

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Federal Railroad Administration****Federal Transit Administration****Office of the Secretary of Transportation****Applications for TIFIA Credit Assistance**

AGENCIES: Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of availability of funds inviting applications for credit assistance for major surface transportation projects.

SUMMARY: The Transportation Equity Act for the 21st Century (TEA-21) created the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA). The TIFIA authorizes the Department of Transportation (DOT) to provide credit assistance in the form of secured (direct) loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. The revised TIFIA regulations (49 CFR Part 80, as published elsewhere in this issue of the **Federal Register**, provide specific guidance on the program requirements.

These revised regulations, which will apply to applications filed under this notice, amend the June 2, 1999 rule to: clarify that funds will be disbursed based on the project's anticipated financing needs; clarify that the borrower must obtain ongoing credit surveillance for the life of the TIFIA credit instrument; assign specific weights to each of the eight statutory selection criteria; specify that loan servicing fees are to be paid by the borrower; modify the time period for audited financial statements from 120 days to within no more than 180 days; and provide that administrative offsets will be employed only in cases of fraud, misrepresentation, or criminal acts.

Funding for this program is limited, and projects requesting assistance will be evaluated and selected by the DOT on a competitive basis. Following selections, term sheets will be issued and credit agreements will be developed through negotiations between the project sponsors and the DOT. The TIFIA statute provides budget authority

of \$110 million for FY 2001 to fund the subsidy costs of up to \$2.2 billion in credit assistance. However, as described below, the amount of actual net budget authority available in FY 2001 depends on several additional factors.

DATES: For consideration in this application cycle, letters of interest must be submitted by 4:30 p.m. EDT on Thursday, August 17, 2000. The deadline for receipt of the completed application and the non-refundable \$5,000 application fee is 4:30 p.m. EDT on Wednesday, September 6, 2000. Applications received in the offices of the DOT after that date and time will not be considered. Applications sent to the DOT electronically or by facsimile will not be accepted. Applicants should refer to the TIFIA Application for Federal Credit Assistance, which specifies the number of hard copies (plus original) required for each section of the application as well as those sections of the application requiring electronic versions.

ADDRESSES: Both the letters of interest and completed applications should be submitted to the attention of Ms. Stephanie Kaufman, Office of Budget and Program Performance, Department of Transportation, Room 10105, B-10, 400 Seventh Street, SW., Washington DC, 20590.

FOR FURTHER INFORMATION CONTACT: FHWA: Mr. Max Inman, Office of Budget and Finance, Federal-Aid Financial Management Division, (202) 366-0673; FRA: Ms. JoAnne McGowan, Office of Passenger and Freight Services, Freight Program Division, (202) 493-6390; FTA: Mr. Paul Marx, Office of Policy Development, (202) 366-1675; OST: Ms. Stephanie Kaufman, Office of Budget and Program Performance, (202) 366-9649; Department of Transportation, 400 Seventh Street, SW, Washington, D.C., 20590. Hearing-and speech-impaired persons may use TTY by calling the Federal Information Relay Service at 1-800-877-8339. Additional information, including the TIFIA program guide and application materials, can be obtained from the TIFIA web site at <http://tifia.fhwa.dot.gov>.

SUPPLEMENTARY INFORMATION:**Types of Credit Assistance Available**

The DOT may provide credit assistance in the form of secured (direct) loans, loan guarantees, and lines of credit. These types of credit assistance are defined in 23 U.S.C. 181 and 49 CFR 80.3.

Program Funding and Limitations on Assistance

The TIFIA provides annual funding levels for both total credit amounts (*i.e.*, the total principal amounts that may be committed in the form of direct loans, loan guarantees, or lines of credit) and subsidy amounts (*i.e.*, the amounts of budget authority available to cover the estimated present value of the Government's expected losses associated with the provision of credit instruments, net of any fee income). Funding for the subsidy amounts is provided in the form of budget authority funded from the Highway Trust Fund (other than the Mass Transit Account). Total Federal credit amounts authorized for the TIFIA program in FY 2001 and beyond are \$2.2 billion in FY 2001; \$2.4 billion in FY 2002; and \$2.6 billion in FY 2003. These amounts lapse if not awarded by the end of the fiscal year for which they are provided.

To support these credit amounts, the TIFIA provides budget authority to fund the maximum subsidy amounts of \$110 million in FY 2001; \$120 million in FY 2002; and \$130 million in FY 2003. Of these amounts, the Secretary may use up to \$2 million for each of the fiscal years for administrative expenses. Any budget authority not obligated in the fiscal year for which it is authorized remains available for obligation in subsequent years.

The TIFIA budget authority is subject to an annual obligation limitation that may be established in appropriations law. Like the funding for certain other administrative or allocated programs (not apportioned to the States) that are subject to the annual Federal-aid highway obligation limitation, the amount of TIFIA budget authority that is available to fund credit instruments in a given year may be less than the amount originally authorized for that year. The extent of any budget authority reduction will depend on the ratio of the obligation limitation, which is determined annually in the appropriations process, to the contract authority for the Federal-aid highway program, which was established in TEA-21. The credit amounts authorized in the TIFIA are not subject to this annual reduction.

As noted above, the TIFIA statute provides budget authority of \$110 million for FY 2001. The DOT will determine the amount of net budget authority available in FY 2001 to fund the TIFIA credit assistance program by taking into account unused FY 2000 budget authority, any reductions necessitated by the FY 2001 obligation limitation, and administrative expenses

authorized by the TIFIA statute. The amount of net budget authority available for new TIFIA commitments in FY 2001 also may be affected by new obligations (if any) for projects that received conditional approval in the previous fiscal year and credit subsidy adjustments to obligations for prior TIFIA commitments.

The total amount of Federal credit assistance available for new TIFIA commitments in FY 2001 may be less than the \$2.2 billion authorization level, as a result of contingent TIFIA commitments made in FYs 1999 and 2000.

The amount of credit assistance that may be provided to a project under the TIFIA is limited to not more than 33 percent of eligible project costs.

Eligible Projects

Highway, rail, transit, and "intermodal" projects (including intelligent transportation systems) may receive credit assistance under the TIFIA. See the definition of "project" in 23 U.S.C. 181(9) and 49 CFR 80.3 for a description of eligible projects.

Threshold Criteria

Certain threshold criteria must be met by projects seeking TIFIA assistance. These eligibility criteria are detailed in 23 U.S.C. 182(a) and 49 CFR 80.13.

Rating Opinions

A project sponsor must submit with its application a preliminary rating opinion letter from one or more of the nationally recognized credit rating agencies, as detailed in 23 U.S.C. 182(b)(2)(B) and 49 CFR 80.11. The letter must indicate the reasonable potential for the senior obligations funding the project (those which have a lien senior to that of the TIFIA credit instrument on the pledged security) to receive an investment grade rating. This preliminary rating agency opinion will be based on the financing structure proposed by the project sponsor. A project that does not demonstrate the potential for its senior obligations to receive an investment grade rating will not be considered by the DOT.

The DOT will also use the preliminary rating opinion letter to assess the potential default risk on the requested TIFIA instrument. Therefore, the letter should also provide a preliminary assessment of the strength of either the overall project or the requested TIFIA instrument, whichever assessment best reflects the rating agency's preliminary evaluation of the default risk on the requested TIFIA instrument.

Each project selected for TIFIA credit assistance must obtain an investment grade rating on its senior debt obligations and a revised opinion on the default risk of its TIFIA credit instrument before the DOT will execute a credit agreement and disburse funds.

Application and Selection Process

Each applicant for TIFIA assistance will be required to submit a letter of interest and subsequently an application to the DOT to be considered for approval. The following describes the application process:

1. *Letter of Interest.* Initially, any applicant seeking TIFIA assistance must submit a brief letter of interest to the DOT by Thursday, August 17, 2000. The letter of interest should include a brief project description (including its purpose, basic design features, and estimated capital cost), basic information about the proposed financing for the project (including a preliminary summary of sources and uses of funds and the type and amount of credit assistance requested from the DOT), and a description of the proposed project participants. The letter also should summarize the status of the project's environmental review (*i.e.*, has the project received a Categorical Exclusion, Finding of No Significant Impact, or Record of Decision, or at a minimum, has a draft Environmental Impact Statement been circulated). The letter of interest should not exceed five pages. A multi-modal DOT Credit Program Working Group will review this preliminary submission to ensure that the project meets the most basic requirements for participation in the TIFIA program. The Working Group will then designate a lead modal agency (FHWA, FRA, or FTA) for the project.

2. *Application.* Once approved for further review, the applicant will be notified by a representative from the designated modal agency of its eligibility to submit a formal application. The applicant must submit all required materials (generally described in 49 CFR 80.7 and detailed in the TIFIA application) to the DOT by Wednesday, September 6, 2000. The TIFIA application and additional program information may be obtained from the TIFIA web site at <http://tifa.fhwa.dot.gov> or through one of the program contacts listed in this notice.

3. *Sponsor Presentation.* Each applicant that passes an initial screening of the application for completeness and satisfies the threshold criteria will be invited to make an oral presentation to the DOT on behalf of its project. The DOT plans to schedule presentations within two weeks of the

application deadline, and will discuss the structure and content of the presentation with the applicant at the time of the invitation.

4. *Project Selection.* Based on the application and oral presentation, the DOT will evaluate each project according to specific weights assigned to each of the eight statutory selection criteria described in 23 U.S.C. 182(b) and 49 CFR 80.15 as follows: National or regional significance, 20 percent; creditworthiness, 12.5 percent; private participation, 20 percent; project acceleration, 12.5 percent; use of new technologies, 5 percent; consumption of budget authority, 5 percent; environmental benefits, 20 percent; and reduced Federal grant assistance, 5 percent.

The Secretary of Transportation intends to make final project selections within five to eight weeks of the application deadline.

Fees

For this application cycle, the DOT will require each TIFIA applicant to pay a non-refundable application fee of \$5,000. Checks should be made payable to the Federal Highway Administration. The project sponsor applying for TIFIA assistance must submit this payment by the application deadline of September 6, 2000. There will be no credit processing fee for this application cycle. Selected applicants will, however, be required to pay fees for loan servicing activities associated with their TIFIA credit instruments. For subsequent application cycles, the DOT may adjust the amount of the application fee and may establish a credit processing fee (to recover all or a portion of the costs to the DOT of evaluating applications, selecting projects to receive assistance, and negotiating term sheets and credit agreements) on the basis of its program implementation experience. The DOT will publish these amounts in each **Federal Register** solicitation for applications.

Applicants shall not include application or credit processing fees or any other expenses associated with the application process (such as charges associated with obtaining the required preliminary rating opinion letter) among eligible project costs for the purpose of calculating the maximum 33 percent credit amount.

If there is insufficient budget authority to fund the credit instrument for a qualified project that has been selected to receive assistance under the TIFIA, the DOT and the approved applicant may agree upon a supplemental fee to be paid by or on behalf of the approved applicant at the

time of execution of a term sheet to
reduce the subsidy cost of that project.
No such fee may be included among

eligible project costs for the purpose of
calculating the maximum 33 percent
credit amount.

Dated: July 14, 2000.

Rodney E. Slater,

Secretary, U.S. Department of Transportation.

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