



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

July 16, 2025

Mr. Ian Choudri
Chief Executive Officer
California High-Speed Rail Authority
770 L Street, Suite 620
Sacramento, CA 95814

Subject: Termination of Cooperative Agreements No. FR-HSR-0118-12 &
No. 69A36524521070FSPCA

Dear Mr. Choudri:

This letter provides the California High-Speed Rail Authority (CHSRA) with the final decision of the Federal Railroad Administration (FRA) to terminate Cooperative Agreements No. FR-HSR-0118-12 (the “FY10 Agreement”) and No. 69A36524521070FSPCA (the “FSP Agreement”) (together, the “Cooperative Agreements”). This termination is effective today and is made pursuant to the terms and conditions of the Cooperative Agreements and 2 CFR Part 200. Accordingly, FRA will also de-obligate the remaining balances of the Federal funds under the Cooperative Agreements. FRA’s decision follows its June 4, 2025, Notice of Proposed Determination (the “Notice”) notifying CHSRA of FRA’s intent to terminate the FY10 Agreement and FSP Agreement, and FRA’s review of CHSRA’s Initial Response and Final Response submitted on June 11, 2025, and July 7, 2025, respectively.

I. SUMMARY

In the Cooperative Agreements, CHSRA committed to delivering high-speed operations along a 171-mile corridor between Merced, CA and Bakersfield, CA (Early Operating Segment or “EOS”) by December 31, 2033. FRA relied on CHSRA’s representations that it could deliver on this fundamental commitment when executing and administering the Cooperative Agreements. In early 2025, CHSRA’s own Inspector General published a series of reports that called into question CHSRA’s ability to deliver on this promise. Following a report issued by CHSRA’s Office of Inspector General (CHSRA OIG), FRA initiated a Compliance Review on February 20, 2025. Based on this Compliance Review, FRA made the following findings leading to the unavoidable conclusion that CHSRA will not be able to deliver the operation of a Merced-to-Bakersfield corridor by the end of 2033:

1. “CHSRA has executed numerous change orders, including change orders for \$154 million for Construction Package 1 (October 2023) and \$242 million, \$205 million, and \$143 million for Construction Package 2-3 (October 2022, November 2022,

and June 2024, respectively) and will likely have many more change orders in the near future to account for contractor expenses as a result of project delays.

2. CHSRA has already missed its deadline for finalizing its rolling stock procurement per its commitment in the FSP Agreement.
3. CHSRA has a \$7 billion funding gap (based on FRA's conservative estimates) to complete the EOS, with no credible plan to secure additional funds.
4. CHSRA does not have a viable path to complete the EOS by 2033 per its commitment in the FY10 Agreement and the FSP Agreement.
5. CHSRA relies on volatile non-federal funding sources, such as the State's cap-and-trade program, which present significant project risk.
6. CHSRA has not adequately budgeted enough time or money to electrify the entire EOS to support revenue operations by 2033.
7. CHSRA's budget contingency is inadequate to cover anticipated contractor delay claims.
8. CHSRA has overrepresented its ridership projections for the EOS substantially.
9. CHSRA lacks the capacity to deliver the EOS by 2033.”¹

FRA further concluded that this failure constitutes a Project Material Change under the FSP Agreement, and that the statutes under which the FY10 Agreement is authorized or funded would not be adequately served by the continuation of the Federal contribution. As such, FRA is terminating the Cooperative Agreements, pursuant to their terms and applicable regulations.

II. BACKGROUND

A. The California High-Speed Rail Project

The California High-Speed Rail Project (the “CHSR Project”) is a planned high-speed intercity rail system that CHSRA originally proposed would operate on a fully dedicated right-of-way at speeds of up to 220 miles per hour. Phase 1 of the CHSR Project is proposed to connect San Francisco to Los Angeles/Anaheim via the Central Valley, while Phase 2 is proposed to extend the system to Sacramento and San Diego. California voters approved the CHSRA Project via a 2008 ballot initiative, Proposition 1A, and the State entrusted the CHSR Project to CHSRA. At the time, Phase 1 of the CHSR Project was estimated to cost \$33 billion and enter operation by 2020.²

To advance Phase 1 of the CHSR Project, CHSRA sought and received billions of dollars in Federal funding from competitive FRA and U.S. Department of Transportation (the “Department”) grant programs. By 2019, FRA had invested nearly \$3.5 billion dollars in the Project, including through the FY10 Agreement, which obligated \$929 million through the High-Speed Intercity Passenger Rail (HSIPR) Program grant.³ In 2019, California Governor Newsom announced that the CHSR Project as initially envisioned was unrealistic, and that the CHSRA would instead focus only on completing a 171-mile segment between Bakersfield and Merced. FRA then terminated the FY10 Agreement. California subsequently sued FRA to restore the funding.

¹ Compliance Report at 14-15.

² California Proposition 1A, “Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century” (2008).

³ The FY10 Agreement was funded through the Fiscal Year 2010 Consolidated Appropriations Act (Pub. L. 111-117).

FRA and California settled the lawsuit in 2021, and FRA re-obligated the \$929 million dollars to CHSRA. As part of the re-obligated agreement, CHSRA committed to deliver the EOS as an operating high-speed rail route by December 31, 2033, a project that would advance the objectives of the HSIPR Program. The EOS consists of the “First Construction Segment” or “FCS,” referring to a 119-mile portion of the EOS between Madera and Poplar Avenue (near Shafter), along with a 34-mile extension north of Madera to Merced (the “Merced Extension”) and a 19-mile extension south from Poplar Avenue to Bakersfield (the “Bakersfield Extension”). In 2023, FRA selected CHSRA for a \$3.07 billion award under the Federal-State Partnership for Intercity Passenger Rail grant program (the “FSP Program”) to fund additional activities to further the EOS. FRA and CHSRA obligated these funds through the FSP Agreement on September 23, 2024. The FY10 Agreement, like the FSP Agreement memorialized CHSRA’s commitment to deliver an operating EOS by the end of 2033.

B. FRA and Oversight of Federal Grant Dollars

FRA oversees several competitive grant programs to advance rail network development.⁴ FRA’s competitive grant programs are popular and oversubscribed. FRA receives more applications than it can fund, from applicants seeking billions of dollars more than is available. FRA funding is fixed by Congress, and the selection of one project under a competitive grant program necessarily means that less money is available for other viable rail projects.

For this reason, FRA has a rigorous application, review, and selection process.⁵ As part of this process, FRA requires applicants to include a detailed project narrative explaining why the applicant and project are eligible under the program criteria; a discussion of how the project meets the evaluation and selection criteria; a detailed project implementation and management plan; and a description of how the project aligns with the Department’s strategic goals. In addition, the application must include a benefit-cost analysis, documentation supporting funding commitments, detailed budgets, and assurances for construction. FRA requires that applicants certify that statements made within the applications are accurate and true.⁶ FRA relies on these representations when selecting projects for funding.

FRA’s oversight of grant funds, consistent with each project proponent’s representations, then continues after FRA makes a project selection. Once obligated, FRA makes an ongoing effort to ensure that grant recipients are meeting their obligations to FRA to ensure Federal funding is consistent with the programs authorized and funded by Congress. If at any point in the lifecycle of the grant FRA has reason to believe the recipient is not complying with the terms and conditions, FRA will investigate the potential noncompliance and take any necessary remedial action. This process is outlined in the Department’s Guide to Financial Assistance (Guide) and is consistent with FRA’s grant management practice.⁷ Under the Guide, FRA is responsible for overseeing compliance with

⁴ This is in addition to FRA’s annual grant to Amtrak and smaller non-competitive programs.

⁵ FRA’s grant review and selection process is outlined in its Notices of Funding Opportunity. *See, e.g.*, “Notice of Funding Opportunity for the Federal-State Partnership for Intercity Passenger Rail Program,” 87 Fed. Reg. 75119. FRA conducts its grant review and selection process consistent with 2 CFR 200 Subpart C, which requires that grant-making agencies undertake an objective merit review of proposals and review each proposal for the risk posed by the applicant.

⁶ Form SF 424, “Application for Federal Assistance.”

⁷ Department of Transportation, “Guide to Financial Assistance” (Oct. 2019).

programmatic requirements.⁸ This includes regular auditing and award monitoring in addition to extensive post-award reporting.⁹ If FRA determines the recipient is not complying with award requirements, it may consider remedial action to improve the recipient's compliance.¹⁰ If FRA determines that termination is needed to protect the Federal government's interest or that there is no reasonable expectation the recipient will complete the necessary corrective action, FRA may terminate the award.¹¹ When taking remedial action for noncompliance, FRA generally provides the recipient an opportunity to object, as has occurred in this instance with CHSRA.¹²

FRA may take appropriate action on a project that cannot deliver on the promises and representations underlying its selection; a project with an award based on factual misrepresentations by the applicant; or a project being conducted in a manner inconsistent with the commitments made by the grantee.¹³ An appropriate remedy can include recovering funds.¹⁴

Federal grant awards are an extension of Congress's spending power.¹⁵ Congress may impose terms and conditions to the availability of grant funds.¹⁶ As part of an agreement between a grantmaking agency and the recipient, grant conditions are binding on the recipient.¹⁷ The benefit the agency receives when making grants accrues to the American public. Federal grantmaking agencies therefore have the duty to ensure that the programmatic requirements are fulfilled and the American taxpayer receives the benefits of the completed project (as promised in the grant application and further described in the binding grant agreement).¹⁸

FRA grants are subject to the Office of Management and Budget's guidelines for the uniform administration of Federal financial assistance at 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, adopted by the Department at 2 CFR Part 1201. Grantmaking agencies must measure each recipient's performance to show the program goals are actually being achieved.¹⁹ In addition, the agency must rigorously track the recipient's financial management and require the recipient to have a robust financial record system to comply with financial reporting requirements.²⁰ Recipients must also have effective internal controls to ensure they are complying with Federal statutes and programmatic requirements and the terms and conditions of the grant agreement.²¹ Revisions to the grant budget and program plans require approval by the grantmaking agency to ensure such changes are consistent with the purpose of the award.²²

⁸ *Id.* at § 5.3.1.

⁹ *Id.* at § 5.3.1-5.3.7.

¹⁰ *Id.* at § 5.5.

¹¹ *Id.* at § 5.5.6.

¹² *Id.* at § 5.5.

¹³ 2 CFR § 200.339.

¹⁴ DOT Guide to Financial Assistance at § 5.5.1.

¹⁵ *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ 31 U.S.C. 1301(a).

¹⁹ 2 CFR § 200.301.

²⁰ 2 CFR § 200.302.

²¹ 2 CFR § 200.303.

²² 2 CFR § 200.308.

There are remedies available to the awarding agency when a grant recipient fails to comply with a statute, a regulation, or the terms and conditions of the award. These include, among other remedies, the agency's right to terminate the award in full.²³ The agency may terminate the award if, among other causes, the recipient fails to comply with the terms and conditions of the award.²⁴ Prior to termination, the agency provides written notice to the recipient, with information such as the reasons for termination, the effective date, and the portion of the award to be terminated.²⁵

C. California Promises to Deliver the Early Operating Segment

1. FRA Selects CHSRA to Deliver the EOS

FRA selected CHSRA to receive funding under FRA's HSIPR Program, which is authorized by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) (Pub. L. 110-432). The HSIPR Program is funded by the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111-5) and the Fiscal Year (FY) 2010 Consolidated Appropriations Act (Pub. L. 111-117). FRA issued multiple Notices of Funding Opportunity ("NOFO") under the HSIPR Program. FRA selected CHSRA for two awards, which were packaged together and executed as the FY10 Agreement, for a total of \$928,620,000 in FY10 funding.²⁶

FRA selected CHSRA for funding after review of its application under the applicable NOFO which, among other things, provided the programmatic application requirements, a summary of project and applicant eligibility, a discussion of legal administration requirements for selected projects, and the statutory requirements authorizing the HSIPR Program (i.e., PRIIA Sections 301, 302, and 501). Most relevant to this project is PRIIA Section 301, Capital Assistance for Intercity Passenger Rail (the "Capital Assistance" Program).²⁷ The Capital Assistance Program requires each recipient have the legal, financial, and technical capacity to carry out a selected project.²⁸ Selected projects must be those that are anticipated to improve intercity passenger rail service significantly as measured by ridership, trip time, and service frequency; and for which the level of anticipated benefit compares favorably to the amount of Federal funding requested.²⁹

The CHSR Project was selected under the Service Development Program track, which funds capital projects that result in the establishment or enhancement of high-speed intercity passenger rail service.³⁰ Intercity passenger rail service means a "group of one or more scheduled trains . . . that provide intercity passenger rail transportation between bona fide travel markets . . ." ³¹ Furthermore, selected projects must have operational independence.³² Operational independence means

²³ 2 CFR § 200.339.

²⁴ 2 CFR § 200.340.

²⁵ 2 CFR § 200.341.

²⁶ CHSRA separately received an additional \$2.5 billion in HSIPR Program funding under a FY2009 ARRA grant.

²⁷ PRIIA § 301, codified as 49 U.S.C. 244, re-codified as 49 U.S.C. 22901-22906.

²⁸ 49 U.S.C. 22902(c).

²⁹ *Id.*

³⁰ High-Speed Intercity Passenger Rail (HSIPR) Program, 75 Fed. Reg. 38344 (July 1, 2010) § 3.4.

³¹ *Id.* at 38358 (Appendix 1).

³² *Id.* at § 3.5.2.

that, once implemented, the project will result in a “minimal operating segment of new or substantially improved high-speed or intercity passenger rail service that demonstrates tangible and measurable benefits, even if no additional investments in the same service are made.”³³

FRA and CHSRA executed the FY10 Agreement on November 18, 2011. FRA subsequently concluded that CHSRA was not compliant with the terms of the conditions of the FY10 Agreement and terminated the agreement on May 16, 2019. The FY10 Agreement was re-obligated as part of the settlement to litigation over FRA’s termination.³⁴ While re-obligated as part of a settlement, the resulting grant must still meet the statutory requirements of the authorization and appropriation.

The FSP Program is authorized by the Infrastructure Improvement and Jobs Act (Pub. L. 117-58).³⁵ The purpose of the FSP Program is to fund projects that “will improve American passenger rail assets to expand or establish new intercity passenger rail service.”³⁶ Under a FY22-23 NOFO, FRA announced the availability of over \$4.5 billion dollars for competitive awards.³⁷ CHSRA applied for an additional \$8.185 billion in Federal funding for the CHSR Project. CHSRA sought funding to complete the EOS, including for final design, right-of-way acquisition, and construction of the Merced and Bakersfield extensions; design and construction of the Fresno, Kings/Tulare and Merced stations; and the procurement of six high-speed rail trainsets.³⁸

After a review of applications and their corresponding representations, FRA ultimately selected ten projects to receive funding. Among those, FRA – following a decision made during the Biden-Harris Administration – selected CHSRA for \$3.07 billion in funding, the largest award of the cycle.³⁹ While FRA did not select CHSRA for all the funding it sought, the FSP Agreement funded key elements of the EOS, including for the final design and right-of-way (ROW) acquisition for the Merced and Bakersfield extensions, track and systems for a 13-mile interim Bakersfield extension, construction of the Fresno station, and trainset procurement, and memorialized CHSRA’s commitment to commencing revenue service on the EOS by 2033. In selecting CHSRA, FRA explained that it believed the selected scope aligned with the program criteria “by advancing efforts to implement an intercity passenger rail system” and that the “project will provide a competitive transportation mode . . . resulting in a proposed trip time from Merced to Bakersfield in under 60 minutes.”⁴⁰ In other words, FRA selected the application on the promise that it would result in functioning passenger rail between Merced and Bakersfield. FRA obligated the FSP Agreement on September 23, 2024, and included the parties’ understanding of CHSRA’s commitment, which would result in EOS operations by 2033.

³³ *Id.*

³⁴ Settlement Agreement, *California v. U.S. Dep’t of Transportation*, No. 3:19-cv-02754-JD (N.D. Cal.) (June 10, 2021).

³⁵ IJA §§ 22106 and 22307, codified at 49 U.S.C. 24911.

³⁶ *Id.*

³⁷ 88 Fed. Reg. 7517.

³⁸ CHSRA Application for FSP-National Funding (Apr. 20, 2023), Attachment A, Scope of Work.

³⁹ The FSP Agreement funding is subject to a Phased-Funding Agreement. FRA initially obligated \$1,711,980,267 of the total award. As of the date of issuance of this decision, \$681 million of the \$3.07 billion award remains unobligated.

⁴⁰ FRA, “FY22-23 Federal-State Partnership for Intercity Passenger Rail Program Selections.”

2. The Scope of the Cooperative Agreements

i. The FY10 Agreement

Governor Newsom conceded in 2019 that CHSRA could not deliver the full Phase 1 CHSR Project as initially promised, following his determination that the initial scope of the project was unrealistic. FRA terminated the FY10 Agreement, then through settlement discussions FRA and CHSRA re-obligated FY10 Agreement while memorializing a new baseline for the project. Even as adjusted, the FY10 Agreement repeatedly makes clear that the project objective is the delivery of an operating EOS between Merced and Bakersfield. The project schedule commits CHSRA to commissioning the FCS by December 21, 2030, and “to complete the construction of the fully electrified, dedicated high-speed infrastructure for the EOS and initiate electrified high-speed passenger service on the EOS by December 31, 2033.”⁴¹

To that end, the scope of the FY10 Agreement includes discrete components to advance that objective. These include management oversight and detailed reporting over the construction of the FCS; completion of property acquisition and environmental mitigation for the FCS; and final design and construction of the FCS, including civil construction, track systems, signaling, and electrification.⁴² In addition, the scope of the FY10 Agreement statement of work includes the preparation of an FCS Contingency Plan. The FY10 Agreement explains the FCS Contingency is not an “offramp” if CHSRA cannot deliver an operational EOS on schedule.⁴³ Rather, it allows for CHSRA to implement passenger revenue service as soon as possible while the EOS is being completed. The purpose of this FCS Contingency plan is to ensure the project is moving toward actual operations via an interim milestone and, as such, enables verification of the utility of Federal investment in the CHSR Project.

CHSRA also committed to managing the project efficiently to deliver the agreed-upon outcome (*i.e.*, full EOS operations by end of 2033). In particular, this includes CHSRA’s commitments to “provide the appropriate program, project, and FCS construction management activities, oversight, and reporting,”⁴⁴ including “contract administration, submittal review, quality assurance oversight inspection for work in place and materials, management of claims and change orders;”⁴⁵ track project progress through appropriate measures to mitigate increases in project schedule or costs,⁴⁶ and “timely obtain and manage the necessary property rights.”⁴⁷

ii. The FSP Agreement

In the FSP Agreement, the parties made additional promises. FRA agreed to fund discrete elements of the EOS in consideration of CHSRA’s promise to deliver an operating EOS by December 31, 2033. The scope of work includes right of way acquisition and final design for the Bakersfield and Merced Extensions, construction of the Bakersfield Interim Extension, design and construction of

⁴¹ FY10 Agreement, Att. 3.

⁴² The FY10 Agreement funds project management, FCS track work and electrification, and a project contingency and reserve.

⁴³ FY10 Agreement, Att. 2, Task 9.

⁴⁴ *Id.* at Att. 2, Task 5.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at Att. 2, Task 6.

Fresno station, design and construction of trainset facilities, and design and procurement of six trainsets.⁴⁸

In the FSP Agreement, “the Project” is defined as the full Merced-Bakersfield segment (*i.e.*, the EOS), and CHSRA commits “to complete the construction of the fully electrified, dedicated high-speed infrastructure for the EOS and provide electrified high-speed passenger service on the EOS by December 31, 2033.”⁴⁹ CHSRA committed to complete the Project Milestones to FRA’s satisfaction within each completion date, so as to assure that the operating deadline for the EOS remains achievable.⁵⁰ And CHSRA again committed to implementing a Project Management Plan to ensure the CHSR Project would be delivered effectively, efficiently, and safely—while remaining on-time and within-budget.⁵¹

D. The 2025 Compliance Review and Notice of Proposed Determination

By February 2025, FRA developed serious doubts about CHSRA’s ability to deliver the EOS on time and on budget. These doubts were amplified by the fact that CHSRA had already missed the first Project Milestone under the FSP Agreement, and by the publication of a series of reports from the CHSRA OIG finding that CHSRA had a significant funding gap, was unlikely to complete the EOS by the end of 2033, and that CHSRA’s ineffective processes for dealing with third parties was likely to cause further delay and increase costs.⁵² On February 20, 2025, FRA initiated a Compliance Review consistent with FRA’s authorities, including the Cooperative Agreements. FRA identified 59 compliance review areas and assembled a review team of subject matter experts from the Office of Railroad Development; the Office of Research, Development, and Innovation; and the Office of Chief Counsel to conduct the review. FRA reviewed over 80,000 pages of documentation provided by CHSRA, conducted a site visit, and met with CHSRA officials. FRA also reviewed relevant documents from CHSRA’s oversight authorities, including the CHSRA OIG and the CHSR Peer Review Group, and CHSRA’s publicly available reports and business plans.

In addition, FRA conducted a quantitative schedule and cost risk analysis on the EOS. The risk analysis concluded that, on average, CHSRA is expected to miss the required EOS start date, even if FRA were to assume that CHSRA is able to close its funding gap and successfully implement other project risk mitigation efforts. The risk analysis was conducted by highly qualified FRA economists using industry-standard assessments. Although CHSRA only made limited information available, FRA used what was provided to evaluate future project risk.

FRA produced a report detailing the findings of its Compliance Review. These findings included that CHSRA generally has complied with the grant documentation and reporting requirements.⁵³ However, FRA also made nine fact findings leading to the conclusion that CHSRA is not able to deliver on its promise to begin operations on the EOS by the end of 2033. FRA identified that

⁴⁸ FSP Agreement Att. 2 at § 4.1.

⁴⁹ *Id.* at Att. 2, § 5.2.

⁵⁰ *Id.*

⁵¹ FSP Agreement, Att. 2 § 4.3 Subtask 1.2.

⁵² CHSRA OIG, “Funding Review of the Merced-to Bakersfield Segment” (Oct. 28, 2024); CHSRA OIG, “Merced to Bakersfield Segment” (Feb. 3, 2025); CHSRA OIG, “Pre-Construction Activities for the Merced and Bakersfield Extension” (Feb. 21, 2025).

⁵³ Compliance Report at 2.

CHSRA already missed deadlines and has a nearly \$7 billion funding gap it cannot close. Thus, the conclusion of the Compliance Review for CHSRA was not based on merely technical reporting matters; rather, the conclusion focused on CHSRA's inability to deliver the EOS by 2033.

FRA therefore concluded that CHSRA's inability to deliver on the EOS was a Project Material Change under the FSP Agreement. FRA further found the purpose of the HSIPR Program under which the FY10 Agreement was authorized and funded would not be adequately served by continued Federal investment. On June 4, 2025, FRA notified CHSRA of its intent to terminate the Cooperative Agreements (the "Notice of Proposed Determination" or "Notice"). On June 11, 2025, CHSRA notified FRA of its intent to dispute the noncompliance finding (the "Initial Response").⁵⁴ On July 7, 2025, CHSRA submitted its final response (the "Final Response") to FRA's Notice of Proposed Determination.

E. FRA's Authority to Terminate Under the Cooperative Agreements

1. The FY10 Agreement

Under the FY10 Agreement, CHSRA represented it has the legal authority to enter into the agreement and to finance and carry out the scope of work.⁵⁵ CHSRA committed to refrain from taking or permitting any action to deprive it of the rights and powers required to carry out the terms of the agreement and to resolve promptly any rights or claims of others that would interfere with its performance.⁵⁶ CHSRA further committed to completing the scope of work within the project performance period, to complete the scope of work within the specified funding, and to remain subject to FRA approval of any budget revisions that equal or exceed 10 percent of any budget line item.⁵⁷ In addition, CHSRA agreed to provide any funds necessary to complete the scope of work beyond FRA's FY10 Agreement contribution.⁵⁸

FRA has the right to terminate all of its contribution if, among other causes, "FRA determines that the purposes of the statute(s) under which the Project is authorized or funded would not be adequately served by the continuation of the Federal Contribution."⁵⁹ Furthermore, "FRA reserves the right to require the Grantee to refund the entire amount of the Federal contribution provided under this Agreement ... if FRA determines that the Grantee has willfully misused the Federal Contribution, including by failing to make adequate progress, failing to make reasonable use of the Project property, facilities, or equipment, or failing to adhere to the terms of this Agreement."⁶⁰

2. The FSP Agreement

In the FSP Agreement, CHSRA represented that all material statements of fact in its application were true, both at the time of application and at the time of obligation, and that all representations

⁵⁴ FRA also agreed to meet, at CHSRA's request, to allow CHSRA to provide additional information. That meeting occurred on June 24, 2025.

⁵⁵ FY10 Agreement at § 3.

⁵⁶ *Id.*

⁵⁷ *Id.* at § 4.

⁵⁸ *Id.* at § 4.

⁵⁹ *Id.* at § 11(a).

⁶⁰ *Id.* at § 11(b) (cleaned up).

and warranties made in SAM.gov⁶¹ were true.⁶² CHSRA acknowledged that FRA relied on these statements in selecting the CHSR Project for an award and, in establishing the terms of the Agreement, that FRA's selection of the CHSR Project may have prevented awards to other eligible applicants.⁶³ CHSRA also acknowledged that noncompliance with the agreement terms and conditions may result in termination of the FSP Agreement.⁶⁴ CHSRA further represented that it had the legal, technical, institutional, managerial, and financial capacity to comply with the commitments it made to complete the project.⁶⁵

The FSP Agreement differentiates between "Noncompliance Events" and "Events of Default." Noncompliance Events include the failure of the Recipient or another project participant to comply with applicable law or the failure of CHSRA to ensure compliance with the terms and conditions of the FSP Agreement.⁶⁶ Events of Default include, among others, the occurrence of a Project Material Change.⁶⁷ A Project Material change includes any change to the Project that FRA determines to be materially inconsistent with FRA's basis for selecting the project for funding.⁶⁸

Consistent with the terms of the FSP Agreement, in response to a Noncompliance Event or Event of Default, FRA must notify the Recipient via the Notice of Proposed Determination, *i.e.*, a written notice that identifies the noncompliance.⁶⁹ The Recipient then has seven days to submit an initial response to the Notice, where the Recipient either acknowledges the noncompliance and indicates it will propose a corrective action plan or dispute the noncompliance.⁷⁰ If the Recipient chooses to dispute the noncompliance, it has 30 days to deliver documentation or information supporting its compliance.⁷¹ FRA may issue a Notice of Final Determination after considering the Recipient's response.⁷² In the Notice of Final Determination FRA will state the determination and the bases for that determination and describe the remedy FRA is undertaking.⁷³ The available remedies for Events of Default include termination of the award.⁷⁴ FRA may consider the public interest in making a proposed determination or final determination, and in imposing a remedy.⁷⁵

III. ANALYSIS

CHSRA's promise to deliver the EOS by 2033 is fundamental and essential to both Cooperative Agreements. CHSRA's commitments in the FY10 Agreement define how the project serves the

⁶¹ The Federal government's "System for Award Management."

⁶² FSP Agreement at § 3.1.

⁶³ *Id.* at § 3.3.

⁶⁴ *Id.* at § 3.1(b).

⁶⁵ *Id.* at § 3.2

⁶⁶ *Id.* at § 9.1(a)

⁶⁷ *Id.* at § 9.1(b).

⁶⁸ *Id.* at § 24.4.

⁶⁹ *Id.* at § 9.3(a)

⁷⁰ *Id.* at § 9.3(b)

⁷¹ *Id.*

⁷² *Id.* at § 9.3(e)

⁷³ *Id.*

⁷⁴ *Id.* at § 9.2(b)

⁷⁵ *Id.* at § 9.3(e)(3). The FY10 Agreement does not by its terms provide CHSRA the same remedial and response process. However, as outlined in the Notice of Proposed Determination, FRA nonetheless has provided CHSRA the same remedial process and opportunity to respond for both Cooperative Agreements.

goals of the HSIPR Program and underlying statutes. CHSRA’s commitments in the FSP Agreement memorialize the basis of FRA’s selection of CHSRA’s FSP applications for funding. Following its Compliance Review, and consideration of all information submitted by CHSRA, FRA has concluded that CHSRA cannot deliver on its commitments. FRA is therefore terminating the Cooperative Agreements.

A. CHSRA’s Inability to Complete the EOS by 2033 Is Grounds for Termination Under Both Cooperative Agreements.

1. FRA Selected and Obligated the Cooperative Agreements for Funding in Exchange for the Promise that CHSRA Would Deliver the EOS by 2033.

As memorialized in the Cooperative Agreements, FRA’s investment in the CHSR Project since Governor Newsom’s 2019 downsizing has been based on CHSRA’s commitments to complete the EOS.

When FRA re-obligated the \$929 million in 2021, FRA and CHSRA agreed that CHSRA would deliver EOS by date certain. The \$929 million was known by all parties to be insufficient to complete the full EOS, and therefore both parties understood that the FY10 Agreement only funds certain portions of the FCS as a component of EOS construction. Specifically, FRA made clear in the grant terms that, by executing the FY10 Agreement, CHSRA was committing to the entire EOS, not just the elements funded by the award. This commitment is repeated, among other places, in the Statement of Work Background,⁷⁶ the Scope of Work,⁷⁷ and the Project Schedule.⁷⁸

Under the FSP Agreement, FRA committed another sum of just over \$3 billion for CHSRA to advance the EOS. FRA’s selection announcement explains “the project will provide a competitive transportation mode . . . from Merced to Bakersfield.”⁷⁹ While FRA committed \$3.07 billion to the Project, representing the largest FSP program award funded in that selection cycle, it did so based on the representations and information in CHSRA’s application, and FRA selected elements that FRA considered necessary to advance the EOS. Indeed, the FSP Agreement funds work that CHSRA represented were necessary to complete EOS and begin revenue service by 2033, such as final design and ROW acquisition for the Merced and Bakersfield extensions. The FSP Agreement memorializes that the funded components “will advance completion of high-speed passenger rail

⁷⁶ “CHSRA will focus its current funding on completing construction of the full electrified, dedicated high-speed rail infrastructure between Merced and Bakersfield . . . and commence hourly, bidirectional high-speed rail service between the hours of 5 am and 11 pm over the EOS. The [FCS] is a component of the EOS, over which CHSRA intends to complete testing and commissioning activities necessary to certify HSR operations, prior to initiating high-speed passenger rail operations.” FY10 Agreement, Att. 2.

⁷⁷ “The Parties understand that CHSRA has committed to complete the EOS because it is the preferred operating segment for electrified high-speed passenger service.” FY10 Agreement, Att. 2, Task 9.

⁷⁸ “CHSRA also commits to complete the construction of the electrified, dedicated high-speed infrastructure for the EOS and initiate electrified high-speed passenger service by December 31, 2033.” FY10 Agreement, Att. 3.

⁷⁹ FRA, “FY22-23 Federal State Partnership for Intercity Passenger Rail Program Selections.”

service along an alignment between Merced and Bakersfield.”⁸⁰ And the commitment is again repeated in explicit terms in the text of the FSP Agreement.⁸¹

The distinct, progress-driven purpose of FRA’s re-investment in the CHSR Project is further reinforced when the two grant agreements, along with other FRA investments in the CHSR Project, are evaluated collectively. The FY10 Agreement and the FSP Agreement fund elements of the EOS seeking to advance EOS operations no later than the end of 2033. Indeed, FRA’s other grants to CHSRA since 2019 re-baseline each discrete portion of the EOS.⁸² To allow CHSRA to deliver anything less than the EOS by end of 2033 would abrogate the express purpose underlying any of these selections.⁸³

To be clear, the mere promise of delivering the EOS *someday* and *at some cost* was not the bargain struck between FRA and CHSRA. FRA’s mission is to fund projects that will improve the Nation’s railroad network, and grantees commit to *deliver* those projects when they accept financial assistance. FRA has committed roughly \$4 billion under the Cooperative Agreements, holding up its end of the bargain, because it believed an operational EOS by 2033 could be worth the investment. CHSRA has no viable path to deliver on its commitments.

2. Failure to Deliver the EOS by the End of 2033 Supports Termination.

FRA is taking remedial action to terminate the Cooperative Agreements based on CHSRA’s breach of its promise to deliver and operating EOS by the end of 2033, which was the basis of FRA’s selection and obligation of the FSP Agreement and the re-obligation of the FY10 Agreement. With respect to the FY10 Agreement, FRA has the right to terminate all of the Federal Contribution if, among other causes, FRA determines the purposes of the statute(s) under which the CHSR Project is authorized or funded would not be adequately served by continuation of the Agreement.⁸⁴ Delivering anything short of the full EOS under the FY10 Agreement terms would be inconsistent with both the Capital Assistance Program and the Service Development Program under which the FY10 Agreement was awarded. And, because FRA has concluded CHSRA is not likely to deliver the EOS by 2033, FRA is terminating the FY10 Agreement.

HSIPR’s Service Development Program has substantive project requirements. To obligate funding, FRA must decide that the proposed project is consistent with those requirements and serves the underlying statutory program. The FY10 Agreement sets out the scope of the project that FRA determined would comply with those requirements. Anything short of the full EOS (as defined

⁸⁰ FSP Agreement, Att. 2 § 4.1.

⁸¹ “The Recipient also commits to complete the construction of the fully electrified, dedicated high-speed infrastructure for the EOS and provide electrified high-speed passenger service on the EOS by December 31, 2033.” FSP Agreement, Att. 2 § 5.2.

⁸² See, e.g., 69A36524520020RASCA, “California High-Speed Rail Merced Extension Design Project” (RAISE FY22); 69A36524520300FSPCA, “California High-Speed Rail Phase 1 Corridor” (Corridor ID FY22); 69A36524521000CRSCA, “Six Grade Separations in the City of Shafter” (CRISI FY22); 69A36524520070RASCA, “Fresno High-Speed Rail Station Historic Depot Renovation and Plaza Activation” (RAISE FY23); FY23-24RCE-Unawarded-55 “Le Grand Overcrossing Project on the Merced Extension” (RCE FY23-24).

⁸³ Given FRA’s determination as described in this letter, *i.e.*, CHSRA cannot deliver on the EOS commitment, FRA will undertake a review of all other grants relating to the CHSR Project to determinate what steps FRA should take to protect the Federal taxpayer, consistent with the law and applicable agreements.

⁸⁴ FY10 Agreement at § 11(a).

under the terms of the FY10 Agreement) does not meet these program requirements, and therefore does not adequately serve the purposes of the HSIPR Program under PRIIA.

With respect to the FSP Agreement, FRA may terminate the award as a remedy due to a Project Material Change, which constitutes an event of default under the FSP Agreement.⁸⁵ Project Material Change includes any change to the project that FRA determines is materially inconsistent with FRA's basis for selecting the project for funding.⁸⁶ As explained in Section III.A.1 above, the basis for selecting the CHSR Project was CHSRA's commitment to deliver the EOS by a date certain. FRA has concluded CHSRA is not likely to deliver the EOS by 2033 and therefore CHSRA has functionally changed its commitments. This constitutes a Project Material Change under the terms of the FSP Agreement, as such FRA is terminating the agreement.

B. FRA Has Determined CHSRA Cannot Complete the EOS by 2033.

The Compliance Review made several findings that lead to one clear conclusion: CHSRA cannot complete the EOS on the terms that CHSRA promised. FRA has afforded CHSRA the opportunity to respond to the Notice provided following the Compliance Review. In its Initial Response, CHSRA elected to dispute FRA's findings and proposed decision to terminate the Cooperative Agreements. In its Final Response, CHSRA acknowledges FRA's Notice and incorporates its Initial Response by reference. FRA reviewed CHSRA's response and accompanying information and concludes CHSRA has not adequately demonstrated it can deliver the EOS by 2033 or refuted FRA's findings in the Notice. As such, FRA is finalizing its decision to terminate the Cooperative Agreements as proposed in the Notice.

FRA initiated its Compliance Review on February 20, 2025. To conduct this review, FRA subject-matter experts, economists, and counsel subsequently undertook a detailed review of CHSRA's promises, progress, and projections. FRA also reviewed State and third-party oversight reports and ran its own thorough, quantitative risk analysis. The Compliance Review resulted in a 315-page Compliance Report (including attachments) that made nine findings of fact, already summarized above. Based on these findings, the Compliance Report concluded that CHSRA was not meeting its Cooperative Agreement commitments because it would not be able to initiate service on the EOS by 2033.

FRA is not alone in reaching this conclusion. These findings are consistent with California's own oversight bodies, including California's Legislative Analyst's Office (LAO) and the CHSRA OIG. Indeed, the Compliance Report relies (in part) upon, and incorporates the findings of, these bodies. CHSRA questions FRA's reliance on these sources and other reporting; however, as explained in the Compliance Report, FRA took a comprehensive review to ensure it had a complete understanding of the status of the CHSR Project. This included meeting with CHSRA, providing CHSRA with an opportunity to provide project documentation, and giving CHSRA an opportunity to respond to FRA's findings in the Compliance Report. CHSRA identifies no authority that precludes FRA from this factfinding or from reviewing materials from oversight bodies established in California.

⁸⁵ FSP Agreement at §§ 9.1; 9.2(b).

⁸⁶ FSP Agreement at § 24.4.

FRA has concluded that CHSRA cannot deliver the EOS pursuant to the promises made in the Cooperative Agreements. The Cooperative Agreements clearly state CHSRA's commitment to deliver the EOS by 2033 and provide a detailed project schedule and budget. Through a review of multiple sources, including documentation provided by CHSRA and reports made by CHSRA to its own State oversight bodies, FRA identified significant project delivery concerns. These inevitably led to the conclusion the CHSRA cannot deliver the EOS within the timeframe and budget prescribed in the Cooperative Agreements, if CHSRA can deliver the EOS at all. CHSRA did not provide adequate documentation or explanation to demonstrate that it can successfully deliver the EOS.

CHSRA attempts to minimize FRA's cost and delay findings and asserts that plans are underway to course correct the schedule and close the funding gap.⁸⁷ This response provides no concrete evidence that CHSRA will be able to complete the EOS within the project budget and schedule. Instead of providing tangible evidence to demonstrate CHSRA *will* meet its commitments, such as identifying funds to close its \$7 billion funding gap, CHSRA insists FRA should simply accept a subsequent revision to CHSRA's schedule and budget that is in development. FRA cannot accept the mere hope that CHSRA moving the goalposts yet again will have no effect on the overall schedule and budget.⁸⁸ FRA did not enter into the Cooperative Agreements to engage in an endless game of schedule and budget revisions. CHSRA must make good on its commitment to deliver the EOS by 2033, and FRA has shown CHSRA has no viable path to do so. As such, CHSRA is in default under the Cooperative Agreements, and FRA is exercising its right to terminate.

CHSRA has reverted to a pattern of poor management and missed deadlines. In the short time the Cooperative Agreements have been obligated, CHSRA has already missed a major Project Milestone, which it attempted to justify only with a conclusory statement that CHSRA's delay will not affect the overall schedule.⁸⁹ This is a common theme of CHSRA's response, which demands that FRA "wait-and-see" if CHSRA's schedule assumption comes to fruition.⁹⁰ CHSRA takes issue with FRA's mention of CHSRA's past practice as beyond the scope of the Compliance Review, but CHSRA is asking FRA to trust that it can course correct and make good on its promises.⁹¹ Unfortunately, CHSRA's history reveals a troubling pattern of schedule slips and cost overruns, which its State oversight bodies have also noted. CHSRA's past performance is particularly relevant to FRA's review. FRA has no confidence that CHSRA can course correct and deliver the EOS by 2033, as stated in the Compliance Report. FRA's analysis reveals unacceptable risk even if that funding gap is somehow filled.⁹² Indeed, since FRA initiated the Compliance Review that gap has grown to over \$10 billion.⁹³ CHSRA has not shown itself capable of effectively remedying the factors that make it unable to control the CHSR Project costs and timelines. FRA finds that CHSRA lacks the ability to right itself, stop the overspending, plug its budget gap, and stop falling behind schedule. These factors establish an unacceptable risk that,

⁸⁷ CHSRA Initial Response at 7.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.* at 4.

⁹¹ *Id.* at 4-5.

⁹² CHSRA OIG, Funding Review of the Merced-to-Bakersfield Segment (Oct. 28, 2024) at 2.

⁹³ Ashley Zavala, "California High Speed Rail's budget gap could grow to \$10.2 billion for Bakersfield-to-Merced line," KCRA 3, (May 19, 2025).

even if CHSRA somehow fills the current funding gap, such cure will be short-lived, and a subsequent funding gap will result. The EOS cannot be delivered by CHSRA by December 31, 2033, as required by the Cooperative Agreements.⁹⁴

FRA gave CHSRA an opportunity to demonstrate that it can deliver the EOS, and CHSRA failed to provide any evidence that it can do so. In short, FRA has waited long enough for CHSRA to make good on its promises.

C. CHSRA's Criticisms of FRA's Compliance Review Are Unfounded and CHSRA Has Not Adequately Demonstrated It Will Complete the EOS by 2033.

In its response to the Notice, CHSRA challenges elements of FRA's Compliance Review process, data, and conclusions. FRA has thoroughly reviewed both CHSRA's June 11, 2025 Initial Response and July 7, 2025 Final Response. FRA has determined that nothing in these responses cause FRA to reconsider its factual findings or its conclusion that CHSRA cannot deliver the EOS as promised.

1. CHSRA Fails to Address the Substantive Concerns Underlying FRA's Decision.

CHSRA's response reflects a fundamental misunderstanding about FRA's grounds for termination. In its Notice, FRA clearly explained that CHSRA's inability to complete the EOS by 2033 in accordance with the terms of the Cooperative Agreements was the reason for FRA's proposed decision to terminate the agreements.

Rather than addressing the event of default, CHSRA raises concerns regarding the Compliance Review and suggests FRA failed to consider the documentation CHSRA provided. In doing so, it attempts to obfuscate its own failures with glossy artist renderings, while nitpicking some of FRA's references and contending that FRA has assented to CHSRA's delays and budget gaps. CHSRA almost exclusively highlights progress that is *not part of the EOS commitment*. For example, CHSRA's response disproportionately details peripheral project elements that are unrelated to the EOS itself. If anything, CHSRA's focus on the Salesforce Transit Center, electrification of the Caltrain commuter service, and Los Angeles Metro projects, to name a few, demonstrate that CHSRA is not taking its EOS commitment seriously.⁹⁵ Rather than presenting a plan to document that it can complete the EOS on time and on budget, CHSRA chooses instead to highlight tangential projects. CHSRA's dissembling is not a basis for FRA to ignore the terms of the Cooperative Agreements.

CHSRA also repeatedly cites earlier documentation, such as FRA's October 2024 Monitoring Report, to suggest that FRA did not document its concerns at that time and somehow impliedly endorsed CHSRA's conduct.⁹⁶ FRA reviewed its own documents as part of its Compliance Review,

⁹⁴ In its Final Response, CHSRA indicates it understands FRA's Compliance Report to have concluded that CHSRA's missed rolling stock procurement arises to Persistent Noncompliance under the FSP Agreement. Final Response at 23. To clarify, FRA's decision to terminate the FSP Agreement is not based on a finding of Persistent Noncompliance but based on the reasons described herein.

⁹⁵ CHSRA Final Response at 4-15.

⁹⁶ CHSRA Final Response at 18-19.

and FRA's Compliance Report acknowledges that CHSRA is generally compliant with its documentation and reporting requirements, which is consistent with the October 2024 Monitoring Report. Nothing in the Monitoring Report, however, or any other document cited by CHSRA in its Final Response, indicates that FRA has ever endorsed something short of an operational EOS in the timeline agreed to by CHSRA as an acceptable project outcome.

FRA must be clear: Missing Project Milestones is a serious issue. Failing to address a multi-billion-dollar budget gap is a serious issue. Failing to deliver on the central promise of a Federal grant is a serious issue. Instead of addressing these issues head on, CHSRA makes vague assurances that these are non-issues, despite the fact that the Agreements do not provide CHSRA the right to make such determinations. CHSRA feigns shock that FRA would dare enforce CHSRA's contractual obligations to protect American taxpayers, but that is exactly FRA's duty.

2. FRA Relied on Sound Data for the Compliance Review.

CHSRA generally challenges some of the factual bases underlying FRA's conclusions and highlights certain documents that it believes refute FRA's factual findings. FRA reviewed project documentation, among other relevant sources, as part of its Compliance Review process. As described in its Notice, the document request was one component of FRA's decision. The purpose of this component of the review was to gather project documentation to give FRA a more complete understanding of how CHSRA is managing the CHSR Project. FRA temporally bounded the document request to focus on more recent project documentation and reduce the burden on CHSRA. In its Final Response, CHSRA now argues that FRA somehow forfeited its rights to consider any material that was not provided by CHSRA within the scope of FRA's document request. In attempting to direct FRA's review of its own grant, CHSRA fails to cite any authority or provide any reason why FRA should have limited its decision to only those documents within the document request period. FRA's oversight authority as the grantmaking agency allows FRA broad discretion to consider any relevant information regarding recipient compliance. The Notice clearly explains the sources FRA relied on for its decision, and CHSRA's attempt to limit the scope of FRA's consideration is without merit.

In addition, CHSRA now identifies a handful of documents that FRA relied on that it claims are stale or selective. FRA appreciates the additional commentary CHSRA provided for the documentation in its Final Response. There is no single document that tells the story of the CHSR Project, which is precisely why FRA took a broader look to gain a better understanding of CHSRA's performance. As CHSRA notes, FRA has met with CHSRA regularly and conducted annual monitoring and routine oversight of CHSRA's performance. As such, FRA is familiar with the documentation CHSRA provided. However, FRA determined it was appropriate to take a comprehensive look at the CHSR Project given FRA's concerns with the overall project schedule and cost.

FRA received over 80,000 documents from CHSRA, and FRA reviewed numerous documents prepared by CHSRA's oversight bodies, met with CHSRA personnel, and conducted a quantitative analysis. FRA does not cite to every document reviewed but does identify certain documents that FRA found to be illustrative or indicative of the broader programmatic concerns that FRA found constituted an Event of Default, such as missing a project milestone. The Notice does not rely on

simple noncompliance under the Cooperative Agreements, and it concludes that CHSRA has adequately maintained project documentation.⁹⁷ However, simply maintaining documentation of project activities does not establish that the recipient is in compliance with the terms and conditions of the agreement. FRA also provided CHSRA with an opportunity to identify project documents that would refute FRA's findings, but CHSRA has failed to do so.

CHSRA also argues that FRA misconstrued the CHSRA OIG's reports.⁹⁸ The CHSRA OIG plainly identifies a massive \$7 billion funding gap, states that CHSRA has no current plan to address the funding gap beyond applying for additional Federal funds, and finds that due to this deficiency, CHSRA is likely to miss its deadline to deliver the EOS under the Cooperative Agreements.⁹⁹ FRA's Notice does not state that the CHSRA OIG found CHSRA to be in default under the Cooperative Agreements. In its response, CHSRA includes a statement from the CHSRA OIG that CHSRA maintains affirmatively refutes FRA's determination. The CHSRA OIG provided no such statement or additional clarification to FRA. Instead, the CHSRA OIG's statement explicitly restates the initial findings and concludes with a statement that the CHSRA OIG stands by its original findings.¹⁰⁰ The fact that the CHSRA OIG did not find that CHSRA had defaulted under the Cooperative Agreements is wholly irrelevant. That is not the CHSRA OIG's role; it is FRA's role. This is yet another example of CHSRA's trying to avoid FRA's substantive concerns and dismissing FRA's decision as an issue of semantics. To be clear, CHSRA has a massive outstanding funding gap. CHSRA provided no documentation that adequately demonstrates CHSRA's acknowledgement of the funding gap, addresses the funding gap, and demonstrates that CHSRA can meet its deadlines under the Cooperative Agreements. These omissions are not matters of semantics. They amount to a \$7 billion problem.

In another attempt to dodge the concerns underlying FRA's decision, CHSRA faults FRA's risk assessment as being flawed and for failing to explain the model upon which it relied. This assertion is without merit because FRA's Compliance Report explains FRA's methodology and describes the model employed in conducting the risk analysis and the results of that analysis in detail. As explained in Attachment 5 of the Compliance Report, FRA conducted a bottom-up quantitative schedule risk analysis and a top-down quantitative cost risk analysis. The bottom-up analysis used an industry-standard Monte Carlo simulation to capture the uncertainty of task durations. The top-down analysis used CHSRA's own historic task timeline uncertainty.¹⁰¹ These models are industry standard, and application here largely relied on inputs provided by CHSRA.

CHSRA admits the reason FRA did not have the full risk register for its analysis was because CHSRA would not share the complete register with FRA in a readily available way.¹⁰² Even in its

⁹⁷ The FSP Agreement explicitly distinguishes between Noncompliance Events, that warrant specific remedies and corrective action, and Events of Default, which require more serious remedial action, such as termination. FSP Agreement at § 9.

⁹⁸ CHSRA Final Response at 19.

⁹⁹ CHSRA OIG, Funding Review of the Merced-to-Bakersfield Segment (Oct. 28, 2024) at 2.

¹⁰⁰ CHSRA OIG Letter to the Governor of California (June 10, 2025). FRA appreciates CHSRA's OIG's important role in holding CHSRA accountable, and FRA hopes that CHSRA OIG will not allow any self-interest in the continuation of the project to compromise its reviews of the project going forward.

¹⁰¹ The FRA risk assessment discloses limited instances where that was not the case.

¹⁰² CHSRA Final Response at 20.

Final Response, CHSRA did not share the full risk register, while ironically criticizing FRA for allegedly not using all of CHSRA's data.

Contrary to CHSRA's response, the analysis was not designed to lead FRA to a certain conclusion; rather, FRA sought an industry standard method to understand CHSRA's project risk. As explained in the Compliance Report, the model used a range of assumptions, including assuming CHSRA would successfully implement all of its risk mitigation strategies and fill its funding gap.¹⁰³ That the FRA risk analysis still showed an unlikelihood of completion of the EOS before 2034 (even assuming new funding and risk mitigation) shows that even CHSRA's theoretical mitigation strategies would be inadequate to meet CHSRA's commitments under the Cooperative Agreements. This further supports that FRA is within its rights under the Cooperative Agreements to pursue remedies.

In its Final Response, the burden is on CHSRA to dispute FRA's decision and provide adequate documentation.¹⁰⁴ CHSRA explains that it has extensive experience and qualified professionals to conduct risk analyses, yet it fails to provide any quantitative analysis. Simply stating that if CHSRA had conducted the analysis the results would have been different is inadequate.

3. FRA's Decision to Terminate the Cooperative Agreements Is Timely.

Next, and central to CHSRA's dispute, is CHSRA's argument that FRA's determination that the EOS could not be delivered on-time and on-budget is premature given that CHSRA has until 2033. Essentially, CHSRA counters that it has years to correct course, find slack in the schedule, and come up with the billions of dollars in missing funding. However, CHSRA provides no tangible evidence that it has corrected course and will deliver on its promises.

CHSRA's request for unlimited patience and forbearance is inconsistent with FRA's mandate as a good steward of Congressionally appropriated funds. FRA has a continuing duty to monitor recipient compliance, and FRA may initiate a grant review at any time, and, as necessary, FRA may take remedial action to protect the Federal investment, which may include termination of the award. The Cooperative Agreements clearly allow FRA to take action now. First, the FY10 Agreement authorizes FRA to terminate the agreement if "FRA determines that the purpose of the statute under which the Project is authorized or funded would not be adequately served by continuation of the Federal Contribution."¹⁰⁵ At any time during the period of performance under the agreement, FRA can make this finding and terminate the award. Similarly, the FSP Agreement authorizes FRA to terminate the agreement for a Project Material Change and allows FRA to consider the public interest in making this determination. If the recipient has materially changed the project, the agreement does not force FRA to accept this unilateral change; rather, the agreement allows FRA to terminate. In addition, both Part 200 and the Guide provide FRA with broad discretion to determine the appropriate remedial action, including termination.¹⁰⁶

¹⁰³ Compliance Report at 60.

¹⁰⁴ See FSP Agreement § 9.3.(b)(2).

¹⁰⁵ FY10 Agreement at § 11(a)(5).

¹⁰⁶ 2 CFR 200.339; DOT Guide to Financial Assistance § 5.5. Consistent with the DOT Guide to Financial Assistance, FRA has determined that an immediate termination action is needed to protect the Federal government's interest, and that there is no reasonable expectation that the CHSRA will complete necessary corrective actions. *Id.* at § 5.5.6.

Furthermore, FRA found in its Compliance Review that CHSRA continued the same pattern of project mismanagement and budget inflation that led FRA to the 2019 termination of the FY10 Agreement. FRA has identified these issues, including funding gaps, schedule slippage, and unmanaged change orders, for several years without meaningful improvement by CHSRA. CHSRA's own State oversight bodies have also identified these issues, and CHSRA itself is well aware of them. Even with this long history, CHSRA now expects FRA to accept that CHSRA has finally found the will and the capacity to address these persistent issues. However, beyond conclusory statements, CHSRA provides no documentation that adequately demonstrates CHSRA can address these issues and deliver the EOS by 2033. FRA is not required to sit on the sideline and continue funding a project where the grantee established a pattern of not meeting its obligations. FRA can and should act.

FRA has reason *now* to conclude the EOS cannot be delivered by CHSRA as promised. In less than a year since the obligation of the FSP Agreement, CHSRA's delays have *already* burned through most of the schedule contingency. CHSRA argues that FRA is taking drastic action based on one missed project milestone. CHSRA again attempts to dismiss FRA's concerns as minor administrative matters instead of addressing the substantive reasons underlying FRA's decision. FRA is taking action now because FRA has no confidence CHSRA can deliver the EOS by 2033, a fundamental commitment CHSRA made in the Cooperative Agreements. The erosion of schedule contingency and the missed milestone only serve to illustrate FRA's concerns. FRA outlined similar concerns with the project budget. Notably, FRA has seen reports that the \$7 billion funding gap has already grown to \$10 billion in the short time since FRA initiated its Compliance Review.¹⁰⁷

CHSRA's demand that FRA ignore any glaring project delivery concerns, such as the unaddressed \$7 billion funding gap, and allow CHSRA more time to course correct, while CHSRA expends taxpayer dollars on a project likely to achieve no more than a portion of an operational rail corridor, is simply untenable. CHSRA has had time. These issues have been known and are well documented. FRA has worked with CHSRA for over a decade to advance this project and simply cannot ignore its findings. CHSRA cites to no authority and provides no reasonable explanation why FRA must continue to invest in a project that will not result in the benefits FRA bargained for. Furthermore, FRA grant programs are oversubscribed, and allowing CHSRA to tie up taxpayer dollars that could be used to advance other rail projects, while CHSRA is not meeting its commitment, would be inconsistent with FRA's duty to use Federal funds to advance the Nation's rail infrastructure.

4. FRA Relied on CHSRA's Representations but Did Not Endorse CHSRA's Prior Performance.

CHSRA also suggests that FRA was aware of the problems FRA described in the Notice when it re-obligated the FY10 Agreement and awarded \$3.07 billion in FSP funds for the EOS. FRA does not dispute that many of the larger CHSR problems are well-known and documented. However, CHSRA's assertion that FRA somehow endorsed CHSRA's problems by awarding grants

¹⁰⁷ Ashley Zavala, "California High Speed Rail's budget gap could grow to \$10.2 billion for Bakersfield-to-Merced line," KCRA 3, (May 19, 2025).

to CHSRA is incorrect. FRA made no such endorsement, and FRA's collaboration with CHSRA over the past few years is simply indicative of the agency-recipient relationship. The Cooperative Agreements memorialize CHSRA's commitments to FRA. FRA approved and accepted grant deliverables in good-faith reliance that CHSRA would be able to meet its commitments.

In making awards to CHSRA, FRA has relied on CHSRA's representations, but FRA now has concerns whether these representations were made in good faith or simply sought to secure additional funding. Through the Compliance Review, FRA has found that CHSRA largely ignored substantial project delivery concerns, which CHSRA again deflected and dismissed in its Final Response. CHSRA ignores the fact that it represented it could deliver the EOS by 2033 in its application for financial assistance under the FSP Program and made the commitment in the signed Cooperative Agreements. FRA has now determined CHSRA will not meet this commitment and is now taking action accordingly.

Finally, CHSRA argues FRA may not look into CHSRA's prior bad acts in determining whether or not CHSRA is able to deliver on its grant promises; and CHSRA also suggests that FRA's subsequent selection of CHSRA for FSP funding requires FRA to ignore any history of CHSRA's past noncompliance.¹⁰⁸ As previously discussed, CHSRA's assertion that FRA should have limited its review to the time period provided in its document request is without merit. Further, FRA did not endorse CHSRA's conduct by awarding subsequent grants, but instead relied in good faith on CHSRA's representations. FRA has broad discretion to consider all relevant information in exercising its oversight of its grants, and the Compliance Review takes a holistic view of the CHSR Project. In its Final Response, CHSRA failed to provide any documentation adequately demonstrating that CHSRA's representations are accurate and that CHSRA can deliver on its commitments.

5. CHSRA's Civil Construction Project Progress Does Not Adequately Demonstrate CHSRA's Ability to Deliver the EOS.

CHSRA faults FRA for not acknowledging the progress that CHSRA has made on the Project so far. FRA does not dispute that CHSRA has advanced civil work along the 119-mile First Construction Segment. However, CHSRA again completely misses the concerns underlying FRA's decision, which focus primarily on CHSRA's ability to deliver the EOS by 2033. FRA's concern, as described in the Compliance Report, is focused on the cost, the rate of progress, and CHSRA's management of the EOS. While some progress has been made on civil construction, the budget gap continues to grow and the schedule continues to lose ground. FRA considered the rate of current progress in its projections and in determining that CHSRA cannot deliver the EOS on time or consistent with the agreed upon budget. In addition, the many projects CHSRA identifies in its Final Response suggest it is focusing its energy on projects *other than the EOS*. CHSRA's response shows it has focused on off-system projects (e.g., the Salesforce Transit Center), but it has yet to lay track on any portion of the EOS.

¹⁰⁸ CHSRA Final Response at 18.

6. CHSRA Provides Only Vague and Speculative Plans that Do Not Demonstrate CHSRA's Ability to Complete the EOS.

CHSRA now offers some vague assurances and seeks to convince FRA to ignore the findings it made in the Notice. For example, CHSRA suggests the reason that its rolling stock procurement is delayed is because it is undertaking an effort that will in fact make the procurement conclude earlier.¹⁰⁹ But CHSRA does not provide any detail to FRA, including examining how months of delay will shorten the overall schedule. Similarly, CHSRA rebuts FRA's conclusion that electrification cannot be completed on time by simply stating that it can be done and that it will release a procurement for track and systems in Q4 2025. CHSRA also claims it has "made and is continuing to make changes to increase funding, increase efficiencies, and mitigate schedule risk,"¹¹⁰ without ever explaining what these changes are, let alone articulating a path to enable clearance of the allegedly innovative approaches. These conclusory statements are simply not enough to refute FRA's detailed findings.

This is a familiar pattern for CHSRA. When FRA identifies an issue with CHSRA's management of the Project, CHSRA points to a vague plan that it claims will resolve the issue in the near future. For years, CHSRA has alluded to private financing as a solution to its budgetary issues. In January 2025, it held an Industry Forum with the goal of securing private sector investment, and as far as FRA is aware, it has again not made any progress. Now CHSRA again asks FRA to ignore its budget gap because it plans to find billions of dollars in private financing.

Further, Governor Newsom's proposed plan to set a \$1 billion-dollar minimum funding floor from cap-and-trade proceeds for CHSRA is insufficient to overcome the CHSR Project's budget issues. FRA acknowledges that a funding floor, if enacted, would alleviate some funding volatility with the Project's reliance on the State's Cap and Trade Program, but a funding floor does not guarantee available funding to support the Project, as this assumes first enactment (a significant hurdle), then that the State will receive sufficient revenue from the project, the State Legislature will not sunset the program, and the State will not defer high-speed rail costs to address more critical State priorities. These factors are outside of CHSRA's control and continued reliance on a singular source of funding has substantial risk. Furthermore, the funding floor does not commit any additional State monies to the project and therefore does not address the substantial funding gap needed to complete the EOS. As a result, FRA's concerns regarding project funding remain, and CHSRA has not provided documentation adequately demonstrating that it can right-size the project budget, avoid costly delays, and deliver the EOS by 2033.

7. FRA's Termination Decision Is Not Driven by Animus Toward the CHSR Project.

CHSRA accuses FRA of making its termination decision due to hostility against the CHSR Project. Not so. As explained in its Compliance Report and in this letter, FRA's decision is the result of a comprehensive look at the CHSR Project and based on CHSRA's inability to deliver the EOS by 2033 in breach of the commitments made in the Cooperative Agreements. FRA designed the Compliance Review to allow it to take a complete look at the CHSR Project. FRA notified CHSRA of

¹⁰⁹ CHSRA Initial Response at 7.

¹¹⁰ CHSRA Initial Response at 11.

the review and sought CHSRA input throughout the process through document requests and regular meetings. FRA memorialized its decision and provided CHSRA with an opportunity to respond. In making its decision, FRA relied largely on official reports produced by CHSRA and by California oversight bodies. Then, FRA publicly released a detailed report outlining its findings and conclusions, both favorable and unfavorable to CHSRA. For example, in the Compliance Report, FRA concludes that CHSRA has generally complied with its reporting requirements and in producing deliverables. However, FRA also found that CHSRA cannot deliver the EOS as promised, which was the basis for FRA's proposed decision.

CHSRA's reference to selected quotations (all of which were taken out of context) again plainly misses the point and only distracts from the fundamental issues the President and the Secretary were making—the CHSR project is grossly over budget, and CHSRA cannot maintain schedule.¹¹¹ There have been many outspoken critics of the CHSR Project. FRA is not acting as a mere critic of the project; FRA is a steward of taxpayer dollars, and it is now time for CHSRA to stop pointing the finger at everyone who criticizes the project and accept responsibility. FRA's proposed decision to terminate the Cooperative Agreements was based on CHSRA's inability to deliver on its commitments, and since CHSRA's response does not refute FRA's findings, FRA is finalizing its decision.

IV. CONCLUSION

As described above, FRA has determined CHSRA has breached the commitments made in the FY10 Agreement and the FSP Agreement. Based on CHSRA's inability to complete the EOS by December 31, 2033, the CHSR Project does not adequately serve the purpose of the statute under which the FY10 Agreement was authorized and funded, and this failure constitutes a Project Material Change under the FSP Agreement. Furthermore, anything short of an operational EOS by December 31, 2033, undermines FRA's basis for selecting the CHSR Project. For these reasons, as set forth in this letter, FRA has determined to terminate the FY10 Agreement and the FSP Agreement, effective today, and will de-obligate the associated funds.

Sincerely,



Drew Feeley
Acting Administrator

¹¹¹ CHSRA Final Response at 15-16.