TIFIA
Navigating the Process

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GETTING TO YES: PROGRESS IN ADDRESSING ISSUES AND SOLUTIONS

Thomas Bradshaw

As I talk about TIFIA, let me put it into a longer-range perspective. So much of TIFIA dates back to its three precursor projects, including the Alameda Corridor and the San Joaquin Hills and Foothill/Eastern toll roads in Orange County, California. I was fortunate enough to be involved in those toll roads, each of which received federal lines of credit that enabled more than $1 billion of project work to move forward at a budgetary cost to the federal government of less than $10 million.

The TIFIA program raises some significant public policy questions. Perhaps most important is, Where are the "tight" projects—those that are sufficiently creditworthy to move forward but that still can benefit materially from federal credit enhancement? Is it just big projects? Is it just those that cannot access the capital markets?

While we are considering these questions, we face a watchman in the form of the Office of Management and Budget (OMB), which is not really sure that the federal government ought to be in this business at all. Still, we are trying to convince those people that this is worthy work that, in fact, enhances the economy. What's more, it achieves this end with loans, not grants.

My firm is currently involved in a project that you will likely be hearing a lot about at this conference—State Route 125 in San Diego County, California. This project is receiving a TIFIA direct loan as well as a line of credit to assist it in accessing the capital markets. The sponsors have received their environmental permits and will perhaps obtain financing toward the end of the first quarter of 2001. This project has roots in the AB680 (Assembly Bill 680, which authorized the state to enter into agreements for up to four public-private projects) process in California, dating to a time when the state had only a 9-cent gasoline tax and actively sought private participation to help close the gap. SR 125 will provide a new border crossing to Mexico—it is a very important road to the entire San Diego area.

A key issue with this project and others centers on when subordinated debt really is subordinate. One of the related questions concerns how a subordinated TIFIA piece might spring to equal standing with senior debt in the case of a bankruptcy. If it does so, can you even really call the supposedly subordinate piece subordinated debt? It is a real question, and we have to do something about it. At a minimum, I think, we can handle it best by getting good projects and not getting to the point where bankruptcy even becomes an issue. Nonetheless, the behavior of the TIFIA component in this event can be an impediment to pulling together a deal.

Another important question is whether the federal government can sell a loan it makes to a TIFIA project sponsor. If so, does that have an impact on the borrower? Do you, as a borrower, get any benefit if U.S. DOT sells your loan in the secondary market?

The other critical thing about getting to yes is a full analysis of the "what-if" scenarios. What if the worst possible outcome happens? How does the bondholder get paid back? Every document has to make room for that worst-case scenario. The ability to look at these things is critically important.

One thing to know is that the people in FHWA and U.S. DOT have changed substantially. For the longest time, they were best at taking our money, giving it back to us, and telling us to build roads that benefited the national transportation system. But now they have changed. They are becoming a financial partner. The $10.6 billion in the TIFIA program is not a lot of money, but U.S. DOT now has a mandate. This is a tremendous program, and we must help U.S. DOT produce success. There are a few bumps in the road that we need to work through together, particularly to help us understand our common objectives. I believe we will see some changes in the next iteration of TIFIA, but in terms of its fundamentals, this is a very valuable program. If you have a project that you think could benefit from some credit enhancement, this is definitely a program you should look at.

Strategies for Structuring a Plan of Finance

James Preusch

As I thought about strategies for structuring a TIFIA plan of finance, I considered some of the things that I have used or tried to use. I thought I would put together a couple of acronyms to express some of these approaches, and I found that TIFIA lends itself well to the exercise. So I will use each of the letters in TIFIA to express a different part of how a financing strategy ought to come together. Some of you know I was the Treasurer of Alameda Corridor for 10 years and, with the help of investment bankers and financial advisors, pulled together that $2.4 billion plan of finance. Because I am familiar with that project, I will use it to illustrate a couple of my points.

Starting with the "T" in TIFIA, we first have Theory. You need to think about what it is you are trying to do with a given project. What is the need? What is the challenge? In the case of the Alameda Corridor Transportation Authority, or ACTA, we consolidated three rail routes between the ports of Los Angeles and Long Beach and the downtown Los Angeles rail yards about 35 km (22 mi) to the north. We created grade separations throughout and in so doing were able to cut out about 200 points where roads and rails intersected. We considered a lot of different ways to accomplish this objective before settling on the final design, but we always had a clear idea of what we were trying to do.

To stay with our TIFIA acronym, I next choose the word "Initiative." Once you have a sense of where you want to go and what you need to do, it's time to look at cost. With very little to go on, engineers will develop some preliminary cost estimates. Then it is time to begin to think about ways to pull together some sources of funding—all the while building in some contingency funding to accommodate the inevitable shifts from early estimates. You need to take the initiative in identifying what kinds of revenues might be available. What kinds of grant funds might be available? What about borrowing? Who can help fund this? And throughout, you need to ask who is going to benefit. The beneficiaries are likely the people you want to bring into the economics of the project.

Sometimes you can get a little overoptimistic when seeking out sources of funds. By 1995, we had identified a project cost of about $1.8 billion, and we thought we had four sources of money—including a $700 million federal grant. I made several trips to Washington and met with some of the people in this very room. I actually expected them to give me $700 million. I was wrong.

This illustrates the need for Flexibility. Sponsors of major projects with major funding requirements must consider a large range of funding sources and recognize that the one certainty is that plans will change. For this reason I think it is crucial is to keep the financing structure as simple as possible in the early stages. We all recognize that these are complex projects that entail complex debt structures. Frequently you need to factor in a ramp-up in revenues, so use of subordinated debt and mezzanine-type financing becomes more common. Yet, despite these necessary complications, it is worthwhile to keep things as simple as possible.

By the time ACTA got to market, the $700 million grant we had sought had turned into the $400 million federal loan that we have heard about a number of times at this conference. Other sources included a $347 million grant from the Los Angeles Metropolitan Transportation Commission, consisting mostly of ISTEA funding. As for bonds, we initially expected to issue about $600 million; this later turned into almost $1.2 billion of taxable and tax-exempt senior and subordinated debt.

The next "I" stands for Investment: the need to bring in a commitment from the private sector or local community in the form of an equity contribution. In ACTA's case, the two ports put in $394 million, which is a very large equity commitment. Furthermore, the ports agreed to pay up to 40 percent of the debt service in the event that ACTA was not able to do so. This partial guarantee was important to the purchasers of ACTA's debt.

The TIFIA program is designed to encourage plans of finance that include outside and private sources of equity. But these investors typically want some kind of return on investment to balance out the risk they are assuming. Often, because of cash-flow patterns, these are the same people who must wait a long time before receiving any return of invested capital. It makes for a difficult balance. Accordingly, any mechanisms to bring in incentives or volume payment bonuses should appropriately go to those who assumed risk through commitments of equity on the front end and who are waiting the longest to get their returns.

Again, ACTA's structure can help illustrate these points. The project's revenue stream derives from a cargo fee of $30.00 per loaded container that moves on this corridor by rail. As cash flows in, senior bondholders are paid first, then the federal loan, then certain operations and maintenance costs, then the subordinate bondholders, and finally, ACTA's administrative expenses. Only after all those other claims are satisfied do the ports see any return on their initial investment.

Finally, the "A" in TIFIA stands for Alterations. Even after developing a well-structured plan of finance, things still crop up. New environmental issues arise. New engineering considerations emerge. ACTA, for example, recently encountered water in digging the main trench, and the dewatering issue became a bit of a crisis thanks to the discovery of some very minor contaminants in the water. The matter appears to be resolved at this point, but it did add to the cost. Still, thanks to adequate contingency funding, today the project is on time, on budget, and going very well.

Credit Perspective: An Examination of the "Investment-Grade" Requirement

Chee Mee Hu

Today I would like to walk through those TIFIA requirements that involve the rating agencies, talk about the credit-rating process, and discuss some of the factors we would consider in awarding an investment-grade rating, which is a requirement of the TIFIA program. I will also give you some helpful hints that we have garnered from the last two phases of the program.

TIFIA is unique among the funding and credit programs in that it requires the borrower's provision of a preliminary credit-rating letter at the time of application as well as a final credit letter at the time of closing. Specifically, the senior obligations of the project either must be, or have the potential to be, investment grade. The TIFIA program requires a final determination at closing that the senior obligations of this project are investment grade. In terms of the standard credit-rating process, the TIFIA process is something of an inversion of normal procedures. This is because TIFIA is intended to provide seed money, so it becomes necessary to seek a rating opinion before all the details of the full project and financing package are in place. This inversion makes it a bit harder for Moody's to work through the credit analysis, but not impossible, as is evident from the fact that we successfully managed to assess the first-round applicants.

One thing I want to highlight is that TIFIA differentiates between default risk and recovery risk. This is an important distinction. Default risk refers to the failure to make principal and interest payments, whereas recovery risk refers to how long it takes to get back on your feet and how many cents on the dollar the bondholder can be expected to recover following a default. The issue of recovery risk is important for TIFIA because the federal government is willing to take a subordinate position on the obligation.

Let's talk about the credit-rating process. Despite the unorthodox nature of the TIFIA process, where conditional ratings are provided before rather than after the plan of finance is finalized, the credit-rating process remains the same. You start the process with a phone call, stating that you are thinking of applying for a TIFIA credit instrument on a given project and that you would like to start the credit-rating process by signing a rating application. The first thing we do is assign a lead analyst, who will be the primary person responsible for covering this rating. Normally, we have meetings and sometimes site visits. Normally it takes 2 to 4 weeks to process a credit rating, even for a start-up project. However, there have been cases where we have been able to produce a rating in a substantially shorter time frame, if necessary.

At our firm, the TIFIA rating goes through the full process. It culminates in the lead analyst writing up a rating recommendation and memorandum, which then goes to a full credit committee, where all of the project's strengths and weaknesses and all of the key analytic factors are discussed. The rating committee assigns the credit rating to the project. Assuming that the borrower is satisfied with the rating and with our conclusions, we then draft a rating letter and send it to you, the borrower, for inclusion in the TIFIA application.

I want to make an important point here. Normally, we assign credit ratings for issues that are about to be sold on the public capital markets. Under this normal course of events, we assign the rating, the borrower accepts the rating, and we broadcast it to the markets in a very public fashion. For TIFIA, that is not the case. The rating is provided to the borrower for purposes of the TIFIA application, and if the borrower decides not to use the rating, it can elect not to include it in the application package. The point is that the end users for the rating are essentially the borrower and U.S. DOT. This is an important distinction, because there may be instances where the borrower would like to keep the information provided to us confidential, and this process certainly allows for that.

Now I would like to indicate the types of information normally required for a credit rating. At a minimum, we like to look at the drafts of your TIFIA application as well as the final copy when it is available. We look at engineering and consultants' reports. We like to look at the proposed financing structure, including cash flows and operating projections. To the extent that they are available, we like to look at the proposed legal structure and any legal documents, including drafts of any loan agreements or any legal covenants that might be under discussion. We like to look at information on the project participants. Information on the sponsors and who is participating in the project is extremely important. We also like to see any other supporting documents that you might have available: chamber of commerce reports, socioeconomic data, and statistical information that substantiates the importance of this project. We follow up with meetings, site visits, and teleconferences, if necessary, to flesh out written information.

What are the characteristics of an investment-grade project? Again, because of the inverted process, much of the information is not available during the first phase. So we look for strong project fundamentals, including the rationale or the need for the project and a documented history of local, regional, and state support for the project. The location, configuration, technology, and competitive arena for the project are also very important. For a toll road, for example, you want to know where it is located, what competitors it has, and whether the region is primed and willing to support a tolled facility.

Information on the project sponsor, owner, and development team is also a very important component of the project's fundamentals. We find that the success of any project is dependent, in very large part, on the strength, experience, and commitment of the management team and sponsors. It is something that Jim Preusch alluded to—the fact that you are willing to take the project through thick and thin and push it through to completion. A well-balanced management team will engender a higher level of political and constituent support, which in turn increases the probability of project success. These are not quantifiable factors, but in looking at hundreds of projects over the years, we have a pretty good sense of where the potholes are and what makes for a good management team.

We have generally found that if the fundamentals of the project are sound and the management is promising, then the economics of the project will be favorable. We look for reasonable revenue projections and operating pro formas, which are usually provided by the borrower's consultants. We calculate debt service coverage, which is the ratio of net operating revenues to principal and interest payments. Obviously, the higher the debt service coverage, the more flexibility the project has to weather any unexpected downturns. Finally, we analyze the financing structure and the legal structure. We consider repayment liens for all types of debt, including senior and subordinate components. We look at amortization schedules, the length of time before final maturity, and any credit enhancements or structural enhancements. Also, the legal structure, which outlines the borrower's responsibilities to its lenders, must ultimately be airtight and protect the bondholders' interests. Generally, legal analysis occurs between the time of the preliminary rating letter and the final rating letter.

Having provided a number of credit ratings for TIFIA applicants, I wanted to give you some helpful hints, recognizing, however, that every project is unique and operates under different constraints. The first hint is that if you, as a sponsor, have a preexisting rating on debt that was issued in the past, that rating will not satisfy the rating requirement for the TIFIA application. Each rating reflects the fundamental and structural aspects of the particular project and must be analyzed from that viewpoint.

Second, we recognize that TIFIA ratings occur earlier in the process than normal bond ratings, so we do not expect final project and loan information at the preliminary stage. If you are not certain what you may or may not be missing in terms of information, please just get in touch with us and we will let you know. One of the hard lessons we learned is that the innovative nature of this program creates the need for a very iterative approach and a continuous stream of feedback. There is no cost to you to pick up the phone and just say, Here is the project, what do you think? We can give you some pretty rough, but quick, feedback on the basis of our experience with other TIFIA projects.

The TIFIA regulations require annual surveillance of the project, and I think this is something that is very much in line with Moody's philosophy. Once we rate a project, we like to follow-up once or twice a year to see how the project is going. The surveillance process is especially important during construction and ramp-up, and luckily we and those administering the TIFIA program are on the same wavelength on this matter.

Finally, I think it should be clear from today's speakers that the TIFIA application process is arduous and demands meticulous attention to detail. It is much easier to develop good working relationships and open lines of communication if project sponsors contact rating agencies as early as possible in the process. Even if you are not sure that you will be submitting an application, I would much rather know that you are thinking of submitting something so that we can put it on a provisional calendar and provide you the best service possible. In the case of the Alameda Corridor, Jim started coming to us years before the project went to market. We had ongoing conversations during which Jim would update us on revisions to the financing structure. So even though the final package was an extremely complicated deal, we were comfortable with the evolution of that structure and understood it far better than we could have otherwise. So again, I would urge all potential applicants to call as soon as possible and think of us as a resource.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING PROGRAM

Charles White

The Office of Policy at FRA is essentially the economics arm of the department with respect to railroads. We advise the Secretary of Transportation in cases where economic issues arise as related to rail mergers or other such events. We are the link to the other modal agencies for intermodal projects that involve a rail component. We also advise other nations that seek to privatize state-owned rail systems or otherwise introduce private capital into their rail systems.

The Railroad Rehabilitation and Improvement Financing Program, or RRIF, is one of our tools for bringing the government into partnership with the private-sector U.S. rail system. I think that the time is coming quickly where infrastructure needs related to our growing economy and our transportation system will cry out for partnership with the federal government. The nostalgia for purely private-sector railroads is perhaps an indulgence that we can no longer take for granted in the United States.

I am pleased to tell you that after long months and years of waiting, the RRIF program is now in effect. Rules to implement the program were published in the *Federal Register* on July 6, 2000, and will go into full effect on September 5, 2000. We are having outreach sessions around the country, primarily with the small-railroad community, to advise them of both the availability of the program and our willingness to work with prospective applicants. RRIF is a \$3.5 billion lending and loan guarantee program. Of the total, \$1 billion is earmarked for the short-lines and the small-railroad community. If I had my way, all \$3.5 billion would be funneled in that direction, because this community desperately needs financial aid if our short-line industry is going to remain active.

I would like to walk briefly through the RRIF program. First, those eligible for RRIF assistance include states, local governments, government-sponsored authorities, or corporations or joint ventures involving at least one railroad. The project must involve a rail connection, an intermodal connection, or a refinancing of rail-related equipment. As I mentioned before, I think the cardinal applicants will be short-line railroads seeking to upgrade their rails so that they can handle heavier cars and thus remain a viable part of the rail network.

RRIF was also created to allow railroads or rail combinations of joint ventures to acquire or rehabilitate rail equipment facilities, yards, buildings, and shops; to refinance those already acquired under high financial burdens; or to develop new intermodal railroad facilities. Priority will be given to projects that enhance safety or the environment, promote economic development, are already included in the state transportation plans, enhance competitiveness of the United States, or preserve or enhance rail and intermodal service to small, rural communities.

RRIF differs from TIFIA in one very significant way. It is founded on the basis of private payment of the credit risk factor. Congress did not authorize funding for this purpose under RRIF, so applicants for a RRIF loan have to bear the financial burden that approximates the risk of a loan defaulting. To accomplish this, the RRIF program places similar projects into cohorts, or groups. Those projects will be assessed a credit risk premium to be spread over the full cohort. Once the credit risk assessment has been paid, we will be able to offer 25-year loans at Treasury rate levels.

I will now talk briefly about the regulatory changes that we have made and that OMB has approved as a result of the comments we received on our proposed rule. As a result of these comments, now only one letter demonstrating a failure to obtain private-sector financing is necessary to trigger eligibility. OMB had argued that this program should not be used freely in lieu of the private-sector financing market and had asked that applicants provide at least two turndown letters to guarantee DOT's position as lender of last resort. That, however, is not what Congress had in mind, and the final regulations require only one letter.

In another change, the proposed rule originally called for applicants to pay one-half of 1 percent of the principal as the cost of commencing the evaluation process. We have changed that dramatically by now encouraging applicants to engage a financial advisor who can come forward and advise FRA on the project's creditworthiness, so again, we are shifting that function as much as possible to the private sector.

We also have preliminarily agreed to separate the cohorts for loans and loan guarantees. We also will not necessarily limit the cohorts to a 1-year period—this will allow greater flexibility in creating cohorts that contain an adequate pool of obligations. Together with our consultants, we are putting together the mechanism for assessing the cohorts and determining risk premiums.

I would be delighted to discuss this new program with you further, and again I want to emphasize how significant a development this is for the rail industry. I believe that this program has every indication of becoming as powerful and as popular as TIFIA.

TIFIA II: Realigning the Process with the Mission

Mark Sullivan

I am here today on behalf of Bryan Grote, who was obliged to stay in Washington to handle a TIFIA negotiation. Bryan did, however, leave me a presentation to deliver, and I think you will notice that many of these observations indicate Bryan's own slant and sense of humor about things.

To begin, let's look at some of the opposing views we have heard during the first year's implementation of TIFIA. Some people hold that U.S. DOT is being too rigid and rule-bound in implementing the program. Others say we are too loose. Some complain that DOT is being too businesslike in negotiating TIFIA deals. Others take the opposite view and argue that we have been giving away too much at the bargaining table. Given these equal and opposing forces, is it just possible that DOT is actually walking a fine line successfully?

One way to look at these policy questions is to go back to the beginning: legislative intent. On the basis of statutory language and language appearing in the conference report that supported TEA-21, we can see that TIFIA is intended to facilitate market access through the provision of secondary and subordinate capital. That role really plays to the strength of the federal government, for when it comes to financing, DOT, like other federal agencies, can be a very flexible and patient investor. When your time horizon is 30 to 40 years, concerns about liquidity, predictability, and risk—concerns that can be very problematic on a year-to-year basis—tend to smooth out. A long-term view is one of the real strengths that government can bring to project financing.

As for the TIFIA program's objectives, the statute directs us to focus on projects of regional and national significance with significant spillover benefits, to encourage the development of new revenue streams and promote greater private participation, and to limit federal exposure by relying on the market discipline provided through the credit-rating process.

Projects must also have the potential to be self-supporting from user charges or other nonfederal dedicated funding sources. Although user fees are not mandatory, language in the conference report indicates an expectation that we are targeting projects that will generate their own revenues and have not simply identified a revenue stream such as a broad-based tax. Another key point is that the federal government is to be a minority investor, as evidenced by the 33 percent cap on TIFIA credit assistance. In addition, a section in the conference report states the following:

> The Secretary may provide assistance to demonstrate to the capital markets the viability of making infrastructure investments where returns depend on residual project cash flows. The objective of the program is to help the financial markets develop the capability to ultimately supplant the role of the federal government in helping finance the cost of large projects. The conference would like the Secretary to encourage federal borrowers to pre-pay their direct or guaranteed loans as soon as practicable from excess revenues.

You can't be much clearer than that in indicating the proper market niche for the TIFIA program.

We have talked today about the three projects that helped inform the TIFIA program: the Alameda Corridor in Los Angeles, the San Joaquin Hills toll road in Orange County, California, and the Foothill/Eastern toll road, also in Orange County. In creating the TIFIA program, one of the experiments was to see whether there were more projects out there that can use federal credit in a productive way. With the Alameda Corridor and the toll roads, federal credit assistance made a difference. The question now is, Can we find five similar projects every year? We have \$10.6 billion that will enable us to find out.

Within 4 years of TIFIA's enactment, the department is required to submit a report to Congress that summarizes the program's financial performance to date. The report is also to look at the question of whether to continue the TIFIA program as it is, to establish some sort of government corporation or government-sponsored enterprise akin to Sallie Mae or Fannie Mae, or to rely on the capital markets without any federal participation. On that last point, and thinking back again to congressional intent as expressed in the conference report, if we can demonstrate that transportation projects are good investments, maybe there is no need for the federal government to assume such an aggressive role. Maybe TIFIA can just work its way out of business.

With the above perspective in mind, here are some preliminary thoughts for your consideration. I think these issues are going to find their way into the report to Congress, and collectively they present some very interesting policy considerations for the TIFIA program.

The first consideration centers on the investment-grade rating. Chee Mee Hu has described in some detail the preliminary opinion letter and the investment-grade rating process. What is interesting here is that the TIFIA program has privatized the credit analysis process to a very significant degree. That makes a lot of sense, because we are looking to the discipline of the credit markets to pinpoint projects that can work.

I was interested in Chee Mee's comment on projects entering the rating process much earlier than normal. The same is true for us at U.S. DOT. Now, our doors are always open and we love to talk to people about projects as they are developing. But I will say that when we look at the letters of interest and the applications, it is clear that some projects in the mix are still probably several years away. Really, TIFIA is not "early money," and we do hope that the opportunity for applicants to provide a preliminary rating opinion letter is not in some way encouraging projects to step forward a little earlier than they otherwise might.

In a related matter, and as you well know, the environmental, programming, and planning requirements that apply to any federal grant–funded project apply to TIFIA projects as well. These threshold requirements are very clearly stated in our statute, our regulations, and our program guide, and all are very important determinants of when a project is ready to apply.

I will now move on to a discussion of the efficacy of the credit instruments. Again, part of our whole effort in the next several years will be to ask how these three credit products—the direct loan, the line of credit, and the loan guarantee—are being used by TIFIA project sponsors. To date, we have found that project sponsors seem to prefer combining the TIFIA direct loan with the TIFIA line of credit when dealing with projects financed with user charges. State Route 125, a San Diego toll road, provides a good example of this strategy.

The line of credit is really an odd duck in federal budget circles. But it is also something that I think everyone, including the capital markets, is getting used to. There are limits on the eligible uses of the TIFIA line of credit. As you know, it is available during the first 10 years after a project's substantial completion, and there are limits on the annual draws—no more than 20 percent of the assistance can be disbursed in any single year. Lines of credit do pose some tax issues that a number of bankers and others have raised; Rick Ballard spoke on this point at one of the first sessions of the conference.

The final credit instrument, the loan guarantee, has at this point been used in only one case: for support of the capital improvement program for the Metrorail subway system of the Washington, D.C., area. It is interesting that Metro never intends to draw on the commercial loan facility that the TIFIA instrument guarantees. Rather, the loan facility and the guarantee are helpful, given the jurisdictional structure that underlies Metro, which is ultimately supported by the member counties in Maryland and Virginia and the District of Columbia. To meet the requirements of its charter, Metro needed to obtain access to additional funds if necessary. As a result, U.S. DOT is guaranteeing a $600 million loan that will never be drawn on. If this kind of action helps advance investment in worthy projects, so much the better.

We are just beginning to gear up for credit servicing and monitoring. Until now we have been very busy evaluating projects and negotiating loans. Now we need to diligently assess and manage the government's ongoing credit risk. At this point, there is a very nominal loan servicing fee that is part of every TIFIA deal. Chee Mee mentioned that rating agencies regularly perform credit surveillance, and we see this service as very integral to our own efforts. As we develop our own approach to surveillance during the construction, ramp-up, and ongoing operation of a project, we will be developing a fee structure as well.

One issue that Tom Bradshaw alluded to and that merits discussion is the so-called springing lien. We have talked about subordination and how fundamental it is to the TIFIA program. We are junior in terms of our position as a minority investor. We also intend to be junior in the flow of funds. However, that position runs smack into long-standing U.S. Treasury policy that opposes the subordination of any federal loan to any other creditor. The language in the TIFIA statute is a little squirrelly, in that it gets us part of the way to subordination, but it puts the brakes on subordination in the event of a bankruptcy, insolvency, or liquidation. So, as Tom asked, when is subordination really subordination? Again, this is an issue that we need to think about as we look toward the report to Congress and options for reauthorization.

A final point for further analysis concerns repayment schedules. The notion of financing projects that rely on user fees sends you right into the territory of backloading the federal component of the project debt. Again, one of the strengths of the federal government is that it can be a patient investor. The Alameda Corridor, for example, received a $400 million loan, and through the first 10 to 15 years of the project, the federal government will actually be in a period of negative amortization. This means that the outstanding balance will in fact grow to more than $400 million as interest accrues. After this period, the loan will be paid down, both principal and interest. We believe that this is an appropriate risk in the case of a project for which user fees form the primary revenue stream. After all, relief is needed in the early years of the project, when the risk is highest, but as a practical matter, most fee-backed projects do make it after 10 to 15 years. Our long-term faith in the ports of Los Angeles and Long Beach and their centrality to international trade make this a very sound bet.

So, that kind of repayment structure is something that we discuss with TIFIA applicants, but at the same time it may not represent an appropriate schedule in the case of a tax-backed loan. Negative amortization is perfectly permissible under statute, but nothing says that we have to do it. If this approach does not advance our policy goals, then we should probably be looking at a different repayment schedule.