BUILD ACT

FREQUENTLY ASKED QUESTIONS

GENERAL QUESTIONS

Why do we need an American infrastructure bank?

The BUILD Act creates an American Infrastructure Financing Authority (AIFA), a type of infrastructure bank, to help facilitate private investment in projects critical to our country, states, and communities. According to the American Society of Civil Engineers, the current condition of the infrastructure in the United States earns a grade point average of D, and an estimated $2.2 trillion investment is needed over the next five years to restore American infrastructure to an adequate condition. AIFA will help close our infrastructure deficit.

What will it do?

AIFA will provide loans and loan guarantees to qualified infrastructure projects to help catalyze private investment and ensure America has the infrastructure it needs to compete globally.

What will it accomplish?

In the first 10 years, AIFA could provide up to $160 billion in direct financial assistance. But since AIFA has to be matched by other funding sources, the total investment could be much larger: between $320 and $640 billion in the first decade alone.

How is it funded?

After the initial years, AIFA is set up to be a self-sustaining entity, run by professionals, with both the cost of the loans and loan guarantees as well as the administrative costs offset by borrower fees. AIFA will receive an initial $10 billion to help spur immediate investment in our nation's infrastructure and to cover administrative costs.

LOANS AND LOAN GUARANTEES

Who can apply for a loan or guarantee?

Any project sponsor can apply to AIFA for a loan, provided that the project meets the appropriate criteria. This includes any individual, corporation, partnership, public-private partnership, joint venture, trust, State, or other governmental entity.

What types of projects are eligible?

Projects must meet several qualifications in order to be eligible. They must:

- Be within a covered sector (transportation, water, or energy);
- Meet a minimum size requirement: $100 million in general, or $25 million for rural projects; and
- Demonstrate a clear public benefit, meet rigorous economic, technical and environmental standards, and be backed by a dedicated revenue stream.

How does this catalyze private capital? How large a loan or guarantee can a project receive?

There are significant gaps in infrastructure financing in this country, like the absence of reliable long-term lending. By filling these gaps, AIFA will help dramatically increase private investment in American infrastructure. And by capping the contribution of AIFA at 50 percent of project costs, AIFA does not crowd out private capital.

Who decides on the terms of the loan or guarantee? Who approves it?

The CEO of AIFA, with his or her staff, will work with borrowers to determine the appropriate size and conditions for a loan or guarantee. Once the package has been set, the Board of AIFA may approve or deny the package.

How will this affect rural areas?

There are a number of separate provisions applicable to rural areas to encourage rural projects. Rather than $100 million, the minimum size is $25 million. Of the initial funding for AIFA, 5 percent is reserved exclusively for rural projects. And to ensure that borrowers understand how to present an effective case to AIFA, the BUILD Act establishes an Office of Rural Assistance to provide technical assistance regarding the developing and financing of rural projects.

Can you provide an example for how a loan would work?

Too many infrastructure projects have proved difficult to finance for a variety of reasons. Often, an individual project is simply too expensive to be viable, the maturity required to finance the loan is too long for private lenders, or the project is simply too large to be funded through existing market mechanisms. AIFA provides an alternative.

Under the Act, a project, for example, a water treatment plant, submits an application to AIFA for a direct loan. If eligible and meritorious, the project would be approved to receive a loan of not more than 50 percent of the project cost. Following guidance from the Office of Management and Budget, AIFA would determine the risk of default and determine the appropriate subsidy cost of the loan to ensure that the government is accounting for the risk of the loan. AIFA would also then charge fees and set the interest rate accordingly to offset part or all of this subsidy cost. Over time, these revenues will also cover the administrative costs of AIFA. Once the terms of the loan are set, the Act authorizes the Department of the Treasury to disburse the loan. The loan would be secured by dedicated revenues generated by the project or backed by the state or municipality.

What happens if a project defaults?

AIFA has the same rights as any investor to ensure that taxpayer funds are recovered, including selling its interest in the project, taking possession of the project, or taking legal action.

RISK AND OVERSIGHT

What kind of Congressional oversight will AIFA have?

AIFA will have strong congressional oversight. All Board members and the CEO, who are appointed by the President, must be confirmed by the Senate. The leaders of both parties in the House and Senate each will recommend a member of the Board, after consulting with the appropriate committees in the House and Senate. The Board will submit annual reports to Congress and the President that include the status of all projects and the financial status of AIFA.

What kind of independent oversight will AIFA have?

Initially, the Treasury Inspector General will have oversight over AIFA. After five years of operations, an AIFA Inspector General will oversee AIFA's operations, an independent auditor will review AIFA's books, and an independent source will prepare an assessment of the risks of AIFA's portfolio. The Government Accountability Office (GAO) will also conduct an evaluation of AIFA and submit a report to Congress no later than five years after the date of enactment.

What kind of governance will AIFA have?

The presidentially appointed and congressionally confirmed Board of AIFA will have the ultimate approval of all projects, policies, and compensation at the institution. To ensure it runs smoothly, the CEO and his or her staff will provide recommendations. In keeping with best practices, both the Chief Finance Officer and the Chief Risk Officer will report to the Board directly, to ensure the Board gains a full understanding of how the institution is being run.

Will AIFA be transparent?

The status of all projects funded by AIFA must be published annually. All Board meetings are public, except for portions that include sensitive information for individual companies. The minutes for all Board meetings will be published.

Does this legislation comply with the Federal Credit Reform Act of 1990*?*

Yes. AIFA, as established by the BUILD Act, is comparable to the Export-Import Bank. It requires the Federal government to assess the risk of any loan or guarantee and mark that as a cost to the government, rather than allowing the government to ignore the risks it takes on. Like the Export-Import Bank, we expect AIFA to become self-sustaining. The Export-Import Bank has been profitable to the government since 1991. AIFA is exempted from a provision of the Federal Credit Reform Act in order to allow it to be a self-sustaining entity.

HOW THE BUILD ACT COMPARES TO . . .

. . . the Administration's proposal included in the FY12 budget?

The Administration creates an infrastructure bank within the Department of Transportation that is focused on transportation. By contrast, the BUILD Act addresses the full range of America's infrastructure needs – transportation, energy and water – in an independent institution, separate from politics. The Administration's proposal costs $30 billion, and roughly half of that is for grants. The BUILD Act receives only $10 billion and provides economically viable loans, not grants.

. . . the existing TIFIA program?

TIFIA plays an important role in making transportation projects viable. The BUILD Act establishes an American Infrastructure Financing Authority (AIFA), which complements TIFIA. Instead of focusing simply on transportation, AIFA focuses on the full range of American infrastructure – transportation, energy and water. And instead of requiring ongoing federal funding, AIFA will be a self-sustaining entity to help support American infrastructure over the long-term.

. . . Fannie Mae and Freddie Mac?

Our nation cannot afford to create institutions that secretly increase risk to the government, requiring enormous bailouts. That's why AIFA is structured like a standard Federal loan program, where the government immediately and transparently assesses the risk of a loan or loan guarantee and budgets for that risk. AIFA is held on the Federal balance sheet and is not able to borrow debt in the capital markets in its own name. It is not owned by private shareholders and, therefore, the incentive for AIFA is to have capital returned to the government – not to make a return or profit on that capital.

. . . the municipal bond market?

Municipal bonds remain a critical source of infrastructure financing. But given the size of our infrastructure deficit, we have to look for other sources of funding—we cannot simply ask States to take on ever more expensive debt. The BUILD Act helps complement the municipal bond market and federal spending by providing an alternative source of finance.

. . . federal appropriations?

Federal appropriations remain essential to funding infrastructure in this country. But given the size of our infrastructure deficit, we have to look for other sources of funding—we cannot simply increase federal spending year after year. The BUILD Act helps complement the municipal bond market and federal spending by providing an alternative and an efficient source of finance.