

**NOTICE OF PROPOSED GUIDANCE DOCUMENT**  
**DTIMBTLRRH5**

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on DTIMBTLRRH5, Wisconsin Statute Chapter 85, a proposed guidance

**PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION**

Comments may be submitted to the Wisconsin Department of Transportation for 21 days by:

1. Department's website: <https://appengine.egov.com/apps/wi/dot/guidance-docs?guidDocId=DTIMBTLRRH5>

2. Mailing written comments to:

Division of Transportation Investment Management  
Wisconsin Department of Transportation  
4822 Madison Yards Way  
PO Box 7913  
Madison, WI 53707-7913

**WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT**

The final version of this guidance document will be posted at [wisconsin.dot.gov](http://wisconsin.dot.gov) to allow for ongoing comment.

**AGENCY CONTACT**

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# **FREIGHT RAILROAD INFRASTRUCTURE IMPROVEMENT PROGRAM**

## **FRIP – Loans at 2% for 10 years**

### **PART I - APPLICATION INSTRUCTIONS**

**SFY 2019**

#### **SECTION 1.0 INTRODUCTION**

The FRIP application document is comprised of two parts. Part I contains the information needed for applying for financial assistance under the program. Part II contains the description of the process used by the department to rate and rank proposed projects for funding, and to determine the amount and terms for assistance. It also contains a description of several obligations imposed by the acceptance of assistance.

It is recommended that a potential applicant review both Part I and Part II prior to initiating the application process.

#### **SECTION 2.0 ELIGIBLE APPLICANTS**

Under statutory authority (s.85.08(4m)(b)1), an eligible applicant must be a county, municipality, town or agency thereof, a railroad, a current or potential user of freight railroad service or a transit commission organized under s. 59.58 (3), s. 66.0301, or s. 66.1021.

#### **SECTION 3.0 ELIGIBLE PROJECTS**

An eligible project is one which accomplishes any of the following: rehabilitates a segment of rail line, results in economic development, improves transportation efficiency, promotes safety, promotes the viability of the statewide system of freight rail service, assists intermodal freight movement, or provides industry access to the national railroad system.

##### **3.1 Ineligible Projects/Work Activities**

The Railroads and Harbors Section will examine proposed projects in their entirety and may reject funding for components of some projects that do not directly support the use of rail. Examples of project line items that have not been funded in the past include:

- the purchase of land for an intermodal facility
- utility service hook-up
- road construction
- office construction
- non-fixed equipment or equipment not directly related to rail service

## **SECTION 4.0 APPLICATION CONTENT AND PROCESS**

### **SUB 4.1 PROJECT PROPOSAL FILING**

The initial step in applying for assistance is the filing of a written project proposal with the Railroads and Harbors Section (RHS) addressed as follows:

**U.S. Mail:**  
Chief, Railroads & Harbors Section  
WisDOT  
P.O. Box 7914  
Room 701  
Madison, WI 53707-7914

**Delivery Service:**  
Chief, Railroads & Harbors Section  
WisDOT  
4802 Sheboygan Ave.  
Room 701  
Madison, WI 53705

The proposal should contain the information listed in 4.1.1 through 4.1.7 below in a format of applicant's choice. **Applications for funding consideration are currently being accepted on an on-going basis rather than the traditional deadline of February 1<sup>st</sup> of each year.** Please submit your applications for FRIIP loan funding when you have project information available any time throughout the calendar year.

#### **4.1.1 Identification of Parties and Projects**

- (a) Name and address of applicant, working contact name, address and telephone number.
- (b) Name of the railroad party to the project and the address and telephone number of a railroad company contact person.
- (c) Name of the industry (if any) party to the project and the address and telephone number of a contact person.
- (d) A narrative explanation/description of the proposed project including but not limited to:
  - (1) Physical measurements. (Linear, area, etc.)
  - (2) Physical location. (Address, mileposts, street crossings, etc.)
  - (3) Major material specifications. (Weight of rail, type of ballast, grade of tie, etc.)
  - (4) Map/sketch of project design and location.
  - (5) Such other information as deemed useful by applicant for supporting and understanding the project concept and purpose.
- (e) A narrative explanation/description of the alternative to be pursued should the assistance not be awarded and the consequences thereof (postpone, abandon, reduce service by x amount, forego x

amount of revenue or cost savings, etc.). Please include objective measures such as numbers, dates, quantities, etc.

#### 4.1.2 Estimate of Project Cost and Performance Method

- (a) A line item breakout of estimated direct project costs at least to the level of materials, labor, equipment for force account work and by principal task for contract work, i.e. tie installation, rail replacement, grading, signal work, new track construction per lineal foot, and lump sum figures for conveyors, bins, etc. (In order to improve the coverage of limited program resources, indirect costs such as administration and overhead and profit on force account work are not eligible for assistance.)
- (b) A description of and brief rationale for the method or methods proposed for accomplishing major project work tasks. (e.g., tie replacement by force account, brushing by contractor.)

#### 4.1.3 Proposed Project Financing

- (a) Identify the dollar amount of assistance being requested. Note that assistance is generally limited to no more than \$3.0 million and is to be provided in the form of a loan, **which will require payment of a minimum of 2 percent interest per annum.** **The total amount of any loan(s) committed to non-rail purposes (loading equipment, grain bins, warehousing) to a facility will generally be limited to \$1.5 million in an application cycle.** Applicant may increase total project cost at its own expense.

See Part II, Section 2.0 for an explanation of how the form of assistance is determined.

- (b) Identify the manner in which the non-state assistance portion, if any, of project costs will be provided.

#### 4.1.4 Intended Benefit and Cost Items

Provide a list or description of the type or category of benefits and costs assumed by applicant to be associated with this project. It is not necessary to provide quantified measures of these benefits and costs at this time. Quantification matters will be determined during the application conference(s). Section 4.2.1(b) includes a partial list of possible measures.

#### 4.1.5 Intended Environmental and Economic Enhancement Items

Provide a list or description of any environmental or economic enhancement outcomes projected by the applicant to result from the project if the project is to be evaluated on these two criteria. It is not necessary to provide quantified measures of these outcomes at this time. Quantification matters will be determined during the application conference(s).

#### 4.1.6 Wisconsin Carloads

Provide the number of the "Wisconsin carloads" attributable to the proposed project. See Part II, Section 1.2.2 for the definition of and methodology for determining the number of Wisconsin carloads to report.

#### 4.1.7 Assistance to Rural Areas

List each city, town, or village with a population of 4,000 or less and each city, town, or village in a county having a population density of less than 150 persons per square mile that will benefit from the proposed project. Describe the nature of the benefit accruing to each city, town, and village.

### SUB 4.2 APPLICATION CONFERENCE

Within 45 days following the submittal deadline, RHS staff will arrange and hold a conference with the applicant and any other entities party to the project to review the application and determine the requirements for additional data submittal to complete the application process. There may be a need for several conferences relating to data.

#### 4.2.1 Data for Transportation Efficiency Analysis

(a) The most influential criterion in determining project qualification and rank is the ratio of transportation efficiency benefit to project cost. The application conference will establish the appropriate data to be submitted for RHS to calculate this ratio.

(b) The following list is representative but not necessarily exhaustive of the type of data that may be required:

(1) The general question is what amount of quantifiable change expressed in dollars will result in these areas from accomplishing the project?

- |  |   |
|--|---|
| <input type="checkbox"/> Train crew costs  | <input type="checkbox"/> Car hire and/or car investment costs |
| <input type="checkbox"/> Fuel consumption  | <input type="checkbox"/> M-O-W costs                          |
| <input type="checkbox"/> Freight rate/unit | <input type="checkbox"/> M-O-E costs                          |

- |  |   |
|--|---|
| <input type="checkbox"/> Number of carloads    | <input type="checkbox"/> Product/lading shrinkage |
| <input type="checkbox"/> Lading handling costs | <input type="checkbox"/> Derailment costs         |
| <input type="checkbox"/> Increased Net Income  |   |

(2) Other statistical information pertinent to this analysis.

- Project impact on market penetration (intermodal, JIT, customer territory, service frequency).
- Average car capacity in same units used in freight rates above.

#### 4.2.2 Data for Analysis of Environmental and Economic Enhancements

- (a) One criterion for project qualification and ranking considers environmental enhancements resulting from the project. Should such enhancements be attributed by applicant to the project, the applicant is to identify them in the proposal and will be required to provide supplementary supporting data and analysis applicable specifically to the project.
- (b) Another criterion for project qualification and ranking is economic enhancement resulting from the project. Attribution by the applicant of such enhancements to the project should have them identified in the proposal and will require submittal of supporting data and/or analysis by applicant.

#### 4.2.3 Data for Establishing Project's Net Operating Revenue

A fundamental factor for determining the assistance amount to be allowed is the net revenue accruing to the railroad or, if applicable, to the industry, or both, after the completion of the project. Data necessary to support the figure provided by the applicant will be required. (See Part II, Section 2.2 for detail.)

#### 4.2.4 Data for Establishing Railroad or Industry Cost of Capital

The second essential factor for determining the assistance amount to be allowed is the cost of capital. Data necessary to support the figure provided will be required. (See Part II, Section 2.3 for detail.)

### SUB 4.3 QUALIFICATION AND RANKING DATA FILING

- 4.3.1 On or before 4:00 p.m. May 16, 2017, the data required for project qualification and ranking determined through the application conference or conferences shall be filed by applicant with RHS.

- 4.3.2 Within approximately four months of the date of your application, your project proposal will be reviewed for qualification and qualified proposals will be ranked for funding priority. (See Part II, Section 1.2 for qualification and ranking criteria and scoring procedures.) All applicants will be informed of their project proposal's ranking. Those project proposals ranking highest and which are fundable within the resources available are designated as candidate projects and will continue with the application process.

#### **SUB 4.4 ASSISTANCE FORMATTING DATA FILING**

- 4.4.1 Within approximately four months of the date of your application, if we notify you that your project proposal is a candidate project you should file the necessary financial data to determine the net annual operating revenue (or for projects generating cost savings rather than operating revenue, the cost savings) for the candidate project and the necessary financial data to determine the operating railroad's or applicant industry's cost of capital. Any railroad for whom the Surface Transportation Board (STB) has computed cost of capital the STB number is used. For all industry applicants and those railroads not subject to STB cost of capital calculation, cost of capital will be the STB established industry average or that calculated for the applicant. (See Part II, Section 2.3.2 for net revenue and cost of capital calculation detail.)
- 4.4.2 Within approximately 2 months an offer of an assistance award will be made to the applicant.

#### **SUB 4.5 EMERGENCY ASSISTANCE**

The department may, at its sole discretion upon application by an eligible applicant, provide assistance under FRIIP on a non-competitive basis at any time for a project addressing a significant emergency situation. The project must meet eligibility qualifications. An emergency project shall deal with replacement of significant infrastructure essential to operation of rail freight service, such as bridge failure, tunnel collapse, major washout, destruction by fire, and the like. Insurance proceeds must first be dedicated to the project.

### **SECTION 5.0 ASSISTANCE AWARD PROCESS**

#### **SUB 5.1 APPLICANT ACCEPTANCE**

Within ten working days of the offer of an assistance award, applicant shall in writing accept or reject the award.

## SUB 5.2 AGREEMENT NEGOTIATION EXECUTION

Upon applicant acceptance of the assistance award, negotiations between the responsible parties and RHS begin. Within 60 calendar days of the acceptance of the assistance award, an assistance agreement is executed among the parties and the assistance award is final. Unless otherwise agreed by RHS, the offer of an assistance award expires and is withdrawn if an assistance agreement is not executed within 60 days of the award acceptance by the applicant.

## SUB 5.3 ENVIRONMENTAL REVIEW

The satisfaction of all environmental reviews and permits as may be required are the responsibility of the applicant and must be completed prior to the execution of the Assistance Agreement.

Applicants will be required to submit copies of all environmental reviews and permits completed for other agencies. If no environmental review or permit is required by another agency, the applicant shall submit the Wisconsin Department of Transportation's Programmatic Environmental Report.

## SUB 5.4 Submission of Audited Financial Statements

Applicants must submit a copy of their most recent audited financial statements for WisDOT review.



# FREIGHT RAILROAD INFRASTRUCTURE IMPROVEMENT PROGRAM

## PART II - PROJECT SELECTION & ASSISTANCE FORMATTING PROCEDURES

SFY 2019

### SECTION 1.0 PROJECT SELECTION

#### SUB 1.1 PROJECT SELECTION POLICIES

- 1.1.1 **Purpose of Qualification and Ranking:** The department has determined that proposed projects must generate improvements in transportation efficiency and may also generate broader public benefit. In order to evaluate proposed projects, ten criteria are used. Proposed projects are rated on each criterion. The rating system generates a point score for the purpose of establishing project qualification for funding and the rank of individual proposed projects from most to least points scored.
- 1.1.2 **Use of Qualification and Ranking:** A score of 30 points or greater is required for a proposed project to qualify for assistance. This threshold score is attainable by a project exhibiting a transportation efficiency ratio of 1.0 or by a project with a somewhat lesser ratio but scoring points on other criteria. Qualified projects are then ranked by total point score. The rankings are subsequently used to determine which applicants receive offers of assistance. Offers are made to applicants in rank order until program resources are no longer able to cover estimated project costs.
- 1.1.3 **Relation of Rank to Funding:** The rank of a project determines two things. First, is it a project for which project assistance is justified (qualification score of 30 or more)? Second, if qualified, what priority does the project have over qualified competing projects for funding? The ranking process has no influence on the format of the assistance award package offered.

It is possible for a project to be funded outside of rank order. If a lower ranking project is able to be funded within remaining resource limits while a higher ranking project would exceed those limits, the lower ranked project may be funded if the applicant for the higher ranking project is unable to accept only the portion of its request able to be funded within resource limits.

- 1.1.4 **Late Selection:** In the event circumstances develop which indicate limits on resources change (an assistance agreement not executed, a project requires a lesser amount of assistance than expected, etc.), RHS may, at its sole option, issue an assistance offer to the next highest ranked, unfunded project able to accept the offer anytime prior to the next date for receiving project proposals or hold the unused assistance amount for the next round of proposals.

1.1.5 **Selection Between Projects with the Same Total Points:** If two or more qualified projects attain the identical ranking score, the tie between projects will be broken by using the following criteria. The tie-breaking will proceed through the criteria until the projects no longer have the same result:

1. Project with highest raw benefit/cost ratio.
2. Applicant who has received the least amount of funding in the current cycle.
3. Applicant who has received the least amount of funding in the prior cycle.
4. Applicant who has the least number of completed projects with final bills outstanding.

SUB 1.2 PROJECT SELECTION CRITERIA

1.2.1 **Transportation Efficiency Benefit/Cost Ratio:**

(a) **Purpose:** The purpose of this criterion is to afford a measure of the economic soundness of a public investment in the project.

(c) **Description:** The transportation efficiency benefit/cost ratio (B/C) is a measure of net transportation efficiency benefits of a project. The calculation of this ratio will be performed by RHS using data supplied by the applicant in the project proposal application and application conference(s). The methodology for the calculation of this ratio is available from RHS.

(d) **Scoring:** Points are awarded on the basis of the project's raw B/C ratio as shown in the table below. The points awarded increase as the B/C ratio approaches 7.0. The points are awarded in this manner to reflect the lesser quality of the public investment shown by a low B/C ratio and to reflect the greater attractiveness of the project shown by a higher B/C ratio.

<u>B/C</u>	<u>Ratio</u>	<u>Points</u>	- Maximum 50
	0 - 0.500	0	
	0.501 - 0.800	15	
	0.801 - 0.999	20	
	1.000 - 1.999	30	
	2.000 - 2.999	34	
	3.000 - 3.999	38	
	4.000 - 4.999	42	
	5.000 - 6.999	46	
	7.000 & higher	50	

### 1.2.2 Wisconsin Carloads per Mile:

(a) **Purpose:** The purpose of this criterion is to afford a measure of the direct usefulness of the project to Wisconsin industry and to recognize the larger impact upon Wisconsin's economy of investing scarce public resources on more densely used facilities. It is being assumed that state assistance is better invested in projects directly benefiting Wisconsin industry sites rather than supporting overhead routes for the railroad. It is also assumed projects serving unit coal or coke trains to electric utility plants generate a sufficient return to a railroad as to not justify public assistance.

(b) **Description:** Rail carloads generated by or using the project facility that originates or terminate at a consignor or consignee in Wisconsin, are averaged over five years. All carloads meeting these requirements may be included even if transported by a railroad not party to the project proposal. If multi-platform articulated cars are used, they are treated as single or multiple cars according to how they are treated in the tariff or contract under which they move. Excluded from this carload count are carloads of coal or coke delivered to regulated electrical utility generating plants in blocks or unit trains of 25 cars or more. Also excluded are carloads that have been used in a prior project's count of Wisconsin carloads which are now rerouted over the proposed project unless the reroute can be demonstrated to be independent of project considerations. The carloads of the past three years and the projections for the next two years are used. Absent valid projections, only the average of the past three years is used. The carload data and evidence of its validity is provided by the applicant during the application conference(s).

(c) **Scoring:** Points are awarded on the basis of Wisconsin carloads per mile as shown in the table below. The points awarded increase as the carloads per mile approach 160. The points are awarded in this manner to reflect the lesser impact on Wisconsin's economy of public assistance on very light density lines.

<u>Wisconsin Carloads/Mile</u>	<u>5(3) Yr. Average</u>	<u>Points</u>	Maximum 15
	< 20	0	
	20 - 50	3	
	51 - 85	7	
	86 - 120	10	
	121 - 160	13	
	>160	15	

**(d) Special Applications of this Criterion to Certain Project Types.**

(1) New Industrial Spur Projects, Intermodal Facility Projects, and Industrial Spur Rehabilitation Projects.

The carloads used for these projects under this criterion are those described under (b) above which are directly handled at or on the project facility. The line segment for projects is from end of project facility track to the closest interchange with another railroad or with a connection to another line segment of the operating railroad. For yard projects, the segment is the mileage from project yard limits to the yard limits of the closest system yard of equal or greater car capacity.

New industrial spur projects must have applied and not qualified for Transportation Economic Assistance.

(2) Major Bridge Rehabilitation Projects.

The carloads used for this type project are those described under (b) above which traverse the bridge and/or the segment of track in which the bridge is located. The segment of track is defined as that segment that could not be physically operated as part of a through route under detour in the event of bridge closure. (Economic or operational concerns are not pertinent to identification of detour parameters.)

(3) Substitute Service Projects.

The carloads used for this type project are those that would have been counted if the project substituted for had been performed.

(4) Yard and Urban consolidation Projects.

For new yard construction or existing yard rehabilitation and for track consolidation projects in an urban area, there are no points awarded under this criterion. These projects enhance operating efficiency of the railroad but do not directly provide essential freight rail service to a Wisconsin consignee or consignor.

1.2.3 **Category of Line:**

(a) **Purpose:** The purpose of this criterion is to afford a means to reflect the degree to which certain rail lines, physically serve locations of actual or potential Wisconsin rail traffic generation locations. The criteria for classification are described in Translinks 21, WisDOT's comprehensive, long-range intermodal transportation plan adopted in November, 1994.

(b) **Description:** In Translinks 21, each rail line or line segment is classified into the categories of Tier 1, Tier 2 Intermodal and Primary, Tier 2 Primary, Tier 2 Secondary, Tier 2 Passenger, or Not Shown. Projects on Tier 1 lines are assumed to generate a sufficient return to a railroad as to create a lesser priority for public assistance.

(c) **Scoring:** Points are awarded on the basis of the classification of the line on which the project is located. Projects comprised of lines of more than one classification may be awarded points on a prorated basis.

<u>Essentiality</u>	<u>Level</u>	<u>Points</u>	Maximum 3
	Tier 1	0	
	Tier 2 Intermodal & Primary	0	
	Tier 2 Primary	1	
	Tier 2 Secondary	1	
	Tier 2 Passenger	0	
	Not Shown	3	

1.2.4 **Consolidation:**

(a) **Purpose:** The purpose of this criterion is to afford a means to reflect both the public benefit of freeing land for alternative economic development and the benefit to railroad operators through lower maintenance costs.

(b) **Description:** For purposes of this criterion, a consolidation project is one that results in (a) the joint use of a rail line of one mile or more in length, or (b) the joint use of a bridge spanning a navigable waterway or State or U.S. highway, or (c) the joint use of a railroad switching yard by two or more railroads where 10 or more developable acres of land formerly used for railroad purposes is vacated for alternative land use, or (d) a separate bridge structure being eliminated or its construction avoided as a consequence of the project.

(c) **Scoring:** Either of the two scoring systems below may be used, but not both.

<u>Consolidation</u>	<u>Vacated Land</u>	<u>Bridge Length</u> <u>Avoided</u>	Maximum 5
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<u>Acres</u>	<u>Points</u>	<u>Feet</u>	<u>Points</u>
< 2	0	< 25	0
2- 5	1	25-50	1
6 - 10	3	50-100	3
11 - 15	4	> 100	5
> 15	5		

**1.2.5 System Connectivity:**

(a) **Purpose:** The purpose of this criterion is to afford a means to reflect the value a project may present in serving a distinct system function even though traffic origin or destination functions may be minimal or absent.

(b) **Description:** System connectivity is present when the project specifically provides for the entire sole connection of two distinct through route line segments of the applicant's system, or the system's sole interchange connection with another railroad.

(c) **Scoring:** System connectivity points are awarded only if the project satisfies the description under 1.2.6 (b).

<u>System Connectivity</u>	<u>Level</u>	<u>Points</u>	Maximum 3
	Project Does Not Provide Connectivity	0	
	Project Does Provide Connectivity	3	

**1.2.6 Geographical Distribution and Rural Population Density:**

(a) **Purpose:** The purpose of this criterion is to afford a means to reflect in the awarding of rail assistance a concept of geographical and rural population equity throughout the state.

(b) **Description:** For the geographical equity purposes of this criterion, the regions of the state correspond to the Division of Transportation Districts' district structure of the department. A project anywhere in the region is a project in that region if 50.1% of its physical size is in that region. For the rural population equity purposes of this criterion, a project's location is deemed rural if it occurs in a city, town, or village of 4,000 or less population, or in a city, town, or village in a county of less than 150 population per square mile. State funding for grade crossings and TEA rail projects are excluded from consideration as prior assistance in the region. Also excluded from consideration are projects closed out more than 36 months prior to the February 1, 2016 project proposal acceptance date. Points scored by a substitute service project are those

that would have been scored by the project for which a substitute is made.

- (c) **Scoring:** Geographical distribution points are awarded as shown in this chart.

<u>Geographical Distribution</u>	<u>Prior Project in Region</u>	<u>Points</u>	Maximum 3
	Yes	0	
	No	2	
<u>Rural Population</u>	<u>Project Location Qualifies as Rural</u>	<u>Points</u>	
	Yes	1	
	No	0	

**1.2.7 Prior Beneficiary of Assistance:**

- (a) **Purpose:** The purpose of this criterion is to reflect in the awarding of rail assistance a concept of equity among applicants.

- (b) **Description:** If the owner or operator (holder of the STB certificate of public convenience and necessity) of the facility on which the project is located is the owner or operator of the facility on which a prior project is underway or was completed within the 36 months prior to the proposal acceptance date, points under this criteria are not awarded. For purposes of this criterion, if the operator is under common control or common management (an individual is a corporate officer in both companies) with another railroad or parent company of another railroad, a prior project on any of the commonly controlled or commonly managed companies is treated as a prior project of this owner or operator. Grade crossing and TEA rail projects are excluded from consideration as prior assistance.

- (c) **Scoring:** Prior beneficiary of assistance points are awarded as shown in the following table.

<u>Prior Assistance</u>	<u>Prior Assistance</u>	<u>Points</u>	Maximum 3
	Yes	0	
	No	3	

- (d) **Special Application:**

Substitute Service, New Industrial Spur, Intermodal Facility, Industrial Spur Rehabilitation.

Point award on this criterion shall be based upon whether the applicant has received prior assistance per the terms described above. A substitute service project not served by a railroad is awarded zero points.

**1.2.8 Route Stabilization:**

(a) **Purpose:** The purpose of this criterion is to afford a means to reflect the ability of a project to support the maintenance of a statewide network of efficient freight railroad routes.

(b) **Description:** Route stabilization is present in a project that rehabilitates a line haul segment of railroad in excess of 5 miles in length and is located on a Tier 2 Primary, Tier 2 Secondary or Not Shown line, as defined in the 1994 Translinks 21 plan or the latest subsequent rail system plan, for more than 50% of its length.

(c) **Scoring:** Route stabilization points are awarded as follows:

One point for each full five mile unit of continuous through route miles subject to the project in excess of five miles, up to a maximum of ten points.

Example:  $N = 33.8$  Miles  
 $x =$  Number of 5 Mile Units

$$\frac{N - 5}{5} = x$$

$$x = 5.76$$

Points Awarded = 5

**1.2.9 Environmental Benefits:**

(a) **Purpose:** The purpose of this criterion is to afford a means to reflect in the awarding of rail assistance aspects of the project that offer environmental benefits that may not be captured under the benefit/cost criterion.

(b) **Description:** Points are awarded under this criterion on the basis of the department's finding the project will **substantively:**

- (1) Reduce urban highway congestion.
- (2) Reduce petroleum fuel consumption.



- (3) Reduce emission of air and/or water pollutants.
- (4) Improve safety of hazardous material transport.
- (5) Improve road or pedestrian safety.
- (6) Serve near term needs of rail passenger service.

(c) **Scoring:** Environmental benefit points are awarded as follows:

Environmental Benefits Generated      0-4 points

**1.2.10 Enhancing Wisconsin's Economy:**

(a) **Purpose:** The purpose of this criterion is to afford a means to reflect in the awarding of rail assistance funds aspects of the project that offer economic benefits that may not be captured under the benefit/cost criteria.

(b) **Description:** Points are awarded under this criterion on the basis of the department's finding the project:

- (1) Will address an unusual Wisconsin job gain or loss situation.
- (2) Contains an element of urgency/timeliness significant to its ability to deliver long-term benefits.
- (3) Improves competitiveness of businesses served by the operator.
- (4) Improves the attractiveness of Wisconsin for new business.
- (5) Serves a developed industrial park (streets, sewer, water in place).

(c) **Scoring:** Enhancing Wisconsin's economy points are awarded as follows:

Economic Enhancement Factors Present    0-4 Points

**SECTION 2.0 ASSISTANCE FORM AND AMOUNT**

**SUB 2.1 POLICIES AFFECTING ASSISTANCE AMOUNT**

2.1.1 It is the department's key-stone policy for this program to provide assistance to projects in the public interest in an amount no greater than that which is adequate to meet the legitimate economic concerns of the applicant.

2.1.2 The measure of public interest, for program purposes, is determined by the project's qualification and ranking on the criteria set forth under Part II, Section 1.0 herein. The measure of the applicant's legitimate

economic concern is the applicant's net revenue from the project on its share of project cost equaling its cost of capital plus a reasonable return on the use of that capital.

2.1.3 The means used to provide assistance is a loan at an interest rate calculated to allow a return on the railroad's investment in the project equal to double its cost of capital.

2.1.4 The amount of assistance for any single project may not exceed \$3 million if there is more than one qualified proposal. **The total amount of any loan(s) devoted to non-rail purposes (loading equipment, grain bins, warehousing) for any given facility will generally be limited to \$1.5 million.**

## SUB 2.2 DETERMINING PROJECT NET REVENUE

### 2.2.1 Net Revenue Data:

(a) The data to be supplied by the applicant will be determined in an application conference after the project has qualified for funding consideration. These data will include but not necessarily be limited to:

#### Existing Facilities

- (1) 100% of retained revenue from the freight and passenger traffic (traffic) on the project line or from the commodity volume handled (traffic) at the project facility for each of the three years prior to application.
- (2) The normalized O&M direct costs for the project line or facility for each of the three years prior to application.
  - Direct maintenance labor, equipment, material cost at self charge rates.
  - Direct operating labor and equipment costs.
  - No indirect general and administrative costs included.
- (3) 100% of the projected annual retained net revenue (or costs saved if not reflected in net revenue) resulting from the project for the ten years, or length of any longer loan period, following completion of the project.
- (4) The normalized O&M direct costs projected for each of the ten years, or length of loan, upon completion of the project.

#### New Facilities

- (1) 100% of the projected annual net retained revenue (or costs

saved if not reflected in net revenue) resulting from the project for the ten years following completion of the project.

- (2) The normalized O&M direct costs projected for each of the ten years following completion of the project. (See Part II, Section 2.2.1 (2) for eligible O&M costs.)

(b) If necessary, additional application conferences will be held to review, clarify, and assess the financial data supplied.

### **2.2.2 Net Revenue Calculation:**

Following acceptance of the financial data by the parties, it will be used to calculate the net increase in revenue (or cost savings) generated by the proposed project.

## **SUB 2.3 DETERMINING COST OF CAPITAL**

### **2.3.1 Class I Railroads:**

The cost of capital used for a project affiliated with a Class I railroad will be double that last published for the railroad by the Surface Transportation Board (STB).

### **2.3.2 Non-Class I Railroads:**

(a) By virtue of deregulation, non-Class I railroads are not required to collect and submit data necessary to the calculation of cost of capital by the STB. When a cost of capital number is needed in a STB proceeding, such as an abandonment case, and a non-Class I railroad does not have such a number calculated and validated, the STB instructs the non-Class I railroad to use the composite railroad industry cost of capital (CRICC).

Therefore, for purposes of this program, absent the use of the alternative noted under (b) below, the cost of capital for non-Class I railroads will be double the current CRICC.

(b) It is the option of a non-Class I railroad associated with a proposed project to provide, as an alternative to the CRICC, a cost of capital number specific to itself provided that:

- (1) The computation is performed by a qualified financial or audit firm independent of and not otherwise in a business relationship with the railroad.
- (2) The computation is performed in the same manner and methods as approved by the STB for computation of Class I

railroad cost of capital.

- (3) Substitutions for data elements (such as publicly traded common stock value, etc.) be fully explained and defended as adequate for use as a substitute or surrogate.
- (4) The development of this number be entirely at the cost of the railroad and be available so as to not delay the application process.

### 2.3.3 Rail Using Industry:

In the event the project applicant or proponent is a rail served or proposed rail served industry, the industry's cost of capital used for purposes of this program shall be determined using the CRICC or a number computed under terms of 2.3.2 (b) applied to the rail served industry rather than the railroad.

## SUB 2.4 DETERMINING ASSISTANCE OFFER

### 2.4.1 Establishing the Assistance Margin:

The total net revenue over the project or the operating and maintenance cost savings resulting from the project is expressed as a percentage of the total project cost (hereafter called return). This return is compared to the determined cost of capital. If this return exceeds double the cost of capital, with a 100% loan at the prime interest rate, assistance is not available. If the return is less than double the cost of capital, sufficient assistance, up to the maximum of a 100% loan **at an interest rate of 2 percent per annum**, is provided to bring the railroad's return equal to double its cost of capital.

### 2.4.2 Establishing the Form of Assistance:

(a) On all projects except certain rail line rehabilitations, the loan duration is a maximum of 10 years. On \$3 million plus line rehabilitations with an interest rate on the loan at prime or greater, the maximum duration will be negotiated and will not exceed 20 years.

(c) The interest rate on the loan is determined through an iterative process. The railroad's return on its project investment is first calculated assuming 2 percent interest. If the return falls short of double the cost of capital, 2 percent interest per annum is required. Should the return on a project with the use of a 2 percent interest loan exceed double the cost of capital, an interest rate is required which will lower the return to no more than double the cost of capital.

## SECTION 3.0 KEY ASSISTANCE AGREEMENT TERMS

## SUB 3.1 LIST

- 3.1.1 The applicant must hold the department harmless and name the department, etc. as additional insured. Amount of coverage or arrangements under applicant's self insurance to be negotiated.
- 3.1.2 The railroad or other applicant must agree to operate the line or project facility for the duration of the assistance agreement at the service level proposed in the application process. Termination of service will make the full assistance amount due and payable plus an amount equal to the interest rate in the agreement or the prime rate of interest, whichever is greater, applied to the full assistance amount from the effective date of the assistance agreement to date of termination.
- 3.1.3 The maximum loan duration is 10 years for any project other than a line rehabilitation exceeding \$3 million which may have up to a maximum duration of 20 years if loaned at prime or greater interest rate.
- 3.1.4 Loan repayments begin upon completion of the project and may be based on a per car payment formula with a minimum payment per fixed period and maximum end-of-term balloon payment of no more than 50% of the loan or repayment may be by a fixed amount per fixed period or repayment may be by an amortized repayment schedule based on the interest rate, length of repayment period and principle amount.
- 3.1.5 Interest payments begin upon first draw of assistance funds and are made on a fixed regular schedule.
- 3.1.6 Rehabilitation and construction material and performance specifications are the choice of the railroad or industry under a loan at interest form of assistance. Should no-interest loan funds be involved in any portion of the assistance provided, WisDOT will have final approval of these specifications.
- 3.1.7 Requests for final payment shall be submitted within one year of WisDOT acceptance of the approved project work as being complete. If the request for final payment is not received within one year, WisDOT shall consider the last progress billing as the final bill.
- 3.1.8 In the event federal funds available to WisDOT are to be used on the project, the following will be required of the applicant either as part of the assistance agreement or as a separate document.
  - (a) Certification that the applicant and any of its contractors are not prohibited from contracting with the federal government.
  - (b) Certify the gross tons per mile per year on the project do not exceed 5,000,000 and that the carloads per mile per year on the

project exceed 20.

- (c) A document accepting the state's contingent interest in the net liquidation value of the project property equal to the percentage of original project costs covered by federal funds.