Chapter 1: Introduction to TIFIA

The Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) established a new federal credit program (referenced hereafter as the TIFIA program) under which the U.S. Department of Transportation (DOT) may provide three forms of credit assistance – secured (direct) loans, loan guarantees, and standby lines of credit – for surface transportation projects of national or regional significance. The program's fundamental goal is to leverage federal funds by attracting substantial private and other non-federal co-investment in critical improvements to the nation's surface transportation system. In all cases, the DOT uses a merit based system to award credit assistance to project sponsors, who may include state departments of transportation, transit operators, special authorities, local governments, and private entities.

This program guide, written for prospective TIFIA recipients, describes how the DOT administers the TIFIA program. This chapter introduces the program's objectives and provides an overview of how the program operates. Chapter 2 details the required terms for individual credit instruments and describes how these instruments are funded. Chapter 3 describes the eligibility requirements concerning types of projects, activities, cost limits, and project sponsors. Chapter 4 describes the process by which project sponsors may apply for TIFIA assistance. Chapter 5 describes the evaluation and selection process that the DOT uses to determine who receives credit assistance. Chapter 6 discusses the contractual documents required and prerequisites for executing such documents. Chapter 7 discusses special issues related to loan guarantees.

This April 2003 program guide and enclosed application (Appendix D) are for use during the federal fiscal year 2003, which concludes September 30, 2003. Notification of future revisions will be made on the TIFIA web site located at http://tifia.fhwa.dot.gov. This web site also provides additional information regarding the TIFIA program.

Legislative Reference

The TIFIA statute appears as sections 1501 through 1504 of the Transportation Equity Act for the 21st Century (TEA 21, Public Law 105-178), as amended by the TEA 21 Restoration Act (Title IX of Public Law 105-206). The substance of the legislation is codified within sections 181 through 189 of title 23 of the U.S. Code (23 U.S.C. 181-189), with supporting regulations appearing in part 80 of title 49 of the Code of Federal Regulations (49 CFR 80). These documents may be referenced in Appendix C of the program guide.

Policy Considerations

The public policy underlying the TIFIA credit program asserts that the federal government can perform a constructive role in supplementing, but not supplanting, existing capital finance markets for large transportation infrastructure projects. Section 1502 of TEA 21 states that "…a federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment." Because the TIFIA program offers credit assistance, rather than grant funding, its potential users are infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources.

Identifying a constructive role for federal credit assistance begins with the acknowledgement that, compared to private investors, the federal government's naturally long-term investment horizon means that it can more readily absorb the relatively short-term risks of project financings. Absent typical capital market investor concerns regarding timing of payments and financial liquidity, the federal government can become the "patient investor" whose long-term view of asset returns enables the project's non-federal financial partners to meet their investment goals, allowing the project's sponsors to complete a favorable financing package.

Funding Levels

The credit program established under TIFIA may provide up to $2.6 billion in federal credit assistance in fiscal year 2003.

Program Administration

Implementation of the TIFIA program is the responsibility of the Secretary of Transportation. A seven-member TIFIA Credit Council, representing the Budget, Policy, Counsel and Intermodal offices within the Office of the Secretary of Transportation (OST) and the Administrators of the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA) and the Federal Railroad Administration (FRA), provides policy direction and makes recommendations to the Secretary regarding the selection of projects for credit assistance.

Staff support to the TIFIA Credit Council is provided by the TIFIA Joint Program Office (TIFIA JPO), which coordinates and manages the day-to-day responsibilities of implementing the program. Recognizing the crosscutting and multi-modal nature of the program, the TIFIA JPO frequently relies on the staff of the DOT's operating agencies and secretarial offices to assist with TIFIA implementation.

Implementation Process

All TIFIA assistance will be awarded based on a project's merits and its satisfaction of TIFIA statutory requirements. The implementation process includes the following steps:

1. Letter of Interest. Each potential applicant must first submit a detailed letter of interest describing the project and outlining the proposed plan of finance, including the requested credit assistance. The DOT will review this preliminary submission to determine whether the project meets the threshold requirements for TIFIA participation and will subsequently contact the project sponsor to review the project's eligibility and readiness to apply for program assistance.

2. Application. A project sponsor may submit an application only after the DOT confirms the project's basic eligibility and readiness. Upon receiving such notification from the DOT, the project sponsor may submit its application package with all required materials. The DOT will not review incomplete applications or applications for projects that do not satisfy TIFIA requirements.

3. Sponsor Presentation. Each project sponsor whose application passes an initial screening for completeness and compliance will be invited to make an oral presentation to the DOT on behalf of the project. The DOT will provide guidance regarding the structure and content of the presentation at the time of the invitation.

4. Project Evaluation. Based upon the written application, the oral presentation, and any supplemental submission of information, DOT staff will prepare a final evaluation and recommendation for the TIFIA Credit Council.

5. Project Selection. The TIFIA Credit Council, in turn, provides a recommendation to the Secretary of Transportation, who then makes the determination to select a project to receive TIFIA assistance. The DOT will not select a project that has yet to satisfy basic criteria such as obtaining environmental clearances.

6. Term Sheet Issuance and Funding Obligation. For each selected project, the DOT will issue a term sheet setting forth certain key business terms and conditions of TIFIA credit assistance. Execution of this document evidences the DOT's commitment, via obligation of budget authority, to fund the credit assistance.

7. Credit Agreement and Disbursements. The credit agreement is the definitive agreement between the DOT and the project sponsor, specifying all terms and conditions of the TIFIA credit assistance and authorizing disbursement of funds. Prior to execution of the credit agreement and subsequent funding disbursements, the project sponsor must satisfy all program requirements – including receipt of an investment grade rating on the project's senior debt obligations. For secured loans, the DOT will disburse funds, according to project needs, on a reimbursable basis for eligible project costs.

Exhibit 1-A shows each of these seven steps as a flow chart.

Exhibit 1-A: Selection and Funding of TIFIA Projects