Executive Summary

The TIFIA Credit Program

As part of its 1998 enactment of the Transportation Equity Act for the 21st Century (TEA 21), Congress established a unique Federal credit program for large transportation projects. Sections 1501 to 1504 of TEA 21, collectively the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA), authorize the Department of Transportation (DOT) to provide three forms of credit assistance – secured (direct) loans, loan guarantees and standby lines of credit – to surface transportation projects of national or regional significance. This Report to Congress fulfills the requirement in TEA 21 to summarize the financial performance of the projects assisted by TIFIA and to discuss alternatives for achieving the program objectives in the future.

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…."[1]

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.

The TIFIA program's pragmatic challenge is to balance the objective of advancing transportation projects with the equally important need to lend prudently and protect the Federal interest. The DOT must apply rigorous credit standards as it fashions assistance to improve the financial prospects of participating projects. The Federal objective is not to minimize its exposure but to optimize its exposure—that is, to take prudent risks in order to leverage Federal resources through attracting private and other non-Federal capital to projects.

The TIFIA program assistance is meant to support expensive, complex and significant transportation investments. In general, a project's eligible costs must be reasonably anticipated to total at least $100 million. Credit assistance is available to highway, transit, passenger rail and multi-modal projects. Other types of eligible projects include intercity passenger rail or bus projects, publicly owned intermodal facilities on or adjacent to the National Highway System, projects that provide ground access to airports or seaports, and surface transportation projects principally involving the installation of Intelligent Transportation Systems (ITS), for which the cost threshold is $30 million. The TIFIA credit assistance is limited to 33 percent of eligible project costs.

[1] TEA 21, Public Law 105-178, June 9, 1998, Section 1502.

Congress has authorized the DOT to provide up to $10.6 billion of TIFIA credit assistance through the TEA 21 authorization period of 1999-2003. From the Highway Trust Fund, Congress authorized $530 million, subject to the annual obligation limitation on Federal-aid appropriations, to pay the subsidy cost of TIFIA credit assistance and related administrative costs. The subsidy cost calculations establish the capital reserves which the DOT must set aside in advance to cover the expected long-term cost to the Government of providing credit assistance, pursuant to the Federal Credit Reform Act of 1990 (FCRA).

Program Implementation

The multi-modal nature of TIFIA project eligibility lends itself to crosscutting program administration. A Credit Council, representing 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. A multi-modal Joint Program Office (JPO) handles the day-to-day management of the TIFIA program.

The DOT's initial solicitation for TIFIA applicants occurred in June 1999. The program accepts applications at any time as long as a project meets the prerequisites for TIFIA consideration.

The DOT has oversight responsibility for all transportation projects assisted with TIFIA funds. This encompasses the entire project life cycle: from credit agreement execution, through project construction and operation, through final repayment and maturity. The goal of TIFIA project oversight and credit monitoring is to protect the Federal interest by managing risks to project delivery and loan repayment.

Project Characteristics and Financial Status

As of March 31, 2002, the DOT has selected 11 projects, representing $15.4 billion in transportation investment, to receive TIFIA credit assistance. The TIFIA commitments total nearly $3.6 billion in credit assistance at a subsidy cost of about $190 million. The DOT has received 32 letters of interest and 15 applications from project sponsors resulting in the 11 selections. All major categories of eligible projects – highway, transit, passenger rail and multi-modal – have sought and received credit assistance. The TIFIA credit assistance ranges in size for each project, from $73.5 million to $800 million, mostly in the form of direct Federal loans from the DOT to the project sponsors.

Already limited by statute to 33 percent of total project costs, actual TIFIA assistance has averaged 23 percent of project costs. Including grant assistance, total Federal investment in TIFIA projects amounts to 43 percent of total costs. Investments from other government and private sources comprise the remaining 57 percent.

The DOT formalizes its project selection via a term sheet, describing the basic terms of the credit commitment, which obligates the Federal funds. Five projects have since executed final credit agreements that contain all terms and conditions of the assistance, including the disbursement and repayment schedules. The precise timing of disbursements depends on the project's construction schedule and the relative availability and cost of other funding sources. For example, if the interest rate on other borrowed funds is less than the rate on the TIFIA debt, the project sponsor will likely draw these cheaper funds

earlier (and the TIFIA funds later) in order to reduce overall borrowing costs. To date, the TIFIA program has disbursed funds to two projects in the amount of $344 million.

The revenues pledged to repay TIFIA are comprised of user charges, local taxes and other dedicated revenues. The one TIFIA borrower whose scheduled repayments have begun is current on all obligations.

Attainment of Key Program Objectives

In establishing TIFIA, Congress found 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 credit assistance requires a small fraction of the contract authority needed to provide a similar amount of grant assistance, TIFIA promotes a cost-effective use of Federal resources to encourage co-investment in transportation infrastructure. Federal grant funds that otherwise might be required to support these large projects can then be redirected toward smaller but critical infrastructure investments.

A TIFIA commitment can be especially important for project credits that need assistance to reach the "investment grade" status required for broad access to capital market investors. Within the TIFIA portfolio, the user-backed financings (tolls, transaction fees, real estate revenues, etc.) mainly comprise the projects most in need of assistance to reach the capital markets. In all, six TIFIA project selections appear to meet the program's special emphasis of assisting lower-rated credits with new or untested revenue streams. For borderline investment grade projects, the replacement of some senior debt with subordinate TIFIA debt can help the remaining senior bonds reach investment grade status, thus enabling the financing to proceed. The use of TIFIA as a subordinate lender is predicated on the Federal Government's unique ability to be a patient investor in public infrastructure. In these transactions, TIFIA assistance may provide significant or even decisive enhancement in facilitating capital market access.

An explicit goal of the TIFIA program is to induce private investment in transportation infrastructure. Private co-investment in the TIFIA project selections totals about $3.1 billion, comprised of more than $3 billion in debt (including state and local debt held by private investors) and nearly $100 million in equity. This co-investment totals approximately 20 percent of the nearly $15.4 billion in total costs.

The broad project eligibilities and flexible financial provisions in TIFIA have enabled the DOT to assist projects in meaningful ways other than facilitating market access. Project sponsors of higher-rated credits have found that TIFIA assistance can reduce costs, coalesce support and help remove other barriers in advancing projects.

Comparing total capital investment to the total budgetary cost of Federal credit and grant assistance, the TIFIA portfolio represents nearly five dollars in total investment for each dollar of Federal investment. This Federal cost leverage ratio of 4.80 for TIFIA projects compares favorably with the leverage ratio of 1.25 for a Federal-aid project receiving 80 percent of its funding from Federal grant sources.

Credit Issues

In general, the DOT safeguards its financial position best when the risks borne by senior investors and the TIFIA program are shared.

In a project financing with multiple creditors, the DOT is willing to assume a subordinate lien on revenues pledged to repay debt. The TIFIA program departs from typical senior/subordinate debt structures, however, because of the TIFIA statute's provision that the DOT's claim must be on parity with senior bondholders in the event of bankruptcy, insolvency or liquidation of the project obligor. This non-subordination requirement has generated much discussion in the financial community regarding TIFIA's ultimate benefit to a project's senior debt rating.

As a patient investor, the DOT is willing to align its repayment schedule more closely to a project's economics than may be typical in the capital markets. The clearest instance to consider such "back loading" is for a project supported by user fees that will generate a stable revenue stream only upon completion of construction and the conclusion of its "ramp up" period.

One of TIFIA's key financial disciplines is the requirement that a project's senior debt be rated in the investment grade category, but this offers security to the DOT only if the same repayment source is being pledged to both the senior debt obligations and the subordinate TIFIA credit instrument. In such a structure, the investment grade rating for senior debt helps the DOT evaluate its credit risk as a subordinate lender; although the TIFIA instrument itself may be sub-investment grade, the higher rating on the senior debt indicates that the project's overall risk profile is manageable.

Recommendation for Achieving Program Objectives

The DOT believes that a limited number of large surface transportation projects each year will have a need for the types of credit instruments offered under TIFIA. Project sponsors and DOT staff are still learning how best to utilize this credit assistance, and Congressional guidance and dialogue during this evolutionary program period offers mutual benefits.

As stated in the Conference Report accompanying TEA 21 and TIFIA, "[a] n objective of the program is to help the financial markets develop the capability ultimately to supplant the role of the Federal Government in helping finance the costs of large projects of national significance." The current form of TIFIA administration – within a Federal agency subject to regular budget oversight – enables policymakers to monitor program performance as staff, sponsors and the financial markets gain experience. As current TIFIA projects move into their construction, operation and repayment phases, and as additional projects obtain TIFIA assistance, policymakers will acquire better information with which to determine whether TIFIA should remain within the DOT, "spin off" into a Government corporation or Government sponsored enterprise, or phase out entirely and rely on the capital markets to meet the program's objectives.