

700 CMR 4.00: INDUSTRIAL RAIL ACCESS PROGRAM

Section

- 4.01: Purpose
- 4.02: Definitions
- 4.03: Funding
- 4.04: Administration
- 4.05: Eligible Projects
- 4.06: Eligible Applicants
- 4.07: Application Process
- 4.08: Evaluation Criteria
- 4.09: Waiver
- 4.10: Severability

4.01: Purpose

700 CMR 4.00 establishes a program, referred to as the Industrial Rail Access Program. The purpose of this program is to provide funding for projects that increase access to rail freight service and preserve or stimulate economic development through the generation of new or expanded rail service. To accomplish this objective, the program may provide funding to implement rail improvements under M.G.L. c. 161C, and for transportation planning, design, engineering, permitting, and/or the acquisition of interests in land related to such rail improvements.

4.02: Definitions

Eligible Applicant means a political subdivision or instrumentality of the Commonwealth, a Railroad, or a Shipper.

Eligible Project means a Project that meets the criteria set forth in 700 CMR 4.04.

Executive Office of Housing and Economic Development (EOHED) means the Executive Office of Housing and Economic Development established pursuant to M.G.L. c. 6A, § 2.

Independent Utility means the tangible and measurable benefits resulting solely from a Project.

IRAP Program means the Industrial Rail Access Program created by St. 2012, c. 242, § 2C, Item 6622-1280 and 700 CMR 4.00.

Massachusetts Department of Transportation (MassDOT) means the Massachusetts Department of Transportation established pursuant to M.G.L. c. 6C.

Project means any rail improvement and/or related transportation planning, design, engineering, permitting, and/or acquisition of interests in land proposed for funding pursuant to St. 2012, c. 242, § 2C, Item 6622-1280 and 700 CMR 4.00.

Project Location means the parcel(s) of land on which a proposed Project is located.

Railroad means a common carrier engaged in the movement of goods and materials by rail, and that is subject to interstate commerce freight regulations and the jurisdiction of the Surface Transportation Board of the United States Department of Transportation.

Secretary means the Secretary of the Massachusetts Department of Transportation.

Shipper means a business located within the Commonwealth of Massachusetts that is engaged in a commercial enterprise that ships, or intends to ship, materials or goods by rail. Such business may be an existing or proposed business that is committed to shipping by rail at the conclusion of the proposed Project.

Total Project Cost means the total expenditures necessary to complete a Project.

4.03: Funding

Pursuant to St. 2012, c. 242, § 2C, Item 6622-1280, MassDOT is authorized to provide funding to Eligible Projects under the IRAP Program. The Secretary, in consultation with the Secretary of the Executive Office of Housing and Economic Development, is hereby authorized to determine the type of costs eligible for funding under the IRAP Program, the appropriate type and amount of funding for Eligible Projects, the maximum award amounts for Eligible Projects, the amount of any required applicant contributions to Eligible Projects, and the availability of funds for each funding round of the IRAP Program.

4.04: Administration

MassDOT, in consultation with EOHED, shall administer St. 2012, c. 242, § 2C, Item 6622-1280 and 700 CMR 4.00 in accordance with St. 2012, c. 242, § 2C, Item 6622-1280 and 700 CMR 4.00. MassDOT is authorized, in consultation with EOHED, to issue guidelines, guidance, applications or other materials as necessary to implement the IRAP Program. MassDOT is authorized to enter into any and all interagency agreements or other agreements to reflect the interdisciplinary nature of this program and to increase the coordination of this program.

4.05: Eligible Projects

In order to be eligible for funding pursuant to 700 CMR 4.00, a Project must be of public benefit, in the public interest, and for a public purpose, and any benefit to private entities or individuals shall be indirect and incidental and not the principal purpose of the Project. In addition, a Project must:

- (a) Provide a sustained public benefit or facilitate economic growth through improved use of the rail transportation network within the Commonwealth;
- (b) Have Independent Utility; and
- (c) Have an estimated useful life of at least 20 years.

No amount of IRAP Program funds may be used for operating expenses. Successful applicants must take any and all actions necessary to prevent any such use of IRAP Program funds for operating expenses. Any misuse of program funds whether intentional or inadvertent, even if corrected after discovery, shall be justification for rejection of any subsequent IRAP Program application.

The Secretary may establish other requirements for Eligible Projects to qualify for funding under the IRAP Program provided that such other requirements are not inconsistent with 700 CMR 4.00.

4.06: Eligible Applicants

Only Eligible Applicants are eligible to receive IRAP Program funding.

4.07: Application Process

All applicants for funding pursuant to the IRAP Program must submit applications that include the following information:

- (a) Information demonstrating that the applicant is an Eligible Applicant;
- (b) The size and scope of the Project in relation to the Eligible Applicant's total operations, and the strategic importance of the Project to the Eligible Applicant's operations;
- (c) A detailed Project description, including plans and specifications for the proposed Project;
- (d) The costs, benefits, and impacts (including the economic development impact) of the Project;
- (e) A Project budget showing all sources and uses of funding for the Project;
- (f) A capital budget for the Project, and an operating budget demonstrating the Project's economic viability;
- (g) Documentation that the Eligible Applicant possesses or will possess control of the Project Location(s) (if the proposed Project requires land acquisition, proponents must identify the interests to be acquired and the manner in which such interests will be acquired);

4.07: continued

- (h) A detailed Project schedule that identifies key milestones and completion dates;
- (i) A list of any and all federal, state and local permits required for the Project;
- (j) Documentation of the Eligible Applicant's capacity to meet the IRAP Program requirements and to complete the Project;
- (k) Information demonstrating the long-term transportation cost savings expected to be realized in connection the Project;
- (l) Means and methods of ensuring the quality of the work to be performed in connection with the proposed Project;
- (m) Evidence of the Project's readiness to proceed;
- (n) Documentation of any local and/or statewide support; and
- (o) Such other documentation or information that the Secretary may require.

4.08: Evaluation Criteria

All applications will be reviewed based on the following evaluation criteria:

- (a) The extent to which the proposed Project will improve freight rail transportation in Massachusetts and support the Commonwealth of Massachusetts State Rail Plan, transportation, land use, economic development, and environmental policies;
- (b) The level of public benefits to be gained through the implementation of the Project;
- (c) The Project's consistency with local and regional transportation, land use and economic development plans;
- (d) The level of documented support for the Project by Shippers and/or Railroads, locally elected officials, abutters and others who are involved in economic or community development;
- (e) The financial feasibility of the Project;
- (f) The Project's readiness to proceed;
- (g) The useful life of the Project; and
- (h) Such other criteria as the Secretary may require provided that such criteria are not inconsistent with 700 CMR 4.00.

4.09: Waiver

The Secretary may waive, in writing, any provision of 700 CMR 4.00 not required by St. 2012, c. 242, § 2C, Item 6622-1280 on findings that such waiver is consistent with the intent of St. 2012, c. 242, § 2C, Item 6622-1280, and 700 CMR 4.00.

4.10: Severability

If any provision of 700 CMR 4.00 or its application is held invalid, such invalidity shall not affect other provisions or applications of 700 CMR 4.00, which can be given effect without the invalid provision or application, and the provisions of 700 CMR 4.00 are declared to severable.

REGULATORY AUTHORITY

700 CMR 4.00: M.G.L. c. 6C, § 3; c. 30A, §§ 2 and 3 and St. 2012, c. 242, § 2C, Item 6622-1280.