MISSISSIPPI FREIGHT RAIL SERVICE PROJECTS REVOLVING LOAN/GRANT PROGRAM (RAIL)

G U I D E L I N E S

The Mississippi Freight Rail Service Projects Revolving Loan/Grant Program ("RAIL") administered by the Mississippi Development Authority ("MDA") is designed for making loans and grants to municipalities and/or counties (the "Applicant") to finance freight rail service projects in the State of Mississippi ("State"). Counties and municipalities are encouraged to use these funds in connection with other state and federal programs. Funding for loans/grants to applicants is derived from the issuance of State bonds. RAIL was enacted by the State Legislature during the Regular 1995 Session. (See Sections 57-44-7 et seq. Mississippi Code, Annotated.)

SECTION A
LOAN PROJECTS ONLY

ELIGIBILITY

The governing authority of a municipality or county must submit the application for assistance. The municipality or county may use the RAIL funds to provide loans to railroad corporations for freight rail service projects. Projects which are eligible for assistance must be for freight rail service projects in Mississippi's counties and municipalities and are as follows:

- A project which involves the acquisition, construction, installation, operation, modification, renovation, or rehabilitation of any freight rail service facilities.
- A project which may include any fixtures, machinery, or equipment used in conjunction with any such facilities.
- Any project for any freight transportation purpose.

ALLOWABLE COSTS

- Construction costs (including reasonable and customary site work for buildings, right-of-ways, easements, etc.).
- Up to eight percent (8%) of the principal loan amount for design work, i.e., engineer or architect. Engineering and/or architectural costs above 8% will be paid from other funding sources.

PROJECT REQUIREMENTS

- The Applicant must be an incorporated municipality or a county.
- The Applicant may not purchase an existing building or facility for more than the appraised value.
- The Applicant may not acquire buildings or facilities from individuals, companies, or corporations with RAIL funds, and subsequently lease them to the seller or previous owner.
- The Applicant or railroad corporation will be required to retain title on all freight rail service improvements until the loan has been repaid.
- Any interest earned on the RAIL funds must be used on the project or returned to the state.

APPLICATION REQUIREMENTS

- The Applicant's certified public accountant, auditor or fiscal officer must verify on official letterhead that the financials reflect the Applicant's ability to repay the loan. The verification must include the source of repayment, i.e., surcharge or other verifiable means of repayment.
- The most current annual audit of the Applicant and the latest financial summary reflecting any additional long-term debt or any changes in their financial position since the last annual audit was prepared must be furnished to the Community Services Division of the Mississippi Development Authority.
- The Applicant must give public notice, as required. (All applicants must use the attached Public Notice and it must have been published within the last six months prior to submittal of the loan application.)
- Once the publication process is complete, a certified copy of the minutes of the Applicant must be submitted showing their decision to proceed with the loan.
- The Applicant must submit cost verifications, which must be on engineer's, contractor's, or architect's original letterhead and signed by the firm's representative.
- Official certification of preliminary project plans and specifications from the project engineer and the operating railroad indicating that the project meets American Railway Engineering and Maintenance-of-Way Association (AREMA) and Federal Railroad Administration (FRA) standards and other necessary compliance requirements must be submitted.
- If applicable, the Applicant will be required to submit three different appraisals no

more than three months prior to loan closing on buildings or facilities to be purchased.

- Applicants must fulfill the requirements of the standard application, which must be submitted to MDA for review and acceptance.

- If applicable, the Applicant must provide an award letter or other documentation verifying funding sources.

GENERAL LOAN TERMS

The cumulative maximum loan amount for any eligible local unit of government during a calendar year is $1,000,000. The terms of any loan must be reasonable, and shall not exceed 15 years. The loan amount allowed will be determined by the Applicant's ability to repay the loan within acceptable terms. The rate of interest on a RAIL loan shall be one percent (1%) below the Federal Reserve Discount Rate at the time of loan approval.

The Applicant will be required to expend all RAIL funds within one year from the date of loan approval, unless a waiver is granted upon good cause shown. Projects shall not exceed two years. If the funds are not expended within two years, the loan will be adjusted to the actual disbursements and the remaining funds to be drawn will be recalled.

PENALTIES

Local governments which fail to meet repayment obligations shall cause all or part of their sales tax allocation and/or homestead exemption reimbursement to be withheld and may be subject to other penalties.

If the project has not begun within 90 days following loan approval, the rate of interest on the loan will be subject to increase, if the Federal Discount Rate increases.

DELINQUENT NOTICE PROCESS

Each month, invoices will be sent to communities with an active RAIL loan status. Payments are due on the first of each month. Failure to submit timely payments may result in the following procedures:

1) If a community is 60 days delinquent, CSD may issue a letter stating the catch-up amount, terms of their loan agreement and explain the process for turning collection over to the State Auditor.
2) If a community is 90 days delinquent, CSD may issue the same letter with the new catch-up amount.
3) If a community is 120 days delinquent, CSD may issue the same letter with the new catch-up amount.
4) If a community is 150 days delinquent, CSD may issue a letter stating in 30 days if catch-up payment amount has not been received, then CSD will turn the community over to the state auditor.
5) If a community is 180 days delinquent, CSD may request the State Auditor to audit the receipts and expenditures of the loan (Section 57-44-7(4)). If the State Auditor

finds that the county or municipality is in arrears in payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Mississippi Development Authority.

==========

SECTION B
GRANT PROJECTS ONLY

==========

ELIGIBILITY

Projects that are eligible for assistance must be for freight rail service projects relating to the upgrading of railroad grade crossings. Only projects approved by the Mississippi Department of Transportation ("MDOT") shall be eligible for RAIL grants. The project approval process will be initiated by MDOT via a four-party agreement.

GENERAL GRANT TERMS

The maximum amount of RAIL grant funds that may be provided for any one project is $250,000.

==========

SECTION C
CONDITIONS FOR DISBURSEMENT OF LOAN/GRANT FUNDS

==========

REIMBURSEMENT PROCESS

The State will release RAIL funds on a reimbursement basis for approved eligible costs of the project as incurred. The Applicant shall certify to MDA during construction that the expenses were incurred and were in accordance with the plans approved by MDA. Funds will be released periodically upon receipt of supporting documentation from the Applicant. Funds may not be drawn down more frequently than monthly.

AUDIT

Funds provided under RAIL are subject to audit by the State Department of Audit.

ADDITIONAL INFORMATION

Program inquiries and applications should be directed to:

Mississippi Development Authority

Community Services Division
Post Office Box 849
Jackson, Mississippi 39205
Telephone: (601) 359-3179
Fax: (601) 359-3108

9/09

These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such action is to promote the public purpose of the Act and is not prohibited by State Law.