

(A) on a monthly basis, a current status report on all submitted letters of interest and applications received for assistance under the TIFIA program; and

(B) on a quarterly basis, a current status report on all approved applications for assistance under the TIFIA program.

(2) INCLUSIONS.—Each monthly and quarterly status report under paragraph (1) shall include, at a minimum, with respect to each project included in the status report—

(A) the name of the party submitting the letter of interest or application;

(B) the name of the project;

(C) the date on which the letter of interest or application was received;

(D) the estimated project eligible costs;

(E) the type of credit assistance sought; and

(F) the anticipated fiscal year and quarter for closing of the credit assistance.

(Added Pub. L. 105-178, title I, §1503(a), June 9, 1998, 112 Stat. 250, §189; renumbered §609 and amended Pub. L. 109-59, title I, §§1601(h), 1602(d), Aug. 10, 2005, 119 Stat. 1242, 1247; Pub. L. 112-141, div. A, title II, §2002, July 6, 2012, 126 Stat. 621; Pub. L. 114-94, div. A, title II, §2001(h), Dec. 4, 2015, 129 Stat. 1444; Pub. L. 117-58, div. A, title II, §12001(j), Nov. 15, 2021, 135 Stat. 621.)

Editorial Notes

AMENDMENTS

2021—Subsec. (c). Pub. L. 117-58 added subsec. (c).

2015—Pub. L. 114-94 substituted “the TIFIA program” for “this chapter (other than section 610)” wherever appearing.

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section read as follows: “On June 1, 2006, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter (other than section 610), including a recommendation as to whether the objectives of this chapter (other than section 610) are best served—

“(1) by continuing the program under the authority of the Secretary;

“(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

“(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter (other than section 610) without Federal participation.”

2005—Pub. L. 109-59, §1602(d), renumbered section 189 of this title as this section.

Pub. L. 109-59, §1601(h), substituted “Reports” for “Report” in section catchline, “On June 1, 2006, and every 2 years thereafter,” for “Not later than 4 years after the date of enactment of this subchapter,” in introductory provisions, and “chapter (other than section 610)” for “subchapter” wherever appearing.

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.

§ 610. State infrastructure bank program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) CAPITAL PROJECT.—The term “capital project” has the meaning such term has under section 5302 of title 49.

(2) OTHER FORMS OF CREDIT ASSISTANCE.—The term “other forms of credit assistance” includes any use of funds in an infrastructure bank—

(A) to provide credit enhancements;

(B) to serve as a capital reserve for bond or debt instrument financing;

(C) to subsidize interest rates;

(D) to insure or guarantee letters of credit and credit instruments against credit risk of loss;

(E) to finance purchase and lease agreements with respect to transit projects;

(F) to provide bond or debt financing instrument security; and

(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

(3) STATE.—The term “State” has the meaning such term has under section 401.

(4) CAPITALIZATION.—The term “capitalization” means the process used for depositing funds as initial capital into a State infrastructure bank to establish the infrastructure bank.

(5) COOPERATIVE AGREEMENT.—The term “cooperative agreement” means written consent between a State and the Secretary which sets forth the manner in which the infrastructure bank established by the State in accordance with this section will be administered.

(6) LOAN.—The term “loan” means any form of direct financial assistance from a State infrastructure bank that is required to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.

(7) GUARANTEE.—The term “guarantee” means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor’s financial obligations for a project under specified conditions.

(8) INITIAL ASSISTANCE.—The term “initial assistance” means the first round of funds that are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.

(9) LEVERAGE.—The term “leverage” means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.

(10) LEVERAGED.—The term “leveraged”, as used with respect to a State infrastructure

bank, means that the bank has total potential liabilities that exceed the capital of the bank.

(11) RURAL INFRASTRUCTURE PROJECT.—The term “rural infrastructure project” has the meaning given the term in section 601.

(12) RURAL PROJECTS FUND.—The term “rural projects fund” has the meaning given the term in section 601.

(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

(c) INTERSTATE COMPACTS.—

(1) IN GENERAL.—Congress grants consent to two or more of the States, entering into a cooperative agreement under subsection (a) with the Secretary for the establishment by such States of a multistate infrastructure bank in accordance with this section, to enter into an interstate compact establishing such bank in accordance with this section.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) FUNDING.—

(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

(A) 10 percent of the funds apportioned to the State for each of fiscal years 2022 through 2026 under each of paragraphs (1), (2), and (5) of section 104(b); and

(B) 10 percent of the funds allocated to the State for each of such fiscal years.

(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to the State or other recipient in each of fiscal years 2022 through 2026 for capital projects under each of such sections.

(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of fiscal years 2022 through 2026 for capital projects under such subtitle.

(4) RURAL PROJECTS FUND.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the rural projects fund of the bank the proceeds of a secured loan made

to the bank in accordance with sections 602 and 603.

(5) CAPITAL GRANTS.—

(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.

(B) TRANSIT ACCOUNT.—Federal funds deposited into a transit account of a State infrastructure bank under paragraph (2) shall constitute for purposes of this section a capitalization grant for the transit account of the bank.

(C) RAIL ACCOUNT.—Federal funds deposited into a rail account of a State infrastructure bank under paragraph 3 shall constitute for purposes of this section a capitalization grant for the rail account of the bank.

(6) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds in a State infrastructure bank that are attributed to urbanized areas of a State with urbanized populations of over 200,000 under section 133(d)(1)(A)(i) may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

(7) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State’s infrastructure bank in accordance with a cooperative agreement entered into under subsection (b), the Secretary may prohibit the State from contributing additional Federal funds to the bank.

(e) FORMS OF ASSISTANCE FROM STATE INFRASTRUCTURE BANKS.—

(1) IN GENERAL.—A State infrastructure bank established under this section may—

(A) with funds deposited into the highway account, transit account, or rail account of the bank, make loans or provide other forms of credit assistance to a public or private entity to carry out a project eligible for assistance under this section; and

(B) with funds deposited into the rural projects fund, make loans to a public or private entity to carry out a rural infrastructure project.

(2) SUBORDINATION OF LOAN.—The amount of a loan or other form of credit assistance provided for a project described in paragraph (1) may be subordinated to any other debt financing for the project.

(3) MAXIMUM AMOUNT OF ASSISTANCE.—A State infrastructure bank established under this section may—

(A) with funds deposited into the highway account, transit account, or rail account of the bank, make loans or provide other forms of credit assistance to a public or private entity in an amount up to 100 percent of the cost of carrying out a project eligible for assistance under this section; and

(B) with funds deposited into the rural projects fund, make loans to a public or private entity in an amount not to exceed 80 percent of the cost of carrying out a rural infrastructure project.

(4) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds deposited into a State infrastructure bank under this section may not be made in the form of a grant.

(f) ELIGIBLE PROJECTS.—Subject to subsection (e), funds in an infrastructure bank established under this section may be used only to provide assistance for projects eligible for assistance under this title and capital projects defined in section 5302 of title 49, and any other projects relating to surface transportation that the Secretary determines to be appropriate.

(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, the State establishing the bank shall—

(1) deposit in cash, at a minimum, into the highway account, the transit account, and the rail account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and deposited into such account; except that, if the deposit is into the highway account of the bank and the State has a non-Federal share under section 120(b) that is less than 25 percent, the percentage to be deposited from non-Federal sources shall be the lower percentage of such grant;

(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt, or has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the bank;

(3) ensure that investment income derived from funds deposited to an account of the bank are—

(A) credited to the account;

(B) available for use in providing loans and other forms of credit assistance to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible, except that any loan funded from the rural projects fund of the bank shall bear interest at or below the interest rate charged for the TIFIA loan provided to the bank under section 603;

(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and

(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.

(h) APPLICABILITY OF FEDERAL LAW.—

(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to

funds made available under this title or such title and projects assisted with those funds shall apply to—

(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and

(B) projects assisted by the bank through the use of the funds,

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

(i) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31 shall not apply to funds deposited into an infrastructure bank under this section.

(k) PROGRAM ADMINISTRATION.—For each of fiscal years 2022 through 2026, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

(Added Pub. L. 109–59, title I, §1602(a), Aug. 10, 2005, 119 Stat. 1243, §190; renumbered §610, Pub. L. 109–59, title I, §1602(d), Aug. 10, 2005, 119 Stat. 1247, as amended Pub. L. 110–244, title I, §101(f), June 6, 2008, 122 Stat. 1574; Pub. L. 112–141, div. A, title I, §1519(c)(11), formerly §1519(c)(12), July 6, 2012, 126 Stat. 577, renumbered §1519(c)(11), Pub. L. 114–94, div. A, title I, §1446(d)(5)(B), Dec. 4, 2015, 129 Stat. 1438; Pub. L. 114–94, div. A, title II, §2001(i), Dec. 4, 2015, 129 Stat. 1444; Pub. L. 117–58, div. A, title II, §12001(k), Nov. 15, 2021, 135 Stat. 621.)

Editorial Notes

AMENDMENTS

2021—Subsec. (d)(1)(A), (2), (3). Pub. L. 117–58, §12001(k)(1), substituted “fiscal years 2022 through 2026” for “fiscal years 2016 through 2020”.

Subsec. (k). Pub. L. 117–58, §12001(k)(2), substituted “fiscal years 2022 through 2026” for “fiscal years 2016 through 2020”.

2015—Subsec. (a)(11), (12). Pub. L. 114–94, §2001(i)(1), added pars. (11) and (12).

Subsec. (d)(1)(A). Pub. L. 114–94, §2001(i)(2)(A), substituted “each of fiscal years 2016 through 2020 under each of paragraphs (1), (2), and (5) of section 104(b);

and” for “fiscal years 2005 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; and”.

Subsec. (d)(1)(B), Pub. L. 114-94, §1446(d)(5)(B), amended Pub. L. 112-141, div. A, title I, §1519(c). See 2012 Amendment note below.

Subsec. (d)(2), (3), Pub. L. 114-94, §2001(i)(2)(B), (C), substituted “fiscal years 2016 through 2020” for “fiscal years 2005 through 2009”.

Subsec. (d)(4) to (7), Pub. L. 114-94, §2001(i)(2)(D)–(F), added par. (4), redesignated former pars. (4) to (6) as (5) to (7), respectively, and substituted “section 133(d)(1)(A)(i)” for “section 133(d)(3)” in par. (6).

Subsec. (e), Pub. L. 114-94, §2001(i)(3), added subsec. (e) and struck out former subsec. (e) which related to forms of assistance from infrastructure banks.

Subsec. (g)(1), Pub. L. 114-94, §2001(i)(4)(A), substituted “the highway account, the transit account, and the rail account” for “each account”.

Subsec. (g)(4), Pub. L. 114-94, §2001(i)(4)(B), inserted “, except that any loan funded from the rural projects fund of the bank shall bear interest at or below the interest rate charged for the TIFIA loan provided to the bank under section 603” after “feasible”.

Subsec. (k), Pub. L. 114-94, §2001(i)(5), substituted “fiscal years 2016 through 2020” for “fiscal years 2005 through 2009”.

2012—Subsec. (d)(1)(B), Pub. L. 112-141, §1519(c)(11), formerly §1519(c)(12), as renumbered by Pub. L. 114-94, §1446(d)(5)(B), struck out “under section 105” before period at end.

2008—Pub. L. 110-244 amended Pub. L. 109-59, §1602(d). See 2005 Amendment note below.

2005—Pub. L. 109-59, as amended by Pub. L. 110-244, renumbered section 190 of this title as this section.

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

Except as otherwise provided, 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.

Pub. L. 114-94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(5)(B) is effective as of July 6, 2012, and as if included in Pub. L. 112-141 as enacted.

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.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-244 effective as of the date of enactment of Pub. L. 109-59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109-59 as of that date, and provisions of Pub. L. 109-59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110-244 to be treated as not enacted, see section 121(b) of Pub. L. 110-244, set out as a note under section 101 of this title.

§ 611. Asset concessions and innovative finance assistance

(a) DEFINITIONS.—In this section:

(1) APPROVED INFRASTRUCTURE ASSET.—The term “approved infrastructure asset” means—

(A) a project (as defined in section 601(a)); and

(B) a group of projects (as defined in section 601(a)) considered together in a single

asset concession or long-term lease to a concessionaire by 1 or more eligible entities.

(2) ASSET CONCESSION.—The term “asset concession” means a contract between an eligible entity and a concessionaire—

(A) under which—

(i) the eligible entity agrees to enter into a concession agreement or long-term lease with the concessionaire relating to an approved infrastructure asset owned, controlled, or maintained by the eligible entity;

(ii) as consideration for the agreement or lease described in clause (i), the concessionaire agrees—

(I) to provide to the eligible entity 1 or more asset concession payments; and

(II) to maintain or exceed the condition, performance, and service level of the approved infrastructure asset, as compared to that condition, performance, and service level on the date of execution of the agreement or lease; and

(iii) the eligible entity and the concessionaire agree that the costs for a fiscal year of the agreement or lease, and any project carried out under the agreement or lease, shall not be shifted to any taxpayer the annual household income of whom is less than \$400,000 per year, including through taxes, user fees, tolls, or any other measure, for use of an approved infrastructure asset; and

(B) the terms of which do not include any noncompete or exclusivity restriction (or any other, similar restriction) on the approval of another project.

(3) ASSET CONCESSION PAYMENT.—The term “asset concession payment” means a payment that—

(A) is made by a concessionaire to an eligible entity for fair market value that is determined as part of the asset concession; and

(B) may be—

(i) a payment made at the financial close of an asset concession; or

(ii) a series of payments scheduled to be made for—

(I) a fixed period; or

(II) the term of an asset concession.

(4) CONCESSIONAIRE.—The term “concessionaire” means a private individual or a private or publicly chartered corporation or entity that enters into an asset concession with an eligible entity.

(5) ELIGIBLE ENTITY.—

(A) IN GENERAL.—The term “eligible entity” means an entity described in subparagraph (B) that—

(i) owns, controls, or maintains an approved infrastructure asset; and

(ii) has the legal authority to enter into a contract to transfer ownership, maintenance, operations, revenues, or other benefits and responsibilities for an approved infrastructure asset.

(B) ENTITIES DESCRIBED.—An entity referred to in subparagraph (A) is any of the following: