

**DEPARTMENT OF TRANSPORTATION**

**BUILD AMERICA BUREAU**

**JUSTIFICATION STATEMENT**

Letter of Interest and Application Forms for the Railroad Rehabilitation and Improvement Financing and Transportation Infrastructure Financing and Innovation Act Credit Programs

OMB Control No. 2105-0569

**ABSTRACT**

This is to request the Office of Management and Budget (OMB) renew the collection of OMB Control Number 2105-0569, “Integrated Letter of Interest and Application Forms for the Railroad Rehabilitation and Improvement Financing and Transportation Infrastructure Financing and Innovation Act Credit Programs (RRIF/TIFIA)” information collection request (ICR), which is currently due to expire on October 31, 2021, and extend the collection for three years.

The ***Transportation Infrastructure Finance and Innovation Act (TIFIA) program*** is a federal credit assistance program for eligible surface transportation projects under which the Department of Transportation (Department) can provide three forms of credit assistance: direct loans, loan guarantees, and standby lines of credit. The Transportation Infrastructure Finance and Innovation Act of 1998 was enacted as part of TEA-21 (Public Law 105-178, §§1501-04), as amended in 1998 by the TEA-21 Restoration Act (Title IX of Public Law 105-206), was further amended in 2005 by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59), was amended and restated in 2012, by the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Public Law 112-141), and most recently, was amended in 2015 by the Fixing America’s Surface Transportation (FAST) Act (Public Law 114-94). The TIFIA Act is codified within sections 601 through 609 of Title 23 of the United States Code (23 U.S.C. §§ 601-609), with supporting regulations appearing in part 80 of Title 49 of the Code of Federal Regulations (49 CFR § 80).

The ***Railroad Rehabilitation and Improvement Financing (RRIF)*** program provides direct loans and loan guarantees for the development of railroad infrastructure. The RRIF program was created in 1998 by the TEA-21 amendments (§7203 thereof) to a predecessor loan and loan guarantee program from the 1970s set forth in Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), and was amended in 2005 by SAFETEA-LU, was further amended in 2008 by the Rail Safety Improvement Act of 2008 (Public Law 110-432), and most recently, was amended in 2015 by the FAST Act. The RRIF program is codified within sections 821 through 823 of Title 45 of the United States Code (45 U.S.C. §§821-823), with supporting regulations appearing in part 260 of Title 49 of the Code of Federal Regulations (49 CFR §260).

**1. Circumstances That Make The Collection Necessary.**

***Evaluating applicants for the TIFIA and RRIF credit assistance programs is a statutory requirement.*** SAFETEA-LU and MAP-21 each require the Secretary of the Department to evaluate applicants for the RRIF and TIFIA programs against applicable statutory requirements.

In order to satisfy these requirements, the Department must collect an application from applicants seeking funding. Amendments to the credit programs by subsequent legislation have not repealed these requirements. However, the FAST Act directed the Secretary to establish the National Surface Transportation and Innovative Finance Bureau (referenced hereafter as the Build America Bureau or the Bureau) in order to administer the application processes for the RRIF and TIFIA programs.

***TIFIA data is used to report to Congress on the success of the program and need for continued appropriations.*** Section 609(b) of Title 23 U.S.C. , requires the Secretary of Transportation to submit an application process report to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure that includes a list of all letters of interest (LOIs) and applications received from project sponsors during the preceding fiscal year (FY). This information is compiled annually and provided to the relevant committees using the information entered on the LOI and subsequent application form.

2. **How, by whom, and for what purpose the information is to be used and consequences if the information is not collected.**

***How:***

The Bureau collects information through the LOI and application form. This data is evaluated by project development leads and underwriters at the Bureau who perform initial eligibility and creditworthiness analysis. The respondents using the LOI and application form are typically public or private entities seeking to finance, design, construct, own or operate eligible surface transportation, railroad infrastructure, intelligent transportation systems, or Transit Oriented Development projects.

***For What Purpose:***

The Bureau will conduct an initial eligibility review of the LOI to identify major statutory, regulatory, financing or timing issues that would prevent the project from receiving either TIFIA or RRIF credit assistance. After it is determined that initial eligibility requirements have been satisfied, an in-depth creditworthiness review of the project sponsor and the revenue stream proposed to repay the TIFIA and/or RRIF credit assistance requested is performed. The creditworthiness review involves evaluation of the plan of finance, financial model, and feasibility of the anticipated pledged revenue or, in the case of RRIF loans where the proposed collateral is other than a dedicated revenue stream, the sufficiency of such other pledged collateral. In connection with this review, the DOT will ask project sponsors to provide any additional materials necessary to facilitate its review of the project's creditworthiness.

3. **Consideration Of Improved Information Technology.**

The Bureau will accept all letters of interest electronically through a secure FTP site that limits access only to applicants in order to address privacy concerns. In the event a project sponsor is unable to access the FTP site, they are able to email copies of the letters of interest and application.

4. **Describe Efforts To Identify Duplication.**

Letters of interest and applications will generally be project specific and financial information must be current. However, at the applicant's discretion, relevant materials provided previously to a Department agency in support of a different Department discretionary program may be referenced and described as unchanged. For example, environmental documentation created for a project for another Departmental program can be referenced in a letter or interest or application, rather than attached, and need not be refreshed or supplemented except as required by law.

5. **Methods Used To Minimize Burden On Small Businesses Or Other Small Entities.**

The application documents have been clarified to ensure that the Department collects only information necessary to evaluate applications against RRIF or TIFIA criteria. The documents are interactive, with relevant options provided to facilitate correct responses, and we provide a checklist with the application form to assist project sponsors with organizing their submissions. References to the Bureau's Credit Programs Guide also provide more explanation of concepts and our website advises that the Bureau is available to provide technical assistance to project sponsors applying for credit assistance if needed.

6. **Consequences If Information Was Not Collected Or Collected Less Frequently.**

The Department will be unable to satisfy its statutory mandate to receive letters of interest and applications if the collection is not conducted, which means that RRIF and TIFIA credit assistance will not be available. In order to provide credit assistance to eligible projects, which is the purpose of these programs, the Department must collect letters of interest and applications that respond to the eligibility requirements.

7. **Special Circumstances That Require The Collection To Be Conducted In A Manner Inconsistent With 5 CFR 1320.6.**

The collection of letters of interest and applications is consistent with 5 CFR 1320.6.

8. **Efforts to consult with persons outside the agency to obtain their views.**

All loans administered by the Department of Transportation through the Build America Bureau are posted on the Bureau's website. The website provides information about the loans we've provided and the types of projects those loans support. Our website also provides contact information and encourages those interested to contact us to schedule initial consultations to discuss their project or to simply learn about the Department's credit assistance programs, eligibility requirements, and the application process. Bureau staff also attend conferences hosted by stakeholder organizations and host webinars where attendees are encouraged to provide feedback about our application process and to offer suggestions for improvements.

A 60-day Federal Register notice was published on June 24, 2021 (86 FR 33475), soliciting comments prior to the submission of this information collection to OMB. The Department received one comment, a request that the Department reconsider the requirement that the applicant submit a paper application and suggested that the Department instead accept electronic-only submissions of the application. The Department considered the comment and has incorporated the suggestion into the application. A 30-day notice was published on September 16, 2021 (86 FR 51717).

9. **Explain Any Decision To Provide Any Payment Or Gift To Respondents.**

No payment or gift is made to respondents.

10. **Describe Any Assurance Of Confidentiality Provided Respondents.**

The Department will protect confidential information, to the extent required under applicable law, however, the Department cannot offer an assurance of confidentiality to any applicant. If an applicant desires that any information submitted in its letter of interest or application or any supplementary material not be released by the Department upon request from a member of the public or otherwise made publicly available, the applicant is directed to state so and provide reasons why such information is confidential business information and should not be released. The Department will handle requests from the public for release of information under its standard Freedom of Information Act procedures.

11. **Additional justification for questions of a sensitive nature.**

No sensitive information is requested or required.

12. **Estimate Of The Total Annual Hour Burden Of The Collection To Respondents.**

Based on the average annual total number of respondents, the total annual burden of this collection for RRIF and TIFIA LOIs is 400 hours and RRIF and TIFIA applications is 2000 hours, for a grand total of 2,400 hours.

The Department estimates that it will receive, on an annual basis, eight (8) RRIF letters of interest, twelve (12) TIFIA letters of interest, eight (8) RRIF applications, and twelve (12) TIFIA applications. The Department estimates that it will generally take applicants not fewer than twenty (20) person-hours to assemble a single letter of interest (for either credit program) and not fewer than one hundred (100) person-hours to assemble a single application (for either credit program).

These estimates are consistent with the approved information collection request under OMB Control Number 2105-0569. Based on the anticipated annual total number of respondents, the total annual hour burden of this collection for RRIF LOIs and applications is 400 and for TIFIA LOIs and applications is 2,000 hours.

**TABLE 1: Summary of Hours of Annual Burden Calculation**

	<b>RRIF RESPONDENTS</b>	<b>TIFIA RESPONDENTS</b>	<b>ESTIMATED RESPONSES</b>	<b>ESTIMATED PREP TIME</b>	<b>APPLYING BURDEN CALCULATION</b>
Letter of Interest (LOI)	8	12	20	20 hours	8 RRIF respondents + 12 TIFIA respondents = <b>20 respondents</b>  20 respondents x <b>20 hours of prep</b> = <b>400 hours of prep</b>
Application	8	12	20	100 hours	8 RRIF respondents + 12 TIFIA respondents = <b>20 respondents</b>  20 respondents x <b>100 hours of prep</b> = <b>2000 hours of prep</b>

**13. Estimate of total annual cost burden to respondents.**

The Bureau estimates that a Project Management Specialist or Business Management Specialist would be tasked with completing the LOI and subsequent application form. Consulting the Bureau of Labor Statistics, Occupational Employment and Wages, May 2020 <https://www.bls.gov/oes/current/oes131198.htm#nat>, the national compensation estimate for Project Management Specialists and Business Operations Specialists is \$84,290 per annum.

**14. Estimate Of The Annualized Cost To The Federal Government.**

The estimated annualized cost to the Federal government of this request for letters of interest and applications is \$315,675. This cost reflects the cost of an evaluation team members to review each letter of interest and application and make recommendations about which projects are eligible to receive credit assistance. The Department currently estimates that the evaluation process takes approximately three months for each letter of interest and application, which is the equivalent of roughly one and one-third job years.

The Department does not expect to need any special equipment or support.

As the Bureau implements a more streamlined process for administering TIFIA applications, the Bureau will be able to reduce the number of persons needed to review each letter of interest and application, thereby reducing the annualized cost to the Federal government.

**15. Explain Reasons For Changes In Burden.**

There are no changes.

16. **Plans For Tabulation And Publication.**

Some data from the letter of interest and application form are made available electronically on our website: <https://www.transportation.gov/buildamerica/projects/financing-search>.

17. **If seeking approval not to display the expiration date for omb approval, explain the reasons.**

The Department will display the expiration date for OMB approval of the information collection.

18. **Explain Any Exceptions To The Certification Statement Identified In Item 19 Of OMB Form 83-I.**

There are no exceptions to the certification statement.