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DEPARTMENT OF TRANSPORTATION

Transportation Border Congestion Relief Program

AGENCY: Department of Transportation (DOT).

ACTION: Notice; request for applications.

SUMMARY: The Federal Government has an important role to play in facilitating and accelerating transportation-related capacity and operational improvements at international land border crossings that will improve border travel times and help reduce associated national and regional economic costs. To fulfill this role and to encourage the greater use of non-traditional transportation project finance, delivery, and facility operation mechanisms at the Nation's critical international land border crossings, the DOT is soliciting applications from interested international land border States, bridge and tunnel operators, and private entities to participate in the Transportation Border Congestion Relief (TBCR) Program. The goal of the TBCR Program is to identify and assist international land border States with implementing innovative solutions to help address land border travel time delay and facilitate trade and travel without compromising the vital mission of securing America's borders. The DOT intends to select two or more surface transportation projects, a minimum of one on the U.S./Mexico border and one on the U.S./Canada border, which can help improve border travel times.

DATES: Applications must be received on or before June 30, 2008.

ADDRESSES: Interested parties should submit applications to Marcus J. Lemon, Esq., Chief Counsel, Federal Highway Administration, HCC-1, Room E82-328, 1200 New Jersey Avenue, SE., Washington, DC 20590 or electronically to transportationbordercongestionrelief@dot.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Alla C. Shaw, Esq. (202) 366-1042, Alla.Shaw@dot.gov, HCC-30, Room E84-463, 1200 New Jersey Avenue, SE., Washington, DC 20590, HCC Team Leader, or Mr. Roger Petzold, Team Leader, Border, Interstate, and GIS Program, (202) 366-4074, Roger.Petzold@dot.gov, HEPI-10, Room E74-312, 1200 New Jersey Avenue, SE.,

Washington, DC 20590. Office hours are from 7:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

An electronic copy of this document may be downloaded from the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

Background

The DOT is establishing a Transportation Border Congestion Relief Program to demonstrate how non-traditional transportation project finance, delivery, and operation mechanisms can be used to improve land border travel times and can facilitate trade and travel without compromising the vital mission of securing America's borders within the Border Region (A Border Region is defined in section 1303(g)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59; Aug. 10, 2005) as any portion of a U.S. State that is within 100 miles of an international land border with Canada or Mexico). The DOT is seeking applications from the 15 international land border States, bridge and tunnel operators, or from private sector entities which identify and advance land border transportation projects that can alleviate current or forecasted congestion at or near the U.S. border with Mexico and with Canada within the border zone. The DOT envisions a selection of two or more projects that can serve as models for land border travel time improvements.

The DOT is interested in pursuing projects that can address ways to improve land border travel times because of the significance of border transportation to our Nation. More than 17 million truckloads of freight crossed America's borders with Canada and Mexico in 2005, carrying over half of the \$711 billion in products the U.S. traded with its North American neighbors. Since 1990, the value of freight shipments among the U.S., Canada, and Mexico has risen by 170 percent, growing an average of 8 percent annually. Trade between the U.S. and Canada is about \$2 billion per day. In addition to the large amounts of daily trade, at least 2 million people legally cross our borders in any given day. These huge numbers are putting a serious strain on the transportation network at and near our international land border crossings. Travel times for crossing U.S. borders have steadily

increased since 1996, frustrating individuals, families, and commerce with negative impacts on quality of life, efficiency, and prudent use of resources.

In an effort to combat the growing problems of transportation congestion, the DOT launched the "National Strategy to Reduce Congestion on America's Transportation Network" (Congestion Initiative) in May of 2006.¹ The Congestion Initiative is designed both to reduce transportation congestion in the short-term and to build the foundation for successful longer-term congestion reduction efforts.

Objectives

The primary objectives of the TBCR Program are to:

A. Reduce border travel time delays by promoting non-traditional transportation project delivery and operation approaches at or near international land border crossings.

B. Illustrate the benefits of alternative financial models.

C. Promote and support a more efficient coordination process among the various Federal and local agencies that have an interest in our Nation's land borders.

D. Improve system connectivity to facilitate trade and the safe, legitimate, movement of people and goods across the U.S. border by decreasing border travel times without compromising the vital mission of securing America's borders.

E. Demonstrate the viability of developing land border crossing projects using an investment model based on sound economics and market principles.

F. Build on the institutional expertise in place within the U.S./Mexico Joint Working Committee for Border Planning <http://www.borderplanning.fhwa.dot.gov/mexico.asp> and the U.S./Canada Transportation Border Working Group <http://www.thetbwg.org>, and interagency groups related to border facilitation.

Application Process

A land border State, bridge or tunnel operator, or private sector entity (Applicant) interested in the TBCR Program should submit a TBCR Application to the DOT. The

¹ Speaking before the National Retail Federation's annual conference on May 16, 2006, in Washington, DC, former U.S. Transportation Secretary Norman Mineta unveiled a new plan to reduce congestion plaguing America's roads, rails, and airports. The National Strategy to Reduce Congestion on America's Transportation Network includes a number of initiatives designed to reduce transportation congestion. The transcript of these remarks is available at: <http://www.dot.gov/affairs/minetas051606.htm>. Additional information may be located at: <http://www.fightgridlocknow.gov>.

Application should address the areas of information discussed below and demonstrate how the project would provide adequate, reliable and sustainable capacity for the life of the facility. Bridge and tunnel operators and private entities should provide a written endorsement from the border State in which the proposed project is located and evidence of consultation with the appropriate foreign jurisdictions, as well as Federal agencies which will play a role in the implementation of the project, within 30 days of submitting an Application. Transportation Border Congestion Relief Applications may include new capacity development or upgrades/extensions of existing capacity. The Applicant should also state whether the proposed project will cross any Federal or Indian lands and how it will involve or impact transportation in the foreign jurisdiction. To the extent the proposed project is already in development, the Applicant should describe broadly the remaining activities that must be undertaken and the ways the proposed non-traditional approach may help the project become operational.

The Applicant may be requested to submit additional information if necessary to evaluate the Application. All proposed projects must be located within the Border Region (a Border Region is defined in section 1303(g)(1) of SAFETEA-LU as any portion of a U.S. State that is within 100 miles of an international land border with Canada or Mexico). If a border State submits more than one project, it should prioritize the proposed projects. The deadline for submitting an Application is June 30, 2008. If an Applicant submits an Application after the deadline, the Application will be considered to the extent practicable.

Applications will be evaluated and ranked based on the following elements:

1. *Project Description*

The Applicant should include a detailed description of the proposed land border project, including its purpose, location, preliminary design features, rough estimate of capital cost, proposed delivery schedule, likely financing mechanism(s), current level of service, and information about the status of agreement among any affected stakeholders to advance the proposed project. The Applicant should include a map with detailed information about U.S., State, and local numbered route and other important facilities clearly identified as well as information about the foreign jurisdiction(s) involved.

2. *Congestion Reduction and Reduction in Land Border Travel Times*

The proposed land border project may address current or future congestion. The Applicant should describe where and how the proposed project would (a) reduce current congestion levels, or (b) address future expected congestion based on projected travel trends at the land border crossing. The Applicant should discuss the impact of the project on movement of individuals or freight and/or traffic congestion. The congestion reduction discussion should present all relevant data related to the proposed congestion relief benefits of the project including information about the annual volume of commercial and passenger vehicle traffic at the relevant land border crossing, expected reduction in vehicle travel times through the land border crossing, and potential benefits to the U.S. economy.

3. *Use of Intelligent Transportation Systems*

Whether the proposed project is on a new or existing alignment, the Applicant should explain how transportation technologies would be used to benefit users by enhancing the mobility and efficiency of the land border crossing. Examples of mobility improvements include use of intelligent transportation systems, traffic conditions monitoring, computerized traffic control systems, traveler information systems, electronic toll collection, and open road tolling.

4. *Economic Benefits and Support of Commerce*

The Applicant should explain how the proposed project would support U.S. economic growth including information about how the project would improve the predictability of freight movements or travel by individuals through the land border crossing. In support of the economic benefits, the Applicant should include current data on the national and regional economic impact of delays in border travel times, etc.

5. *Value to the Users of the Project*

The Applicant should describe the benefits of the proposed project within the border zone to its users. Potential benefits include reduced border travel times, increased safety, faster and more convenient access to terminals for commercial vehicles, environmental benefits, truck-only lanes, and increased travel speeds, etc.

6. *Innovations in Project Delivery and Finance*

The Applicant should highlight any innovative project delivery and financing features proposed for the project. The Applicant should specifically address the eligibility of the proposed project for credit assistance under the Transportation Infrastructure Finance Innovation Act (TIFIA) and Private Activity Bonds (PABs).

7. *Exceptional Environmental Stewardship*

The Applicant should describe any proposed innovative methods for completing the environmental review process effectively, and/or any exceptional proposed measures for avoiding or mitigating air, noise, or water impacts, or impacts to environmental or cultural resources.

8. *Finance Plan and Potential Private Sector Participation*

The Applicant should submit an initial plan that identifies potential sources of financing and the private sector's likely role. This may include proposals for private sector financial contribution to the proposed project. Private sector participation can encompass a wide range of contractual arrangements by which public (Federal, State, or local) authorities and private entities collaborate in the financing, development, operation, and ownership of a transportation infrastructure project. Potential contractual arrangements for the project include, but are not limited to:

- (a) Long-term concessions or franchise agreements;
- (b) Design, Build, Operate and Maintain contracts;
- (c) Design, Build, Finance, and Operate contracts;
- (d) Build, Own and Operate contracts; and
- (e) Design-Build contracts.

The Applicant should describe the efficiencies likely to result from private sector participation, as well as the process likely to be used to ensure robust competition among private financial entities.

9. *Planning and Coordination Status*

The Applicant should provide information about the status of planning and coordination activities. The Applicant should identify and discuss: (a) The status of coordination among interested Federal agencies and local stakeholders; (b) relevant consideration and/or coordination with the governments of Canada and Mexico; (c) whether the project is included, or expected to be included, in State and

metropolitan planning organization plans and programs; (d) whether the project is consistent with plans and programs developed by empowerment zone and community organizations; (e) whether the project is consistent with plans developed for compliance with the Clean Air Act; (f) whether or not the project is supported by the U.S. Customs and Border Protection Agency or by the General Services Administration; and (g) whether or not the project has or will require a Presidential Permit.

10. Proposed Project Time-line

The Applicant should include a proposed project time-line with estimated start and completion dates for major elements of the proposed project such as:

- (a) Development phase activities (planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities);
- (b) Inclusion of the project in the relevant State and metropolitan transportation improvement plans;
- (c) Approval needed for any required Presidential Permits;
- (d) Acquisition of real property (including land related to the project and improvements to land); and
- (e) Construction, reconstruction, and/or rehabilitation activities.

The Applicant also should describe the results of any preliminary engineering or preconstruction activities done to date and relate it to the project time-line.

Transportation Border Congestion Relief Program Development Agreement

After a project is accepted for administration under the TBCR Program, the next major action by the Applicant would be to work with DOT, the relevant border State, municipalities, Indian tribal government(s), Federal agencies, and foreign jurisdictions to draft a TBCR Program Development Agreement for the project (Development Agreement). The Development Agreement would address the commitments of all parties to the project (Federal, State, municipal and private) with respect to the financing, planning and design, environmental process, construction, operations, maintenance, and other components. The Development Agreement would also identify the specific objectives of the project and performance measures that would be used to evaluate the success of the project in achieving these objectives.

DOT Resources and Commitments To Expedite the Delivery of the Border Crossing Project

If a project is selected for participation in the TBCR Program, the DOT will work with the project sponsor to expedite the delivery of the project. Potential DOT resources and commitments include:

A. Federal Transportation Border Congestion Relief Project Team

The DOT will work with the relevant Federal agencies with an interest in the land border crossing to establish a senior-level Federal border congestion team to advance the planning and implementation of the project, including expediting, to the maximum extent practicable, their reviews for relevant permits or other approvals, and take related actions as necessary, consistent with available resources and applicable laws.

B. Accelerated Review and Conditional Approval of Experimental Features Under the FHWA SEP-15 Process

Special Experimental Project 15 (SEP-15) is designed to permit tests and experimentation in the project development process for title 23, United States Code projects. Potential areas of experimentation for TBCR Program projects include innovative finance, tolling and contracting requirements. More information about the SEP-15 program is available on the following Web site: <http://www.fhwa.dot.gov/ppp/index.htm>. The DOT is considering further experimental programs that may apply to the approved projects.

C. Expedited Commitment Process for TIFIA Credit Assistance

The TIFIA program provides three forms of credit assistance—secured loans, loan guarantees, and standby lines of credit—for surface transportation projects of national or regional significance. Each border State seeking to incorporate TIFIA credit assistance as part of a project finance plan can receive a preliminary TIFIA commitment under SEP-15.

The DOT would work with each project sponsor to establish a preliminary plan of finance incorporating TIFIA assistance. This preliminary commitment would expedite the loan review process to be undertaken should the border State's selected concessionaire seek TIFIA assistance. Information about the TIFIA credit program is available on the following Web site: <http://tifa.fhwa.dot.gov/>.

D. Priority Access to DOT Experts

Projects accepted for the TBCR Program will have access to DOT experts knowledgeable in the areas of planning, the environment, public-private partnerships, finance, construction, safety, operations, and asset management.

E. Other Discretionary Funding

The DOT will work with Applicant(s) to identify other possible discretionary funding sources.

F. Tolling and Private Activity Bonds (PAB)

Applicant(s) may consider applying to DOT for authority to toll any Federal-aid highway as part of a TBCR project. The use of tolls would not only help finance the road, but the use of tolls also, if the amounts are varied, could help manage the volume of traffic utilizing the crossing at any given point during the day. Applicants may also consider applying for an allocation of PAB authority under Section 11143 of SAFETEA-LU as part of a TBCR project. The DOT will work with any selected Applicant(s) to explore what options might be available in these areas.

Authority: 49 U.S.C. 101.

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Thomas J. Barrett,
Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Intent To Prepare an Environmental Impact Statement for Improvements to the Danbury Rail Branch in Connecticut

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA) and the Connecticut Department of Transportation (ConnDOT), in cooperation with the Southwest Regional Planning Agency and Housatonic Valley Council of Elected Officials, intend to prepare an Environmental Impact Statement (EIS) on proposed commuter rail transit service and infrastructure improvements along the New Haven Line, Danbury Branch Rail Line in Connecticut. The New York Metropolitan Transportation Authority's Metro North Railroad