

loan under the expedited decision process under this paragraph a written notice informing the applicant whether the Secretary has approved or disapproved the application by not later than 180 days after the date on which the Secretary submits to the applicant a letter indicating that the National Surface Transportation Innovative Finance Bureau has commenced the creditworthiness review of the project.

(Added Pub. L. 105-178, title I, §1503(a), June 9, 1998, 112 Stat. 245, §183; renumbered §603 and amended Pub. L. 109-59, title I, §§1601(d), 1602(b)(3), (5), (d), Aug. 10, 2005, 119 Stat. 1240, 1247; Pub. L. 112-141, div. A, title II, §2002, July 6, 2012, 126 Stat. 614; Pub. L. 114-94, div. A, title II, §2001(c), Dec. 4, 2015, 129 Stat. 1442; Pub. L. 117-58, div. A, title II, §12001(e), (f), (h), Nov. 15, 2021, 135 Stat. 619.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021 and the date of enactment of this paragraph, referred to in subsecs. (c)(4)(A)(ii) and (f)(3)(A), are the date of enactment of div. A of Pub. L. 117-58, which was approved Nov. 15, 2021.

The date of enactment of the FAST Act, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

The National Environmental Policy Act of 1969, referred to in subsec. (f)(3)(B)(v), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (b)(5)(A). Pub. L. 117-58, §12001(e)(1), substituted “subparagraphs (B) and (C)” for “subparagraph (B)” in introductory provisions.

Subsec. (b)(5)(C). Pub. L. 117-58, §12001(e)(2), added subpar. (C).

Subsec. (c)(4)(A). Pub. L. 117-58, §12001(f), designated existing provisions as cl. (i), inserted heading, substituted “Except as provided in clause (ii), any excess” for “Any excess”, and added cl. (ii).

Subsec. (f)(3). Pub. L. 117-58, §12001(h), added par. (3).

2015—Subsec. (a)(2). Pub. L. 114-94, §2001(c)(1), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.”

Subsec. (b)(2). Pub. L. 114-94, §2001(c)(2)(A), designated existing provisions as subpar. (A), inserted subpar. (A) heading, substituted “Except as provided in subparagraph (B), the amount of” for “The amount of”, and added subpar. (B).

Subsec. (b)(3)(A)(i)(V). Pub. L. 114-94, §2001(c)(2)(B), added subcl. (V).

Subsec. (b)(4)(B)(i). Pub. L. 114-94, §2001(c)(2)(C)(i), substituted “or a rural projects fund under the TIFIA program” for “under this chapter”.

Subsec. (b)(4)(B)(ii). Pub. L. 114-94, §2001(c)(2)(C)(ii), inserted “and rural project funds” after “rural infrastructure projects”.

Subsec. (b)(5). Pub. L. 114-94, §2001(c)(2)(D), designated existing provisions as subpar. (A) and inserted heading, substituted “Except as provided in subparagraph (B), the final” for “The final”, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and added subpar. (B).

Subsec. (b)(8). Pub. L. 114-94, §2001(c)(2)(E), substituted “the TIFIA program” for “this chapter”.

Subsec. (b)(9). Pub. L. 114-94, §2001(c)(2)(F), designated existing provisions as subpar. (A) and inserted heading, substituted “The total Federal assistance provided for a project receiving a loan under the TIFIA program” for “The total Federal assistance provided on a project receiving a loan under this chapter”, and added subpar. (B).

Subsec. (f). Pub. L. 114-94, §2001(c)(3), added subsec. (f).

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to secured loans.

2005—Pub. L. 109-59, §1602(d), renumbered section 183 of this title as this section.

Subsec. (a)(1). Pub. L. 109-59, §1601(d)(1), in subpars. (A) and (B) inserted “of any project selected under section 602” after “costs”, added subpar. (C), and struck out concluding provisions which read as follows: “of any project selected under section 182.”

Subsec. (a)(3). Pub. L. 109-59, §1602(b)(3), substituted “602(b)(2)(B)” for “182(b)(2)(B)”.

Subsec. (a)(4). Pub. L. 109-59, §1601(d)(2), substituted “The execution” for “The funding” and struck out before period at end “, except that—

“(A) the Secretary may fund an amount of the secured loan not to exceed the capital reserve subsidy amount determined under paragraph (3) prior to the obligations receiving an investment-grade rating; and

“(B) the Secretary may fund the remaining portion of the secured loan only after the obligations have received an investment-grade rating by at least 1 rating agency”.

Subsec. (b)(2). Pub. L. 109-59, §1601(d)(3)(A), inserted “the lesser of” before “33 percent” and “or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations” before period at end.

Subsec. (b)(3)(A)(i). Pub. L. 109-59, §1601(d)(3)(B), inserted “that also secure the senior project obligations” after “sources”.

Subsec. (b)(4). Pub. L. 109-59, §1601(d)(3)(C), struck out “marketable” before “United States Treasury securities”.

Subsec. (b)(8). Pub. L. 109-59, §1602(b)(5), substituted “this chapter” for “this subchapter”.

Subsec. (c)(3) to (5). Pub. L. 109-59, §1601(d)(4), redesignated pars. (4) and (5) as (3) and (4), respectively, in par. (3)(A), struck out “during the 10 years” after “at any time”, in par. (3)(B)(ii), substituted “loan” for “loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1)”, and struck out heading and text of former par. (3). Text read as follows: “The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§ 604. Lines of credit

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into

agreements to make available to 1 or more obligors lines of credit in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(3), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account the rating opinion letter.

(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the senior obligations of the project receiving an investment-grade rating from 2 rating agencies.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

(2) MAXIMUM AMOUNTS.—The total amount of a line of credit under this section shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) DRAWS.—Any draw on a line of credit under this section shall—

(A) represent a direct loan; and

(B) be made only if net revenues from the project (including capitalized interest, but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

(4) INTEREST RATE.—Except as provided in subparagraphs (B) and (C) of section 603(b)(4), the interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities, as of the date of execution of the line of credit agreement.

(5) SECURITY.—A line of credit issued under this section—

(A) shall—

(i) be payable, in whole or in part, from—

(I) tolls;

(II) user fees;

(III) payments owing to the obligor under a public-private partnership; or

(IV) other dedicated revenue sources that also secure the senior project obligations; and

(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The full amount of a line of credit under this section, to the extent not drawn upon, shall be available during the 10-year period beginning on the date of substantial completion of the project.

(7) RIGHTS OF THIRD-PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on a line of credit under this section.

(B) ASSIGNMENT.—An obligor may assign a line of credit under this section to—

(i) 1 or more lenders; or

(ii) a trustee on the behalf of such a lender.

(8) NONSUBORDINATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) PRE-EXISTING INDENTURE.—

(i) IN GENERAL.—The Secretary shall waive the requirement of subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a pre-existing indenture, if—

(I) the line of credit is rated in the A category or higher;

(II) the TIFIA program loan resulting from a draw on the line of credit is payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

(III) the TIFIA program share of eligible project costs is 33 percent or less.

(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 603 in an amount that, combined with the amount of the line of credit, exceeds 49 percent of eligible project costs.

(c) REPAYMENT.—

(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on—

(A) the projected cash flow from project revenues and other repayment sources; and

(B) the useful life of the asset being financed.

(2) **TIMING.**—All repayments of principal or interest on a direct loan under this section shall be scheduled—

(A) to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6); and

(B) to conclude, with full repayment of principal and interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

(Added Pub. L. 105-178, title I, §1503(a), June 9, 1998, 112 Stat. 247, §184; renumbered §604 and amended Pub. L. 109-59, title I, §§1601(e), 1602(b)(4), (d), Aug. 10, 2005, 119 Stat. 1241, 1247; Pub. L. 112-141, div. A, title II, §2002, July 6, 2012, 126 Stat. 617.)

Editorial Notes

AMENDMENTS

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to lines of credit.

2005—Pub. L. 109-59, §1602(d), renumbered section 184 of this title as this section.

Subsec. (a)(1). Pub. L. 109-59, §1602(b)(4)(A), substituted “602” for “182”.

Subsec. (a)(3). Pub. L. 109-59, §1602(b)(4)(B), substituted “602(b)(2)(B)” for “182(b)(2)(B)”.

Subsec. (b)(2). Pub. L. 109-59, §1601(e)(1)(A), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

“(A) **TOTAL AMOUNT.**—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

“(B) **1-YEAR DRAWS.**—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.”

Subsec. (b)(3). Pub. L. 109-59, §1601(e)(1)(B), substituted “but not including reasonably required financing reserves” for “, any debt service reserve fund, and any other available reserve”.

Subsec. (b)(4). Pub. L. 109-59, §1601(e)(1)(C), struck out “marketable” before “United States Treasury securities” and substituted “date of execution of the line of credit agreement” for “date on which the line of credit is obligated”.

Subsec. (b)(5)(A)(i). Pub. L. 109-59, §1601(e)(1)(D), inserted “that also secure the senior project obligations” after “sources”.

Subsec. (b)(6). Pub. L. 109-59, §1601(e)(1)(E), substituted “The full amount of the line of credit, to the extent not drawn upon,” for “The line of credit”.

Subsec. (b)(10). Pub. L. 109-59, §1602(b)(4)(C), substituted “603” for “183”.

Subsec. (c)(2). Pub. L. 109-59, §1601(e)(2)(A), struck out “scheduled” before “repayments”, inserted “be scheduled to” after “shall”, and substituted “to conclude, with full repayment of principal and interest,” for “be fully repaid, with interest,”.

Subsec. (c)(3). Pub. L. 109-59, §1601(e)(2)(B), struck out heading and text of par. (3). Text read as follows: “The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§ 605. Program administration

(a) **REQUIREMENT.**—The Secretary shall establish a uniform system to service the Federal credit instruments made available under the TIFIA program.

(b) **FEES.**—The Secretary may collect and spend fees, contingent on authority being provided in appropriations Acts, at a level that is sufficient to cover—

(1) the costs of services of expert firms retained pursuant to subsection (d); and

(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

(c) **SERVICER.**—

(1) **IN GENERAL.**—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

(2) **DUTIES.**—A servicer appointed under paragraph (1) shall act as the agent for the Secretary.

(3) **FEE.**—A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Secretary.

(d) **ASSISTANCE FROM EXPERT FIRMS.**—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

(e) **EXPEDITED PROCESSING.**—The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under the TIFIA program.

(f) **ASSISTANCE TO SMALL PROJECTS.**—

(1) **RESERVATION OF FUNDS.**—Of the funds made available to carry out the TIFIA program for each fiscal year, and after the set aside under section 608(a)(6), not less than \$2,000,000 shall be made available for the Secretary to use in lieu of fees collected under subsection (b) for projects under the TIFIA program having eligible project costs that are reasonably anticipated not to equal or exceed \$75,000,000.

(2) **RELEASE OF FUNDS.**—Any funds not used under paragraph (1) in a fiscal year shall be made available on October 1 of the following fiscal year to provide credit assistance to any project under the TIFIA program.

(Added Pub. L. 105-178, title I, §1503(a), June 9, 1998, 112 Stat. 249, §185; renumbered §605 and amended Pub. L. 109-59, title I, §§1601(f), 1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1241, 1247; Pub. L. 112-141, div. A, title II, §2002, July 6, 2012, 126 Stat. 619; Pub. L. 114-94, div. A, title II, §2001(d), Dec. 4, 2015, 129 Stat. 1443; Pub. L. 117-58, div. A, title II, §12001(i)(2), Nov. 15, 2021, 135 Stat. 621.)

Editorial Notes

AMENDMENTS

2021—Subsec. (f)(1). Pub. L. 117-58 substituted “section 608(a)(6)” for “section 608(a)(5)”.

2015—Subsecs. (a), (e). Pub. L. 114-94, §2001(d)(1), substituted “the TIFIA program” for “this chapter”.

Subsec. (f). Pub. L. 114-94, §2001(d)(2), added subsec. (f).

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to program administration, consisting of subsecs. (a) to (d).