STATEMENT OF
THE HONORABLE CHRISTOPHER P. BERTRAM
ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS AND CHIEF FINANCIAL OFFICER
U.S. DEPARTMENT OF TRANSPORTATION

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
UNITED STATES HOUSE OF REPRESENTATIVES

April 14, 2010

Introduction

Chairman Defazio, Ranking Member Duncan and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss innovative financing options available within the U.S. Department of Transportation (DOT) to deliver highway and transit projects.

My testimony will focus on the many innovative approaches to transportation investment that either currently support or could support highway and transit projects. The DOT administers two credit programs that provide credit assistance for surface transportation investments. The credit programs are authorized to issue direct loans, loan guarantees or lines of credit to support the construction of transportation infrastructure. Credit programs enable the Federal Government to maximize limited Federal resources by leveraging project investment models that invite non-Federal co-investment and enable eventual repayment of the taxpayer. In addition to the credit programs, the Department has various other innovative financing mechanisms available.

TIFIA Program

First, one of the Department's most successful programs over the last decade has been the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) program, which provides credit assistance for major surface transportation projects around the country. The program offers direct loans, loan guarantees or lines of credit for up to 33% of a project's eligible costs, with favorable repayment terms that make financing cheaper and encourage co-investment.

The TIFIA program provides credit assistance for surface transportation projects of regional and national significance. Eligibility is open to large-scale, surface transportation projects - highway, transit, railroad, intermodal freight, and port access - with eligible costs exceeding $50 million. TIFIA credit assistance is available for State and local governments, transit agencies, railroad companies, special authorities, special districts, and private entities. Since its inception the TIFIA program has executed 21 direct loans and one loan guarantee totaling $6.9 billion in credit assistance. This credit assistance supports transportation projects totaling $26.3 billion.

The primary goals of the TIFIA program are to use Federal funds in a way that promotes innovative models for financing large surface transportation projects, catalyze regional or national planning efforts, and attract substantial private and other non-Federal co-investment for critical improvements to the Nation's surface transportation system. The program achieves this by providing a number of flexible and favorable financing terms to help fill market gaps in financing plans. Because TIFIA is a Federal credit program and because it requires co-investors for at least two-thirds (67%) of project costs, TIFIA is also able to drive total investments that are a multiple of the actual Federal budget resources the program consumes.

While TIFIA has proven to be an extremely useful tool for financing toll roads and other user-backed transportation projects, it is also valuable for capital investment programs in other modes that are traditionally less reliant on user fees, such as transit. For transit projects, sales taxes and/or other revenue streams related to transit-oriented development can be leveraged to repay project financing sources.

For example, most recently, TIFIA provided a $171 million loan for the Transbay Transit Center, a major passenger transportation hub connecting San Francisco with other Bay Area communities. The TIFIA loan for the Transbay Transit Center reflects the variety of ways the Department can use innovative programs to demonstrate the potential for efficient transportation infrastructure finance and execution around the country.

Currently the TIFIA office is evaluating loans expected to close in the near term that will consume its available budget resources. Project sponsors submitted thirty-nine letters of interest for FY 2010 credit assistance in response to the March 1, 2010 deadline established in a Notice of Funding Availability. The letters of interest represent a range of different project types, including six transit projects, thirty-one highway and bridge projects, and one freight intermodal project. Project sponsors requested almost $13 billion in TIFIA credit assistance to enable over $41 billion in total combined Federal and non-Federal investment, significantly more capacity than TIFIA’s budget resources can support.

RRIF Program

The Railroad Rehabilitation and Improvement Financing (RRIF) program provides direct loans and loan guarantees to acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings and shops and develop or establish new intermodal or railroad facilities. RRIF was established by the Transportation Equity Act for the 21st Century (TEA-21) and amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Under this program the Federal Railroad Administrator is authorized to provide direct loans and loan guarantees up to $35.0 billion. Up to $7.0 billion is reserved for projects benefiting freight railroads other than Class I carriers. The Federal Railroad Administration (FRA) has made 24 loans totaling $851 million dollars. FRA has not yet guaranteed any loans.

Eligible borrowers include railroads, state and local governments, government-sponsored authorities and corporations, joint ventures that include at least one railroad, and limited option freight shippers who intend to construct a new rail connection. The loans can fund up to 100% of a railroad project with repayment periods of up to 35 years and interest rates equal to the cost of borrowing to the government.

State Infrastructure Banks

State Infrastructure Banks (SIBs) are revolving infrastructure investment funds for surface transportation that are established and administered by states. A SIB, much like a private bank, can offer a range of loans and credit assistance enhancement products to public and private sponsors of Title 23 highway construction projects or Title 49 transit capital projects. SIBs may provide credit assistance in the form of loans, loan guarantees, lines of credit, letters of credit, bond insurance or capital reserves. SIBs give states the capacity to make more efficient use of their transportation funds and significantly leverage Federal resources by attracting non-Federal public and private investment.

SIBs may be capitalized with Federal-aid surface transportation funds and matching State funds. As loans or other credit assistance forms are repaid to the SIB, their initial capital is replenished and can be used to support a new cycle of projects. If the SIB is capitalized with Federal funds, the requirements of Titles 23 and 49 apply to all funds received as SIB repayments.

The current SIB program was established by SAFETEA-LU under which all states and territories are authorized to enter into cooperative agreements with the Secretary of Transportation to establish infrastructure revolving funds eligible to be capitalized with Federal transportation funds authorized through the SAFETEA-LU extension. States participating in the current SIB program may capitalize the account(s) in their SIBs with Federal surface transportation funds as follows:

- Highway account - up to 10 percent of the funds apportioned to the state for the National Highway System Program, the Surface Transportation Program, Interstate Maintenance, and the Highway Bridge Replacement and Rehabilitation Program
- Transit account - up to 10 percent of funds made available for capital projects under Urbanized Area Formula Grants, Capital Investment Grants, and Formula Grants for Other Than Urbanized Areas
- Rail account - funds made available for capital projects under subtitle V (Rail Programs) of Title 49

A state must match the Federal funds used to capitalize the SIB on an 80-20 Federal/non-Federal basis, except for the highway account where the sliding scale provisions apply. States also have the opportunity to contribute additional state or local funds beyond the required non-Federal match.

Thirty-two states and one territory have operational SIBs with loan agreements totaling over $6.2 billion.

Private Activity Bonds

A private activity bond (PAB) is a bond featuring tax-exempt interest payments issued by or on behalf of a local or State government but for the purpose of financing the project of a private entity. The bonds are purchased by private investors and the private entity is solely responsible for repayment of the bonds. SAFETEA-LU amended the Internal Revenue Code to add highway and freight transfer facilities to the types of privately developed and operated projects for which PABs may be issued. This change allows private activity on these types of projects, while maintaining the tax-exempt status of the bonds.

The law limits the total amount of such bonds to $15 billion and directs the Secretary of Transportation to allocate this amount among qualified facilities. The $15 billion in exempt facility bonds is not subject to state volume caps. The passage of the private activity bond legislation reflects the Federal Government's desire to increase private sector involvement in U.S. transportation infrastructure transactions. Providing private developers and operators with access to tax-exempt interest rates lowers the cost of capital significantly, enhancing investment prospects. Increasing the involvement of private investors in surface transportation projects generates new sources of money, ideas, and efficiency. To date, the DOT has approved more than $6.3 billion of PAB allocations for seven projects. Almost $1 billion of PABs have been issued for two projects -- the Capital Beltway HOT Lanes project in Virginia and the North Tarrant Express project in Texas – in conjunction with financings that also included subordinate TIFIA loans.

Projects that are eligible to issue PABs include any surface transportation project which receives Federal assistance under Title 23 (this can include transit and passenger rail projects); any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under Title 23; any facility for the transfer of freight from truck to rail or rail to truck which receives Federal assistance under Title 23 or Title 49.

Build America Bonds

Although not a DOT program, the Build America Bonds are a new financing tool for state and local governments to help finance transportation infrastructure. The bonds, which allow a new direct Federal payment subsidy, are taxable bonds issued by State and local governments that will give them access to the conventional corporate debt markets. At the election of the state and local governments, the Treasury Department will make a direct payment to the state or local governmental issuer in an amount equal to 35 percent of the interest payment on the Build America Bonds. As a result of this Federal subsidy payment, state and local governments will have lower net borrowing costs and be able to reach more sources of borrowing than with more traditional tax-exempt or tax credit bonds. For example, if a State or local government were to issue Build America Bonds at a 10 percent taxable interest rate, the Treasury Department would make a payment directly to the State or local government of 3.5 percent of that interest, and the State or local government’s net borrowing cost would thus be only 6.5 percent on a bond that actually pays 10 percent interest.

This feature makes Build America Bonds attractive to a broader group of investors, and therefore created a larger market than typically invests in more traditional state and local tax-exempt bonds, where interest rates, due to the Federal tax exemption, have historically been about 20 percent lower than taxable interest rates. Because the Federal support comes in the form of a subsidy to the issuer rather than a tax exemption to the investor, State and local governments are able to attract investors without regard to their tax status or income tax bracket (e.g., pension funds and other tax-exempt investors, investors in low tax brackets, and foreign investors).

Grant Anticipation Revenue Vehicles

A Grant Anticipation Revenue Vehicle (GARVEE) is a type of note or bond (debt instrument) issued when moneys are anticipated from a specific source to advance the upfront funding of a particular need. In the case of transportation finance debt instrument, the anticipated repayment source is expected Federal-aid highway grants. Specific to highways, a GARVEE is used as a term for a debt instrument that has a pledge of future Title 23 Federal-aid funding. It is authorized for Federal reimbursement of debt service and related financing costs. States can thus receive Federal-aid reimbursements for a wide array of debt-related costs incurred in connection with an eligible debt financing instrument, such as a bond, note, certificate, mortgage, or lease; the proceeds of which are used to fund a project eligible for assistance under Title 23. Each of these instruments is considered a GARVEE when backed by future Federal-aid highway funding, but most frequently, a bond is the debt instrument used. The issuer may be a state, political subdivision, or a public authority.

GARVEEs enable a state to accelerate construction timelines and spread the cost of a transportation facility over its useful life rather than just the construction period. The use of GARVEEs expands access to capital markets as an alternative or in addition to potential general obligation or revenue bonding capabilities. The upfront monetization benefit of these techniques needs to be weighed against the costs of consuming a portion of future years' receivables to pay debt service. This approach is appropriate for large, long-lived, non-revenue generating assets that are otherwise difficult to finance.

Grant Anticipation Notes

Under the general concept of anticipation vehicles, transit agencies also use similar mechanisms to borrow against future Federal-aid funds (Federal Transit Administration Title 49 grants) that are allocated by formula (Section 5307) or by project (Section 5309). These transit debt mechanisms are known as Grant Anticipation Notes (GANs), but are not officially termed GARVEEs because they utilize Federal transit funding under Title 49, not Title 23, and do not include debt-related financing costs such as interest and issuance costs.

Infrastructure Fund

Lastly, President Obama's budget for Fiscal Year 2011 provides $4 billion for a new National Infrastructure Innovation and Finance Fund (the Infrastructure Fund). This is the first year of a 5-year plan to capitalize the fund with $25 billion. The Infrastructure Fund will invest in high-value projects of regional or national significance, and marks an important departure from the Federal Government's traditional way of spending on infrastructure through mode-specific grants.

The Infrastructure Fund would have flexibility to choose projects with demonstrable merit from around the country and provide a variety of financial products – grants, loans, or a combination – to best fit a project's needs. The Infrastructure Fund would allow the Department to expand on current practices that encourage collaboration among, and co-investment by, non-Federal stakeholders, including States, municipalities, and private partners.

Conclusion

The Federal Government has many programs that facilitate and encourage State, local and private investment in transportation projects. Of particular note are the TIFIA program and the proposed National Infrastructure Innovation and Finance Fund. These programs reflect an acknowledgement that the Federal Government needs to take a more active role in supporting major transportation projects with targeted grants and credit assistance. The Department's experience is that competitive national programs facilitate creative and innovative approaches at the State and local level to leverage substantial revenue for major transportation investments.

Thank you again for the opportunity to discuss these important programs. I would be pleased to answer any questions you may have.