

DATES: Project sponsors may apply for TIFIA assistance at any time if their projects have met the program's threshold requirements. See further discussion under the caption "Application and Selection Process" in this notice.

ADDRESSES: Both letters of interest and completed applications should be submitted to the attention of Mr. Duane Callender, TIFIA Joint Program Office, U.S. Department of Transportation, Room 4301, HABF-50, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: TIFIA Joint Program Office staff: Mr. Duane Callender, (202) 366-9644; Ms. Theresa Stoll, (202) 366-9649; and Mr. Mark Sullivan, (202) 366-5785. TIFIA Joint Program Office staff can be contacted at the above address. Hearing- and speech-impaired persons may use TTY by calling the Federal Information Relay Service at 1-800-877-8339. Additional information, including the current edition of the TIFIA Program Guide and application materials, can be obtained from the TIFIA Web site at <http://tifia.fhwa.dot.gov>.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may also reach the Office of the Federal Register's Home page at: <http://www.archives.gov> and the Government Printing Office's Web page at <http://www.access.gpo.gov/nara>.

Background

The Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 241, created the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA), authorizing the U.S. Department of Transportation (DOT) to provide credit assistance in the form of secured loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. The TIFIA regulations (49 CFR part 80), as well as the TIFIA Program Guide (above), provide specific guidance on the program requirements. The TIFIA Joint Program Office (TIFIA JPO), within the FHWA, has responsibility for coordinating program implementation.

Since funding for this program is limited, the U.S. DOT will evaluate and select projects based on their merits and satisfaction of the TIFIA statutory criteria. For each selected project the

U.S. DOT will issue a term sheet outlining the basic conditions of the credit assistance. Subsequently, the U.S. DOT will negotiate a definitive credit agreement with each selected project sponsor.

Types of Credit Assistance Available

The U.S. DOT may provide credit assistance in the form of secured 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 establishes annual funding ceilings for both total credit assistance (*i.e.*, the total principal amount that may be committed in the form of direct loans, loan guarantees, or lines of credit) and subsidy costs (*i.e.*, the amount 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 costs is provided in the form of budget authority from the Highway Trust Fund (other than the Mass Transit Account).

Total Federal credit assistance authorized for the TIFIA program in FY 2003 is \$2.6 billion. This amount will lapse on September 30, 2003, if unused. For FY 2003 the Congress redirected \$180 million in budget authority originally authorized for TIFIA credit assistance to other programs administered by the FHWA. Accounting for these sums, the TIFIA program has approximately \$72 million in remaining budget authority available to fund subsidy costs in FY 2003. The Congress also has directed the U.S. DOT to use a portion of the available TIFIA budget authority to fund an extension of FHWA's lines of credit with the Transportation Corridor Agencies (TCA) for the San Joaquin Hills and Foothill Eastern toll roads in Orange County, California. Therefore, the ultimate budget authority available for TIFIA in FY 2003 is subject to the cost of extending the TCA line of credit. Any budget authority not obligated in the fiscal year for which it is initially authorized remains available for obligation in subsequent years. In addition, the TIFIA JPO may obligate up to \$2 million each year for expenses, such as the services of external financial and legal advisors, associated with program implementation. Credit assistance that may be provided to a project under TIFIA is limited to not more than 33 percent of eligible project costs.

Eligible Projects

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

Threshold Requirements

Projects seeking TIFIA credit assistance must meet certain threshold requirements. 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 at least one nationally recognized credit rating agency, as detailed in 23 U.S.C. 182(b)(2)(B) and 49 CFR 80.11. The letter must be current, must address the creditworthiness of both the senior debt obligations funding the project (*i.e.*, those which have a lien senior to that of the TIFIA credit instrument on the pledged security) and the TIFIA credit instrument, and must conclude that there is a reasonable probability for the senior debt obligations to receive an investment grade rating. This preliminary rating opinion letter 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 for TIFIA credit assistance.

The TIFIA JPO will use the preliminary rating opinion letter to assess the default risk on the requested TIFIA instrument. Therefore, the letter should provide a preliminary assessment of the financial 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.

Once selected for TIFIA credit assistance, each project must obtain an investment grade rating on its senior debt obligations (which may be the TIFIA credit facility) and a revised opinion on the default risk of its TIFIA credit instrument before the FHWA will execute a credit agreement and disburse funds. More detailed information about these TIFIA credit opinions and ratings may be found in the TIFIA Program Guide. The most current version of the TIFIA Program Guide and application materials can be obtained from the TIFIA Web site.