - a. Does the project pass the Rail Enhancement Fund BCA minimum threshold?
  - b. Does the project fall within the parameters of Article X, § 10 of the Code of Va.?
  - c. Does the benefit/cost ratio, when considering total project costs, indicate that the project is a worthwhile investment for the Commonwealth as compared to other projects seeking REF grants?
  - d. Is the total project cost less than total project benefits?
  
2. **Prioritization should be considered for projects that are ready for construction.** Projects should not remain in the Department's Six Year Improvement Plan for more than three fiscal years without justification for the continued project need. Projects delayed beyond three fiscal years should reapply and update the project budget, scope, and schedule or the CTB may de-allocate the funds.
  - a. Does the project include firm completion dates?

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<sup>1</sup> See *Montgomery County*, 252 Va. at 436, 719 S.E.2d at 302, quoting *Almond v. Day*, 197 Va. 782, 787, 91 S.E.2d 660, 664 (1956) (*Almond I*). The Virginia Supreme Court cases relate that Article X, § 10 was a response to substantial financial losses the Commonwealth had sustained in previous years from its general investments in entities such as canal, turnpike and railroad companies, engaged in various large scale projects in Virginia, i.e., "works of internal improvement." *Almond I*, [197 Va. at 787](#), 91 S.E.2d at 664. Faced with those losses, the Constitutional Convention for the 1869 Constitution "resolved that the State should no longer lend its support to such undertakings but should leave them to private enterprise," including the construction of public roads. *Almond v. Day*, [199 Va. 1, 7](#), 97 S.E.2d 824, 829 (1957) (*Almond II*). Public roads were excepted from the internal improvements clause in a 1902 revision of the Constitution.

- b. Are the project schedule and milestones available and achievable?
  - c. Has there been a feasibility study, preliminary engineering, or permitting submittals?
- 3. **Prioritization should be considered for projects which leverage public or private funds for a match greater than the required 30% match.** This is a continuation of previous CTB Rail Enhancement Fund policies and reflects similar policy goals in other transportation funding programs in the Commonwealth to prioritize projects which exceed the 30% match requirement and the project benefits exceed project costs.
  - a. Does the REF investment synergize or support other public or private funding sources?
  - b. Does the application have a match greater than the required 30% match?
- 4. **The Department will maintain a contingent interest value and ability to claw-back funds if public benefit is not achieved.** Emphasis will be placed on the benefit-cost analysis determination when evaluating a project, understanding that economic forces beyond a grantee's control also play a role in project performance once complete. The Department may use various performance metrics rather than the past administrative practice of only using carloads and passengers as the primary performance metric to evaluate a project's achievement of public benefit to Virginia's highways and providing for a balanced transportation system.
  - a. Has the project sponsor performed well on previous REF and DRPT projects?
  - b. Were those projects on-time, on-budget, and completed safely?
- 5. **Prioritization should be considered for projects which align with the Statewide Rail Plan, and other appropriate state, regional, or local plans.** The Statewide Rail Plan should guide grantees on the types of Rail Enhancement Fund applications they should submit. It must also guide the Department in their prioritization of projects for CTB approval. To remain a relevant document, and the primary plan for the prioritization of rail projects, the Statewide Rail Plan should be updated every 3-4 years.
  - a. Is the project included in the DRPT Statewide Rail Plan?
  - b. Is the project included in, or align with, an appropriate local, regional, state, or federal plan?
- 6. **Prioritization should be considered for projects which benefit both freight and passenger service in corridors where both types of rail service exist.** This policy goal highlights the reality of joint-use corridors and the important role freight and passenger rail projects play in economic development for the Commonwealth. Enhanced rail infrastructure typically benefits both passenger and freight services, providing much needed transportation options to move people and goods efficiently.
  - a. Does the project link to local transit systems for passengers or to domestic or international supply chains for freight?
  - b. Does the project support supply chain competitiveness?
  - c. Does the project provide both passenger and freight benefits in corridors where both passenger and freight service coexist?
  - d. Does the project support employment retention or growth?
- 7. **The CTB will allow up to 25% of the Rail Enhancement Fund to fund planning and preliminary engineering efforts.** This complements the Policy Goal 2, which prioritizes project

readiness. Previously the Rail Enhancement Fund policy goals allowed only 10% of the Rail Enhancement Fund for planning efforts; however, the CTB recognizes the complexity and risk associated with rail projects which may require the Department to recommend preliminary engineering before committing to construction. This allows the CTB and DRPT to determine the appropriate level of project planning, conceptual/preliminary engineering and project readiness.

- a. Does this project have achievable cost estimates and completion dates?
  - b. Does this project include appropriate environmental and regulatory analysis?
  - c. What are the schedules and requirements of necessary or desirable permits?
  
8. **The CTB will consider State of Good Repair projects, or “capital renewal” projects, for funding if the Department determines a net benefit to the Commonwealth.** The benefit-cost analysis may consider state of good repair projects. A net benefit for a State of Good Repair project should have measureable improvement to the rail network (e.g., reducing delays, improving reliability, enhancing safety, or increasing speeds. Maintenance of capital improvements funded under the Rail Enhancement program remains the financial responsibility of the grantee.
  - a. Does this project contribute to the State of Good Repair of critical assets?
  - b. Does this project reduce delays, increase reliability or speed, or enhance safety?
  
9. **The CTB will consider projects which use the federal TIGER grant guidelines as an alternative benefit-cost analysis for unique, large, or multi-state projects, if the Director of the Department pre-approves the application for this benefit-cost analysis.** This policy goal allows sponsors to follow federal TIGER grant guidelines for unique, large, or multi-state projects that do not easily fit into the Rail Enhancement Fund benefit-cost analysis.
  - a. Does the Rail Enhancement Fund benefit-cost analysis capture the complexity of this project?
  - b. Does the project involve other private, local, state, or federal initiatives?