

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. O'Neill, Planning and Program Management Team Leader, FHWA—Tennessee Division Office, 404 BNA Drive-Suite 508 Nashville, TN 37217. Phone: (615) 781-5770.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Tennessee Department of Transportation, is rescinding the Notice to prepare a Supplemental EIS on a Proposal to extend SR 374 in Clarksville, Montgomery County, Tennessee. A Draft EIS for the extension of SR 374 from SR 13 to SR 76 in Clarksville was approved in March 2000. A Supplemental EIS was being prepared to bring the original EIS into compliance with current environmental laws and regulations. After initiating the Supplemental EIS, it was determined that the proposed project's potential impacts are not expected to be substantial; therefore, preparation of an EIS is not warranted. An Environmental Assessment (EA) documenting the potential social, economic, and environmental effects of the proposed project will be prepared in accordance with the National Environmental Policy Act (NEPA) and applicable environmental laws and regulations. The EA will evaluate the potential effects of the No Build Alternative and the Build Alternative, which is based on Alternative C from the original EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA contact person identified above at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed program.)

Charles J. O'Neill,
Planning and Program Management Team
Leader, Nashville, TN.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Office of the Secretary

Federal Railroad Administration

Federal Transit Administration

Maritime Administration

[Docket No. FHWA-2010-0154]

Notice of Funding Availability for Applications for Credit Assistance Under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program

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

ACTION: Notice of funding availability.

SUMMARY: The DOT's TIFIA Joint Program Office (JPO) announces the availability of funding to support new applications for credit assistance. Under TIFIA, the DOT provides secured (direct) loans, lines of credit, and loan guarantees to public and private applicants for eligible surface transportation projects of regional or national significance. Projects must meet statutorily specified criteria to be selected for credit assistance.

Because demand for the TIFIA program can exceed budgetary resources, the DOT is utilizing periodic fixed-date solicitations that will establish a competitive group of projects to be evaluated against the program objectives. This notice outlines the process that applicants must follow.

DATES: For consideration, Letters of Interest must be submitted electronically via e-mail by 4:30 p.m. EST on February 18, 2011, using the revised form on the TIFIA Web site: http://www.fhwa.dot.gov/ipd/tifia/guidance_applications/index.htm. Applicants that have previously submitted Letters of Interest must resubmit an updated letter as outlined below.

The application due date will be established after consultation between the TIFIA JPO and the applicant.

ADDRESSES: Submit all Letters of Interest to the attention of Mr. Duane Callender at: TIFIACredit@dot.gov. Submitters should receive a confirmation e-mail, but are advised to request a return receipt to confirm transmission. Only

Letters of Interest received via e-mail, as provided above, shall be deemed properly filed.

FOR FURTHER INFORMATION CONTACT: For further information regarding this notice please contact Duane Callender via e-mail at TIFIACredit@dot.gov or via telephone at 202-366-9644. A TDD is available at 202-366-7687. Substantial information, including the TIFIA Program Guide and application materials, can be obtained from the TIFIA Web site: <http://www.fhwa.dot.gov/ipd/tifia/>.

SUPPLEMENTARY INFORMATION:

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I. Background

The Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 241, (as amended by sections 1601-02 of Pub. L. 109-59) established the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA), authorizing the DOT to provide credit assistance in the form of secured (direct) loans, lines of credit, and loan guarantees to public and private applicants for eligible surface transportation projects. The TIFIA regulations (49 CFR part 80) provide specific guidance on the program requirements.¹ On January 5, 2001, at 65 FR 2827, the Secretary of Transportation (Secretary) delegated to the FHWA the authority to act as the Executive Agent for the TIFIA program (49 CFR 1.48(b)(6)). The TIFIA JPO, an organizational unit in the FHWA Office of Innovative Program Delivery, has responsibility for coordinating program implementation.

II. Eligible Projects

Highway, passenger rail, transit, bridge, intermodal projects, and intelligent transportation systems may receive credit assistance under TIFIA. Additionally, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144) enacted in 2005 expanded eligibility to private rail facilities providing public benefit to

¹ The TIFIA regulations have not been updated to reflect changes enacted in Public Law 109-59, SAFETEA-LU. Where the statute and the regulation conflict, the statute takes precedence. See the TIFIA Program Guide for updated program information.

highway users and surface transportation infrastructure modifications necessary to facilitate direct intermodal transfer and access into and out of a port terminal. See the revised definition of "project" in 23 U.S.C. 601(a)(8) and Chapter 3 of the TIFIA Program Guide for a description of eligible projects (http://www.fhwa.dot.gov/ipd/tifia/guidance_applications/index.htm).

III. Types of Credit Assistance

The DOT may provide credit assistance in the form of secured (direct) loans, lines of credit, and loan guarantees. These types of credit assistance are defined in 23 U.S.C. 601 and 49 CFR 80.3. Subject to certain conditions, the TIFIA credit facility can hold a subordinate lien on pledged revenues. The maximum amount of TIFIA credit assistance to a project is 33 percent of eligible project costs.

IV. Threshold Requirements

Projects seeking TIFIA assistance must meet certain statutory threshold requirements. Generally, the minimum size for TIFIA projects is \$50 million of eligible project costs; however, the minimum size for TIFIA projects principally involving the installation of an intelligent transportation system is \$15 million. Each project seeking TIFIA assistance must apply to the DOT, and must satisfy the applicable State and local transportation planning requirements. Each application must identify a dedicated revenue source to repay the TIFIA loan, and each private applicant must receive public approval for its project as demonstrated by satisfaction of the applicable planning and programming requirements. These eligibility requirements are detailed in 23 U.S.C. 602(a) and Chapter 3 of the TIFIA Program Guide (http://www.fhwa.dot.gov/ipd/tifia/guidance_applications/index.htm).

V. Rating Opinions

The senior debt obligations for each project receiving TIFIA credit assistance must obtain an investment grade rating from at least one nationally recognized credit rating agency, as defined in 23 U.S.C. 601(a)(10) and 49 CFR 80.3. If the TIFIA credit instrument is proposed as the senior debt, then it must receive the investment grade rating.

To demonstrate this potential, each application must include a preliminary rating opinion letter from a credit rating agency that addresses the creditworthiness of the senior debt obligations funding the project (*i.e.*, debt obligations which have a lien senior to that of the TIFIA credit instrument on

the pledged security) and the default risk of the TIFIA credit instrument. The preliminary rating opinion letter must be based on the financing structure proposed by the applicant and must also conclude that there is a reasonable probability for the senior debt obligations to receive an investment grade rating. 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.

Letters of Interest submitted pursuant to this notice do not need to include the preliminary rating opinion letter. Only those invited to submit applications will be required to obtain the preliminary rating opinion letter.

Each project selected for TIFIA credit assistance 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 the 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 Program Guide on the TIFIA Web site at http://www.fhwa.dot.gov/ipd/tifia/guidance_applications/index.htm.

VI. Letters of Interest and Applications

Because the demand for credit assistance can exceed budgetary resources, the DOT is utilizing periodic fixed-date solicitations that will establish a competitive group of projects to be evaluated against the TIFIA program objectives.

Applicants seeking TIFIA credit assistance must submit a Letter of Interest describing the project fundamentals and addressing the TIFIA selection criteria. For consideration in this funding cycle, Letters of Interest must be submitted by 4:30 p.m. EST via e-mail at: TIFIAcredit@dot.gov on February 18, 2011, using the revised form on the TIFIA Web site: http://www.fhwa.dot.gov/ipd/tifia/guidance_applications/index.htm.

Applicants that have previously submitted Letters of Interest must resubmit an updated letter using the revised form. For the purpose of completing its evaluation, the TIFIA JPO staff may contact an applicant regarding specific information in the Letter of Interest.

A public agency that seeks access to TIFIA on behalf of multiple competitors for a project concession must submit the project's Letter of Interest. Although the public agency would not become the TIFIA borrower, nor even have yet identified the TIFIA applicant, it must

provide information sufficient for the DOT to evaluate the project against the TIFIA program objectives. The DOT will not consider Letters of Interest from entities that have not obtained rights to develop the project.

After concluding its review of the Letters of Interest, the DOT will invite complete applications (including the preliminary rating opinion letter and detailed plan of finance) for the highest-rated projects according to the selection criteria detailed in Section VIII below. The application due date will be established after consultation between the TIFIA JPO and the applicant.

An invitation to apply for credit assistance does not guarantee the DOT's approval, which will remain subject to evaluation based on TIFIA's statutory credit requirements and established standards in addition to the successful negotiation of all terms and conditions.

VII. Fees

There is no fee to submit a Letter of Interest. Unless otherwise indicated in a subsequent notice published in the **Federal Register**, each invited applicant must submit, concurrent with its application, a non-refundable fee of \$50,000, an amount based on historical costs incurred by the TIFIA JPO for financial advisory services to help evaluate TIFIA applications. The FHWA no longer accepts paper checks. Payments should be made via Automated Clearing House, at <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=18446839>. For successful applicants, this fee will be credited toward final payment of a credit processing fee (also referred to as a transaction fee), to be assessed at financial close, to reimburse the TIFIA JPO for actual financial and legal costs.

For projects that enter credit negotiations, the DOT will require the borrower to pay at closing or within a specified period following closing, upon invoicing by the TIFIA JPO, an amount equal to the actual costs incurred by the TIFIA JPO in procuring the assistance of outside financial advisors and legal counsel through execution of the credit agreement(s) and satisfaction of all funding requirements of those agreements. In the event a final credit agreement is not executed, the borrower is still required to reimburse the DOT for the costs incurred. Typically, the amount of this credit processing fee has ranged from \$200,000 to \$300,000, although it has been greater for projects that require complex financial structures and extended negotiations.

The TIFIA JPO charges each borrower an annual fee for loan servicing

activities associated with each TIFIA credit instrument. The current fee, adjusted annually per the Consumer Price Index, is \$11,500 per year.

Finally, the TIFIA credit agreements will allow the TIFIA JPO to charge, as incurred, a monitoring fee equal to its costs of outside advisory services required to assist the TIFIA JPO in modifying or enforcing the agreement.

Applicants may not include any of the fees described above—or any 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.

VIII. Selection Criteria

The eight TIFIA selection criteria are described in statute at 23 U.S.C. 602(b) and assigned relative weights via regulation at 49 CFR 80.15. The criteria are restated below with (where appropriate) language indicating how the DOT will interpret them. The DOT will give priority to projects that have a significant impact on desirable long-term outcomes for the Nation, a metropolitan area, or a region.

Listed in order of relative weight, the TIFIA selection criteria are as follows:

(i) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system. This includes consideration of livability: Providing transportation options that are linked with housing and commercial development to improve the economic opportunities and quality of life for people in communities across the U.S.; economic competitiveness: Contributing to the economic competitiveness of the U.S. by improving the long-term efficiency and reliability in the movement of people and goods; and safety: Improving the safety of U.S. transportation facilities and systems and the communities and populations they impact. Relative weight: 20 percent.

(ii) The extent to which TIFIA assistance would foster innovative public-private partnerships and attract private debt or equity investment. Relative weight: 20 percent.

(iii) The extent to which the project helps maintain or protect the environment. This includes sustainability: Improving energy efficiency, reducing dependence on oil, reducing greenhouse gas emissions, and reducing other transportation-related impacts on ecosystems; and the state of good repair: Improving the condition of

existing transportation facilities and systems, with particular emphasis on projects that minimize lifecycle costs and use environmentally sustainable practices and materials. Relative weight: 20 Percent.

(iv) The creditworthiness of the project, including a determination by the Secretary of Transportation that any financing for the project has appropriate security features to ensure repayment. Relative weight: 12.5 Percent.

(v) The likelihood that TIFIA assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. Relative weight: 12.5 Percent.

(vi) The extent to which the project uses new technologies, including intelligent transportation systems, to enhance the efficiency of the project. Relative weight: 5 Percent.

(vii) The amount of budget authority required to fund the Federal credit instrument made available under TIFIA. Relative weight: 5 Percent.

(viii) The extent to which TIFIA assistance would reduce the contribution of Federal grant assistance to the project. Relative weight: 5 Percent.

Note that, when evaluating the Letters of Interest, the information needed to address criterion (iv), creditworthiness, and criterion (vii), budget authority, is unlikely to be available in sufficient detail. Therefore, the DOT will not employ these two criteria when reviewing the Letters of Interest. However, DOT will consider these criteria when reviewing project applications.

IX. Program Funding

The SAFETEA-LU authorized \$122 million annually from the Highway Trust Fund for fiscal years 2005–2009 in TIFIA budget authority to pay the subsidy cost of credit assistance. As of the publication date of this notice, extensions of the surface transportation reauthorization act have been enacted continuing highway programs that were authorized through fiscal year 2009, and the expectation is that Congress will reauthorize an equivalent amount of budget authority for the TIFIA program in the future. 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 all funds subject to the annual Federal-aid obligation ceiling, the amount of TIFIA budget authority available in a given year may be less than the amount authorized for that fiscal year.

Consistent with the Federal Credit Reform Act of 1990 and the requirements of the Office of Management and Budget, the subsidy cost of a loan is affected by recovery assumptions, allowance for defaults, the borrower's interest rate, and fees. The factors that most heavily influence the subsidy cost of a TIFIA loan fall into the recoveries category (for example, the repayment pledge and whether the debt is senior or subordinate) and the allowance for defaults category (including the credit rating on the debt and the degree of back-loading). The borrower's interest rate will also affect the subsidy cost of the TIFIA loan. The final subsidy cost estimate is expressed as a percentage of the principal amount of the credit assistance.

Authority: 23 U.S.C. 601–609; 49 CFR 1.48(b)(6); 23 CFR Part 180; 49 CFR Part 80; 49 CFR Part 261; 49 CFR Part 640.

Issued on: January 12, 2011.

Victor M. Mendez,

Federal Highway Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Value Pricing Pilot Program Participation, Fiscal Years 2010 and 2011

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of extension of deadline.

SUMMARY: The FHWA is extending the deadline for formal grant applications for the Value Pricing Pilot (VPP) program, which was published on October 19, 2010, at 75 FR 64397. The original deadline for formal grant applications was January 18, 2011. This notice extends the deadline by 15 calendar days to February 2, 2011.

DATES: Formal grant applications must be submitted no later than 5 p.m., Eastern, on February 2, 2011.

Application Submission: Grant applications may be submitted through <http://www.grants.gov>. Applications for tolling authority only should be submitted through an expression of interest at the following Web site: http://ops.fhwa.dot.gov/tolling_pricing/participation.htm.

FOR FURTHER INFORMATION CONTACT: For questions about this notice or for general questions related to the VPP program, please contact Ms. Angela Jacobs, FHWA Office of Operations, at (202) 366–0076, angela.jacobs@dot.gov.