



U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF INSPECTOR GENERAL

**Improved FRA Decision Making and
Financial Oversight Processes Could Have
Reduced Federal Risks from the
California High-Speed Rail Project**

FRA

Report No. ST2020015

January 22, 2020





Improved FRA Decision Making and Financial Oversight Processes Could Have Reduced Federal Risks from the California High-Speed Rail Project

Requested by Chairman Jeff Denham of the House Committee on Transportation and Infrastructure, Subcommittee on Railroads, Pipelines, and Hazardous Materials

Federal Railroad Administration | ST2020015 | January 22, 2020

What We Looked At

Between 2009 and 2011, Congress cumulatively appropriated \$10.2 billion for the High Speed Intercity Passenger Rail (HSIPR) program. As of April 2019, the Federal Railroad Administration (FRA), responsible for this program, has disbursed \$8.5 billion of those funds, with approximately 35.5 percent dedicated to developing a corridor in California, managed by the California High Speed Rail Authority (CHSRA). The former Chairman of the House Committee on Transportation and Infrastructure, Subcommittee on Railroads, Pipelines, and Hazardous Materials requested that we review FRA's risk mitigation and oversight of expenditures. Accordingly, our audit objectives were to assess FRA's (1) risk analysis, assessment, and mitigation efforts—particularly regarding the availability of non-Federal matching funds, business plans, and financial reporting—and (2) procedures for determining whether Federal funds expended complied with applicable Federal laws and regulations. Due to the significant amount of HSIPR funds dedicated to California, our audit focused on FRA's cooperative agreements with CHSRA.

What We Found

While FRA took numerous actions to oversee the CHSRA agreement, FRA missed opportunities to better assess and mitigate Federal risks. Specifically, while FRA routinely found that CHSRA submissions of required planning documents were insufficient and provided CHSRA with technical assistance to improve future submissions, prior to May 2019, FRA did not document decisions on additional actions to address the repeated shortcomings. Additionally, FRA's review of documents submitted by CHSRA did not verify underlying methodologies used to create them or make an independent assessment of their plausibility. FRA did not define minimum standards for the acceptable interim use of the project's Central Valley segment to ensure that the initial construction segment would have independent operational utility, or ensure that CHSRA developed an acceptable interim use plan—although CHSRA missed the deadline to provide one. Finally, FRA's review of project reimbursement requests relied on documentation that was not adequate to verify that expenditures met Federal requirements, and FRA's review of expenditure documentation was inadequate in some cases.

Our Recommendations

We made four recommendations to improve FRA's assessment and mitigation of risks, documentation of decisions, and processes for overseeing expenditures. FRA concurred with three recommendations and partially concurred with one. We consider all four recommendations resolved but open pending completion of planned actions.

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Memorandum

Date: January 22, 2020

Subject: ACTION: Improved FRA Decision Making and Financial Oversight Processes Could Have Reduced Federal Risks from the California High-Speed Rail Project | Report No. ST2020015

From: David Pouliott 
Assistant Inspector General for Surface Transportation Audits

To: Federal Railroad Administrator

The Federal Railroad Administration (FRA) administers the High-Speed Intercity Passenger Rail (HSIPR) discretionary grant program, which was created by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).¹ Congress appropriated \$10.6 billion for the HSIPR program, through the American Recovery and Reinvestment Act of 2009 (ARRA)² and annual appropriations in fiscal years 2009 and 2010, to support development of high speed and intercity passenger rail networks. In fiscal year 2011, Congress rescinded \$400 million of the previously appropriated HSIPR funds, bringing the total amount available for the program to \$10.2 billion. As of April 2019, FRA had disbursed \$8.5 billion of those funds. Approximately 35.5 percent of HSIPR program funding was dedicated to developing a single corridor between San Francisco and Los Angeles, managed by the California High Speed Rail Authority (CHSRA).

In December 2017, the Chairman of the House Transportation and Infrastructure Subcommittee on Railroads, Pipelines, and Hazardous Materials requested that we review FRA's risk mitigation and oversight of expenditures. Accordingly, our audit objectives were to assess FRA's (1) risk analysis, assessment, and mitigation efforts—particularly regarding the availability of non-Federal matching funds, business plans, and financial reporting—and (2) procedures for determining whether Federal funds expended complied with applicable Federal laws and regulations. In light of the significant amount of HSIPR funds involved, we

¹ Public Law. No. 110-432 Div. B (2008).

² Pub. L. No. 111-5 (2009).

focused our work through a case study on FRA's cooperative agreements³ with CHSRA. As such, the specific findings and context cannot be generalized to all Federal railroad financial assistance, but nonetheless our review identified several opportunities for FRA to improve its oversight of grants and cooperative agreements.

To accomplish our audit objectives, we reviewed legal, regulatory, and other requirements for FRA's cooperative agreements with CHSRA; interviewed representatives from FRA, CHSRA, and other organizations; and evaluated grant and related expenditure documentation.⁴ We conducted our work in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology. Exhibit B lists the entities we visited or contacted. In August 2018, we testified on FRA's oversight of the HSIPR Program and Federal funding for CHSRA.⁵

We appreciate the courtesies and cooperation of Department of Transportation representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5630, or Tony Wysocki, Program Director, at (202) 366-2794.

cc: The Secretary
DOT Audit Liaison, M-1
FRA Audit Liaison, ROA-2

³ Both grants and cooperative agreements are legal instruments of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity. A cooperative agreement is distinguished from a grant in that it provides for substantial involvement between the Federal agency and the recipient in carrying out the activity for which the grant is awarded.

⁴ We reviewed 30 requests for payment from a universe of 465 transactions recorded in DOT's Financial Management System, Delphi, for the years 2011 to 2017. Our sample included approximately \$485.7 million, or 18.4 percent of the approximately \$2.6 billion in our universe. FRA's awards to CHSRA at one time totaled approximately \$3.5 billion. However, in May 2019, FRA terminated one of these agreements and deobligated \$928 million. As such, our report focuses on risks to the \$2.55 billion that FRA has already expended on the California high speed rail project.

⁵ OIG Testimony, *Perspectives on FRA's Oversight of the High-Speed Intercity Passenger Rail Program and of Federal Funding for the California High-Speed Rail Authority*, before the Subcommittee on Railroads, Pipelines, and Hazardous Materials of the House Committee on Transportation and Infrastructure, August 9, 2018.

Results in Brief

FRA provided guidance to correct CHSRA's deficiencies, but missed opportunities to assess and mitigate risks.

FRA's procedures and Agreements with CHSRA authorize the Agency to take a variety of actions to enforce grantee compliance with requirements, such as withholding funds or stopping expenditures on final design and construction activities. FRA routinely deemed CHSRA planning deliverables⁶ required under the cooperative agreements—which the Agency needed to assess and timely mitigate financial risk to the project—insufficient. FRA provided technical assistance to CHSRA to improve future submissions but, prior to May 2019, did not make decisions on whether to take additional actions—such as withholding funds—to address CHSRA's consistent failure to meet grant requirements. For example, FRA had not accepted a Program Management Plan from CHSRA since 2014, citing—among other concerns—a lack of realistic budgets and performance schedules. FRA procedures require that the Agency's grant record keeping system include documentation of its decisions whether or not to take escalation action to encourage compliance. However, FRA did not document any such decisions. Also, while FRA staff and contractors reviewed deliverables prepared by CHSRA to ensure documents included the required elements, they did not review the methodologies used to create these important planning documents, nor did they conduct independent analyses to verify the plausibility of the grantee's submissions. According to FRA officials, the Agency's ARRA Agreement with CHSRA does not require such detailed assessments, and the Agency prioritizes its resources based on its assessment of risks. However, the Agency did not document the risks associated with CHSRA's potential noncompliance for specific deliverables. Finally, FRA did not define minimum standards for the acceptable interim use of the Central Valley segment of the project, nor ensure that CHSRA developed an acceptable interim use plan—despite CHSRA having passed the December 2016 deadline to provide one. FRA did not make these important grant oversight decisions because its policies and procedures lack specificity and documentation requirements. As a result, the \$2.55 billion that FRA provided to CHSRA is at increased risk of not achieving the purpose of the agreements.

⁶ Deliverables are documents, analyses, and plans that the cooperative agreements task CHSRA with producing. We identified and reviewed important planning deliverables for our review related to project risk management, cost estimation, ridership and revenue, operations and maintenance costs, and interim use.

FRA did not reasonably assure that CHSRA's expenditures met all Federal requirements, and FRA's procedures did not identify all discrepancies.

FRA focused its oversight of expenditures on the review of documentation attached to CHSRA's reimbursement requests, even though the documentation was not adequate to verify that expenditures met all Federal requirements without additional information or testing. Furthermore, FRA's review of expenditure documentation was not adequate in some cases. We identified 18 deficiencies—across 13 transactions—in the 30 FRA reviews of requests for payment that we examined. For example, 3 of 30 invoice packages we reviewed included total costs that did not reconcile—including a request for payment that did not include documentation for \$8.28 million of the \$8.32 million disbursed to the Authority. The weaknesses we identified are consistent with multiple audits that raised concerns regarding CHSRA's contract management and invoice review procedures. According to 49 Code of Federal Regulations (CFR) Part 18⁷—referenced in FRA's cooperative agreements with CHSRA—FRA must ensure that expenditures are reasonable, necessary, and for work performed or goods received. FRA relies primarily on the grantee to implement effective policies and procedures to ensure that all expenditures comply with Federal requirements. FRA's procedures direct its staff to assess those policies and procedures. However, FRA's Grants Management Manual does not provide guidance on how to conduct assessments of grantees' policies and procedures or whether grantee staff and contractors reliably followed the procedures when submitting invoices for reimbursement. For example, FRA's policies and procedures do not include guidance for conducting periodic in-depth reviews of invoices to test grantees' procedures or direct staff to review other sources, such as audit reports,⁸ to identify weaknesses and focus areas for FRA's oversight. As a result, FRA cannot provide reasonable assurance that \$2.55 billion in expended Federal funds complied with all applicable Federal requirements or be confident that its procedures are adequate to manage and oversee the funding of other rail projects.

We are making recommendations to improve FRA's overall management of grant risks and oversight of Agreement expenditures' compliance with Federal requirements.

⁷ Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 CFR Part 18 (2010).

⁸ FRA's Grant Management Manual directs Agency staff to review Single Audit findings and follow up on grantee actions in response. However, the procedures do not direct staff to review the findings and conclusions of other entities, such as State or internal auditors.

Background

FRA's Financial Assistance and the California High-Speed Rail Program

In 2010, FRA awarded CHSRA approximately \$3.5 billion—administered through two cooperative agreements—to fund environmental clearance and planning for the first phase of the California High-Speed Rail Program and final design and construction of an initial segment in the Central Valley, known as the First Construction Section (see exhibit D, California High Speed Rail Program Map). These awards are governed by agreements, which define the scopes and periods of performance in which work is to be completed.

The ARRA Agreement provided \$2.55 billion for planning and environmental work for the entire high-speed rail corridor between San Francisco and Los Angeles, as well as construction of a 119-mile segment in the California Central Valley, approximately between Madera and Bakersfield. The other agreement—using funds appropriated in fiscal year 2010—provided \$928.6 million for construction of the Central Valley segment.

CHSRA is responsible for complying with the terms of both of these agreements, including constructing railroad infrastructure in the Central Valley and conducting planning and environmental analysis for the construction of infrastructure between San Francisco and Los Angeles. In addition, CHSRA is responsible for providing the non-Federal contribution of funding described in each agreement, also known as the State match, and any additional funds needed to complete the agreed-upon tasks in the grants' Statements of Work. CHSRA also agreed to the planning and reporting provisions that require CHSRA to provide deliverables—such as documents and reports—to FRA by specified deadlines. For example, the ARRA Agreement requires CHSRA to develop a contingency plan for interim use of the infrastructure funded by the grants. This interim use plan is to assure FRA that the initial construction segment will have independent operational utility, should it appear that revenue-generating high-speed passenger rail service on a longer operational segment will be significantly delayed.⁹ Further, this agreement requires FRA approval of the interim use plan prior to awarding the final contract for construction of infrastructure—including track, signals, and communication

⁹ FRA established an Interim Use Reserve Fund of \$108 million in Federal funds in its fiscal year 2010 Agreement, to be used for necessary infrastructure to ensure early service operations continue for a minimum of 20 years after completion of the grant-funded work.

systems—that would be required for trains to operate on the initial construction section.

CHSRA's estimates of the total cost of constructing the California High-Speed Rail Program have risen from \$33 billion in 2008 to between \$63.2 billion and \$98.1 billion in 2018.¹⁰ To offset these rising construction costs, CHSRA modified its plans between 2012 and 2016 to share existing rail infrastructure in the Bay Area and Los Angeles—instead of building dedicated high-speed rail track as initially proposed. Further, because of delays in environmental and construction schedules, CHSRA and FRA executed an amendment in 2016, extending the time CHSRA had to complete the terms of the ARRA Agreement from September 2017 to December 2022. The amendment to the ARRA Agreement also included a provision allowing the expenditure of Federal funds in advance of, rather than concurrently with, the State match. In addition, an extension was executed for the fiscal year 2010 Agreement to December 2022. In February 2019, the State of California announced plans for CHSRA to focus its remaining financial resources on completing the high-speed rail link in the Central Valley while completing environmental work—required by the ARRA Agreement—between Los Angeles and San Francisco.

On February 19, 2019, FRA notified CHSRA of its intent to terminate the fiscal year 2010 Agreement. After providing CHSRA an opportunity to respond to the notice, on May 16, 2019, FRA terminated this agreement and deobligated the full award amount of \$928.6 million. The Agency's letter cited CHSRA's failures to advance construction at a pace necessary to complete the project on schedule, submit sufficient grant deliverables, and correct identified problems as the reasons for termination. Additionally, FRA stated in its letter that "it is now clear that California has no foreseeable plans, nor the capability, to pursue [the high-speed rail system] as originally proposed."

With regard to the \$2.55 billion agreement funded through ARRA, FRA has also stated that it is exploring all available legal options, including termination and recovery of funds. However, the agreement currently remains active. CHSRA has expended the \$2.55 billion in Federal funds of the ARRA award. However, as of May 2019, had contributed only \$476 million in expenditures reviewed and approved by FRA of the \$2.51 billion in matching State funding required under its agreement with FRA.

¹⁰ California High Speed Rail Authority, *2018 Business Plan*, June 1, 2018.

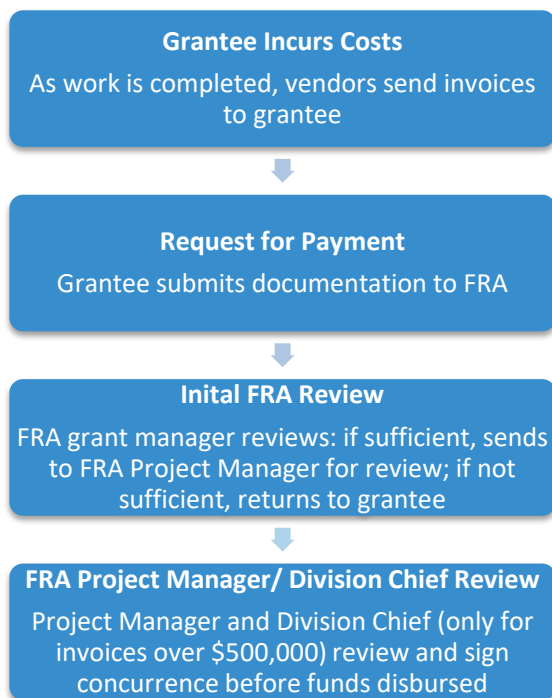
FRA's Review Processes for CHSRA's Payment Requests

Typically, after CHSRA pays vendors for work performed, it compiles the invoices paid and submits them to FRA for reimbursement or certification of the State match under the agreement. In addition to vendor invoices, CHSRA's request for payment includes a variety of other documents, such as:

- a CHSRA letter certifying compliance with the cooperative agreement and all applicable Federal laws, regulations, and published policies;
- Office of Management and Budget Form 270 (Request for Advance or Reimbursement, SF-270);
- a payment summary spreadsheet;
- a narrative that explains work performed; and
- proof of CHSRA's payment to vendors.

Next, FRA officials review the request for payment to ensure that expenditures align with the Agency's understanding of project progress and that the documentation meets all grant requirements. The FRA grant manager then completes an invoice payment concurrence memo—which the FRA project manager and grants management division chief review and sign—to indicate their approval prior to disbursement of Federal funds. Consistent with FRA's Grants Management Manual and the Agency's assessment of the overall risks associated with its agreements with CHSRA, FRA has processed all payment requests to CHSRA manually, in an effort to mitigate invoicing risk, rather than transition to automatic payment. Figure 1 summarizes FRA's review of expenditures prior to the payment of funds to CHSRA.

Figure 1. FRA Review of Grantee Expenditures Prior to Payment



Source: OIG analysis of FRA procedures and staff interviews

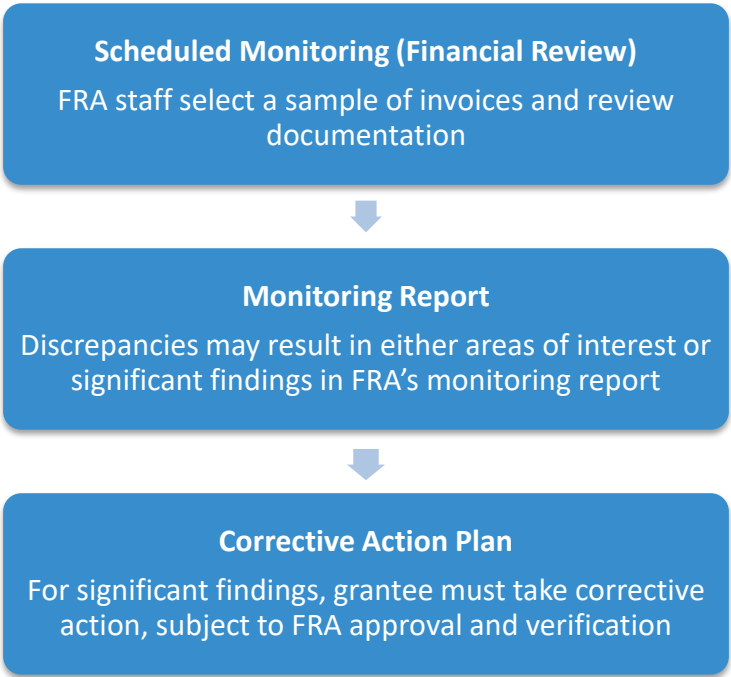
FRA Grant Monitoring

FRA's Grant Management Manual outlines procedures for grantee monitoring during routine monitoring and scheduled annual reviews. Routine monitoring consists of FRA's staff reviewing progress, deliverables, financial reports, and reimbursement requests. Scheduled monitoring is more involved and entails FRA staff conducting desk and onsite reviews.

FRA determines whether to conduct annual monitoring of a grant based on the Agency's assessment of the overall risk. This risk assessment includes criteria related to scope, schedule, and budget. FRA then determines which grants in its portfolio will undergo desk reviews or the more intensive onsite reviews. FRA has consistently rated CHSRA among its highest risk grantees; therefore, it has conducted onsite annual reviews of CHSRA's performance under its agreements with the Agency. FRA staff and the Agency's Monitoring and Technical Assistance Contractors (MTAC) use monitoring reviews to verify that grantees are performing in accordance with the cooperative agreement and implementation plans, identify execution successes and problems, and address issues and highlight potential areas of concern. FRA communicates Agency concerns and problems to grantees through advice, technical assistance, and training.

Monitoring may reveal problems that the grantee needs to correct. These areas are classified in FRA’s Grants Management Manual as either “areas of interest” or “significant findings.” FRA defines an area of interest as an issue that, if not corrected, *could* prevent a project from being completed within the planned scope, schedule, or budget. FRA expects grantees to correct areas of interest and may provide technical assistance. A significant finding is an issue noted during a monitoring review that, if not corrected, *will* prevent a project from being completed within the planned scope, schedule, or budget or which jeopardizes compliance with cooperative agreement terms. Grantees are required to develop corrective action plans, subject to FRA’s approval and verification, to address significant findings. Figure 2 summarizes FRA’s annual grantee expenditure monitoring process.

Figure 2. FRA Review of Grantee Expenditures During Annual Monitoring



Source: OIG analysis of FRA procedures, FRA staff interviews, and shadowing during annual site monitoring

FRA Provided Guidance To Correct CHSRA's Deficiencies, but Missed Opportunities To Assess and Mitigate Risks

Despite providing guidance to correct deficiencies, FRA's actions in response to incomplete submissions of required CHSRA deliverables did not result in more sufficient submissions. Although FRA conducted independent reviews of project risk and reviewed important CHSRA planning deliverables, it did not conduct in-depth assessments of the methodologies CHSRA used to create estimates and projections in certain deliverables, which play a role in how it identifies and mitigates risks. In addition, FRA did not define a minimum standard for acceptable interim use for the infrastructure it has financed, posing a risk that the \$2.55 billion granted to CHSRA may not achieve the intended goals.

FRA Did Not Document Decisions on Whether To Take Additional Actions To Encourage Sufficient CHSRA Submissions

From October 2013 to May 2019, FRA provided guidance to CHSRA on development of required deliverables. However, it did not document its decisions on whether to take additional escalation actions when CHSRA repeatedly submitted insufficient documents. The ARRA Agreement requires CHSRA to submit certain deliverables to FRA, within agreed upon timeframes, that include specified elements. Failure to submit timely and sufficient deliverables constitutes noncompliance with the grant agreement and triggers FRA's discretion to consider escalation actions to encourage improved grantee compliance. FRA's procedures require documentation of these decisions regarding escalation actions in the Agency's grant management system.

Further, the agreements and procedures provide FRA with tools to enforce grantee compliance. For example, FRA may withhold funds, delay the start of Construction Package 5,¹¹ and issue significant findings requiring corrective action plans in annual site monitoring reports. Table 1 summarizes possible FRA actions in response to insufficient deliverables and other grantee noncompliance. The Government Accountability Office's (GAO) *Standards for Internal Control in*

¹¹ Construction Package 5 consists of the track, signals, and other infrastructure necessary to operate passenger service over the civil works—embankments, bridges, and railroad bed—built through Construction Packages 1 through 4.

*the Federal Government (Internal Control Standards)*¹² also require Federal managers to complete and document corrective actions to remediate deficiencies. Furthermore, 36 CFR Part 1222 requires agencies to maintain documentation of all substantive decisions to allow scrutiny and to facilitate action by agency officials and their successors.

Table 1. Actions FRA May Take In Response to Noncompliance

FRA Action	Description	Examples of Triggering Conditions
Preliminary Escalation	Warning that continued deficiency may result in additional action.	CHSRA fails to comply with agreement terms, including failure to deliver matching funds.
Designate High Risk Grantee Status	Special conditions including: <ul style="list-style-type: none"> withholding authority to proceed, additional financial reports, additional monitoring, and technical assistance. 	Grantee fails to comply with terms of the agreement, to meet performance goals, or is otherwise not responsible.
Require Corrective Action Plan	Grantee must develop a corrective action plan to address a significant finding. FRA can place the grant on payment hold if unresolved.	FRA identifies a significant finding during monitoring that will prevent completion within scope, schedule, and budget.
Hold Funds	CHSRA cannot spend funds for final design or construction.	FRA does not approve certain deliverables.
Withhold Construction Approval	CHSRA cannot begin work on Construction Package 5.	FRA does not give approval for CHSRA to proceed with work on Construction Package 5.
Limit Consideration for Future Federal Funding	CHSRA's future requests for funding under any FRA or DOT program may be adversely affected.	CHSRA fails to: <ul style="list-style-type: none"> deliver matching funds, make reasonable use of the Project property, facilities or equipment, or adhere to agreement terms.
Suspend or Debar	CHSRA is suspended or debarred from participation in any DOT financial assistance.	
Suspend or Terminate Assistance	FRA suspends or terminates all or part of Federal financial assistance to CHSRA. This does not include properly incurred obligations before the termination date.	FRA determines that CHSRA has: <ul style="list-style-type: none"> failed to make reasonable progress, failed to make matching contribution or complete within schedule, or violated agreement terms endangering performance of the project.
Require Repayment of Federal Funds	CHSRA is required to repay all or part of FRA funds.	CHSRA fails to: <ul style="list-style-type: none"> make adequate progress or complete the project within schedule; make reasonable use of the project; adhere to agreement terms, including financial matching requirements; or continue passenger service and maintenance for 20 years after completion of the project.

Source: FRA's Grants Management Manual and cooperative agreements between FRA and CHSRA

¹² GAO, *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014. These standards provide the overall framework for designing, implementing, and operating an effective internal control system for use by entities to help achieve its objectives related to operations, reporting, and compliance.

Specifically, FRA did not document its decisions on whether to use its authority to enforce agreement requirements that CHSRA's deliverables be sufficient. For example, CHSRA's program management plan¹³ submissions have been consistently rejected by the Agency. Despite FRA's technical assistance—including a workshop in 2017—the Authority still provided insufficient plans. FRA has not approved any of the three annually required project management plans we reviewed since 2014. According to FRA, the Agency rejected the plans because they failed to illustrate how the Authority would deliver the project and lacked realistic budgets and performance schedules. Similarly, FRA rejected four consecutive quarterly funding contribution plans¹⁴ in 2017 and 2018, citing that the plans were unrealistic and inconsistent with information that CHSRA had publicly reported.

CHSRA also failed to submit important deliverables to FRA according to the deadlines outlined in the ARRA and 2010 agreements. For example, CHSRA has not submitted the 2012 or 2016 Service Development Plans.¹⁵ FRA cited CHSRA's failure to submit this document as one of the reasons it terminated the fiscal year 2010 Agreement. Despite continued issues with the sufficiency of CHSRA's deliverables, FRA did not document decisions on whether to take escalation actions between 2013 and 2019. A 2013 FRA monitoring report cited several findings related to the sufficiency of deliverables, such as the funding contribution plan. However, in 2015 OIG reported¹⁶ that the Agency closed its 2013 findings without documenting whether CHSRA had corrected the problems. Despite continued issues with deliverables, FRA's monitoring reports have not included significant findings on deliverable timeliness and sufficiency since 2013. Since 2016, Agency monitoring reports have consistently included areas of interest related to the sufficiency of CHSRA's deliverables. However, areas of interest—in contrast to significant findings—do not require CHSRA to develop corrective action plans to address the issue or FRA to monitor the implementation of those plans, which can lessen the overall effectiveness of its monitoring activities.

¹³ The Program Management Plan is the overarching implementation plan that spans the entire project and should describe CHSRA's authority, capacity, policies, practices and procedures related to all phases of the project. The plan should also set forth the specific action plan for implementing the project and managing its scope, cost, schedule, quality, and associated risks.

¹⁴ The Funding Contribution Plan deliverable should describe planned expenditures and sources of those expenditures, including Federal grant dollars and State matching funds.

¹⁵ A subsequent 2017 update of agreement deliverable deadlines extended the Service Development Plan due date to the end of 2018. A Service Development Plan outlines CHSRA's plans for a high-speed passenger rail network and how it will be integrated into the statewide rail network.

¹⁶ *FRA Improved Its Guidance on High Speed Rail Grant Agreements, but Policies and Procedures for Amending and Monitoring Grants Remain Incomplete* (OIG Report No. ST-2015-038), April 1, 2015. OIG reports are available on our website at <http://www.oig.dot.gov>.

In March 2019, an FRA official told us the Agency had developed a report on its 2018 annual site monitoring activities that included significant findings related to the sufficiency of CHSRA's deliverables. Further, FRA officials stated that the nature of these findings had been communicated to CHSRA. However, as of August 2019, FRA had not transmitted the report to CHSRA. Until CHSRA receives this report, it is not obligated to develop and execute corrective action plans to remediate the problems identified in significant findings.

Ultimately, in May 2019, FRA terminated its fiscal year 2010 Agreement for \$928.6 million, which the Agency had obligated but remained unspent. FRA took this action partially because of CHSRA's past failure to meet several terms of this agreement—including submitting insufficient deliverables. A senior FRA official said that Agency grant management staff and officials had raised concerns about CHSRA with senior leaders within FRA and the Office of the Secretary of Transportation, under both the current and previous administrations. Still, FRA did not document decisions whether to take escalation actions. The senior FRA official surmised that this may have been due, in part, to the Agency placing emphasis on expending ARRA funds and focusing on other rail priorities such as initiatives to develop passenger rail led by private sector entities.

We found that FRA's failure to document decision making with regard to potential escalation actions is largely due to weaknesses in the Agency's Grants Management Manual. Specifically, the manual does not outline policy for when to escalate an issue beyond FRA's office that manages grants. It also does not include a requirement that FRA officials outside this office document their decisions or the reasons for not pursuing the escalation actions recommended by Agency staff. For example, a FRA official told us that FRA's grant team discussed recommending escalation of certain issues, including CHSRA's history of late and insufficient deliverables. However, FRA did not document any decisions on whether to take the actions that Agency staff recommended. According to an FRA official, a portion of the Agency's deliberations were only conducted verbally. In this regard, FRA's policy only requires documentation when Agency officials approve or deny a staff recommendation for an escalation action.

According to a 2018 California State Auditor report,¹⁷ because CHSRA commenced construction in the Central Valley before completing proper planning, there were \$600 million in cost increases and another \$1.6 billion in potential future cost increases. Without making more timely decisions on whether to take action to address CHSRA's lack of compliance with important planning deliverable requirements, FRA may have missed opportunities to

¹⁷ Auditor of the State of California, *California High Speed Rail Authority: Its Flawed Decision Making and Poor Contract Management Have Contributed to Billions in Cost Overruns and Delays in the System's Construction*, Report Number 2018-108, November 2018.

mitigate potential risks to the Federal Government's \$2.55 billion investment in California's high speed rail system.

FRA's Review of Required CHSRA Project Deliverables Did Not Assess the Underlying Methodologies for Accuracy and Reliability

FRA's ARRA Agreement with CHSRA requires the Authority to provide 187 deliverables (see exhibit F, Schedule of Deliverables, as of August 2018). However, FRA did not conduct in-depth evaluations to determine whether estimates and projections for key deliverables related to CHSRA's planning, operations, and budget were reliable.

Internal Control Standards direct managers to use quality information to achieve the organization's objectives, identify data sources that accurately represent the information they are seeking to collect, and evaluate these data sources for reliability. Moreover, these standards also state that managers should process data into accurate and accessible information for use by decision makers in an iterative process. Specifically, as objectives and risks change, management should change information requirements to meet and address these modified objectives and risks.

FRA staff and MTACs reviewed deliverables prepared by CHSRA to ensure that they included elements required by the ARRA Agreement. In addition, according to FRA staff, they generally relied on professional judgment to assess the reasonableness, accuracy, and overall consistency of specific deliverables with other CHSRA submissions. Both agreements also detail the level of scrutiny to be applied by FRA reviewers. For example, while FRA requires CHSRA to submit some deliverables for the Agency's review but does not require approval, it requires both for other deliverables.

Several important CHSRA deliverables depend on projections and estimates of construction cost, operations and maintenance costs, and ridership and revenue.¹⁸ Accurate estimates and projections in these deliverables can help FRA properly identify project risks, and thus, the overall risk to the Federal investment. GAO has reported that, without reliable cost estimates, agencies are at risk of

¹⁸ CHSRA's deliverables reviewed by OIG that incorporated one or more of these estimates include: Funding Contribution Plans, Central Valley Project Financial Plans, Phase I Program Financial Plans, Program Management Plans, Concept of Operations Plan (CONOPs), Service Development Plans, Ridership Forecasts, Construction Cost Estimates, and the First Construction Section Contingency Plan.

experiencing cost overruns, missed deadlines, and performance shortfalls.¹⁹ GAO also reported that reliable ridership and revenue forecasts are needed to assess the financial viability of rail projects and determine what project modifications may be needed.²⁰ However, FRA did not conduct in-depth reviews of the methodologies used to create CHSRA's submission or conduct independent analyses to verify the plausibility of the grantee's submissions.

Despite continued interest in the accuracy of CHSRA's budget and cost estimates,²¹ FRA did not review CHSRA's capital cost estimation methodology or prepare an independent estimate of capital costs. FRA has procedures to guide MTACs, if directed by FRA, when evaluating capital cost estimates.²² Furthermore, FRA has, in at least one other instance, tasked an MTAC with conducting a capital cost estimate review for portions of a different HSIPR grant project²³ with a Federal contribution of \$751.5 million.

An FRA official told us that, for certain deliverables, Agency staff do not evaluate the underlying methodologies or their results in detail because the ARRA Agreement does not require FRA approval—only that CHSRA submit the documents. A senior FRA official also told us that FRA prioritizes its resources according to perceived risk. However, the Agency has not defined or documented its risk tolerance level or its assessment of risks to explain why it designated specific deliverables for specific levels of scrutiny and review in the agreements. As a result, the reason why the Agency did not devote more attention to certain deliverables, such as capital cost estimates, is unclear.

Because FRA instituted many planning requirements but did not evaluate CHSRA's methodologies for developing those plans, it may have missed opportunities to require CHSRA to identify and take appropriate actions to mitigate significant potential cost and schedule risks at earlier phases of the project's implementation.

¹⁹ GAO, *GAO Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs* (GAO-09-3SP), March 2009.

²⁰ GAO, *California High-Speed Passenger Rail: Project Estimates Could Be Improved to Better Inform Future Decisions* (GAO-13-304), March 2013.

²¹ *Continued Oversight of the California High-Speed Rail Project Field Hearing, Subcommittee on Railroads, Pipelines, and Hazardous Materials*, House Transportation and Infrastructure Committee, August 9, 2018.

²² FRA, *Monitoring Procedure 33: Capital Cost Estimate Review*, December 6, 2013, covers the evaluation of cost estimates using key principles for cost estimating and other requirements.

²³ FRA tasked an MTAC with conducting a capital cost estimate review for four infrastructure improvement tasks that were part of the Pacific Northwest Rail Corridor Program.

FRA Assessed Project Risks but Did Not Require CHSRA To Mitigate Identified Risks

While FRA and its MTACs conducted independent risk reviews and other monitoring activities, FRA did not require CHSRA to mitigate identified risks. Internal Control Standards require that Federal managers obtain relevant and timely data; complete corrective actions to remediate deficiencies; and identify, analyze, and respond to risks related to achieving identified objectives.

FRA's independent risk reviews—which FRA has conducted every few months since April 2015—consistently identified significant budget and schedule risks. Since January 2016, all but one of these reviews showed that CHSRA was not likely to complete the project within the most recent ARRA Agreement period of performance, which took effect in May 2016 and runs through December 2022. The reviews also identified concerns that CHSRA was not appropriately budgeting for the cost of completing the scope of work for this agreement. For example, FRA's November 2017 review of the First Construction Section's \$8 billion budget found that it may be under-budgeted by \$2.2 billion to \$2.6 billion. The review also estimated that CHSRA may not complete this segment until October 2026, almost 4 years after the ARRA Agreement ends in December 2022.

The risk reviews also identified additional key budget and schedule risk factors that CHSRA should mitigate or resolve. FRA staff met quarterly, starting in April 2015, with CHSRA staff and leaders to communicate the results of the Agency's reviews and discuss potential mitigation actions CHSRA could take. However FRA did not require CHSRA to take these actions. Rather, FRA staff said they used these reviews to highlight their concerns, such as with CHSRA's budgeting process in 2018. CHSRA subsequently revised and increased its 2019 budget.

FRA also conducts annual site monitoring to verify project progress and identify issues onsite with CHSRA staff. FRA has consistently identified concerns, described in its monitoring reports as areas of interest, threatening successful project delivery. This included areas related to schedule, budget, right-of-way acquisition, and technical capacity, which FRA communicated to CHSRA. However, FRA has not issued a significant finding to CHSRA since one in 2014—which addressed an environmental compliance violation. Significant findings require the grantee to develop a corrective action plan, and failure to address the significant finding can result in sanctions.

In March 2019, an FRA official told us that FRA developed a report on its 2018 annual site monitoring activities that includes significant findings related to schedule, budget, and other issues. However, until CHSRA receives the report, it is

not obligated to develop and execute corrective action plans to remediate the problems identified in significant findings.

In December 2018, a senior FRA official told us that, with discretionary HSIPR grants, the Agency has flexibility to determine the appropriate level of escalation action and the appropriate time to take action. FRA officials also told us that FRA considers its role as a partner with grantees—aimed at successful project delivery—rather than as a traditional oversight body that assures grantee accountability. For example, for independent risk reviews, FRA officials told us they did not require CHSRA to take action to mitigate the risk factors because they perceive the reviews as a guiding tool, rather than a required oversight mechanism. While we acknowledge that FRA has discretion on these issues, it did not require CHSRA to mitigate risks, despite repeated indications that CHSRA was not complying with FRA’s guidance. Because CHSRA did not always improve its project management and planning in response to FRA’s guidance alone, the Agency may have missed opportunities to reduce the overall risk to the Federal investment.

FRA Has Not Defined a Minimum Standard for an Acceptable Interim Use Plan for the First Construction Section

The ARRA Agreement required CHSRA to submit an interim use plan by December 2016 to ensure minimum acceptable utility of the First Construction Section, if there is a significant delay in completion of the larger project intended to connect San Francisco and Los Angeles. However, FRA has not established minimum standards for what it would consider an acceptable interim use plan, nor did it establish a decision-making process to determine acceptability of the plan. As a benchmark, the Federal Transit Administration’s (FTA) Capital Investment Grants program also includes an interim use planning requirement, which clearly defines a “minimum operable segment” when funding the construction of new subway and light rail systems where none yet exist. According to FTA’s guidance, minimal operating segments must be able to function as stand-alone projects and not be dependent on any future segments being constructed.

CHSRA submitted an interim use plan to FRA in December 2016, which FRA rejected. CHSRA combined this plan with another deliverable, the Concept of Operations (CONOPs). According to a FRA official, the plan was rejected for lack of specificity, though FRA’s written comments only addressed deficiencies in the CONOPs. As of February 2019, CHSRA had not submitted a revised plan. FRA’s decision to reject CHSRA’s interim use plan was not based on existing DOT or FRA policy. According to FRA officials, the Agency has not defined minimum

standards for an acceptable interim use plan because senior FRA and Departmental leadership did not provide direction on this issue. According to FRA officials, senior leadership guidance was necessary on such decisions due to the significant Federal investment in this project.

Because FRA has not defined its standards for minimum acceptability and CHSRA has not submitted a sufficient interim use plan, there is increased risk that the federally funded infrastructure will not be at least minimally acceptable in the event that the project experiences delays or if the project is scaled back.

FRA Did Not Reasonably Assure That CHSRA's Expenditures Met All Federal Requirements, and FRA's Procedures Did Not Identify All Discrepancies

FRA's procedures provide insufficient guidance for the Agency's review of CHSRA expenditures. Further, FRA's reviews did not ensure that CHSRA appropriately documented its requests for payment, and FRA did not conduct comprehensive reviews of transactions to ensure that reviewed expenditures comply with all Federal requirements. Finally, despite other oversight organizations raising repeated concerns, FRA did not follow up on those findings or increase its oversight in response. As a result FRA's oversight did not provide reasonable assurance that CHSRA's expenditure of \$2.55 billion in ARRA Agreement funds complied with all Federal requirements.

FRA's Reviews Did Not Reasonably Assure That CHSRA's Expenditures Complied With All Federal Requirements

According to 49 CFR Part 18, referenced in FRA's agreements with CHSRA, FRA must ensure that expenditures are reasonable, necessary, and for work performed or goods received. In addition, under Internal Control Standards, each Federal agency should design policies, procedures, techniques, and mechanisms to achieve its objectives and address risks. FRA's Grants Management Manual outlines the Agency's programmatic policies and procedures to guide staff in the execution of their grant management responsibilities. This includes steps for review of requests for payment before Federal funds are disbursed to grantees,

and checklists to document its findings during its annual monitoring²⁴—an important aspect of its oversight activities.

However, FRA's procedures do not include specific guidance on methodologies that staff should use to provide assurance that expenditures comply with Federal requirements. As a result, FRA's staff did not conduct thorough assessments of CHSRA's contract management procedures or comprehensive reviews of transaction samples to obtain assurance that expenditures complied with Federal requirements. Instead, FRA staff reviewed expenditures to ensure that the submissions included all required documentation; the total amount of expenditures were reported consistently and did not include ineligible costs; and appropriate signatures were provided to certify the accuracy, completeness, and eligibility of the submissions. For example, according to one FRA staff person, the Agency's review of expenditure information prior to disbursement of funds included reviewing whether the tasks billed align with the qualitative description supplied in the narrative, amounts generally align with FRA's knowledge of the project's progress, and ineligible costs are listed among those requested for reimbursement.

Similarly, another FRA staff person told us that the Agency's review during annual monitoring focused on whether documentation included appropriate signatures, whether any of the billed costs fall into disallowed categories, and if CHSRA maintained appropriate documentation of detailed cost items. During our audit, we conducted a site visit to shadow FRA's 2018 annual monitoring review. While FRA requested copies of CHSRA's policies and procedures related to items in the Agency's financial monitoring checklist, the FRA staff person responsible for this portion of the review said that the Agency had not reviewed these since the 2012 review.

Furthermore, neither before disbursement of payment to the grantee nor during annual monitoring did FRA staff conduct detailed reviews to help ensure that CHSRA met all Federal requirements. For example, FRA's reviews did not include comparing contract rates to charges, or interviewing CHSRA's employee contract managers and the contract managers under contract with the State to test whether CHSRA had consistently implemented its written procedures. As a result, FRA cannot provide reasonable assurance that the design and implementation of CHSRA's procedures provide sufficient basis for faith in the Authority's certifications that expenditures adhere to all Federal requirements.

²⁴ An annual FRA review of a select group of grants accomplished through formal baseline reviews and site monitoring.

FRA's Invoice Reviews Did Not Consistently Identify Discrepancies in CHSRA's Documentation

FRA has limited written procedures for reviewing and approving invoice payment documentation. FRA requires CHSRA to submit certain documentation before disbursing Federal funds or certifying State matching fund expenditures. This documentation includes a narrative explaining the work performed, invoices that accurately reflect amounts paid to vendors, and a certification by the grantee that costs are allowable. FRA's review, according to FRA staff, checks whether CHSRA provided the required documentation for each payment request and that all documentation reconciles. FRA documents its review and approval of payment requests through an invoice payment concurrence memo. This memo must include a primary approval by a FRA project manager and, for invoices greater than \$500,000, a secondary approval by a FRA division chief. However, we found that FRA's reviews did not consistently ensure that the documentation for payment requests were consistent and complete.

For example, we examined a random sample of 30 of 465 CHSRA requests for payment—approximately \$485.7 million of approximately \$2.6 billion of Federal payments—to validate documentation available in DOT's information systems supporting those payments. We identified 18 discrepancies across 13 of 30 packages that we reviewed (see table 2). For example, we found a request for payment that did not include documentation for \$8.28 million of \$8.32 million disbursed to the Authority. Furthermore, we found that the invoice payment documentation lacked sufficient detail to demonstrate any of the expenditures' complete compliance with Federal requirements. FRA requires that each request for payment, in addition to CHSRA's certification of costs, include a large volume of documentation, such as the standard Federal form (SF-270) requesting payment, a summary listing of invoices, scanned copies of all original invoices, and a narrative description of the work performed. However, we found that aside from the certification of costs provided by CHSRA officials, the supporting documentation did not provide sufficient evidence to judge whether all costs were included; appropriate rates were charged; and costs were otherwise reasonable, necessary, and for the work performed.

Table 2. Issues Identified by OIG’s Review of Documentation for 30 Randomly Payment Requests From 2011-2017

Issue Type	Description of Issue	Number of Issues Identified in Invoices Reviewed
Narrative	Narrative described work that was not supported by invoices in the request for payment.	3
Narrative	Invoices/receipts for the request for payment were not supported by the narrative.	6
Costs	Invoices/receipts did not support total amount paid to CHSRA.	2
Costs	Proof of payment did not support the total amount paid to CHSRA.	2
Late Payments	Vendors were paid at least 4 days after advance payments were disbursed to CHSRA (ranging from 4 to 62 days).*	5
Total		18

Source: OIG analysis of FRA and CHSRA Request for Payment Documentation

* When grantees receive payment in advance—rather than as reimbursements—Federal regulations require them to make payment to vendors within 3 days of receipt of the funds.

The extent of the issues across the invoices we reviewed highlights weaknesses in the integrity and quality of CHSRA’s and FRA’s processes for ensuring that only necessary, reasonable, and appropriately billed costs are submitted and approved for payment. As a result, the Federal investment may have been exposed to undue risk.

FRA Did Not Conduct In-Depth Invoice Payment Reviews Despite Repeated Concerns

According to a FRA staff person responsible for reviewing CHSRA transactions, the Agency did not conduct a more in-depth review of invoices because its procedures do not require it. For example, FRA lacks a process to verify whether

grantees' billed costs are reasonable or appropriate. Instead, FRA relies on CHSRA's internal controls and commitment—documented through the cooperative agreement—to complete the scope of the work for which the Federal funding was awarded. Another FRA official overseeing this project added that CHSRA also has an incentive to minimize expenditures since the Authority is ultimately responsible for delivering the project, even after spending all Federal funds.

However, CHSRA's internal auditor and the Auditor of the State of California have persistently identified concerns with CHSRA's contract management practices and oversight. For example the Auditor of the State of California reported in November 2018 that CHSRA had yet to create a contract management structure that adheres to its policies. It experienced high turnover of contract managers and provided limited oversight. The State Auditor was concerned that CHSRA relied heavily on contractors for important functions—such as overseeing contracts—that should be performed by CHSRA employees. As a result, the State Auditor concluded it could not demonstrate that the hundreds of millions of dollars CHSRA spent on contracts have been necessary, reasonable, or appropriate. In addition, since 2015, CHSRA's internal audits repeatedly identified similar deficiencies in contract management.

However, FRA did not follow up on findings and recommendations from audit organizations to CHSRA, nor did it adapt its oversight to focus on high-risk areas that they identified. A CHSRA auditor shared concerns with us regarding attaining reasonable assurance on project progress, and stated that reliability of expenditure documentation comes down to trust in information provided by the Authority's contract managers.

Overall, FRA's oversight procedures and guidance lack specific direction to staff in conducting in-depth reviews of CHSRA's procedures and practices for certifying expenditures, performing in-depth reviews of randomly selected expenditures, and incorporating the findings and recommendations from oversight bodies. As a result, FRA's documented procedures are not sufficient to provide reasonable assurance that CHSRA's contract management processes provide confidence in the Authority's certifications that expenditures complied with all Federal requirements.

Conclusion

The California High Speed Rail Project is among the largest and most complex grants that FRA has overseen, but the Agency did not sufficiently adjust its oversight approach and actions to reflect the challenges it faced. Sound management and oversight of Federal investments in large infrastructure

projects, such as California High Speed Rail, is critical to safeguard the Federal investment. Given that FRA continues to grant hundreds of millions of dollars annually for various rail projects and remains responsible for the effective stewardship of those funds, it is essential that the Agency take additional steps to strengthen its oversight policies and procedures to better assure that expenditures of Federal funds meet Federal requirements and achieve intended goals.

Recommendations

To reduce the risk to the \$2.55 billion Federal investment in the California High Speed Rail project and improve FRA's risk management and compliance oversight for Federal railroad financial assistance, we recommend the Federal Railroad Administrator:

1. Revise and implement policies and procedures for when to escalate grant noncompliance issues within FRA. At a minimum, these procedures should include criteria for when to escalate noncompliance issues beyond FRA's grants management division, and documentation of FRA's decisions and rationale.
2. Revise and implement policies and procedures for defining FRA's tolerance for the risk of grantee noncompliance with specific deliverable requirements, periodically assessing those risks, and documenting the resulting risk-based Agency decisions on the depth of review to conduct of deliverables.
3. Define a framework for determining the minimum acceptable standards of what an interim use plan for new infrastructure funded by FRA grants should provide, and procedures for evaluating these plans.
4. Revise and implement guidance for FRA staff to conduct detailed assessments of grantees' procedures for complying with Federal expenditure requirements. This guidance should include steps for when and how FRA staff are to test grantees' implementation of their procedures through sampling and in-depth reviews of selected expenditures.

Agency Comments and OIG Response

We provided FRA with our draft report on November 4, 2019, and received its signed response, dated December 23, 2019, which is included as an appendix to this report. FRA concurred with recommendations 1, 3, and 4 and agreed to complete actions to implement these recommendations by December 15, 2020.

We appreciate FRA's concurrence with these recommendations and consider recommendations 1, 3, and 4 resolved but open pending completion of planned actions.

The Agency partially concurred with recommendation 2 and proposed alternative actions to address the recommendation by December 15, 2020. We agree with the alternative actions and consider recommendation 2 resolved but open pending FRA's completion of the proposed actions.

FRA's response noted concerns that the report does not accurately reflect FRA's role and actions regarding the California cooperative agreements. We acknowledge award recipients' obligations to comply with applicable Federal laws, regulations, and the terms of their funding agreements, but our work focused on FRA's responsibility to ensure sound use of Federal funds.

We agree with FRA that the size, scope, and complexity of the California high-speed rail cooperative agreement is unique among those managed by FRA. FRA provided additional attention to the CHSRA project due in part to these risks. While this project may not be fully reflective of other FRA projects, our review provides insights into the strengths and weaknesses of the Agency's grant controls and process that might be present in other projects to which FRA devoted less oversight effort.

Actions Required

FRA's planned actions and timelines for addressing all four recommendations are responsive, and we consider them resolved but open pending completion of the planned actions. We appreciate the courtesies and cooperation of FRA representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5630 or Tony Wysocki, Program Director, at (202) 493-0223.

Exhibit A. Scope and Methodology

We conducted this performance audit between April 2018 and November 2019 in accordance with generally accepted Government auditing standards as prescribed by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We identified criteria pertaining to FRA's risk identification, assessment, and mitigation for its cooperative agreements with CHSRA and related prior OIG and GAO audit findings and recommendations.²⁵ Criteria documents we reviewed included the 2009 ARRA and fiscal year 2010 cooperative agreements—including subsequent amendments to those agreements—Federal regulations pertaining to maintenance of records, and GAO's Standards for Internal Control in the Federal Government.²⁶ We also reviewed the FRA Grants Management Manual and FRA Monitoring Procedures. We identified best practices and benchmarks in GAO's Cost Estimating and Assessment Guide²⁷ and FTA Circular 9300.1B: Capital Investment Program Guidance and Application Instructions.²⁸

We also identified criteria for determining whether expenditures of Federal funds complied with applicable Federal laws and regulations related to FRA's invoice review process. This included FRA's Grants Management Manual, which outlines the Agency's programmatic policies and procedures to guide staff in the execution of their grant management responsibilities. We also reviewed checklists FRA uses to document its findings during annual monitoring. In addition, we reviewed 49 CFR Part 18 and Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local, and Tribal Governments,²⁹ which are incorporated into the Cooperative Agreement by reference. We also interviewed staff from other DOT modes to provide a benchmark for FRA's procedures.

To assess FRA's analysis, assessment, and mitigation efforts related to CHSRA's deliverables, we identified important planning deliverables outlined in the

²⁵ FRA *Improved Its Guidance on High Speed Rail Grant Agreements, but Policies and Procedures for Amending and Monitoring Grants Remain Incomplete* (OIG Report No. ST-2015-038), April 1, 2015; FRA *Needs to Expand Its Guidance on High Speed Rail Project Viability Assessments* (OIG Report No. CR-2012-083), March 28, 2012; GAO, *California High-Speed Passenger Rail: Project Estimates Could Be Improved to Better Inform Future Decisions* (GAO-13-304), March 2013.

²⁶ GAO, *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014.

²⁷ GAO, *Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs* (GAO-09-3SP), March 2009.

²⁸ FTA, *Circular 9300.1B: Capital Investment Program Guidance and Application Instructions*, November 1, 2008.

²⁹ OMB, *Circular A-87: Cost Principles for State, Local, and Tribal Governments*, May 10, 2004.

cooperative agreements related to project risk management, cost estimation, ridership and revenue, operations and maintenance costs, public benefits, and interim use. These topic areas are related to the focus in our audit objective on non-Federal matching funds, business plans, and financial reporting. We reviewed CHSRA's Funding Contribution Plans, Program Management Plans, Central Valley Project Financial Plans, Phase I Program Financial Plan, Concept of Operations, Service Development Plans, Ridership Forecasts, First Construction Section Interim Use Plan, and Construction Package Construction Cost Estimates deliverables. We then reviewed documentation of FRA's analysis, assessment, requested edits, and approvals or rejections of these deliverables. Finally, we interviewed FRA grants program and MTAC personnel about their deliverable reviews, as well as their efforts to address the sufficiency of CHSRA's deliverables.

To assess FRA's analysis, assessment, and mitigation efforts related to overall CHSRA project risk, we reviewed quarterly reports prepared by FRA's MTAC from September 2016 to June 2018; FRA's annual Monitoring Reports from 2012 to 2017, as well as FRA's draft 2018 Monitoring Report; and FRA's Independent Risk Reviews from June 2015 to November 2017. We also reviewed documentation related to FRA's technical assistance to CHSRA. Additionally, we reviewed FRA memoranda terminating the fiscal year 2010 Cooperative Agreement and California's response. To contextualize FRA's oversight efforts for CHSRA, we reviewed a capital cost estimate review of part of another HSIPR project prepared by another MTAC. We also reviewed CHSRA planning documents, such as its 2018 business plan. We interviewed FRA grants program and MTAC personnel regarding their monitoring and oversight activities. We also interviewed staff from the Auditor of the State of California regarding their 2018 report on CHSRA planning and contract management.³⁰ Finally, we accompanied FRA and MTAC staff during their annual monitoring site visit to CHSRA offices and construction sites in Fresno and Sacramento, California, in November 2018.

To assess FRA's procedures for determining whether expenditures of Federal funds complied with applicable Federal laws and regulations, our Statistician selected a random sample from a universe of CHSRA invoice transactions (advancement or reimbursement) contained in DOT's Financial Management System, Delphi, for the years 2011 to 2017. We included only standard invoices³¹ in our universe. From this population, we selected a sample of 30 (6.5 percent) of the 465 standard invoices with probability proportional to size with replacement where size was the invoice amount paid. Our sample included approximately \$485.7 million (18.4 percent) of the approximately \$2.6 billion in our universe. We

³⁰ Auditor of the State of California, *California High Speed Rail Authority: Its Flawed Decision Making and Poor Contract Management Have Contributed to Billions in Cost Overruns and Delays in the System's Construction*, Report Number 2018-108, November 2018.

³¹ We excluded certain transactions, such as credit memos and payments of \$0.

selected this sampling methodology because it is widely used and accepted as an unbiased sample.

Next, for each of the 30 sampled transactions, we obtained all available associated documentation from Delphi, FRA's Project Management Tracker, and FRA personnel for each invoice payment request to assess compliance with applicable Federal laws. Required documentation included a CHSRA letter certifying compliance with the cooperative agreement and all applicable Federal laws, regulations, and published policies; OMB Form 270 (Request for Advance or Reimbursement; SF-270); a payment summary spreadsheet; scanned invoices and receipts; a narrative that explains work performed; and proof of CHSRA's payment to vendors.

To assess compliance with Federal laws and regulations, we determined whether the required documentation was included in Delphi or FRA's Project Management Tracker for each invoice payment request; information within the required documents reconciled with the sampled data; and if CHSRA provided proper internal review and approval prior to FRA reimbursement or advancement of funds.

Further, we interviewed FRA grants management and financial management staff about their processes and procedures, interviewed the Auditor of the State of California and CHSRA Internal Audit staff regarding CHSRA-related audit findings and analyzed related audit reports, and observed FRA's monitoring practices and procedures during the annual on-site review.

Exhibit B. Organizations Visited or Contacted

Federal Railroad Administration

Federal Railroad Administration Headquarters, Washington, DC

Other Department of Transportation Agencies

Federal Highway Administration Headquarters, Cambridge, MA

Federal Transit Administration Headquarters, Washington, DC

Other Organizations

California High-Speed Rail Authority, Sacramento and Fresno, CA

Auditor of the State of California, Sacramento, CA

Transystems, San Francisco, CA

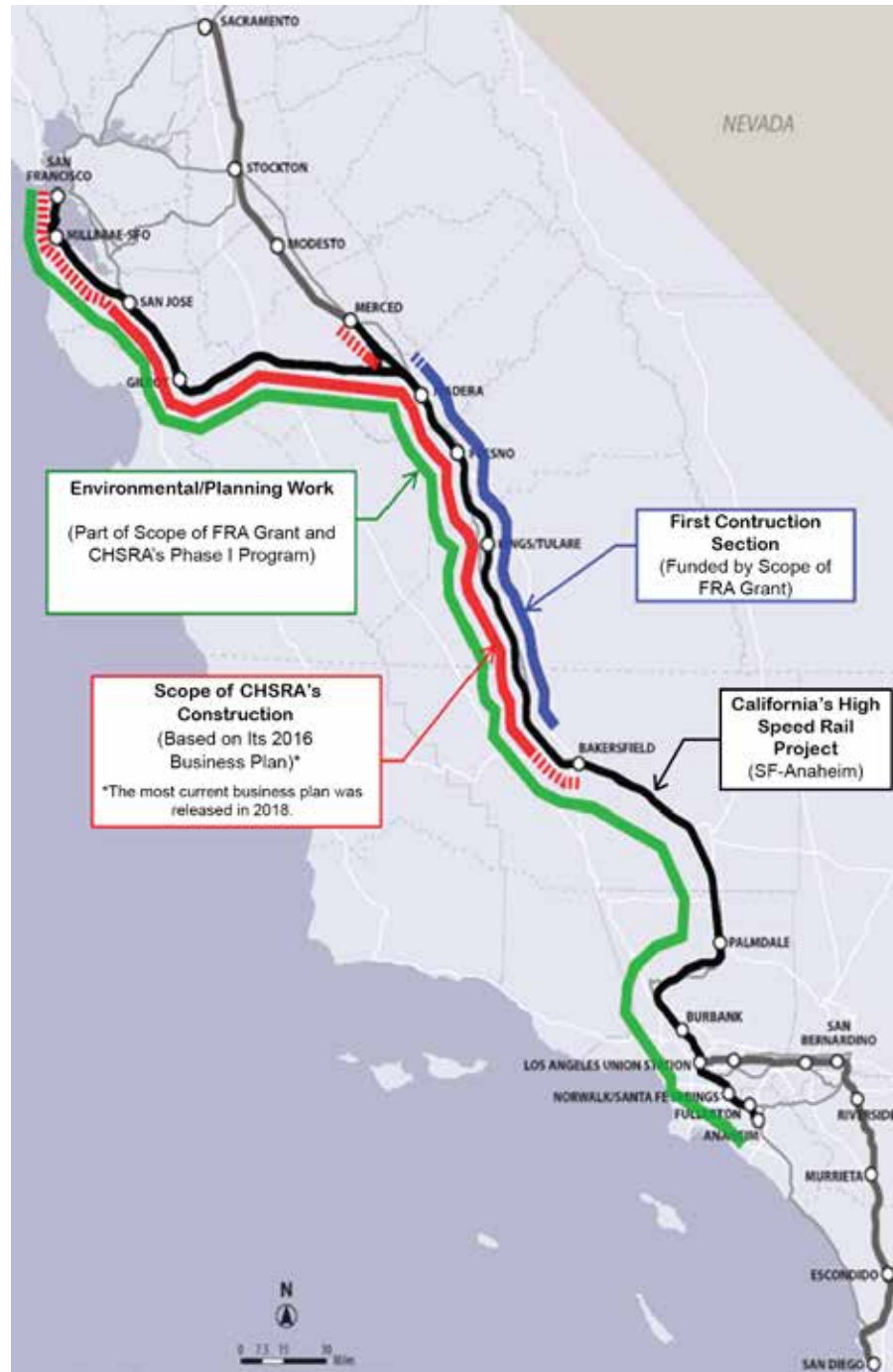
Exhibit C. List of Acronyms

ARRA	American Recovery and Reinvestment Act of 2009
CFR	Code of Federal Regulations
CHSRA	California High Speed Rail Authority
CONOPS	Concept of Operations
DOT	Department of Transportation
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
GAO	Government Accountability Office
HSIPR	High-Speed Intercity Passenger Rail
OIG	Office of Inspector General
OMB	Office of Management and Budget
MTAC	Monitoring and Technical Assistance Contractor
PRIIA	Passenger Rail Investment and Improvement Act of 2008)
SF-270	Office of Management and Budget Standard Form 270 – Request for Advance or Reimbursement

Exhibit D. Major Contributors to This Report

KERRY R. BARRAS	PROGRAM DIRECTOR
TONY WYSOCKI	PROGRAM DIRECTOR
MATT WILLIAMS	PROJECT MANAGER
JOHN HANNON	SENIOR ANALYST
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SUSAN CROOK-WILSON	WRITER-EDITOR
AMY BERKS	DEPUTY CHIEF COUNSEL
PETRA SWARTZLANDER	SENIOR STATISTICIAN

Exhibit E. California High Speed Rail Program Map



Source: OIG analysis of FRA and CHSRA documents

Exhibit F. Deliverables Required by the FRA-CHSRA Cooperative Agreement

Deliverable	Due Date	FRA Action	
<i>Deliverables required for each invoice payment request</i>			
1	SF-270 - Request for Advance or Reimbursement Form	With Payment Request	Review and Approval
2	Certification Letter	With Payment Request	Review and Approval
3	Payment Summary Spreadsheet	With Payment Request	Review and Approval
4	Scanned Invoices	With Payment Request	Review and Approval
5	Narrative	With Payment Request	Review and Approval
6	Proof of Payment	With Payment Request	Review and Approval
<i>Deliverables from the Cooperative Agreement</i>			
7	Progress Report	Quarterly	Review
8	Federal Financial Report	Quarterly	Review
9	Funding Contribution Plan	Quarterly	Review and Approval
10	Semiannual Prop 1A Bond Sales Progress Report	Biannual	Review
11	Service Outcome Agreements	As Required	Review and Written Approval
12	Project Budget	Quarterly	Review and Written Approval
13	ARRA 1201 Reports	2011 and 2012	Review
14	Jobs Accountability Report	Quarterly	Review
<i>Additional Deliverables from Cooperative Agreement, Exhibit A (Deliverables Schedule), Version dated Q3 2018</i>			
Task 1: Environmental Review			
<i>Notice of Intent</i>			
15	San Francisco – San Jose	1 st Qtr 2009	Review and Approval
16	San Jose – Merced	1 st Qtr 2009	Review and Approval
17	Merced – Fresno	4 th Qtr 2009	Review and Approval
18	Fresno – Bakersfield	4 th Qtr 2009	Review and Approval
19	Bakersfield – Palmdale	3 rd Qtr 2009	Review and Approval
20	Palmdale – Burbank	3 rd Qtr 2014	Review and Approval
21	Burbank – Los Angeles	3 rd Qtr 2014	Review and Approval
22	Los Angeles – Anaheim	1 st Qtr 2007	Review and Approval

Deliverable		Due Date	FRA Action
	<i>Scoping Report</i>		
23	San Francisco – San Jose	3 rd Qtr 2009	Review and Acceptance
24	San Jose – Merced	3 rd Qtr 2009	Review and Acceptance
25	Merced – Fresno	1 st Qtr 2010	Review and Acceptance
26	Fresno – Bakersfield	4 th Qtr 2009	Review and Acceptance
27	Bakersfield – Palmdale	4 th Qtr 2009	Review and Acceptance
28	Palmdale – Burbank	4 th Qtr 2014	Review and Acceptance
29	Burbank – Los Angeles	4 th Qtr 2014	Review and Acceptance
30	Los Angeles – Anaheim	3 rd Qtr 2009	Review and Acceptance
	<i>Agency Coordination Plan</i>		
31	San Francisco – San Jose	4 th Qtr 2009	Review and Comment
32	San Jose – Merced	3 rd Qtr 2009	Review and Comment
33	Merced – Fresno	4 th Qtr 2009	Review and Comment
34	Fresno – Bakersfield	4 th Qtr 2009	Review and Comment
35	Bakersfield – Palmdale	4 th Qtr 2009	Review and Comment
36	Palmdale – Burbank	1 st Qtr 2010	Review and Comment
37	Burbank – Los Angeles	1 st Qtr 2010	Review and Comment
38	Los Angeles – Anaheim	4 th Qtr 2009	Review and Comment
	<i>Purpose and Need Statement</i>		
39	San Francisco – San Jose	1 st Qtr 2016	Review and Acceptance
40	San Jose – Merced	4 th Qtr 2011	Review and Acceptance
41	Merced – Fresno	1 st Qtr 2011	Review and Acceptance
42	Fresno – Bakersfield	1 st Qtr 2011	Review and Acceptance
43	Bakersfield – Palmdale	3 rd Qtr 2012	Review and Acceptance
44	Palmdale – Burbank	3 rd Qtr 2012	Review and Acceptance
45	Burbank – Los Angeles	3 rd Qtr 2012	Review and Acceptance
46	Los Angeles – Anaheim	3 rd Qtr 2012	Review and Acceptance
	<i>Alternative Analysis Report(s)</i>		
47	San Francisco – San Jose	2 nd Qtr 2013	Review and Approval
48	San Jose – Merced	3 rd Qtr 2014	Review and Approval

Deliverable		Due Date	FRA Action
49	Merced – Fresno	3 rd Qtr 2010	Review and Approval
50	Fresno – Bakersfield	4 th Qtr 2011	Review and Approval
51	Bakersfield – Palmdale	2 nd Qtr 2016	Review and Approval
52	Palmdale – Burbank	2 nd Qtr 2015	Review and Approval
53	Burbank – Los Angeles	2 nd Qtr 2016	Review and Approval
54	Los Angeles – Anaheim	2 nd Qtr 2016	Review and Approval
	<i>Administrative Draft EIR/EIS</i>		
55	San Francisco – San Jose	4 th Qtr 2019	Review and Comment
56	San Jose – Merced	3 rd Qtr 2019	Review and Comment
57	Merced – Fresno	3 rd Qtr 2011	Review and Comment
58	Fresno – Bakersfield	3 rd Qtr 2011	Review and Comment
59	Bakersfield – Palmdale	2 nd Qtr 2019	Review and Comment
60	Palmdale – Burbank	3 rd Qtr 2019	Review and Comment
61	Burbank – Los Angeles	2 nd Qtr 2019	Review and Comment
62	Los Angeles – Anaheim	3 rd Qtr 2018	Review and Comment
	<i>Supplemental Documents</i>		
63	Bakersfield F Street	1 st Qtr 2017	Review and Comment
64	Central Valley Wye	2 nd Qtr 2018	Review and Comment
	<i>Draft EIR/EIS</i>		
65	San Francisco – San Jose	1 st Qtr 2020	Review and Approval
66	San Jose – Merced	4 th Qtr 2019	Review and Approval
67	Merced – Fresno	4 th Qtr 2011	Review and Approval
68	Fresno – Bakersfield	4 th Qtr 2012	Review and Approval
69	Bakersfield – Palmdale	3 rd Qtr 2019	Review and Approval
70	Palmdale – Burbank	4 th Qtr 2019	Review and Approval
71	Burbank – Los Angeles	3 rd Qtr 2019	Review and Approval
72	Los Angeles – Anaheim	4 th Qtr 2018	Review and Approval
	<i>Supplemental Documents</i>		
73	Bakersfield F Street	4 th Qtr 2017	Review and Approval
74	Central Valley Wye	3 rd Qtr 2018	Review and Approval

Deliverable		Due Date	FRA Action
	<i>Administrative Final EIR/EIS</i>		
75	San Francisco – San Jose	3 rd Qtr 2020	Review and Comment
76	San Jose – Merced	3 rd Qtr 2020	Review and Comment
77	Merced – Fresno	1 st Qtr 2012	Review and Comment
78	Fresno – Bakersfield	1 st Qtr 2014	Review and Comment
79	Bakersfield – Palmdale	1 st Qtr 2020	Review and Comment
80	Palmdale – Burbank	3 rd Qtr 2020	Review and Comment
81	Burbank – Los Angeles	2 nd Qtr 2020	Review and Comment
82	Los Angeles – Anaheim	2 nd Qtr 2019	Review and Comment
	<i>Supplemental Documents</i>		
83	Bakersfield F Street	1 st Qtr 2018	Review and Comment
84	Central Valley Wye	1 st Qtr 2019	Review and Comment
	<i>Final EIR/EIS</i>		
85	San Francisco – San Jose	1 st Qtr 2021	Review and Approval
86	San Jose – Merced	4 th Qtr 2020	Review and Approval
87	Merced – Fresno	2 nd Qtr 2012	Review and Approval
88	Fresno – Bakersfield	2 nd Qtr 2014	Review and Approval
89	Bakersfield – Palmdale	2 nd Qtr 2020	Review and Approval
90	Palmdale – Burbank	1 st Qtr 2021	Review and Approval
91	Burbank – Los Angeles	3 rd Qtr 2020	Review and Approval
92	Los Angeles – Anaheim	4 th Qtr 2019	Review and Approval
	<i>Supplemental Documents</i>		
93	Bakersfield F Street	4 th Qtr 2018	Review and Approval
94	Central Valley Wye	3 rd Qtr 2019	Review and Approval
	<i>Draft Agency Decision Documents (ROD)</i>		
95	San Francisco – San Jose	1 st Qtr 2021	Review and Approval
96	San Jose – Merced	4 th Qtr 2020	Review and Approval
97	Merced – Fresno	3 rd Qtr 2012	Review and Approval
98	Fresno – Bakersfield	2 nd Qtr 2014	Review and Approval
99	Bakersfield – Palmdale	2 nd Qtr 2020	Review and Approval

Deliverable		Due Date	FRA Action
100	Palmdale – Burbank	1 st Qtr 2021	Review and Approval
101	Burbank – Los Angeles	3 rd Qtr 2020	Review and Approval
102	Los Angeles – Anaheim	4 th Qtr 2019	Review and Approval
	<i>Supplemental Documents</i>		
103	Bakersfield F Street	4 th Qtr 2018	Review and Approval
104	Central Valley Wye	3 rd Qtr 2019	Review and Approval
	<i>Mitigation Monitoring and Enforcement Plan</i>		
105	San Francisco – San Jose	1 st Qtr 2021	Review and Approval
106	San Jose – Merced	4 th Qtr 2020	Review and Approval
107	Merced – Fresno	3 rd Qtr 2012	Review and Approval
108	Fresno – Bakersfield	2 nd Qtr 2014	Review and Approval
109	Bakersfield – Palmdale	2 nd Qtr 2020	Review and Approval
110	Palmdale – Burbank	1 st Qtr 2021	Review and Approval
111	Burbank – Los Angeles	3 rd Qtr 2020	Review and Approval
112	Los Angeles – Anaheim	4 th Qtr 2019	Review and Approval
	<i>Supplemental Documents</i>		
113	Bakersfield F Street	4 th Qtr 2018	Review and Approval
114	Central Valley Wye	3 rd Qtr 2019	Review and Approval
115	Additional Environmental Reexaminations	As Required	Review and Approval
116	Description of outside positions and statewide agency agreements with environmental resource agencies as required to support the environmental permitting	As Required	Review and Acceptance
	Task 2: Preliminary Engineering (PE)		
	<i>PE to Support Task 1 Environmental Reviews²</i>		
117	San Francisco – San Jose	1 st Qtr 2020	Review and Acceptance
118	San Jose – Merced	4 th Qtr 2019	Review and Acceptance
119	Merced – Fresno	4 th Qtr 2011	Review and Acceptance
120	Fresno – Bakersfield	4 th Qtr 2014	Review and Acceptance
121	Bakersfield – Palmdale	3 rd Qtr 2019	Review and Acceptance

Deliverable		Due Date	FRA Action
122	Palmdale – Burbank	4 th Qtr 2019	Review and Acceptance
123	Burbank – Los Angeles	3 rd Qtr 2019	Review and Acceptance
124	Los Angeles – Anaheim	3 rd Qtr 2018	Review and Acceptance
	<i>Supplemental Documents</i>		
125	Bakersfield F Street	4 th Qtr 2018	Review and Acceptance
126	Central Valley Wye	3 rd Qtr 2019	Review and Acceptance
127	CHSTP Design Manual	3 rd Qtr 2018	Review and Comment
128	CONOPS for the First Construction Section (FCS) and any other segment	1 st Qtr 2012 4 th Qtr 2016 4 th Qtr 2018 (update)	Review and Comment
129	Rolling Stock Performance Specifications	1 st Qtr 2015 3 rd Qtr 2016 (final)	Review and Comment
130	Systems Safety and Security Management Plan (SSMP)	2 nd Qtr 2014 3 rd Qtr 2016	Review and Approval
	Task 3: Other Related Work Needed Prior to Start of Construction		
131	Station Area plans	4 th Qtr 2018	Review and Comment
132	CHSRA ROW Procedures Manual	4 th Qtr 2017	Review and Comment
133	ROW Acquisition Plan for the FCS	Quarterly	Review and Comment
	<i>Relocation Assistance Plan</i>		
134	San Francisco – San Jose	1 st Qtr 2021	Review and Comment
135	San Jose – Merced	4 th Qtr 2020	Review and Comment
136	Merced – Fresno	2 nd Qtr 2012	Review and Comment
137	Fresno – Bakersfield	2 nd Qtr 2014	Review and Comment
138	Bakersfield – Palmdale	2 nd Qtr 2020	Review and Comment
139	Palmdale – Burbank	1 st Qtr 2021	Review and Comment
140	Burbank – Los Angeles	3 rd Qtr 2020	Review and Comment
141	Los Angeles – Anaheim	4 th Qtr 2019	Review and Comment
	<i>Supplemental Documents</i>		
142	Bakersfield F Street	4 th Qtr 2018	Review and Comment
143	Central Valley Wye	3 rd Qtr 2019	Review and Comment
144	FCS Contingency Plan FCS Contingency Plan (Update)	2 nd Qtr 2013 4 th Qtr 2016	Review and Approval

Deliverable		Due Date	FRA Action
145	Ridership forecasting analysis	2 nd Qtr 2016 (update)	Review and Comment
	<i>PE to Support Procurement</i>		
146	Merced – Fresno	2 nd Qtr 2012	Review and Acceptance
147	Fresno – Bakersfield	4 th Qtr 2014	Review and Acceptance
148	Detailed construction cost estimate, construction sequence, and schedule For each Construction Package in Task 8	<ul style="list-style-type: none"> • Prior to bid • Upon contract initiation • Upon any contract change 	Review and Acceptance
149	Small Business Development Program Plan	4 th Qtr 2012	Review
150	Availability and Disparity Study Scope of Work and Final Report	2 nd Qtr 2014	Review
	Task 4: Project Administration and Statewide Cost Allocation Plan		
151	Documentation showing CHSRA's portion of the SWCAP	2 nd Qtr 2014 4 th Qtr 2016 (if necessary)	Review and Approval
	Task 5: Program, Project, and FCS Construction		
152	Work Breakdown Structure	2 nd Qtr 2016	Review and Comment
153	Annual Work Plan (AWP)	3 rd Qtr (Annually)	Review and Comment
154	Program Management Plan Updates	4 th Qtr (Annually)	Review and Approval
155	Central Valley Project Financial Plan	3 rd Qtr (Annually)	Review and Approval
156	Phase I Program Financial Plan	4 th Qtr 2016	Review
157	Design/Build Program Plan	4 th Qtr 2015	Review and Approval
	<i>RFPs/ Notice(s) to Proceed (NTP) for Design and/or Construction Services</i>		
158	CP 1	RFP: 1 st Qtr 2012 NTP: 4 th Qtr 2013	Review and Written Approval
159	CP 2-3	RFP: 2 nd Qtr 2014 NTP: 3 rd Qtr 2015	Review and Written Approval

Deliverable		Due Date	FRA Action
160	CP 4	RFP: 2 nd Qtr 2015 NTP: 2 nd Qtr 2016	Review and Written Approval
161	CP 5	RFP: 3 rd Qtr 2019 NTP: 2 nd Qtr 2020	Review and Written Approval
162	Network Integration Strategic Service Plan	3 rd Qtr 2016	Review
163	Updated Service Development Plan	4 th Qtr 2018	Review and Approval
164	Infrastructure Maintenance Plan	2 nd Qtr 2011 4 th Qtr 2018 (update)	Review and Comment
165	Rolling Stock Maintenance Plan	2 nd Qtr 2011 4 th Qtr 2018 (update)	Review and Comment
	Task 6: Real Property Acquisition and Environmental Mitigation		
166	Environmental compliance database and electronic reporting	Quarterly	Review and Approval
	Task 7: Early Work Program		
	N/A		
	Task 8: Final Design and Construction Contract Work		
	<i>Construction Package 1 (updates include Madera Extension)</i>		
167	Detailed baseline construction schedule (and updates) for each of the construction packages	2 nd Qtr 2014	Review and Acceptance
168	Type Selection Reports	4 th Qtr 2016	Review and Acceptance
169	60% Design	3 rd Qtr 2018	Review and Acceptance
170	90% Design	4 th Qtr 2018	Review and Acceptance
171	Ready for Construction Design	4 th Qtr 2018	Review and Acceptance
	<i>Construction Package 2-3</i>		
172	Detailed baseline construction schedule (and updates) for each of the construction packages	2 nd Qtr 2016	Review and Acceptance
173	Type Selection Reports	2 nd Qtr 2017	Review and Acceptance
174	60% Design	1 st Qtr 2019	Review and Acceptance
175	90% Design	2 nd Qtr 2019	Review and Acceptance

Deliverable		Due Date	FRA Action
176	Ready for Construction Design	2 nd Qtr 2019	Review and Acceptance
	<i>Construction Package 4</i>		
177	Detailed baseline construction schedule (and updates) for each of the construction packages	4 th Qtr 2016	Review and Acceptance
178	Type Selection Reports	4 th Qtr 2017	Review and Acceptance
179	60% Design	3 rd Qtr 2018	Review and Acceptance
180	90% Design	4 th Qtr 2018	Review and Acceptance
181	Ready for Construction Design	1 st Qtr 2019	Review and Acceptance
	<i>Construction Package 5</i>		
182	Detailed baseline construction schedule (and updates) for each of the construction packages	TBD	Review and Acceptance
183	Track/Systems Selection Report	TBD	Review and Acceptance
184	60% Design	TBD	Review and Acceptance
185	90% Design	TBD	Review and Acceptance
186	Ready for Construction Design	TBD	Review and Acceptance
	Task 10: Unallocated Contingency		
187	Contingency Management Plan	Quarterly	Review and Comment

Sources: FRA Cooperative Agreements and OIG interviews with FRA staff

Appendix. Agency Comments



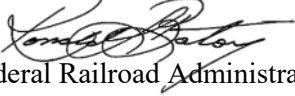
U.S. Department
of Transportation

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

Federal Railroad Administration

Subject: INFORMATION: Management Response to Office of Inspector General Draft Report, High-Speed Rail Grant Risk Mitigation and Oversight of Expenditures Date: December 23, 2019

From: Ronald L. Batory 
Administrator, Federal Railroad Administration

To: Barry J. DeWeese
Assistant Inspector General for Surface Transportation
Audits

The Federal Railroad Administration's (FRA) risk-based oversight across our grantee and project portfolios enables the agency to focus its limited resources to achieve the largest programmatic benefits. FRA continuously reviews and improves its monitoring and oversight of Federal funds. Currently, FRA is strengthening critical project and grant compliance policies and procedures by revising our *Deliverables Review Guidebook*, project management tool, and monitoring procedures.

From the beginning, FRA recognized that the magnitude and complexity of the project in combination with the grantee's lack of experience increased the risk related to the two cooperative agreements with the California High-Speed Rail Authority. Therefore, FRA devoted increasingly intensive monitoring, technical assistance, oversight, and ultimately, enforcement resources toward these agreements.

The draft report does not accurately reflect FRA's actions related to the two California cooperative agreements or FRA's grant oversight program more broadly. The draft report omits a necessary delineation of grantor and grantee roles, and as a result, the Office of Inspector General (OIG) incorrectly lays responsibility for project delivery on FRA—the grantor—rather than on the grantee. Furthermore, the draft report:

- Does not acknowledge the grantee's role and obligations under the legally binding cooperative agreements.
- Underreports the extent of FRA's proactive monitoring, technical assistance, and other actions to facilitate grantee compliance.

- Omits a meaningful discussion of FRA’s financial monitoring process and actions, which included a thorough analysis of the grantee’s financial systems and records through annual and routine monitoring and which OIG directly observed onsite in California.
- Does not fully describe FRA’s invoice review process and characterizes FRA’s role in reviewing the necessity and cost reasonableness of grant expenditures in a manner that is inconsistent with standard governmentwide grant management practices.
- Draws conclusions and makes assertions about FRA’s general grant oversight based on examples and circumstances unique to these California grants.
- Mischaracterizes FRA’s response to the 2018 California State Auditor’s report and inappropriately compares the Auditor’s findings related to CHSRA’s failure to complete proper planning with FRA’s review of grant deliverables.

Based on our review of the draft report, we concur with recommendations 1,3, and 4 as written. We plan to complete actions to address these three recommendations by December 15, 2020.

FRA partially concurs with recommendation 2 as written. FRA proposes alternate actions to address OIG’s findings more directly. Specifically, by December 15, 2020, FRA will revise and implement policies and procedures for defining FRA’s review of grantee deliverables, how FRA makes risk-based decisions on allocation of resources, and FRA’s enforcement of grantee compliance with deliverable requirements. The policies and procedures will address documentation of decisions and the need for periodic reassessments of risks related to grantee non-compliance with deliverable requirements.

We appreciate this opportunity to review and offer additional perspective on the OIG draft report. Please contact Rosalyn G. Millman, (202)384-6193, with any questions.

U.S. DOT IG Fraud & Safety Hotline

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