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Federal Highway Administration

Federal Railroad Administration

Federal Transit Administration

Participation in the State Infrastructure Bank Pilot Program

AGENCY: Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA), DOT.

ACTION: Notice of request for participation.

SUMMARY: This notice invites States to submit applications for participation in the State Infrastructure Bank (SIB) Pilot Program originally established by the National Highway System Designation Act of 1995 (the NHS Act). Pursuant to Section 350 of the NHS Act, USDOT is authorized to enter into agreements with States to establish State Infrastructure Banks or multistate infrastructure banks. Under the Department of Transportation and Related Agencies Appropriations Act of 1997 (Appropriations Act), USDOT is currently authorized to enter into Cooperative Agreements with more than ten States qualified to establish State Infrastructure Banks or multistate infrastructure banks. Another purpose of this notice is to outline the procedures that will be established for designation of additional States to be included in the Pilot Program. Further, \$150 million will be available for distribution among the ten States previously designated by the Secretary and any additional States designated as a result of this notice. Distribution of these funds will not take place prior to 180 days after the enactment of the Appropriations Act on September 30, 1996.

DATES: Applications for participation will be considered as soon as they are received and must be received by the close of business on December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Max Inman, FHWA Office of Fiscal Services, (202) 366-6813; Mr. John Paoletta, FRA Office of Policy and Program Development, (202) 632-3154; or Mr. Richard Steinmann, FTA Office of Budget and Policy, (202) 366-4060. Application requests and specific

questions regarding the SIB Pilot Program may also be directed to the Division or Regional Offices of FHWA or FTA in your State.

SUPPLEMENTARY INFORMATION:

I. Background

Congress established a Pilot Program for State Infrastructure Banks (SIBs) through Section 350 of the NHS Act (Pub. L. 104-59). That section originally authorized USDOT to enter into cooperative agreements with up to ten States for the establishment of SIBs or multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under the section. Subsequently, Congress enacted the Department of Transportation and Related Agencies Appropriations Act of 1997 (Pub. L. 104-205), which authorizes the Secretary of Transportation to enter into agreements with more than ten States qualified to establish SIBs. Under the terms and conditions of the NHS Act, States may use up to 10 percent of specified FY 1996 and FY 1997 apportionments and allocations in addition to non-Federal matching funds to capitalize the SIBs.

In addition, as a result of the Appropriations Act, \$150 million will be available for distribution among the ten States previously designated by the Secretary and any additional States designated as a result of this notice. Distribution of these funds will not take place prior to 180 days after the enactment of the Appropriations Act. These funds shall be used to advance projects or programs under the terms and conditions of section 350. Any portion of these funds may be deposited into a highway or transit SIB account. Section 350 also requires that disbursement of these funds be at a rate consistent with historic rates for the Federal-aid highway program. Therefore, disbursements will be limited to 15 percent of \$150 million for FY 1997 (\$22.5 million), and remaining amounts will be disbursed in subsequent years.

The Pilot Program and subsequent implementation by designated SIBs will help USDOT determine how to proceed with the SIB concept while simultaneously advancing additional projects. It will help USDOT understand how SIBs can leverage Federal dollars to increase transportation infrastructure investment as ISTEA reauthorization legislation moves forward.

II. Definitions

State Infrastructure Bank (SIB): An infrastructure investment fund established to facilitate and encourage investment in eligible transportation infrastructure projects sponsored by public and/or private entities. Through a SIB, a State can use its initial capital, provided by its Federal-aid highway apportionments, any allocation received under the fiscal year 1997 DOT Appropriations Act, Federal transit allocations, and non-Federal monies, to make loans, provide credit enhancement, serve as a capital reserve for bond or debt financing, subsidize interest rates, issue letters of credit, finance purchase and lease agreements, provide debt financing security, or provide other forms of financial assistance for construction of projects qualified under the Federal-aid highway program and transit capital projects. As the funds are repaid or compensation is provided, the SIB can make new financial assistance available to other projects, continually recycling the initial monies, thus leveraging the initial funds available.

Multistate Infrastructure Bank: Interstate compact among two or more States to enter into a cooperative agreement with USDOT to establish a SIB.

III. Notice of Request for Participation

States must successfully address in detail all the application criteria listed in the following section entitled "Criteria for Applications to Participate in the SIB Pilot Program." These responses, submitted as an application by the State, will provide the basis for determining a State's ability and qualifications to implement a SIB and the initial projects it expects to facilitate through financial support for the SIB. Based on the responses to the application criteria, the Secretary will designate qualified States to participate in the Pilot Program. After designation, the Secretary will enter into cooperative agreements with States to participate in the Pilot Program. Applications for participation must be received by the close of business on December 20, 1996.

USDOT recognizes that this is a Pilot Program and is receptive to innovative and non-traditional approaches to establishing a SIB and defining the types of assistance that may be offered. Subject to section 350 of the NHS Act, USDOT seeks to work in cooperation with the States to define the implementation of the program. USDOT will not require that all Pilot SIBs be configured in the same way or that they provide the same forms of assistance.

This Pilot Program, therefore, gives States an opportunity to determine how they might best structure SIBs. USDOT is interested in information detailing how States propose to establish and implement SIBs and is looking for serious evidence of thoughtful proposals.

IV. Criteria for Applications To Participate in the SIB Pilot Program

Applications must provide detailed information on the following areas:

1. The types of assistance to be provided by the SIB (e.g., loans, credit enhancements, capital reserves for debt financing, interest rate subsidies, letters of credit);
2. Identification and description of projects to be advanced as a result of Pilot designation (According to the NHS Act, first use of SIB capitalization funds must be for a Title 23 highway construction or Title 49 capital transit project that follows Federal procedures. However, with repayment revenues, a SIB can assist Title 23 or Title 49 projects that follow State procedures.);
3. The status of any enabling legislation, if required by a State prior to establishing a SIB, or existing administrative authority to implement a SIB;
4. The relationship between the SIB and other innovative financing efforts underway or planned by the State and how its experience under the innovative financing programs to date can reflect this;
5. The relationship of the projects proposed for the SIB to the Transportation Improvement Program (TIP), the approved Statewide Transportation Improvement Program (STIP) and any other federally required plans;
6. The ways the SIB will more effectively use and leverage Federal monies;
7. The sources and amounts of Federal funds that will be used to capitalize the SIB (CMAQ and ISTEA demonstration funds cannot be used) in addition to any funds that may be distributed by the Secretary as a result of the Appropriations Act; and the sources and amounts of non-Federal matching funds required by Section 350(e)(1);
8. The proposed institutional framework for the SIB, including State agencies that may be involved on a formal basis or an informal advisory basis;
9. The proposed mechanisms and internal procedures to monitor and/or track the flow of Federal funds to accounts in the SIB and the State's preferred reporting procedures to

USDOT, given that Section 350 requires maintenance of separate accounts for highway and transit; and

10. The use of a SIB to facilitate development of intermodal or multistate projects.

States should indicate in their applications the type and extent of any technical assistance they might need to expedite implementation if designated as a pilot.

Copies of the original enabling legislation (Section 350 of the NHS Act), the Appropriations Act, and sample project summaries are available upon request from the USDOT contact persons referenced in this notice, or any Division or Regional Office of FHWA or FTA. Completed applications should be submitted to the FHWA Division Office or FTA Regional Office. USDOT may seek further clarification of SIB applications in writing or through an informal interview process with States.

Authority: Pub. L. 104-59, § 350, 109 Stat. 568, 618-622 (1995); Pub. L. 104-205, title I (1996).

Issued on: November 1, 1996.

Jolene M. Molitoris,
Federal Railroad Administrator.

Gordon J. Linton,
Federal Transit Administrator.

Rodney E. Slater,
Federal Highway Administrator.

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National Highway Traffic Safety Administration

Denial of Petition for a Defect or Noncompliance Investigation

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. § 30162(a)(2) (formerly section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended).

By letter dated May 9, 1996, Frank J. Ciano, Esq., petitioned NHTSA's Administrator to investigate the alleged tendency of model year (MY) 1984-1996 Chevrolet Corvettes suddenly to pull to the left or right, on an intermittent basis, when the brakes are applied and to issue an Order concerning the notification and remedy of an alleged safety-related defect or noncompliance in those vehicles. Mr. Ciano stated that his firm represents the owner of a MY 1990 Chevrolet Corvette that exhibited an alleged intermittent brake pull problem. The petition was based in part upon a synopsis of 166 "similar"

complaints that the petitioner obtained from NHTSA's Technical Reference Division in response to a Freedom of Information Act request.

Mr. Ciano originally reported the same brake pull complaint, alleging an initial failure date of August 1990, to NHTSA's Auto Safety Hotline on March 21, 1995. Neither the original complaint nor the petition alleged that an accident had occurred, and neither identified a specific vehicle subsystem or component that might have been involved in or caused the reported problem.

NHTSA's Office of Defects Investigation (ODI) reviewed the synopses of 166 "similar" complaints that the petitioner submitted, and concluded that only six of those complaints may be related to the alleged defect that the petitioner described. ODI also searched its computerized data system on MY 1984-1996 Chevrolet Corvettes for braking system complaints that might pertain to the alleged defect, and also for relevant steering and suspension system complaints. The search revealed the identical six other complaints that may be related to the alleged problem, all of which were received before July 1987. None of these six complaints involved a MY 1990 Corvette. Four involved 1984 models (including one which allegedly was involved in an accident); the other two were 1986 models. None of these six complaints identified a specific defect which could have caused the brake problem.

This number of complaints is extremely small, considering the fact that over 280,000 Corvettes were registered over the 13 model years covered by the petition. Accounting for exposure time, these vehicles have a complaint rate of about four complaints per million registered vehicle years, which is very low.

ODI's review also revealed that in June 1983, General Motors Corporation (GM) recalled 9,197 MY 1984 Corvettes for partially detached front brake calipers which could cause brake pull. Although this could not be confirmed because of the age of the complaints, this defect could have been the cause of the four complaints in ODI's database that involved MY 1984 Corvettes. There were no other relevant GM service bulletins in ODI's files.

The petition also requested that NHTSA issue an order requiring a recall for noncompliance with the applicable Federal motor vehicle safety standard (FMVSS). That standard is FMVSS No. 105, "Hydraulic brake systems," which includes stopping distance performance requirements. NHTSA's Office of