

TR-031384

MEMORANDUM

October 9, 2003

To: Marilyn Showalter, Chairwoman
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Patrick Oshie, Commissioner

cc: Bob Wallis, ALD
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Subject: Grade Crossing Protective Fund

On July 7, 2003, legislative changes to RCW 81.53.271 went into effect that amended the Commission's Grade Crossing Protective Fund (GCPF) in three major areas:

- The purpose of the fund was broadened.
- Monetary match requirements for projects under \$20,000 were eliminated.
- Monies from the public services revolving fund may be made available, if needed, to cover legislative appropriations for GCPF grants.

The changes necessitated a reevaluation of the GCPF program, particularly with regard to the manner by which funds are to be allocated between different types projects. On September 30, 2003, Staff held a workshop that included representatives from the public and private sectors with expertise in railroad safety analysis and grant administration. The workshop provided staff with guidance on how to interpret the changes and apply them to a revised GCPF program consistent with the intent of the statute amendments.

The attached document is Staff's proposal to the Commission on what the new program should consist of and how it should be implemented. Staff is scheduled to meet with the Commissioners on October 16, 2003 to discuss the content of the proposal, as well as options for its formal adoption.

Grade Crossing Protective Fund Project Proposal

Background on the Grade Crossing Protective Fund

In 1969, the legislature created the Grade Crossing Protective Fund (GCPF) in RCW 81.53.281 to provide funds for projects relating to upgrading signals and warning devices at public railroad crossings. The GCPF would pay for 60 percent of a project, the local or state government would pay for 30 percent of the project, and the railroad would pay the remaining 10 percent. In the 1980s, the federal government increased their funding for these types of projects and required only a one percent match, which was paid for from the GCPF.

Currently, many of the types of projects previously funded out of the GCPF receive federal funding to cover 100 percent of the costs. The majority of these projects are located at heavily traveled public crossings. Public safety improvements are often needed at grade crossings that cannot compete effectively for federal aid due to factors such as relatively low train and/or vehicle volumes. Although GCPF grants are available for projects of this nature, smaller towns and smaller railroads cannot always pay the 30 percent and 10 percent matches, respectively, to fund projects.

During the 2003 legislative session, the legislature passed and the Governor signed into law HB 1352, Chapter 190, Laws of 2003. The new law amends RCW 81.53.281 to broaden the purpose of the GCPF to include all rail safety projects that pose a high risk to public safety, including those that may not be related to public grade crossings. Types of projects that were previously ineligible for GCPF funding, but may be eligible as a result of the new law, are those related to pedestrian trespass prevention and safety improvements at private crossings.

The previously mentioned apportionment system was also amended to waive the monetary match requirements for projects under \$20,000 or the first \$20,000 for projects that exceed that amount. The law also provides future funding for the GCPF by directing the Commission to transfer certain moneys from the public service fund to the GCPF as needed to cover legislative appropriations.

On September 30, 2003, Staff held a workshop with participants from the Washington State Department of Transportation, the Federal Railroad Administration, the County Road Administration Board, the state Transportation

Improvement Board, and the Union Pacific Railroad Company to discuss the best options for administering the grant program according to the legislative changes. The workshop, along with other research and discussions, resulted in the proposal summarized in the following sections.

Types of projects

The GCPF was broadened to include all projects that improve public safety at railroad crossings and along railroad rights-of-way. Staff has identified four general categories for funding consideration:

- Grade crossing safety projects (current program)
- Trespass prevention
- Miscellaneous safety projects
- Private crossing safety improvements

Examples of trespass prevention projects

- Fencing, barriers (including effective vegetation)
- Signage, memorial structures, and other psychological disincentives
- New pedestrian grade crossings, channeling traffic, pedestrian warning devices
- Media/PR campaigns – Public Service Announcements
- Enforcement-related activities

Examples of miscellaneous projects

- Improving sight distance at grade crossings, including removal of vegetation and other physical obstructions
- Participation in roadway surface improvements at or approaching grade crossings
- Funds to mitigate crossing closures

Private crossings

Private crossings are those that are on roadways not open to the general public and are not maintained by a public agency. As such, the Commission does not have jurisdiction over private crossings. Despite the lack of public use, hazards associated with private crossings should not be overlooked. Accidents at private crossings have resulted in injury, death, derailment, and hazardous materials

releases. The vast majority of private crossings are not equipped with automatic warning devices. The use of GCPF grants at these locations will help to improve safety at some of the 2,900 private crossings within the state.

Factors for considering funding private crossing improvements should include:

- Accident histories
- Whether or not hazardous materials are common (on either road or rail)
- The extent of public use
- Poor roadway geometry
- Insufficient sight distance

Examples of private crossing projects:

- Funds to mitigate private crossing closures
- Installation of warning signs
- Installation of nighttime/off-hours locked gates
- Improved reflectorization/conspicuity of warning devices
- Sight distance improvements

For all categories, consideration should also be given to funding a portion of larger projects associated with different grants.

Grant Administration

Under the previous program, GCPF grants were awarded on an as-needed basis without a formal grant allocation procedure. It is expected that the expansion of the program to the areas discussed above, along with the \$20,000 match-free incentive, will increase demand for the grant in excess of that which the previous GCPF program experienced. Since it is likely that demand for the funds will exceed the level of funds available, prioritization methods that determine which projects have the greatest net public safety benefits are essential. Development of a competitive and efficient grant allocation system should be based on fair application opportunities, consistent review methods, and balanced regional and demographic distribution.

Application and Review

Under RCW 81.53.281, the Commission may make "grants and/or subsidies to public, private, and nonprofit entities for rail safety projects authorized and ordered by the Commission." To that end, any public, private or nonprofit entity may submit a GCPF application. When reviewing applications, the Commission will consider whether the applicant has coordinated with and sought approval from the relevant local agency and railroad.

Staff should develop separate applications for the four categories listed previously. Each application should include questions that will allow for prioritization of projects based on:

- The relative severity of the problem or circumstance being addressed
- Risk assessment models (where applicable)
- Estimated project costs v. resulting public benefits
- Geographic diversity of the projects

When reviewing projects, Staff should also organize a diagnostic team, consisting of WUTC, local agency, railroad, and applicant (if different from railroad or local agency) representatives. The team should review each proposal on site to verify information in the applications. The site reviews would also allow the team to assess the proposals first hand and to make further recommendations for improving safety.

Seeking Applicants

When the new program is in place, Staff should distribute a "call for projects" letter seeking grant applications from any interested parties. The Washington State Department of Transportation, the County Road Administration Board, and the Association of Washington Cities have offered to assist Staff in advertising the call for projects to all local jurisdictions and railroads in the state. The call for projects may be advertised via e-mail, regular mail, through established "grant alert" mediums, and on the Commission's website. A date by which all applications must be submitted should be specified in the request.

Only one call for projects is planned for funding during this biennium. Additional application opportunities may be considered based on funding availability.

Funding considerations

Funds should be divided between the different project categories after review of applications received and further discussion on what constitutes an adequate number of projects within each category.

Other funding recommendations include:

- Limiting the level of funding for a single project
- Assigning long-term maintenance responsibility for a funded project to local or railroad entities
- Considering funding some projects “up-front” when needed to facilitate design or to order materials.
- Limiting the number of times jurisdictions may apply for funds at the same location.

Commission Approval

The Commission must approve at an open meeting all projects that receive GCPF funds, and the amount of any GCPF funding, if any, to be awarded to each project. After staff has determined recommended priorities, Staff will consult the Commissioners on proposed project awards. Subsequently, staff will present recommendations to the Commission, including justification for funding each project and any proposed conditions for funding, at an open meeting.

Post-Grant Evaluation

A time limit by which allocated funds are to be used should be considered. Imposing this requirement would ensure that projects are completed quickly and safety improvements are put in place. A time limit would also ensure that outstanding projects do not significantly carry over into subsequent funding periods. Staff should periodically track the status of funded projects to ensure that implementation is timely.

After a project has been completed, Staff should conduct a follow-up review to verify that the use of the funds is consistent with the proposal and any associated conditions or requirements. In the case of non-traditional projects (i.e. those that were not eligible for funding until after the legislative changes), Staff should also assess the effectiveness of the improvements to determine whether the level of funding allocated to that type of project is appropriate.