

## § 79.7

### § 79.7 Award.

If the Secretary of Transportation decides that it is warranted, the Secretary shall award the Medal on behalf of and in the name of the President of the United States.

### § 79.9 Design.

The Department is authorized to adopt and revise the existing designs for the award, rosette, and ribbon provided for by statute.

## PART 80—CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

Sec.

- 80.1 Purpose.
- 80.3 Definitions.
- 80.5 Limitations on assistance.
- 80.7 Application process.
- 80.9 Federal requirements.
- 80.11 Investment-grade ratings.
- 80.13 Threshold criteria.
- 80.15 Selection criteria.
- 80.17 Fees.
- 80.19 Reporting requirements.
- 80.21 Use of administrative offset.

AUTHORITY: Secs. 1501 *et seq.*, Pub. L. 105-178, 112 Stat. 107, 241, as amended; 23 U.S.C. 181-189 and 315; 49 CFR 1.48, 1.49, and 1.51.

SOURCE: 64 FR 29750, June 2, 1999, unless otherwise noted.

### § 80.1 Purpose.

This part implements a Federal credit assistance program for surface transportation projects.

### § 80.3 Definitions.

The following definitions apply to this part:

*Administrative offset* means the right of the government to apply moneys held by the government and otherwise owed to a debtor for the extinguishment of claims due the government from the debtor.

*Conditional term sheet* means a contractual agreement between the U.S. Department of Transportation (DOT) and the project sponsor (and the lender, if applicable) by which the DOT reserves TIFIA funding for a specific project and commits to providing Federal credit assistance to that project at a future point in time upon satisfaction of specified conditions and subject

## 49 CFR Subtitle A (10-1-10 Edition)

to the future availability of obligation authority. The DOT will not legally obligate budget authority until those conditions are met. Upon satisfaction of those conditions, the conditional term sheet can be amended and/or restated to trigger an obligation of funds.

*Credit agreement* means a contractual agreement between the DOT and the project sponsor (and the lender, if applicable) that formalizes the terms and conditions established in the term sheet (or conditional term sheet) and authorizes the execution of a secured loan, loan guarantee, or line of credit.

*Eligible project costs* mean amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of:

(1) Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other pre-construction activities;

(2) Construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(3) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

*Federal credit instrument* means a secured loan, loan guarantee, or line of credit authorized to be made available under this subchapter with respect to a project.

*Investment-grade rating* means a rating category of BBB minus, Baa3, or higher assigned by a rating agency to project obligations offered into the capital markets.

*Lender* means any non-Federal qualified institutional buyer (as defined in 17 CFR 230.144A(a)), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), including:

(1) A qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986, 26 U.S.C. 4974(c))

that is a qualified institutional buyer; and

(2) A governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986, 26 U.S.C. 414(d)) that is a qualified institutional buyer.

*Line of credit* means an agreement entered into by the Secretary with an obligor under section 184 of title 23 to provide a direct loan at a future date upon the occurrence of certain events.

*Loan guarantee* means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

*Local servicer* means:

(1) A State infrastructure bank established under title 23; or

(2) A State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

*Obligor* means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

*Project* means:

(1) Any surface transportation project eligible for Federal assistance under title 23 or chapter 53 of title 49;

(2) A project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

(3) A project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation, and components of magnetic levitation transportation systems; and

(4) A project for publicly owned intermodal surface freight transfer facilities, other than seaports and airports, if the facilities are located on or adjacent to National Highway System routes or connections to the National Highway System.

*Project obligation* means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

*Project sponsor*, for the purposes of this part, means an applicant for TIFIA assistance or an obligor, as appropriate.

*Rating agency* means a bond rating agency identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization.

*Secured loan* means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 183 of title 23.

*State* means any one of the fifty states, the District of Columbia, or Puerto Rico.

*Subsidy amount* means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 *et seq.*).

*Substantial completion* means the opening of a project to vehicular or passenger traffic or a comparable event as determined by the Secretary and specified in the credit agreement.

*Term sheet* means a contractual agreement between the DOT and the project sponsor (and the lender, if applicable) that sets forth the key business terms and conditions of a Federal credit instrument. Execution of this document represents a legal obligation of budget authority.

*TIFIA* means the Transportation Infrastructure Finance and Innovation Act of 1998, Pub. L. 105-178, 112 Stat. 107, 241 (1998).

[64 FR 29750, June 2, 1999, as amended at 65 FR 44939, July 19, 2000]

#### § 80.5 Limitations on assistance.

(a) The total amount of credit assistance offered to any project under this part shall not exceed 33 percent of the anticipated eligible project costs, as measured on an aggregate cash (year-of-expenditure) basis.

(b) Costs incurred prior to a project sponsor's submission of an application for credit assistance may be considered in calculating eligible project costs