



March 2019

SURFACE TRANSPORTATION

Action Needed to Guide Implementation of Build America Bureau and Improve Application Process

Why GAO Did This Study

Constructing surface transportation projects can be long endeavors and involve multiple DOT offices. The 2015 Fixing America's Surface Transportation Act (FAST Act) required DOT to establish a finance bureau to consolidate certain funding and financing programs. The FAST Act further required that DOT improve procedures for evaluating applications for these programs—including providing a clear rationale for decisions and streamlining the process. The FAST Act also gave this finance bureau other responsibilities such as promoting best practices for innovative financing. In response, DOT opened the Build America Bureau in July 2016.

The FAST Act included a provision for GAO to review the Bureau. This report assesses, among other things, (1) progress DOT made to establish the Bureau and carry out its responsibilities, (2) the Bureau's process for evaluating applications, and (3) whether the Bureau provided a clear rationale for decisions in that process. GAO reviewed federal laws and Bureau documents and interviewed DOT officials and selected stakeholders, including 28 project sponsors selected so projects varied by mode, cost, and outcome.

What GAO Recommends

GAO is making five recommendations, including that the Bureau develop a plan to guide its efforts and assess ways to further improve the application evaluation process. DOT concurred with two but did not fully concur with three of the recommendations and provided no rationale. GAO continues to believe the recommendations are valid as discussed in the report.

View [GAO-19-279](#). For more information, contact Susan Fleming at (202) 512-2834 or flemings@gao.gov.

SURFACE TRANSPORTATION

Action Needed to Guide Implementation of Build America Bureau and Improve Application Process

What GAO Found

The Department of Transportation (DOT) has taken initial steps to establish the Build America Bureau's (Bureau) organizational structure and to create a process to help the Bureau carry out some of its responsibilities since it was created in 2016. However, the Bureau lacks a plan to guide its ongoing and future efforts. Initial steps included creating a consolidated process to evaluate applications for three financing programs: Transportation Infrastructure Finance and Innovation Act (TIFIA), Railroad Rehabilitation and Improvement Financing (RRIF), and Private Activity Bonds (PAB). DOT largely based this consolidated process on prior practices used for individual programs but also sought to improve and streamline the process. For example, DOT formed a decision-making body that meets more frequently than a predecessor group to quickly address issues and to decide when to advance projects through the process. However, progress has been more limited in implementing other responsibilities, such as promoting best practices for innovative financing. While some of the lack of progress can be attributed to factors such as changes in leadership and staff, the Bureau lacks a plan with implementation goals and a timeline to guide its ongoing and future efforts and also lacks performance indicators to assess its progress. Without these tools, the Bureau may face difficulties prioritizing work to carry out other responsibilities and maintaining momentum throughout continued implementation efforts and any future changes in leadership and staff.

While the Bureau has taken steps to improve and streamline the application evaluation process, it does not have a mechanism to assess how well the process works—including what is challenging and what works well. Project sponsors GAO interviewed had mixed views on the Bureau's application evaluation process and whether it was streamlined. Selected sponsors that applied for TIFIA and RRIF financing identified challenges with the process, including the length of the process and changes to requirements or terms for a loan. For example, sponsors said the Bureau took longer than it had estimated to procure external advisors to help conduct its evaluation of applications. According to the sponsors, such delays and uncertainty led to cost increases for two projects and construction delays for one project. Bureau officials noted that many factors outside the Bureau's control influence the length of the application evaluation process, such as changes to a project's scope and construction cost estimates. However, the Bureau has not taken steps, such as consistently soliciting feedback from sponsors, to assess how to further improve and streamline its process. Without taking such steps, the Bureau is missing an opportunity to further streamline the process and to ensure that any challenges do not discourage sponsors from seeking the Bureau's financing programs.

GAO found that the Bureau provided a clear rationale for decisions to advance or approve projects in the TIFIA and RRIF programs but did not do so for the PAB program. While DOT did document the decisions made in each step of the application evaluation process for the PAB program, the lack of a documented rationale to support these decisions leaves that program open to questions about the integrity of its process, as it is not immediately clear how the Bureau determined that an application satisfied requirements and what information was used to support decisions that advanced projects.

Contents

Letter		1
	Background	4
	DOT Made Progress Establishing the Bureau and Meeting Some Responsibilities, but the Bureau Lacks Tools to Further Guide and Measure Its Efforts	10
	Sponsors Highlighted Positive Experiences and Challenges with Application Process, but Bureau Lacks a Mechanism to Assess How Well Its Process Is Working	20
	Bureau Provided Clear Rationale for TIFIA and RRIF Decisions but Not For PAB Decisions	31
	Conclusions	33
	Recommendations	33
	Agency Comments and Our Response	34
Appendix I	Objectives, Scope, and Methodology	37
Appendix II	Additional Information on Build America Bureau's Organizational Structure and Staffing	44
Appendix III	Comments from the Department of Transportation	54
Appendix IV	GAO Contact and Staff Acknowledgments	56
Tables		
	Table 1: Number of Projects That Have Received Build America Bureau Technical Assistance by Phase, Mode, and Cost, as of August 2018	28
	Table 2: List of Project Sponsors and Associations Interviewed by GAO	41
Figures		
	Figure 1: Phases and Steps in Build America Bureau's Consolidated Process to Assist Project Sponsors and Evaluate Financing Applications	13

Figure 2: Department of Transportation Offices that Interact with the Build America Bureau	46
Figure 3: Funding Sources for Build America Bureau Positions as of October 2018	50
Figure 4: Number of Envisioned and Vacant Positions, as of August 2018, in the Build America Bureau, by Office	51

Abbreviations

Bureau	Build America Bureau
Council	Council on Credit and Finance
DOT	Department of Transportation
FAST Act	Fixing America's Surface Transportation Act
FASTLANE	Fostering Advancement in Shipping and Transportation for the Long-term Achievement of National Efficiencies
FHWA	Federal Highway Administration
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
INFRA	Infrastructure for Rebuilding America
OST	Office of the Secretary of Transportation
PAB	Private Activity Bonds
RRIF	Railroad Rehabilitation and Improvement Financing
TIFIA	Transportation Infrastructure Finance and Innovation Act

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



March 11, 2019

Congressional Committees

Constructing or rehabilitating surface transportation projects can be long, costly endeavors. Many surface transportation projects involve multiple jurisdictions or span modes of transportation, such as a highway project that integrates a light rail line into its infrastructure. The Department of Transportation (DOT) supports the building and maintaining of our nation's surface transportation infrastructure through a multiplicity of programs administered and overseen by DOT's individual modal administrations with responsibilities for its highway, rail, transit, and maritime ports, among other modes of transportation. Traditional sources of federal funding for surface transportation projects are eroding as the purchasing power of motor-fuel and other taxes upon which DOT relies is declining due to increasingly fuel efficient vehicles and other factors, and the nation lacks a long-term sustainable plan for funding surface transportation.¹ As a result, project sponsors—state departments of transportation, cities, private companies, and others—increasingly consider financing, such as obtaining a loan from DOT to obtain funds that they can then repay over time, to help pay for and construct projects.

In 2015, the Fixing America's Surface Transportation Act (FAST Act) required DOT to establish a finance bureau to consolidate and administer certain surface transportation funding and financing programs, rather than keep these programs in separate modal administrations.² According to the conference report accompanying the FAST Act, it was envisioned that this bureau would be a "one-stop shop" where project sponsors can access these funding and financing sources and associated technical assistance to help advance large, complex projects. For technical assistance, for example, the FAST Act outlined specific responsibilities for the bureau to provide expertise and resources to help sponsors navigate federal environmental review and permitting requirements that

¹Given these issues, funding the nation's surface transportation system remains an issue included on GAO's High-Risk List. See GAO, *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, [GAO-17-317](#) (Washington, D.C.: Feb. 15, 2017).

²Pub. L. No. 114-94, § 9001, 129 Stat. 1312, 1614 (2015), codified at 49 U.S.C. § 116.

accompany federal funding and financing.³ In response, DOT opened the Build America Bureau (Bureau) in July 2016.

The FAST Act also included a provision for us to review the Bureau, in particular to review its procedures for evaluating applications for programs it administers and its actions to document decisions and provide a clear rationale for decisions when evaluating applications.⁴ This report assesses

- the progress DOT made to establish the Bureau and carry out its responsibilities;
- the Bureau's process for evaluating applications and providing technical assistance, including obtaining the views of sponsors and stakeholders; and
- whether the Bureau, when evaluating applications, has provided a clear rationale for its decisions.

To assess the progress DOT made to establish the Bureau and carry out its responsibilities, we reviewed the FAST Act to identify responsibilities set out for the new Bureau as well as its authorities to consolidate offices and transfer funds. We also reviewed DOT and Bureau documents, including Bureau implementation plans and operating procedures. In addition, we interviewed current and former DOT and Bureau officials who played key roles in the Bureau's establishment or first year of operation; these interviews covered DOT's priorities, actions, and any challenges faced in establishing the Bureau as well as the Bureau's progress in carrying out responsibilities set out in the FAST Act. We compared DOT's and the Bureau's efforts to federal standards for internal control and key practices for organizational transformations.⁵

³Under the National Environmental Policy Act, surface transportation projects that use federal funds are subject to requirements to review and analyze the potential environmental effects of proposed projects. In addition, other environmental protection laws sometimes require federal agencies, like the U.S. Army Corps of Engineers, to issue permit decisions before a project can proceed.

⁴49 U.S.C. § 116(d)(6).

⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014), and GAO, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations*, [GAO-03-669](#) (Washington, D.C.: July 2, 2003).

To assess the Bureau's process for evaluating applications and providing technical assistance,⁶ we reviewed Bureau documents and interviewed Bureau officials. Our review of the process for evaluating applications included semi-structured interviews with sponsors of 10 projects to understand their experiences using the application evaluation process. We selected 10 projects that had, at the time of our review, gone through most or all of the updated process for the Bureau's financing programs:⁷ the Transportation Infrastructure Finance and Innovation Act (TIFIA), Railroad Rehabilitation and Improvement Financing (RRIF), and Private Activity Bonds (PAB) for Highway and Surface Freight Transfer Facilities. In this report, we collectively refer to these three programs as the Bureau's financing programs.⁸ We also interviewed other select stakeholders—three advisors, three associations, and five additional project sponsors—to learn about their experiences working with the Bureau. We selected additional project sponsors that had experience applying for DOT financing both before and after the Bureau was created, among other factors. We also calculated how much time it took each of the 10 projects to move between each step in the process. In this analysis, we could not compare the amount of time it took projects to complete the Bureau's process to the amount of time it took projects to complete the processes in place before DOT created the Bureau because the steps in the process changed. Therefore, we used other methods to learn about changes in the application evaluation process from before and after the Bureau was created. In particular, we selected sponsors to interview that could compare the processes from before and after the Bureau was created, and we examined past GAO and other reports to understand past findings and challenges with the application evaluation processes for the financing programs before the Bureau was created. Our review of the Bureau's technical assistance included semi-structured

⁶We focused on the Bureau's work providing technical assistance and evaluating applications because these were the two responsibilities that the Bureau had made the most progress on based on our initial research.

⁷We selected all seven projects that completed all of the Bureau's updated process. Five additional projects had completed most of the process (i.e., from the second decision point through a signed credit agreements), and we selected 3 of these projects that varied by type of sponsor, mode, and size of loan.

⁸These programs represent two types of financing mechanisms used by the federal government. First, TIFIA and RRIF are direct federal credit programs, through which the federal government provides loans and other forms of credit assistance directly to project sponsors. Second, PAB are a form of tax-exempt bonds that sponsors use to finance projects, and the interest paid on the bonds is exempt from federal income tax.

interviews with 16 project sponsors that worked with the Bureau on projects in the early stages of planning prior to formally applying to a financing program. We selected sponsors that began working with the Bureau after it was created in July 2016 and had been in contact with the Bureau on or after October 2017, among other factors, as well as projects that demonstrated variation in mode, location, experience with DOT's financing programs before the Bureau was created, and total cost. Overall, we assessed the Bureau's activities and collected evidence against federal standards for internal control and Office of Management and Budget's guidance for agencies that manage financing programs.

To determine whether the Bureau provided a clear rationale when evaluating applications, we reviewed DOT and Bureau documents, including its public *Credit Programs Guide*, to identify major decisions in the process as well as the information or requirements the Bureau considers at each decision. We then reviewed Bureau memos and other internal documents for 10 projects, as described above, that sought financing to assess whether the Bureau documented its decisions and provided a clear rationale for its decisions, and we assessed these documents against practices in the Bureau's application evaluation process and federal standards for internal control. For this report, we focused on the three financing programs the Bureau administers. We previously examined whether DOT documented decisions for the grant funding program the Bureau administers, and we have work in progress to evaluate this program.⁹ Appendix I describes our scope and methodology in greater detail.

We conducted this performance audit from December 2017 to February 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

DOT is made up of nine modal administrations and the Office of the Secretary of Transportation (OST), each of which has its own mission,

⁹See GAO, *Discretionary Transportation Grants: DOT Should Take Actions to Improve the Selection of Freight and Highway Projects*, [GAO-18-38](#) (Washington, D.C.: Nov. 2, 2017).

primarily focused on enhancing mobility and safety. Among other activities, modal administrations oversee financing and grant funding programs specific to their modes (e.g., roads, transit, rail). OST oversees the formulation of national transportation policy and promotes intermodal transportation. In this latter role, OST administers programs that provide grants to projects that can represent multiple transportation modes: roads, bridges, transit, rail, or ports. In fall 2015, DOT created the Build America Transportation Investment Center within OST—a predecessor to the Bureau. This new center was created to be a single point of contact and coordination for project sponsors seeking to apply for finance programs and explore innovative financing, in recognition of the fact that sponsors can face difficulties navigating multiple modal administrations to apply for funding or financing for a single project.

In 2015, DOT was required by law to establish a finance bureau to align, coordinate, and consolidate certain surface transportation funding and financing programs. The Bureau—located within OST—is led by an Executive Director, who is responsible for managing and overseeing the daily activities, decisions, operations, and personnel of the Bureau. The Executive Director is appointed by the Secretary and then approved by the President.¹⁰ Three financing programs and one grant funding program were moved into the Bureau.¹¹ Collectively, these programs provide billions of dollars of support to transportation projects across the country, as described below:

- *TIFIA*. TIFIA provides direct loans, loan guarantees, and standby lines of credit to surface transportation projects of national or regional significance. Eligible projects include a variety of projects such as highways, intermodal stations, and passenger rail. The fundamental goal of TIFIA is to leverage federal funds by attracting substantial private and other non-federal co-investment, and the legislation creating TIFIA stated that the program can do so by complementing existing resources to fill market gaps. For fiscal year 2018, the FAST Act authorized \$285 million in funding to cover the federal government's cost of providing financing and administering the

¹⁰49 U.S.C. § 116(c).

¹¹Through a funding program, a sponsor receives grant money to spend directly on the project, while through a financing program, the sponsor obtains a loan or issues a bond to obtain funds that it will then repay over time.

program.¹² According to DOT, \$1 of TIFIA's budget authority generally allows DOT to provide more than \$10 in credit assistance, so \$285 million in funding authority could support approximately \$2.9 billion in assistance. TIFIA has provided over \$31 billion in financing to 79 projects since its creation in 1998. The Federal Highway Administration (FHWA) administered TIFIA before it was moved to the Bureau.

- *RRIF.* RRIF provides direct loans and loan guarantees to finance the development of railroad infrastructure, such as rehabilitating passenger equipment and acquiring or rehabilitating track and bridges. Created in 1998, the RRIF program is authorized to provide up to \$35 billion in credit assistance, and RRIF dedicates part of this funding to providing vital access to financing for smaller, short-line and regional railroads, which have historically lacked the access to private financing.¹³ The RRIF statute permits appropriations of budget authority to be used for the cost of providing financing, but appropriations acts have typically prohibited the use of appropriations for such purposes. This prohibition, however, was not included in the fiscal year 2018 Consolidated Appropriations Act and appropriations were, for the first time, made available to pay the cost of providing financing.¹⁴ RRIF loans totaling over \$5 billion have supported 39 projects as of February 2019. The Federal Railroad Administration (FRA) administered RRIF before it was moved to the Bureau.
- *PAB for Highway and Surface Freight Transfer Facilities.* PAB provides private-sector developers of certain types of surface transportation projects with access to tax-exempt financing.¹⁵ In

¹²Budgeting for the cost of credit programs, including the TIFIA program, requires federal agencies to receive budget authority to cover the estimated long-term cost to the government (which may include defaults, delinquencies, and interest subsidies) of providing credit assistance, calculated on a net present value basis. 2 U.S.C. §§ 661-661f.

¹³By statute, \$7 billion in RRIF authority is reserved for freight railroads other than Class I railroads. 45 U.S.C § 822(d). Freight railroads are classified by operating revenues. As of 2017, Class I railroads are those carriers with annual operating revenues of \$447.6 million or more.

¹⁴Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 348 (2018).

¹⁵Eligible Projects include any (1) surface transportation project that receives federal assistance under Title 23, United States Code, (2) project for an international bridge or tunnel for which an international entity authorized under federal or state law is responsible and receives federal assistance under Title 23, United States Code, or (3) facility used for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives federal assistance under Title 23 or Title 49. 26 U.S.C. § 142(m)(1).

contrast to TIFIA and RRIF, where the federal government directly provides loans and other forms of credit assistance, PAB does not directly provide financing but enables a state or city to borrow on behalf of private companies and nonprofits. PAB does, however, impose costs on the federal government through forgone tax revenues.¹⁶ The total amount of PAB for surface transportation is limited by statute to \$15 billion, and the Secretary of Transportation allocates this available capacity among qualified projects. As of February 2019, DOT had allocated about \$10.3 billion in PAB to 27 projects. A different office within OST previously administered PAB.

- *Infrastructure for Rebuilding America (INFRA)*. The FAST Act authorized DOT to award \$4.5 billion in discretionary grants for nationally significant freight and highway projects for fiscal years 2016 through 2020. In response, DOT developed the INFRA grant funding program.¹⁷ States and local governments are among the eligible entities that may apply for INFRA grants. DOT may fund freight or highway projects that meet statutory requirements, such as reserving at least 25 percent of available funds for rural areas. In June 2018, DOT announced its most recently proposed INFRA grants totaling nearly \$1.5 billion for 26 projects.

The FAST Act also created the Council on Credit and Finance (Council) to review and make recommendations to the Secretary on applications for DOT's financing programs, regularly review projects that have received financing, and conduct other duties the Secretary establishes.¹⁸ The Council is mostly comprised of DOT political appointees, including the Deputy Secretary of Transportation, Under Secretary of Transportation for Policy, and Administrators of FRA, FHWA, and the Federal Transit Administration (FTA).

¹⁶The Congressional Budget Office reported that the projected federal cost for tax-exempt bonds in fiscal year 2023, which includes PAB, was 26 cents per dollar financed. See Congressional Budget Office, *Federal Support for Financing State and Local Transportation and Water Infrastructure* (Washington, D.C.: October 2018).

¹⁷The INFRA discretionary grant program was previously named the Fostering Advancement in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) for the fiscal year 2016 and some fiscal year 2017 rounds of funding.

¹⁸FAST Act, Pub. L. No. 114-94, § 9002, 129 Stat 1312, 1618. The Council replaced and carries out similar roles as the Credit Council; DOT created this earlier Credit Council to help administer certain finance programs, specifically by providing policy direction to programs and recommending projects to receive credit assistance.

The FAST Act outlined specific responsibilities for the Bureau, some of which relate to administering the above programs. The responsibilities include the following, grouped into five broad categories:¹⁹

- *Administering the application evaluation process for certain programs:*²⁰
 - Establishing procedures for analyzing and evaluating applications for these programs, as well as for documenting major decisions in the application evaluation process through a decision memorandum or similar mechanism that provides a clear rationale for such decisions
 - Streamlining the approval processes for the above programs
- *Providing assistance to project sponsors seeking funding or financing from DOT:*
 - Making credit assistance programs more accessible
 - Providing technical assistance, upon request, for proposed public-private partnerships and environmental reviews and permitting, among other areas
- *Promoting innovative-financing best practices:*
 - Developing and monitoring best practices for state authorities and practices, standard contracts, and analytical tools²¹
- *Improving environmental reviews and permitting:*
 - Serving as DOT's liaison on the Council on Environmental Quality²²

¹⁹These responsibilities are grouped by the broad purposes for the Bureau in the FAST Act. This list does not include responsibilities in the FAST Act specific to a finance program(s) or related to the organization, funding, or staffing of the Bureau.

²⁰The selected programs are TIFIA, RRIF, PAB, and Nationally Significant Freight and Highway Projects (known as INFRA).

²¹Such resources and tools noted in statute could be available to help project sponsors explore and implement innovative strategies, like using a public-private partnership. For example, a sponsor could use information on best practices for state authorities to draft and propose state legislation to allow state agencies to use specific innovative-financing tools.

²²The Council on Environmental Quality oversees implementation of the National Environmental Policy Act, principally through issuing guidance and interpreting regulations that implement procedural requirements.

-
- Coordinating efforts to improve the efficiency and effectiveness of the environmental review and permitting process
 - Identifying, developing, and tracking metrics for permit reviews and decisions²³
 - *Sharing information on procurement costs and risks:*
 - Developing procurement benchmarks for projects receiving assistance under the above programs, and collecting and publishing information on procurement benchmarks; to the extent possible, the benchmarks should establish maximum thresholds for cost increases and schedule delays, establish uniform ways to measure these changes, and be tailored to different types of project procurement
 - Developing guidance to require and publish value for money and after-action reports findings for public-private partnerships seeking assistance from the Bureau programs²⁴

The conference report accompanying the FAST Act noted that the Bureau would serve as a one-stop shop for states and local governments, and to serve in this capacity, the report highlights the Bureau's role to work with individual project sponsors as the Bureau administers financing programs, as well as its broader role to help reduce costs and uncertainty with environmental reviews and permitting and procurement. The FAST Act also gave the Secretary of Transportation authority to consolidate or eliminate different offices within DOT as it creates the Bureau.

²³According to DOT's website, the FAST Act and Moving Ahead for Progress in the 21st Century Act directed DOT to integrate mapping and other data tools with fiscal management systems to provide improved data and greater transparency. This effort is one of several to help streamline the environmental review and permitting processes.

²⁴Value for money assessments examine the costs and benefits of using a public-private partnership compared to other procurement methods, such as design-bid-build or design-build, before a project begins. An after-action review is conducted after a project is complete to review whether the terms of an agreement or envisioned benefits were achieved.

DOT Made Progress Establishing the Bureau and Meeting Some Responsibilities, but the Bureau Lacks Tools to Further Guide and Measure Its Efforts

DOT established an organizational structure for the Bureau and created a consolidated process for it to use when working with sponsors to evaluate applications for financing programs and provide assistance. Creating this process helped the Bureau make progress on two of its FAST Act responsibilities, and overall, DOT's initial steps were important actions that allowed it to open and operate the Bureau. Since the Bureau was established in 2016, it has made more limited progress on its other responsibilities, including promoting innovative-financing best practices for certain types of projects. Although we recognize that it is a relatively new office that in many ways remains a work in progress, the Bureau lacks a plan to guide its ongoing and future efforts and has not established performance indicators to measure its outcomes and assess progress.

DOT Established the Bureau's Structure and Created a Consolidated Process for Evaluating Applications and Providing Assistance

DOT designed and established the Bureau in the year after the FAST Act's enactment. DOT established internal committees and hired a consultant to produce an initial implementation plan to establish the Bureau. To create this plan, the consultant analyzed existing staffing and processes, interviewed internal and external stakeholders, and examined organizational structures at public and private sector entities, among other things. DOT prioritized several areas for this initial work, including consolidating existing processes for evaluating applications for finance programs and providing assistance, that were important to opening and operating the Bureau as well as assuming control of the financing programs.

As part of its work to develop a structure for the Bureau, DOT's initial implementation plan set out guiding principles for what the Bureau aims to achieve:

- mobilizing available financial resources for high-impact transportation projects in the United States;
- identifying and encouraging innovative best practices in project planning, financing, delivery, and monitoring;
- clearing roadblocks to provide financing and grants more quickly and transparently, with a streamlined user interface and less uncertainty, complexity, and cost for project sponsors; and
- ensuring the protection of public resources through efficient leveraging of taxpayer money and the development of a creditworthy portfolio of projects.

DOT also created an organizational structure for the Bureau and laid out the Bureau's relationships to other offices in DOT. When the Bureau opened in July 2016, DOT appointed an Acting Executive Director, filled 29 positions with staff from other DOT offices, and created two offices within the Bureau, all of which generally aligned with the initial implementation plan. The Outreach and Project Development Office largely aligns with the Bureau responsibility to provide assistance to sponsors, which includes providing technical assistance on public-private partnerships and federal requirements to specific project sponsors as they prepare to apply for funding and financing. The Bureau's Credit Programs Office largely aligns with the Bureau's responsibility to administer the application evaluation process for certain programs through its work on underwriting, risk management, and portfolio management. DOT decided to also leverage other DOT offices within OST and modal administrations to carry out some of the Bureau's work. Bureau officials told us this was a more efficient approach because it used the expertise and support of existing DOT offices rather than duplicating this expertise and support. For example, DOT used staff in OST that administer another competitive grant funding program to administer the INFRA grant program.²⁵ See appendix II for more detail on the Bureau's organizational structure and staffing.

In its initial work, DOT also created a consolidated process for the Bureau to use when working with project sponsors pursuing TIFIA and RRIF financing, including standardized steps for evaluating applications for financing programs as well as providing assistance. Applications for the PAB program, which was also moved into the Bureau, go through many of the same application evaluation steps as TIFIA and RRIF, especially in the latter phases.²⁶ DOT's work to create this process aligned with two responsibilities given to the Bureau in the FAST Act:

- *Administering the application evaluation process for certain programs*

²⁵The initial organizational structure for the Bureau included an office to administer the INFRA grant program.

²⁶The Bureau can provide technical assistance to any project sponsor, whether the sponsor seeks to apply for a DOT funding or financing program, or seeks information or resources on using a public-private partnership or other innovative project-delivery method. In addition, DOT has a different process for evaluating applications for the INFRA grant funding program. See [GAO-18-38](#) for more information on that application evaluation process.

-
- *Providing assistance to project sponsors seeking funding or financing from DOT*

DOT, in creating this process, set out steps that the Bureau would follow when working with sponsors. In the first two phases—initial engagement and project development—the Bureau provides assistance to project sponsors as they consider and navigate the financing programs. In those phases, a single point of contact works with sponsors to share information on the Bureau and provide assistance as sponsors develop materials to apply for financing programs. In the remaining phases of the process, Bureau staff and other DOT officials evaluate financing applications. During the creditworthiness review for a TIFIA or RRIF loan, for example, Bureau staff and independent advisors conduct an in-depth review of the project, including the sufficiency of a proposed repayment stream or collateral pledged. Throughout the process, the Credit Review Team—a decision-making body composed of Bureau and other DOT staff—votes at three points whether to advance a project seeking a TIFIA or RRIF loan and votes once for PAB allocations.²⁷ During a later phase in the process, the Council then votes whether to recommend that an application advance to the Secretary for approval. The phases and steps in the Bureau's process are summarized in figure 1 below.

²⁷The six voting members of the Credit Review Team are the Executive Director, Credit Programs Director, Risk Management Lead, Portfolio Management Lead, Legal Lead for the Office of General Counsel, and a representative from the OST budget office. Credit Review Team meetings are also attended by approximately 20 nonvoting members, including modal liaisons and other Bureau and Office of General Counsel staff.

Figure 1: Phases and Steps in Build America Bureau’s Consolidated Process to Assist Project Sponsors and Evaluate Financing Applications

Initial engagement ^a	Project development	Creditworthiness review	Application review	Council review	Secretary review	Credit agreement signed
Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation and Improvement Financing (RRIF)						
Private Activity Bonds (PAB)						
<ul style="list-style-type: none"> • Outreach and Project Development staff—as a single point of contact—holds an initial meeting to share information on the Bureau with a sponsor and gathers available information on a project. • This point of contact assesses project readiness and sponsor needs. 	<ul style="list-style-type: none"> • The point of contact continues to work with a sponsor and uses an intake worksheet to determine what types of technical assistance the Bureau can provide, such as assistance on environmental reviews, coordination with modal administrations, or assistance on public-private partnerships. • Credit Review Team reviews initial materials, determines when initial materials are complete, and votes on whether to move the project into the creditworthiness review phase. 	<ul style="list-style-type: none"> • Credit Programs Office staff, working with contracted independent financial and legal advisors, reviews the creditworthiness of the project sponsor and revenue stream proposed to repay credit assistance. • Credit Review Team reviews creditworthiness reports and votes on whether to invite sponsor to submit application. 	<ul style="list-style-type: none"> • Sponsor submits an application to the Bureau. • Credit Programs Office staff determines when the application is complete and meets program requirements. • Credit Review Team reviews the application and votes on whether to recommend Council on Credit and Finance approve the application. 	<ul style="list-style-type: none"> • Credit Programs Office staff presents the application to the Council on Credit and Finance. • Council on Credit and Finance reviews the application and votes on whether to recommend the Secretary approve the application. 	<ul style="list-style-type: none"> • Secretary reviews and may approve the application.^b 	<ul style="list-style-type: none"> • Bureau and the project sponsor negotiate the terms of the loan or credit assistance. • Bureau/DOT and sponsor sign credit agreement; the credit agreement sets out the final terms and conditions for a loan or other assistance and the timing for when funds can be drawn down.

Source: GAO summary of Bureau documents. | GAO-19-279

^aDOT did not formally consolidate the PAB program’s process with the process for the TIFIA and RRIF programs, but the latter phases of application evaluation process generally align across the three programs. Also, while projects only seeking a PAB allocation do not go through initial engagement and project development phases, the Bureau can provide feedback on a draft PAB before the application review phase, upon request.

^bFor PAB, the Secretary has delegated review and approval of an application for an allocation to the Under Secretary for Policy.

In creating this consolidated process, DOT also sought to improve and streamline the process, as called for in the FAST Act. Overall, DOT officials and documentation stated that these improvements, described below, should allow the Bureau to gather more information and better assist sponsors in the early phases of the process as well as identify and address potential issues earlier in the process.

- *Single point of contact in the initial engagement and project development phases.* The Bureau provides a single point of contact to assist sponsors during the early phases of the process. With a single point of contact, the Bureau aims to provide a streamlined interface

with DOT for a sponsor. Furthermore, Bureau documents show that the single point of contact works with the sponsor to identify specific technical assistance needs—such as help completing environmental review requirements—and then develops a roadmap for providing this assistance as the sponsor develops its draft application.²⁸ The point of contact can also help to resolve any conflicting requirements; for example, Bureau officials said the point of contact can facilitate discussions with a project sponsor and modal administrations on which Buy America requirements apply for a multi-modal project, as the requirements may differ across modes.²⁹ Bureau officials said the Bureau’s work in these phases builds off the functions of the Bureau’s predecessor, the Build America Transportation Investment Center, which the initial implementation plan shows reached out to some sponsors interested in federal financing and connected them to the TIFIA, RRIF, and PAB programs, as well as the work of the former TIFIA Joint Program Office and RRIF Office. In contrast, the Bureau now more formally connects early assistance to later phases where the Bureau evaluates financing applications, all within the same office.

- *Combined process for the creditworthiness review, application review, and Council review phases.* The Bureau’s process combined the various review processes previously used by the three separate offices—in FHWA, FRA, and OST—to administer the three financing programs—TIFIA, RRIF, and PAB, respectively. For example, before this new process was implemented, a sponsor seeking a TIFIA loan and a RRIF loan would have to submit two applications to two offices and then work through two different processes; now a sponsor can submit one application to the Bureau and work through a single process for both loans.³⁰ Our analysis of DOT and Bureau documents found that the reviews conducted in these phases are largely built off and resemble previously used processes. For example, the initial implementation report shows that previously the offices administering TIFIA, RRIF, and PAB were each required to brief the Council’s predecessor at different steps for each program, while the new

²⁸For TIFIA and RRIF, project sponsors first submit a letter of interest when seeking financing and later in the process submit a formal application when the Bureau invites them to do so.

²⁹Buy America requires that steel, iron, and other manufactured goods used for a project be produced in the United States.

³⁰The Bureau started using the single, consolidated application for TIFIA and RRIF in December 2018.

process requires briefings to the Council at the same step for each program.

- *Formalized decision-making body that monitors and advances projects through phases.* The Credit Review Team—the new, primary decision-making body within the Bureau—plays a key role in deciding when projects can advance from one phase to another. For example, the team reviews a project’s initial materials for a TIFIA or RRIF loan and then votes on whether the project is ready to advance to the creditworthiness review phase. According to Bureau documents, the team’s predecessor, a less formal working group, did not review projects until after the creditworthiness review began. Bureau documents show that the Credit Review Team is meant to meet weekly, in contrast to its predecessor organization, which met monthly. According to Bureau officials, this more frequent meeting schedule allows the Bureau to expedite its decision-making.

Bureau Lacks a Plan and Timelines to Guide Ongoing and Future Efforts and Indicators to Assess Progress

Since DOT designed and established the Bureau, the Bureau has made more limited progress in its first 2 years on addressing additional responsibilities assigned to it by the FAST Act, as listed and described below. Bureau officials spoke generally about plans to continue making progress on these responsibilities in the future, and pointed out that the Bureau is still a relatively new office that remains a work in progress. However, Bureau officials were unable to provide written plans or timelines for these additional efforts.

- *Promoting innovative-financing best practices.* The Bureau has started to address this responsibility by employing the expertise of modal administration staff. The Bureau signed an agreement with FHWA in October 2016 to leverage the expertise of FHWA’s long-standing Office of Innovative Program Delivery rather than duplicate these efforts in the Bureau. Since signing the agreement, the Bureau and FHWA have jointly developed or updated a number of resources for public-private partnerships, building on FHWA’s existing work. This includes conducting on-site trainings for state entities and updating two model contract guides.³¹ Progress with other modal

³¹FHWA also has a 3-year agreement with the American Association for State Highway Transportation Officials to deliver expertise to project sponsors through the Build America Transportation Investment Center Institute. According to Bureau officials, this agreement directly contributes to the Bureau’s efforts to promote innovative-financing best practices, and FHWA and the Bureau work together to develop a plan of activities for the BATIC Institute each year, which could include roundtables and peer exchanges focused on public-private partnerships and other topics.

administrations has been more limited. For example, Bureau staff told us they have worked with FTA to start to identify gaps and jointly produce materials, such as an upcoming public-private partnership procurement guide. Though the Bureau does not have a signed agreement with FTA, Bureau officials said they want to sign one. Bureau officials said that they have started speaking with officials at other modal administrations to identify opportunities but that it will take time to identify gaps and develop tools in innovative financing for rail, maritime, and aviation.

- *Improving environmental reviews and permitting.* Bureau officials said they have relied on the expertise of DOT's Infrastructure Permitting Improvement Center to carry out responsibilities to improve environmental reviews and permitting, rather than duplicate this expertise in the Bureau. The Center's stated mission is to improve the performance of federal environmental review and permitting of infrastructure projects. As a result, Bureau officials said the Center carries out several specific responsibilities directed to the Bureau in the FAST Act, including serving as DOT's liaison to the Council on Environmental Quality and tracking metrics for permit reviews and decisions in a public dashboard.³² According to Bureau officials, the Infrastructure Permitting Improvement Center and the Bureau also jointly hired an environmental expert. This environmental expert's duties include supporting broad efforts to improve the efficiency and effectiveness of these processes in the Center and providing technical assistance to ensure that environmental reviews on specific projects move forward in the Bureau. Bureau officials told us that the Bureau does not have a written plan to document its efforts to fulfill the Bureau's FAST Act environmental review and permitting responsibilities, beyond the position description for the environmental expert, because both offices are under the direction of the Under Secretary. However, the position description does not mention the Bureau or provide a sequence or timeline to fulfill these responsibilities that could help ensure continued progress.
- *Sharing information on procurement costs and risks.* The Bureau has not taken steps to collect or share information on procurement costs and risks, though documents show it has coordinated with FHWA to take some preliminary planning steps. For its FAST Act responsibility to develop, collect, and publish procurement benchmarks, the Bureau

³²The Federal Infrastructure Permitting Dashboard is a publicly accessible online tool for tracking federal environmental reviews and permits for large or complex infrastructure projects, including surface transportation projects.

and FHWA published a preliminary paper in June 2017 that identified the types of procurement information to collect and publish, identified existing information sources for highway projects, and outlined possible next steps.³³ However, Bureau officials told us that much work remains to identify specific cost and schedule information to collect from project sponsors and ultimately publish procurement benchmarks for projects across modes. The FAST Act also directs the Bureau to require sponsors procuring a project as a public-private partnership to conduct and publish value for money assessments and after-action reports, but the Bureau has not taken steps to do so.³⁴ Bureau officials stated that additional efforts to address these responsibilities will require additional work and resources. Bureau officials could not provide a written plan or schedule for these future efforts.

Several factors, including some outside the Bureau's control, have affected the Bureau's ability to more fully carry out its responsibilities in its 2 years of operation. First, there have been changes in leadership. After the presidential transition in early 2017, many DOT leadership positions, including many members of the Council, were vacant until new political appointees were put in place. Bureau documents show that the Council did not meet for 2 months, and Bureau officials told us that career staff sat on the Council to enable it to meet and resume voting on applications until appointees were confirmed. In addition, the Bureau's Executive Director stepped down in November 2017. The Bureau is currently trying to fill that position through a second job announcement. With the Executive Director position vacant, Bureau officials told us that the Deputy Assistant Secretary and 3 senior officials from the Bureau and OST have fulfilled the day-to-day activities of that leadership role in the interim. Bureau officials told us that the lack of an Executive Director has had an effect on setting long-term plans for the Bureau; such planning is part of the duties of that position. Some stakeholders we spoke to stressed the importance of having an Executive Director in place so Bureau staff can quickly elevate issues or make decisions that currently need to be made by higher-level officials.

³³49 U.S.C. § 116(g)(1)-(3). Bureau officials also told us that FHWA, FTA, and the Bureau were working together and aimed to publish a procurement guide for public-private partnerships in fall 2018 to help further work on this responsibility.

³⁴49 U.S.C. § 116(e)(3).

Second, the Bureau has had a number of vacant positions since it was opened. Based on Bureau documents and discussions with Bureau officials, we determined that between 8 and 11 positions in its current organizational chart were vacant during 2018.³⁵ During the government-wide hiring freeze in early 2017, the Bureau could not fill any vacancies, but several positions remained vacant before and after the hiring freeze, and two former Bureau officials said that the Bureau remained understaffed into mid-2017. The positions vacant during 2018 changed over time due to attrition, but two positions that remained vacant throughout this period are the transit-oriented development and project finance specialists. When asked about the vacancies in early 2018, Bureau officials said that they had originally wanted to fill the Executive Director position before filling other vacancies but later decided to start filling some critical vacancies. In July 2018, Bureau officials discussed their strategy for filling some vacant positions in response to immediate needs and in October 2018 said they intended to fill all vacant positions. Throughout this period, Bureau officials verbally shared these staffing priorities with us but did not provide a written plan or strategy for prioritizing the Bureau's vacancies. Bureau officials said they do not have a timeline to fill remaining vacant positions in part due to limited human capital resources to draft position descriptions and conduct other parts of the hiring processes.

DOT's efforts to establish the Bureau and its processes were guided by an initial implementation plan. However, subsequent work by the Bureau to address its responsibilities and continue its implementation efforts is ongoing without the benefit of a plan and associated timelines. Key practices for organizational transformations state that an agency must set implementation goals and a timeline and ensure that top leadership drives the transformation, as such a transformation could take years to complete.³⁶ Bureau officials have developed general priorities and approaches that they said have been communicated to staff through regular meetings and use specific performance plans to guide work in certain areas. However, without detailed written plans with implementation goals and timelines, the Bureau risks not being able to sustain the progress it has made in the last 2 years and ensure that it implements all of its statutory responsibilities in a timely manner.

³⁵The Bureau's current organizational structure envisions 47 positions. For more details on which positions were vacant, see appendix II.

³⁶[GAO-03-669](#).

Finally, though the consultant's report recommended that the Bureau develop indicators to track its performance, the Bureau has not established any indicators or measures to track progress in accomplishing its guiding principles or mission to be a "one-stop shop." Federal standards for internal control and key practices for organizational transformations stress the importance of setting measurable objectives and developing performance measures to assess progress.³⁷ The consultant's initial implementation plan identified a number of potential performance indicators for the Bureau, including customer satisfaction. Bureau officials said they currently track data on projects through early assistance and application evaluation.³⁸ However, Bureau officials said they do not want to use certain indicators, such as those that measure how long different parts of the process take, as they could create incentives to move projects ahead before they are ready. However, our prior work shows that to counter such incentives as well as to help an agency avoid drawing the wrong conclusions about its effectiveness, an agency could use multiple indicators rather than any one indicator to assess progress.³⁹ Concerns about one indicator might be countered by information from other indicators. For example, to help offset incentives to move projects ahead before they are ready, an indicator for how long different parts of the process take could be considered along with an indicator that also measures the ratio of projects that were and were not returned to staff to gather additional information. Without establishing or beginning to use performance indicators that measure the Bureau's performance rather than the progress of individual projects as it currently does, the Bureau will not know if it is achieving its guiding principles or meeting the mission set out in the conference report that it serve as a "one-stop shop" that advances projects.

³⁷ [GAO-14-704G](#).

³⁸ Among its uses of this project-specific data currently, the Bureau creates a monthly dashboard for Outreach and Project Development summarizing, for example, the number and type of sponsors it is working with, for internal use. Bureau officials also told us that they track other project information, such as projects' adherence to federal requirements, and publish the status of projects in creditworthiness on its website.

³⁹ GAO, *The Results Act: An Evaluator's Guide to Assessing Agency Annual Performance Plans*, [GAO/IGD-10.1.20](#) (Washington, D.C.: April 1998).

Sponsors Highlighted Positive Experiences and Challenges with Application Process, but Bureau Lacks a Mechanism to Assess How Well Its Process Is Working

Sponsors we interviewed had mixed views on the Bureau's process for evaluating applications and providing technical assistance, including views on whether the process was quick or streamlined. Selected sponsors had a generally positive experience with the PAB application evaluation process. However, for TIFIA and RRIF, selected sponsors had more mixed experiences and identified challenges with the application evaluation process, including the length and uncertainty of the process, changes to requirements or terms, and unclear goals and risk appetite—that is, how much risk an agency is willing to accept to achieve its goals—for the programs. Bureau officials identified limitations to providing more certainty to sponsors for each of these challenges and noted that the Bureau cannot control all the factors, such as a sponsor's responsiveness or changes to a project's proposed financing, surrounding the application evaluation process. However, the Bureau has also not determined how it will improve or streamline its process by, for example, consistently soliciting feedback from sponsors, nor has it outlined the goals and appetite for risk for TIFIA and RRIF.

Sponsors Had Positive Experiences with PAB Application Evaluation Process

As discussed earlier, DOT created a consolidated process for evaluating applications for its financing programs. Selected sponsors we interviewed that applied for a PAB allocation since the Bureau was created had a generally positive experience with the PAB application evaluation process.⁴⁰ In particular, sponsors of the four PAB projects we selected said the process was quick and streamlined. For example, each sponsor said the process met or exceeded its schedule expectations for receiving a PAB allocation. In addition, these sponsors said the process was simple to follow and that the simplicity was an important strength. One sponsor found its point of contact's efforts to clearly explain information requirements early in the process as useful to understand the Bureau's expectations. DOT officials also said that PAB applications can move relatively quickly as they, in contrast to TIFIA and RRIF, do not create a direct financial risk for DOT or the federal government since DOT's role is limited to approving the use of tax-exempt bond authority.

⁴⁰We interviewed the sponsors of all four projects that had submitted an application and gone through all of the Bureau's application evaluation process at the time of our review. See appendix I for details on how we selected these projects.

Sponsors Had Mixed Views on TIFIA and RRIF Application Evaluation Process, and Some Cited Challenges

Selected sponsors that applied for TIFIA and RRIF financing had mixed views on their overall experiences with the Bureau's application evaluation process.⁴¹ Some sponsors had positive experiences to share. Among sponsors of six projects we selected, two sponsors said they believed the application evaluation process was streamlined, and five sponsors said it was somewhat streamlined.⁴² Some sponsors based their responses on comparing the Bureau's process to the processes previously used to administer TIFIA and RRIF, while other sponsors focused on whether the process was efficient. For example, one sponsor that was new to TIFIA and that believed the process was streamlined said the Bureau was thorough but did not ask repetitive questions and that the process was not overly onerous. In terms of speed, two sponsors said the process was quick, two said the process was somewhat quick, and three said the process was not quick. Among sponsors of the six projects we selected and ten additional sponsors and stakeholders that had experience with some part of the Bureau's application evaluation process, five sponsors and one stakeholder found the responsiveness of the Bureau's staff to questions or issues as most useful, and several sponsors also praised individual staff or cited the professionalism and commitment of Bureau staff.⁴³

Despite these positive comments, sponsors and stakeholders we interviewed also identified challenges with the application evaluation process for TIFIA and RRIF and offered some suggestions to improve the process, including how to further streamline the process. Based on our interviews, the most common challenges involved uncertainty related to

⁴¹At the time of our review, three projects had progressed through all of the Bureau's application evaluation process; we interviewed the sponsors of all three projects. Another five projects had started the application process before the Bureau was created but progressed through most of the process after the Bureau was established; we interviewed the sponsors of three of these projects. See appendix I for more information on how we selected these projects.

⁴²In total, we interviewed 7 sponsors for the 6 projects we reviewed, as one project—a public-private partnership—had 2 sponsors involved in the application evaluation process. Of the 6 projects, 5 projects received TIFIA financing and one project received both TIFIA and RRIF financing.

⁴³We interviewed 7 other sponsors that had experience with part of the Bureau's process, either working through initial steps to apply for financing or the final steps to close a loan. We also interviewed 3 financial advisors that worked with multiple sponsors on applications. Therefore, in total, we interviewed 14 sponsors and 3 stakeholders about the process. Nine of the sponsors and all the stakeholders had prior experience applying for TIFIA and RRIF before the Bureau administered the programs.

the overall length of the application process, changes to the Bureau's requirements or terms for loans, and the goals and risk appetite for the financing programs. We and others have previously reported on some of these challenges for TIFIA or RRIF.⁴⁴

- *Length and uncertainty of process.* Four sponsors and one stakeholder said the overall length of the application evaluation process creates a challenge when seeking and planning for credit assistance.⁴⁵ This challenge predated the Bureau as we similarly reported in 2012 and 2016, before the Bureau was created, that project sponsors cited the length of the application evaluation process for the TIFIA and RRIF programs respectively as challenges.⁴⁶ Furthermore, seven sponsors and three stakeholders we spoke with also said the Bureau should refine or further streamline the application evaluation process. For example, one sponsor said it faced an uncertain timeline when its project awaited Credit Review Team approval and that it was not informed by the Bureau when the meeting would be held. The Bureau instituted regular Credit Review Team and Council meetings to give sponsors a greater sense of certainty and transparency on when DOT would be voting to advance a project. Another sponsor said it took the Bureau over 3 months to procure independent advisors to help with the Bureau's creditworthiness review, though Bureau officials said it takes about 6 weeks to procure these advisors. In our analysis of six selected TIFIA and RRIF projects, we found that five projects signed their credit agreements between 3 and 6 months later than was anticipated when the project was in creditworthiness review, according to Bureau documents for each project. Our analysis also found that the processing time for steps in the process varied, including steps that may be more within the Bureau's control. For example, the number of days between a

⁴⁴See, for example, GAO, *Railroad Financing: Stakeholders' Views on Recent Changes to the Railroad Rehabilitation and Improvement Financing Program*, [GAO-16-714R](#) (Washington, D.C.: July 13, 2016); DOT, Office of Inspector General, *Audit Report: Process Inefficiencies and Costs Discourage Participation in FRA's RRIF Program*, CR-2014-054 (Washington, D.C.: June 10, 2014); and Senate Committee on Environment and Public Works, S. Hrg. No. 115-74, 115th Cong., *Hearing on the Use of TIFIA and Innovative Financing in Improving Infrastructure to Enhance Safety, Mobility, and Economic Opportunity*, July 12, 2017.

⁴⁵In our review of the three projects that progressed through all of the Bureau's application evaluation process, the number of months between starting the creditworthiness review phase and signing a credit agreement ranged from 7.5 months to 12.4 months.

⁴⁶[GAO-12-641](#) and [GAO-16-714R](#).

project's receiving approval by the Council and the Secretary ranged from same-day approval to 43 days. Though some slowdowns can result from factors that are out of the Bureau's control, sponsors we interviewed discussed the overall effect of slowdowns to projects. For example, sponsors of two projects said application slowdowns led to cost increases and a schedule delay for one project. To improve the application evaluation process, three sponsors and one stakeholder said the Bureau could provide tailored schedules for a project for each phase of the process. One stakeholder also said the Bureau could add certainty and transparency by providing information on how long different phases generally take, information that this stakeholder said it had not received when working with the Bureau, though this is a customary practice when seeking financing in the private sector.

Bureau officials pointed out limitations to providing or predicting formal schedules and timelines for the process for specific projects. Bureau officials said many factors influence how quickly a project can advance through the application evaluation process for TIFIA and RRIF, primarily the quality of the project's credit and overall complexity. In addition to these primary factors, Bureau officials said an application's processing time can be affected by a sponsor's responsiveness to requests or whether the sponsor is concurrently negotiating other agreements. Bureau officials said they do not tell a sponsor the specific date of the Credit Review Team or Council meeting on which its project will be reviewed, but instead tell a sponsor what information is needed and by when to reach the next meeting. The Bureau takes this approach because a sponsor may, for example, provide incomplete information, meaning the project would have to wait to be discussed at a meeting that is later than expected. Furthermore, the dates of Council meetings often change due to the members' schedules, and the Bureau does not want to cause a sponsor undue alarm if the date changes. Bureau officials said they provide a general schedule to a sponsor once a project enters creditworthiness review and use this schedule as a starting point to build a tailored schedule for a project. We found that this general schedule uses historical data to show how long steps in the process could take, but this schedule uses steps and decisions for the process used for TIFIA that pre-dated the Bureau. Bureau officials also said they may informally identify ways to expedite the process where appropriate for a specific project, but that these enhancements affect primarily lower-risk projects.

- *Changing requirements or terms for loans.* Six sponsors said changing requirements or terms during the application evaluation

process created a challenge of having to navigate new expectations during the process. For example, two sponsors said they had to make changes to terms and conditions for loans late in the process. Specifically, one of the sponsors said it would have preferred to learn about the Bureau's policy related to certain terms earlier in the process rather than have to accept an unexpected change late in the process, after it has committed time and resources to the process. One sponsor said certain terms developed by the Bureau's underwriting team, which conducts the creditworthiness review, had to be restructured following review by the Credit Review Team. Another sponsor said the Bureau changed or introduced new requirements after it began the application evaluation process, including what was required at particular steps, but did not provide reasoning for its changes. To address such challenges, four sponsors and two stakeholders said the Bureau could better accommodate projects with different revenue streams by, for example, creating different standard terms and contract templates.

Bureau officials described factors that can result in changes to the tentative terms and conditions during the application evaluation process for a project. For instance, if a project's scope or construction cost estimates change significantly in ways that affect the financial assumptions for a project, the Bureau must reevaluate the project and make changes to the terms and conditions accordingly.⁴⁷ Bureau officials said they try to balance providing certainty and flexibility but lean toward providing flexibility; for instance, the Bureau will try to accommodate a sponsor that changes the proposed financing for a project, which then may result in changes to terms as the Bureau reevaluates the project's risk. In addition, the terms and conditions discussed for a project are tentative until they are approved by the Credit Review Team, Council, and Secretary. According to Bureau officials, sponsors can advance through the application process more quickly and with greater certainty by agreeing to use the Bureau's standard credit terms—that is, agreeing to the terms and conditions in a template provided by the Bureau as opposed to choosing to negotiate with the Bureau with those terms and conditions as a starting point. Finally, Bureau officials said they were developing two additional standard loan templates to post on the Bureau's website

⁴⁷Bureau officials said significant changes to a project could include a change to the project's financial plan, obtaining approvals for state and local jurisdictions, or having to obtain new construction bids.

with the two existing loan templates for projects with different financing structures and revenue streams.⁴⁸

- *Unclear program goals and risk appetite.* Many sponsors we interviewed said the Bureau did not clearly convey the program goals or appetite for risk for its TIFIA and RRIF programs. Eight sponsors and one stakeholder cited the Bureau's approach toward risk as creating a challenge for sponsors to determine if their projects fit the Bureau's programs. Four sponsors said the Bureau required strict terms and conditions in its credit agreements that seemed excessive, and one sponsor said such strict terms can impose additional costs on a sponsor without materially improving credit quality since a project must have an investment-grade credit rating. One sponsor stated that the lack of clarity on goals and appetite for risk for its project, coupled with other challenges, led the sponsor to withdraw from seeking financing. According to the sponsor, while the programs were created to fill market gaps, it is not clear whether the Bureau's financing programs currently seek to provide financing to lower risk projects that have a high-quality credit rating or to higher risk projects that are unable to secure financing in the private markets.⁴⁹ Similarly, a May 2017 Congressional Research Service report noted that a significant portion of RRIF financing has gone to passenger rail projects since 2008, though the program was primarily created to support freight rail projects, and that the size of loans and some of the risks for passenger rail assistance differ from the assistance historically provided for freight rail.⁵⁰ One sponsor we spoke with said it would be helpful if the Bureau and the Council shared information with sponsors regarding DOT's appetite for risk when evaluating projects, similar to how commercial banks can share a risk profile framework.

Bureau officials said DOT's financing programs and their treatment of risk have evolved over the past decade based on changes to private markets and lessons learned by DOT in working on projects that faced bankruptcy. According to Bureau officials, the Bureau has also

⁴⁸The existing templates are for projects that are for public-private partnerships and for projects sponsored by a public entity.

⁴⁹According to the *Credit Programs Guide*, the legislation creating TIFIA stated that it was a federal credit program for projects of national significance that could complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment. It also notes that a similar policy underlies the RRIF Program.

⁵⁰Congressional Research Service, *The Railroad Rehabilitation and Improvement Financing (RRIF) Program* (Washington, D.C.: May 15, 2017).

changed its standard terms and conditions, as any lender would do, over time. However, Bureau officials said the Bureau lacks an external statement that communicates its goals and appetite for risk for its financing programs. Bureau officials told us they have developed a draft risk appetite statement for internal use. Officials said this risk appetite statement is imbedded in draft credit-risk guidelines the Bureau is developing to use to enable more consistent review of individual projects applying for financing.⁵¹ The officials noted that this draft statement is short and general by design because TIFIA and RRIF can finance a wide range of projects. Furthermore, Bureau officials said it would be difficult to create a public risk appetite statement, as suggested by the consultant, that did not constrain their flexibility to finance a range of projects, particularly as the Bureau seeks to further diversify its portfolio and assist a variety of projects. In lieu of a public risk appetite statement, the Bureau encourages sponsors to meet with its staff early to assess whether a project would be a good fit for its financing programs. However, Bureau officials agreed that it could be beneficial for the Bureau to issue a public statement that conveys how it intends to balance its financing portfolio and support varying types of risks and projects that seek assistance.

Bureau Lacks a Mechanism to Assess its Process

Given the challenges identified by sponsors, we found that the Bureau has not developed an approach to assess how effectively its application evaluation process works for TIFIA and RRIF, including what in the process is challenging and what works well. In particular, Bureau officials said they have not formally analyzed the amount of time it takes for projects to proceed through the process due to concerns that assessing speed and efficiency may not be appropriate to track for all projects. For example, a sponsor may not need financing immediately and thus choose to proceed at a slower pace. Also, while Bureau officials said it would be beneficial to formally solicit and analyze the satisfaction of sponsors that have closed loans, the Bureau has not implemented a mechanism to systematically solicit feedback on sponsors' experiences, including any challenges. Federal standards for internal control state that management should design control activities to achieve its objectives. Control activities include reviews of an agency's programs or activities to compare actual results to objectives and expected results, for example by evaluating the

⁵¹ Officials said that the credit risk guidelines, when final, would also compare a project's risks to DOT's credit portfolio and communicate key areas of risk for a project to the Credit Review Team and Council. Officials said they plan to further develop the draft credit-risk guidelines but did not identify a completion date.

amount of time projects take in each step of the process.⁵² Federal standards for internal control also state that an agency should externally communicate information to achieve its objectives; this communication includes receiving information through reporting lines from external parties to help ensure effective operations. In addition, Office of Management and Budget guidance to agencies that manage financing programs also states that effective oversight relies on robust data collection and reporting systems that include, for instance, metrics from collected feedback on customer service or overall applicant satisfaction.⁵³ As noted above, the Bureau cannot control all the factors and circumstances surrounding the application evaluation process. However, officials have stated that the Bureau seeks to expand and diversify the types of projects that access the TIFIA and RRIF programs, and one of the Bureau's own guiding principles is to clear roadblocks to provide financing more quickly and transparently and to have a consistent application process. Without a mechanism to formally examine how to improve and further streamline the process, the Bureau may be missing an opportunity to address any recurring challenges with the process or with how the Bureau communicates with sponsors, a situation that could discourage sponsors from seeking financial assistance from these programs.

Moreover, the Office of Management and Budget has directed agencies that manage financing programs to establish acceptable risk thresholds to balance policy goals with risks and costs to the taxpayer, and to monitor the program's progress toward achieving policy goals within those acceptable risk thresholds.⁵⁴ Federal standards for internal control also call for management to define objectives or goals clearly to enable the identification of risks and define risk tolerances. These standards also call for management to externally communicate the necessary information to achieve its goals.⁵⁵ In the initial implementation plan, the Bureau's consultant recommended that the Bureau publicly issue a risk appetite statement that specified acceptable types of risks and projects DOT

⁵²[GAO-14-704G](#).

⁵³Office of Management and Budget, *Circular No. A-129, Policies for Federal Credit Programs and Non-Tax Receivables* (Washington, D.C.: January 2013).

⁵⁴Office of Management and Budget, *Circular No. A-129* (January 2013). The Office of Management and Budget defines risk appetite as the amount and type of risk an organization is willing to take in pursuit of its objectives.

⁵⁵[GAO-14-704G](#).

would support. We have previously reported that setting an organizational risk appetite is an example of a good practice agencies can take to align risk management processes to goals and objectives. We also reported that by not clearly defining and communicating its appetite for risk, an agency could be taking risks well beyond management’s comfort level or be passing up opportunities by assuming its leaders were risk averse.⁵⁶ In addition, a former DOT official we interviewed said DOT and the Bureau should have an in-depth conversation about the risk in its portfolio of projects to help decide what risks are tolerable and, thus, help the Bureau better decide the risks it can accept for individual projects. Without clearly defining and communicating to the public the goals and appetite for risk for TIFIA and RRIF programs, the Bureau may be missing an opportunity to make its application process more transparent. Moreover, by issuing a public statement that clearly communicates the types of risks DOT is willing to accept, sponsors would be in a better position to determine if the TIFIA and RRIF programs would be a feasible option for their projects before committing resources to applying.

Half of Selected Sponsors Were Satisfied with the Bureau’s Technical Assistance when Seeking Financing, but Some Sponsors Highlighted Concerns

Since it opened in July 2016, the Bureau has provided technical assistance to sponsors for 119 distinct projects, based on our analysis of Bureau data. As of August 2018, about half of projects were in the early phases of working with the Bureau. In total, 56 projects were in initial engagement or project development, the phases during which the Bureau provides technical assistance to sponsors (see table 1). By mode, rail and highway projects comprised about half of all projects.

Table 1: Number of Projects That Have Received Build America Bureau Technical Assistance by Phase, Mode, and Cost, as of August 2018

Number of projects, by phase		Number of projects, by mode		Number of projects, by cost	
Prospect ^a	17	Highway	33	Less than \$50 million	19
Initial engagement	48	Rail	31	\$50 million to less than \$100 million	4
Project development	8	Transit-oriented development	14	\$100 million to less than \$250 million	10
Creditworthiness	3	Transit	13	\$250 million to less than \$500 million	12
Financial close ^b	3	Station/Intermodal	8	\$500 million to less than \$1 billion	14

⁵⁶GAO, *Enterprise Risk Management: Selected Agencies’ Experiences Illustrate Good Practices in Managing Risk*, [GAO-17-63](#) (Washington, D.C.: Dec. 1, 2016).

Number of projects, by phase		Number of projects, by mode		Number of projects, by cost	
Inactive or withdrawn	40	Maritime	8	\$1 billion or more	20
		Airport	7	No information provided ^c	40
		Bike/Pedestrian/Trail	5		
Total	119	Total	119	Total	119

Source: GAO analysis of Bureau data. | GAO-19-279

Note: This table only includes projects that began working with the Department of Transportation after the Bureau was created in July 2016.

^aProspect includes projects for which the Bureau has had a less formal or very early contact with a sponsor, such as a discussion at a conference.

^bFinancial close includes projects for which the Bureau has provided Transportation Infrastructure Finance and Innovation Act or Railroad Rehabilitation and Improvement Financing credit assistance (like a loan) or made a Private Activity Bond allocation.

^cCost information was not entered for some projects. For example, when in initial engagement, the details of the project including total cost may not be known as the sponsor is still completing planning and design work.

The amount of technical assistance and level of interaction between the Bureau and project sponsor in the initial engagement and project development phases varied, based on the sponsor's experience using DOT's financing programs and the project's complexity. For example, one sponsor we interviewed met with the Bureau to discuss the expected timing to apply for and receive a TIFIA loan; this sponsor did not seek additional technical assistance in project development as it had previously received a TIFIA loan and had completed work to comply with federal requirements for the project, including the environmental review and permitting work. Another sponsor we interviewed was new to the Bureau's financing programs and met with the Bureau to learn more generally about the requirements for the different programs and the application process.

Half of the sponsors we interviewed were satisfied with the Bureau's technical assistance, but some sponsors expressed concerns including the following:⁵⁷

- *Ability and willingness to move projects forward.* In our interviews with 16 sponsors that received technical assistance from the Bureau, 8 said they were satisfied with the technical assistance provided by the

⁵⁷The other half of the 16 sponsors we interviewed had mixed views on the Bureau's technical assistance including three sponsors responding neutral, one sponsor responding dissatisfied, one sponsor responding very dissatisfied, and three sponsors responding other as they felt they did not use the assistance enough to answer the question.

Bureau, and 9 said that the Bureau functioned as a one-stop shop to access financing and funding programs and technical assistance. However, six sponsors said the Bureau's technical assistance was slightly helpful or not helpful in clearing roadblocks to provide credit and grants more quickly and transparently.⁵⁸ For example, one sponsor said its project experienced delays over a period of several months as it made multiple attempts to obtain specific, actionable feedback from the Bureau on its materials to better understand what was needed to advance in the Bureau's process.

- *Lack of clarity on RRIF program eligibility.* In our interviews with sponsors, a recurring concern included a lack of clarity from the Bureau on eligibility requirements for the RRIF program, in particular for sponsors seeking financing for transit-oriented development projects.⁵⁹ For example, from information gathered from sponsors of 10 inactive projects, we found that four were transit-oriented development projects that became inactive because the Bureau determined them to be ineligible. Sponsors of two of these projects said they were initially told their projects would be eligible, but after continuing to work with the Bureau for 5 to 6 months, the sponsors said their transit-oriented development projects were determined to be ineligible for the RRIF program. In addition, sponsors of these two projects said they faced difficulty reconciling differences found in the Bureau's transit-oriented development eligibility guidance for the RRIF program and transit-oriented development guidance issued by modal administrations for other programs. For example, one sponsor said it felt that the Bureau's guidance did not clearly outline the eligibility requirements for transit-oriented development for the RRIF program and that it would help if the Bureau provided greater clarity about what kinds of development around rail stations would be eligible.

In response to these concerns, the Bureau has begun taking steps that could help address them. For example, the Bureau is working to develop an expedited application process—RRIF Express—for RRIF projects that meet certain criteria. As we and the DOT Office of Inspector General have previously reported, sponsors have identified challenges with RRIF

⁵⁸Of the 16 sponsors that we posed these questions to, two sponsors responded moderately helpful, and eight sponsors responded not applicable as they had not worked enough with the Bureau to answer.

⁵⁹The FAST Act expanded eligibility for the RRIF program to include transit-oriented development projects for 4 years following its enactment. Sec. 11604(a),(c) of the FAST Act. The Bureau added guidance on what projects would be eligible as transit-oriented development projects in its *Credit Programs Guide* in January 2017.

that, in some cases, have deterred them from applying to the program, so steps taken by the Bureau to expand use of the program are of particular interest to many sponsors of potential rail projects.⁶⁰ Despite these efforts, as stated earlier, the Bureau does not have a written plan to guide its continued implementation efforts, and it does not have a formal mechanism to examine how it could improve its process for working with sponsors. Such a plan and mechanism could help the Bureau better understand and appropriately address sponsors' concerns with the Bureau's provision of technical assistance.

Bureau Provided Clear Rationale for TIFIA and RRIF Decisions but Not For PAB Decisions

As discussed earlier, the FAST Act required the Bureau to document major decisions in the application evaluation process and provide a clear rationale for its decisions. Federal standards for internal control also call for management to internally communicate the necessary quality information to achieve its objectives; this communication includes providing management quality information that is necessary for effective oversight.⁶¹ We reviewed documents for six TIFIA and RRIF projects and found the Bureau documented each decision to approve these projects and provided a clear rationale for those decisions.⁶² To document decisions about whether to advance and approve these projects, the Bureau used formal meeting agendas and notes from the Credit Review Team and Council meetings and internal memorandums. For example, the Bureau used internal memorandums to record the Secretary's signature of approval to extend credit to a project. To document the rationale in support of these decisions, the Bureau used internal reports and memorandums. For example, to support its decisions to invite or not invite a project sponsor to submit a formal application, the Credit Review Team provided a description of how the project satisfied program requirements like having a preliminary rating opinion letter and how the

⁶⁰ [GAO-16-714R](#) and Office of Inspector General, *Process Inefficiencies and Costs Discourage Participation in FRA's RRIF Program*.

⁶¹ [GAO-14-704G](#).

⁶² We reviewed Bureau documents for five projects receiving TIFIA credit assistance and one project receiving both TIFIA and RRIF credit assistance. As stated earlier, we selected the three projects that had progressed through all of the Bureau's application evaluation process as of the time of our review for our document review. We also selected three of the five projects that had started the application process before the Bureau was created and progressed through the Bureau's final four decisions in the application evaluation process after the Bureau was established.

project satisfied program creditworthiness standards including the sufficiency of the repayment source or collateral.⁶³

However, in our review of four projects that received PAB allocations, we found that while the Bureau documented its decision about whether to advance and approve each application, it did not document a clear rationale to support that decision.⁶⁴ Specifically, the Bureau recorded decisions in Credit Review Team and Council meeting materials and the approval letter sent to the sponsor. To evaluate a PAB application, the Bureau reviews the application against statutory eligibility requirements and the availability of PAB allocation capacity. We found that the Bureau's documents in the PAB evaluation process lacked a clear rationale in support of decisions. Specifically, the documents summarized information from the application but did not articulate whether or how the Bureau determined that this summarized information from the application satisfied PAB eligibility and availability requirements. We found that this occurred because the Bureau lacks a policy to document the rationale for how a project meets statutory and DOT requirements in order to advance a PAB application.

DOT officials said determining whether a project meets requirements to receive a PAB allocation can be self-evident, and therefore, the application itself can be sufficient documentation. However, absent a documented rationale to support its decisions, it is not immediately clear what information the Bureau cited or used to make decisions about applications through the process. As a result, DOT, the Bureau, and the PAB program could be exposed to risks. For example, we previously reported that programs that do not have defined application review procedures may not review applications consistently and thereby leave the program vulnerable to questions about the integrity of the process.⁶⁵ Moreover, as the PAB program nears the \$15 billion allocation limit, recording the rationale—including the effect of a proposed allocation—

⁶³A clear rationale includes the Bureau's stated reasoning to explain why a project should be advanced or approved at each decision point in the process, including specifically how a project sufficiently meets Bureau requirements for each decision. To identify the elements of a clear rationale, GAO reviewed Bureau documents including the *Credit Programs Guide* to identify elements of a clear rationale for each decision in the application evaluation process for the TIFIA, RRIF, and PAB programs.

⁶⁴We reviewed all four projects that had submitted an application and gone through all of the Bureau's application evaluation process at the time of our review.

⁶⁵[GAO-18-38](#).

would help ensure DOT's decision makers receive up-to-date information needed to make informed decisions and manage the program.

Conclusions

With the creation of the Bureau, transportation projects seeking financing from DOT have a new, central point of contact for assistance. A concerted initial-planning effort enabled the Bureau to open and start working with project sponsors in just over 6 months after federal law called for its creation. The Bureau has made varied progress on its statutory responsibilities since it was created over 2 years ago. This situation underscores the need to sustain momentum beyond an initial implementation effort, in order to give ongoing planning and attention to additional priorities and tasks and to identify possible improvements based on early experiences. The Bureau was given a challenging task—to serve as a one-stop shop that provides a number of different services and diverse technical resources. However, without an implementation plan and performance indicators, it may not be able to sustain its progress and prioritize its efforts.

In response to congressional direction for the Bureau to make changes to streamline the application evaluation process for DOT's financing programs, the Bureau created a new, consolidated process to accept and evaluate applications. However, the Bureau has not developed an approach to examine whether opportunities for further streamlining and improvement exist. Furthermore, absent clarity about the Bureau's appetite for risks for its financing programs, sponsors lack information to know if they should invest time and resources applying for TIFIA or RRIF for their projects. Without examining the Bureau's process and communicating its appetite for risk, the Bureau may be missing an opportunity to address any recurring challenges that may undermine the purpose and availability of its programs. Finally, for the PAB program, the Bureau does not have a policy to document its rationale justifying decisions and that lack of a rationale may leave the Bureau open to challenges regarding its decisions. By providing the rationale for its decisions, the Bureau could engender more trust in these decisions and increase the program's transparency.

Recommendations

We are making the following five recommendations to DOT:

- The Under Secretary of Transportation for Policy should ensure that the Build America Bureau develop a detailed implementation plan that sets goals and a timeline for the Bureau's continued efforts, fills

vacancies in the Bureau, and prioritizes and sequences work to carry out the multiple responsibilities given to the Bureau in the FAST Act. (Recommendation 1)

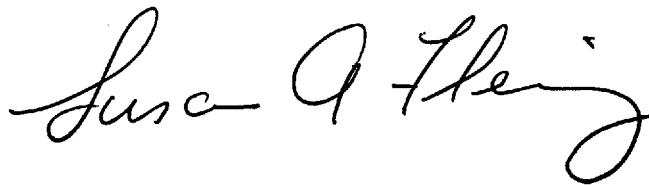
- The Under Secretary of Transportation for Policy should ensure that the Build America Bureau develop performance indicators to assess the Bureau's progress toward meeting its guiding principles or mission as a "one-stop shop." (Recommendation 2)
- The Under Secretary of Transportation for Policy should ensure that the Build America Bureau develop a mechanism to assess the Bureau's application evaluation process for TIFIA and RRIF and identify and address opportunities to improve and further streamline the process. This evaluation should include mechanisms to solicit feedback from project sponsors that sought financing. (Recommendation 3)
- The Under Secretary of Transportation for Policy should ensure that the Build America Bureau develop and adopt a public statement that outlines DOT's and the Bureau's policy goals and appetite for risk for the TIFIA and RRIF financing programs. (Recommendation 4)
- The Under Secretary of Transportation for Policy should ensure that the Build America Bureau establish a policy to document a clear rationale to support decisions made in the PAB application evaluation process to explain why an allocation should or should not be approved. (Recommendation 5)

Agency Comments and Our Response

We provided a draft of this report to the Department of Transportation for review and comment. In its comments, reproduced in appendix III, DOT concurred with our recommendation to develop performance measures (Recommendation 2) and to assess its application review process (Recommendation 3). DOT did not fully concur with our recommendations to develop a detailed implementation plan (Recommendation 1), adopt a public statement of its policy goals and risk appetite for its financing programs (Recommendation 4), and establish a policy to document the rationale for decisions in the PAB process (Recommendation 5). In its comments, DOT did not provide reasons for disagreeing with these three recommendations. We continue to believe that it is important for DOT to implement these recommendations to help the Bureau prioritize and complete its continued implementation efforts and to help improve the transparency of the Bureau's processes and decisions for evaluating applications. DOT also provided one technical comment, which we incorporated.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Department of Transportation, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or flemings@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

A handwritten signature in black ink, reading "Susan A. Fleming". The signature is written in a cursive, flowing style.

Susan A. Fleming
Director, Physical Infrastructure Issues

List of Committees

The Honorable Mike Crapo
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Roger Wicker
Chairman
The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable John Barrasso
Chairman
The Honorable Tom Carper
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Peter A. DeFazio
Chairman
The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Appendix I: Objectives, Scope, and Methodology

The Fixing America's Surface Transportation Act (FAST Act) required that the Department of Transportation (DOT) establish a finance bureau to coordinate and consolidate certain surface transportation funding and finance programs. The FAST Act also included a provision for GAO to review the Bureau's actions to establish procedures for evaluating applications for programs it administers and provide a clear rationale for major decisions in the application evaluation process.¹ We assessed (1) the progress DOT made to establish the Bureau and carry out its responsibilities; (2) the Bureau's process for evaluating applications and providing technical assistance, including obtaining the views of sponsors and stakeholders; and (3) whether the Bureau, when evaluating applications, has provided a clear rationale for its decisions. In the second objective, we focused on the Bureau's work evaluating applications and providing technical assistance because these two responsibilities aligned with the mandate for GAO and were responsibilities the Bureau has made the most progress on.

To examine DOT's progress establishing the Bureau, we reviewed DOT and Bureau documents—90-day and yearly implementation progress reports to Congress, operating procedures, job descriptions and position postings for vacant positions, and budget requests—to determine DOT's plans and progress organizing and staffing the Bureau. We also analyzed reports, including an initial implementation plan, created by a consultant DOT hired in 2016 to help it create and organize the Bureau, and we reviewed the FAST Act and appropriations acts to identify DOT authorities to eliminate and consolidate offices and transfer funds and staff in order to establish the Bureau. We interviewed former and current DOT and Bureau officials to understand DOT's goals and priorities, coordination with modal administrations, challenges or successes, and key next steps for the Bureau. We selected former DOT and Bureau officials who played key roles to establish or work in the Bureau or that were recommended in our interviews. We also interviewed select associations and advisors about their interactions with the Bureau to date, including observations on its creation, organization, and staffing. We selected associations representing project sponsors that have sought or could seek assistance from the Bureau, that vary in mode and sponsor type, and that vary in terms of experience working with the Bureau since July 2016. We selected advisors that have experience working with multiple project sponsors and that worked with the most sponsors of

¹49 U.S.C. § 116(d)(6).

recently closed TIFIA and RRIF loans.² At the end of this appendix, these selected organizations are included in table 2, which lists the individuals and organizations interviewed for this report.

In addition, to determine DOT's and the Bureau's progress in carrying out responsibilities set out for the Bureau in the FAST Act, we examined DOT and Bureau documents, such as the *Credit Programs Guide* and *Build America Bureau Processes and Governance Manual*, and procedures, documents, and other information publicly available on the Bureau's website. We supplemented this information with interviews with DOT and Bureau officials to understand the progress the Bureau made for each responsibility and how the Bureau prioritized its approach to fulfilling these responsibilities overall. We also used these interviews to understand the Bureau's timeline or strategy for fulfilling each responsibility in the future or the cause of no action to date for responsibilities on which the Bureau has taken limited or no action, as well as to understand what metrics or performance measures DOT established to track its progress or outcomes for these responsibilities. We also asked stakeholders we interviewed—including select former DOT officials, associations, and advisors, selected as described above—about their observations on the Bureau's progress in carrying out these responsibilities. We compared DOT's and the Bureau's efforts to federal standards for internal control and key practices for organizational transformations.³

To assess the Bureau's process for evaluating applications and providing technical assistance, we reviewed the *Credit Programs Guide* and other Bureau documents and interviewed Bureau officials to determine the phases and steps in the process. We also reviewed these documents and interviewed Bureau officials to understand the changes DOT made to combine and consolidate existing processes. Our review of the process of evaluating applications included semi-structured interviews with selected project sponsors and stakeholders to understand their experiences using the application evaluation process, experiences working with the Bureau, and comparisons of the application process before and after the Bureau was created, if applicable. First, we selected sponsors for the 10 projects for which we reviewed application documents, as described below, to determine whether the Bureau provided a clear rationale for its

²We selected advisors that were involved in at least three recent TIFIA or RRIF loans.

³[GAO-14-704G](#) and [GAO-03-669](#).

decisions.⁴ Second, we selected other stakeholders—including advisors and associations (as described above) and projects sponsors with experience applying for DOT financing both before and after the Bureau was created. Among these project sponsors, we selected three projects that had multiple loans; used special authorities or agreements (i.e., master credit agreement); or employed public-private partnerships to deliver projects.⁵ Five additional project sponsors, selected as part of other samples described in this appendix, had experience with some part of the TIFIA or RRIF application evaluation process under the Bureau, so we asked these sponsors questions on this part of the process. We analyzed the interview responses by categorizing them based on the extent to which respondents said the process was quick, streamlined,⁶ and transparent; what in the process was most useful and most challenging; suggestions for improving the process; and overall satisfaction or dissatisfaction with the process.

Furthermore, our review of the Bureau's process for providing technical assistance included analyzing the Bureau's data to describe the projects that have sought assistance from the Bureau since it opened by mode, location, type of financing pursued, and step reached in the application process. For technical assistance, we focused on project-specific assistance provided by the Outreach and Project Development Office before a project enters the creditworthiness review phase—referred to as initial engagement and project development. We reviewed the Bureau's data on projects from April 2018 as well as updated data from August 2018. To assess the reliability of these data, we reviewed relevant documents and interviewed Bureau officials responsible for overseeing the data to learn how information was entered, maintained, and reviewed. We also reviewed relevant data elements for missing data, outliers, and obvious errors. Based on these steps we determined that the data were

⁴In total, we interviewed 9 sponsors for these projects. For 5 of the projects, there was a single sponsor to interview. For 1 project, which was a public-private partnership, we interviewed both the public sector and private sector sponsors. Of the remaining 4 projects, 2 sponsors were each responsible for 2 projects.

⁵For sponsors we interviewed about the Bureau's provision of technical assistance, as described below, several had previously worked with DOT or the Bureau to apply for financing. We asked these sponsors about their experiences working with the Bureau on the application evaluation process to inform our evaluation.

⁶We defined streamlined to include a comparison of the process before and after the Bureau administered the programs as well as the degree to which the process was efficient and did not include repetitive steps.

sufficiently reliable for the purpose of describing the number and type of projects that worked with the Bureau and selecting project sponsors to interview.

We also conducted semi-structured interviews with project sponsors to understand their experiences working with the Bureau during the initial engagement and project development phases. In these interviews, we asked sponsors whether the Bureau serves as a single DOT point of contact and provides access to its finance programs with greater speed and transparency; for projects no longer seeking assistance from the Bureau, we asked about the reasons for doing so. Among project sponsors actively working with the Bureau, we identified 32 projects that began working with the Bureau after it was created in July 2016, that had met with or been in contact with the Bureau in the 6 months prior to April 2018, and that the Bureau ranked as 2 or higher on its readiness scale.⁷ Of these projects, we selected 13 sponsors to ensure variety in project status (i.e., initial engagement, project development, creditworthiness), mode, total project cost, prior experience with DOT's financing programs, and location.⁸ Among project sponsors no longer actively working with the Bureau, we identified 10 projects that began working with the Bureau after it was created in July 2016 and had at least two interactions with the Bureau, based on available data.⁹ We selected 5 of these sponsors to interview to ensure variation in mode and location.¹⁰

For the Bureau's provision of technical assistance, we categorized the responses to questions in terms of which interactions with the Bureau were most useful and most challenging, suggestions for improving the process, and overall satisfaction or dissatisfaction. For inactive project

⁷The Bureau ranks all projects in the initial engagement and project development phases on a 1 to 5 readiness scale, with higher numbers indicating projects more ready to move to the next phase. Projects with a rank of 1 would, for instance, be in the early planning stage and have funding uncertainties. We did not include these projects as they were likely to have had fewer interactions with the Bureau.

⁸Two of these sponsors had projects for which they did not use the Bureau's technical assistance and were further along in the application evaluation process; therefore, these sponsors could not answer questions about the Bureau's technical assistance.

⁹The Bureau did not track as many data elements for inactive projects, so we could not use all the same criteria to narrow and select sponsors to interview.

¹⁰We also conducted short interviews with the other five sponsors of inactive projects we identified to determine why they stopped working with the Bureau and what alternative financing or funding subsequently was sought for their projects.

sponsors, we categorized responses according to reasons the project became inactive or withdrew from working with the Bureau, and what other financing, if any, was used for the project. Table 2 below lists project sponsors and other organizations we interviewed. Overall, we assessed the Bureau’s process for evaluating applications and providing technical assistance and the collected evidence against federal standards for internal control and Office of Management and Budget’s guidance for agencies that manage financing programs.¹¹

Table 2: List of Project Sponsors and Associations Interviewed by GAO

Project sponsors
All Aboard Florida
Aurora Express Intermodal
Capital Metropolitan Transportation Authority
Central Texas Regional Mobility Authority
Chicago Department of Transportation
Cintra
City of Bellevue, Washington
City of Phoenix, Arizona
Colorado Department of Transportation - High-Performance Transportation Enterprise
District Department of Transportation, District of Columbia
Forest City
Georgia Department of Transportation
Maryland Transportation Authority
Massachusetts Bay Transportation Authority
Michigan Department of Transportation
Moynihan Station Development Corporation
Mt. Rainier Railroad
North Carolina Turnpike Authority
OmniTRAX
Pioneer Railcorp
Riverside County Transportation Commission
San Diego Association of Governments
Sound Transit
Terminal Railroad Association of St. Louis
TOD Finance and Advisors, Inc. ^a
Town of Normal, Illinois
Transurban

¹¹Office of Management and Budget, *Circular No. A-129*.

Virginia Department of Transportation

Associations

American Association of State Highway and Transportation Officials

American Public Transportation Association

American Short Line and Regional Railroad Association

Source: GAO. | GAO-19-279

^aThis advisor is listed as a project sponsor as we interviewed it about a specific project, on behalf of the sponsor.

To assess whether the Bureau provided a clear rationale for its decisions when evaluating applications, we reviewed the *Credit Programs Guide* and other Bureau documents to identify steps and major decision points and accompanying documents in the application evaluation process. We identified 5 major decision points for TIFIA and RRIF and 3 major decision points for PAB. We also used these documents to identify evaluation criteria for each major decision point (i.e., the information or requirements that the Bureau says must be considered at each decision point) to use to assess whether the Bureau provided a clear rationale for each decision point. We confirmed our list of steps and major decision points, as well as accompanying documents, with Bureau staff responsible for the financing programs. We did not examine whether the Bureau documented decisions for the grant funding program it administers, and we have previously evaluated this program and also have work in progress to evaluate it.¹²

To assess whether the Bureau followed these procedures and documented major decisions and rationale, we selected projects that went through most of the application process after the Bureau updated its process in September 2016. For TIFIA and RRIF, these are projects that completed the first or second decision point—being invited to enter creditworthiness or being invited to submit a formal application—and had signed credit agreements as of March 31, 2018. We selected all three projects that completed the first decision point and had signed credit

¹²Based on a review of DOT's decision-making documentation for the INFRA program—then referred to as FASTLANE—we reported in November 2017 that we were unable to determine the rationale for selecting the 18 awarded projects. We recommended that DOT require that staff document their decision-making rationale throughout the INFRA application evaluation process. DOT agreed with the recommendation. As part of our ongoing work, we are determining what actions DOT has taken in response to our recommendation. See GAO, *Discretionary Transportation Grants: DOT Should Take Actions to Improve the Selection of Freight and Highway Projects*, [GAO-18-38](#) (Washington, D.C.: Nov. 2, 2017).

agreements. We selected 3 of the 5 projects that completed the second decision point and had signed credit agreements to ensure variation in type of sponsor (e.g., state or local government, private entity), mode, and size of loan.¹³ For PAB, we selected all four projects that submitted an application after September 2016 and received an allocation as of March 2018.¹⁴

For each selected project, we reviewed Bureau documents, including meeting agendas and summaries, memos, summaries of financial analyses, and letters to sponsors. Two GAO staff independently reviewed these documents to determine if the Bureau documented and provided a clear rationale for each major decision point, comparing the documents against practices in the Bureau's application evaluation process and federal standards for internal control. Using Bureau documents, we also calculated how much time it took for each project to move between each step and decision point and determined whether each project met its anticipated financial close date. We did not compare the amount of time it took for these projects to complete the application process to projects that received financing before DOT created the Bureau because the steps and decision points for the application process changed. However, we interviewed Bureau officials to understand the application evaluation process and the 10 projects we selected. We also drew on past GAO work and that of others to understand past findings and challenges for the financing programs before the Bureau was created.¹⁵

¹³Three additional projects had completed the second decision and had signed credit agreements at the time of our review. However, we excluded these projects; two projects closed loans 2 months and 4 months after the Bureau established its new procedures and thus spent limited time working with the Bureau, and one project closed a loan under a master credit agreement, meaning it entered the application evaluation process under a different path than other projects.

¹⁴At the time of our project selection, no projects had gone through the application process and not received a credit agreement or allocation (i.e., withdrew or was not approved), based on our review of Bureau documents. Therefore, we did not have any unsuccessful applications to review. We did not select any projects for which the Bureau was still actively evaluating applications.

¹⁵GAO, *Railroad Financing: Stakeholders' Views on Recent Changes to the Railroad Rehabilitation and Improvement Financing Program*, [GAO-16-714R](#) (Washington, D.C.: July 13, 2016), and GAO, *Surface Transportation: Financing Program Could Benefit from Increased Performance Focus and Better Communication*, [GAO-12-641](#) (Washington, D.C.: June 21, 2012).

Appendix II: Additional Information on Build America Bureau's Organizational Structure and Staffing

Initial Organizational Structure

The consultant's initial implementation plan for the Build America Bureau (Bureau)—created by the consultant while working with the Department of Transportation's (DOT) internal committees—outlined an organizational structure with responsibilities and roles for its positions. Most positions resided in three offices that administer specific programs or provide technical assistance to sponsors.

- The Outreach and Project Development Office works to educate project sponsors about how they can best combine DOT's financing and funding programs as well as innovative project delivery approaches. The implementation plan envisioned a director to manage the office, general project development lead positions to conduct outreach and provide assistance to sponsors on specific projects, and specialized project development lead positions with expertise in a particular area, such as rail or maritime, to help sponsors with more complex projects and to provide technical assistance to other sponsors and staff in the Bureau. The plan also envisioned best practices positions with expertise in public-private partnerships, transit-oriented development, or federal permitting.
- The Credit Programs Office administers the application processes for the Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation and Improvement Financing (RRIF) programs. The implementation plan envisioned a director to manage the office with the remaining positions split among three areas: underwriting positions to review and evaluate project applications, portfolio management positions to manage existing credit agreements, and risk management positions to evaluate project-specific risks, conduct audit activities, and carry out other risk and budget activities. Underwriting staff, for example, conduct an in-depth review of a project application that includes evaluating the plan of finance and feasibility of the revenue stream pledged to repay credit assistance or sufficiency of other pledged collateral.
- For the Infrastructure for Rebuilding America (INFRA) Grants Office, the structure envisioned a director and additional positions to administer the competitive grant program.

Beyond these offices, the initial implementation plan proposed an Executive Director, as required by statute, to lead the Bureau's work and positions to support the entire Bureau. The organizational structure also

included additional positions to provide full-time legal support to the Bureau, which are housed in DOT's Office of General Counsel.¹

Initial Staffing for the Bureau

Our analysis—based on Bureau documents and discussions with Bureau officials—shows that when the Bureau opened in July 2016, 7 months after the Fixing America's Surface Transportation Act (FAST Act) was enacted, it largely followed the envisioned structure. When the Bureau opened in July 2016, DOT detailed or transferred 29 staff to run the Bureau. Twenty-five of these staff filled positions in the Bureau's three offices, and the four remaining staff filled positions in the Office of General Counsel that provided dedicated legal services to the Bureau. These staff came from other parts of DOT as follows:

- *Federal Highway Administration (FHWA)*. DOT detailed 16 staff from FHWA's TIFIA Joint Program Office to the Bureau, primarily to work in the Bureau's Credit Programs Office. DOT also detailed three attorneys from FHWA's Office of the Chief Counsel to the Office of General Counsel.
- *Federal Railroad Administration (FRA)*. DOT transferred five staff from FRA to the Bureau's Credit Programs Office.
- *Federal Transit Administration (FTA)*. DOT transferred one attorney from this modal administration to the Office of General Counsel.
- *Maritime Administration*. DOT transferred one staff member from this modal administration to the Bureau to work in the Outreach and Project Development Office.
- *Office of the Secretary of Transportation (OST)*. DOT transferred the remaining three staff from the Build America Transportation Investment Center to work in the Outreach and Project Development Office and in Bureau leadership and support roles.

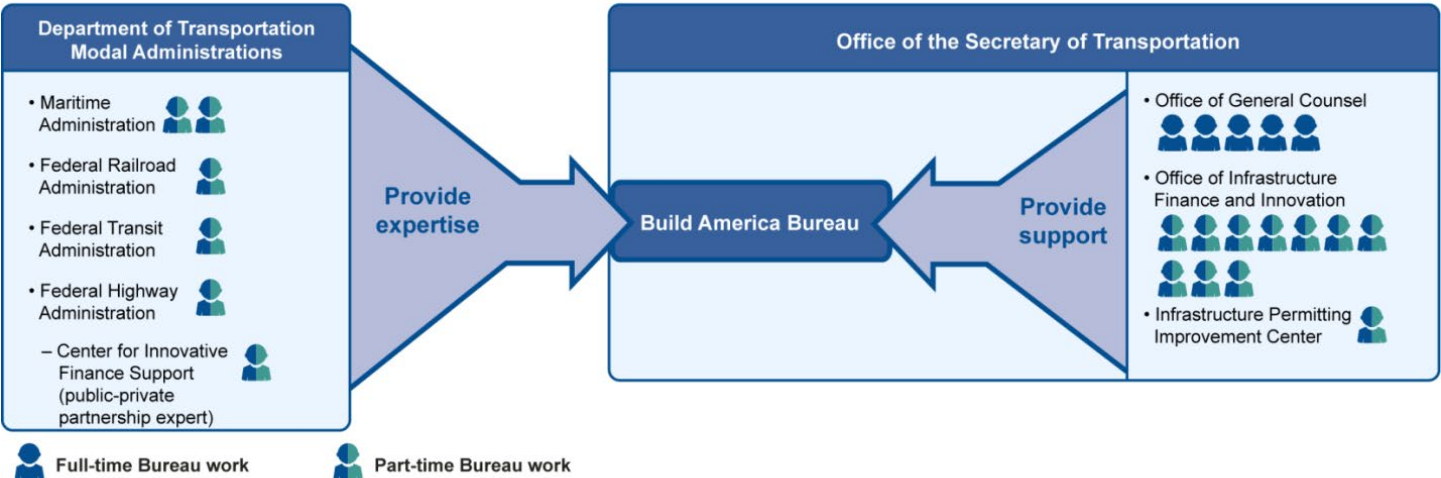
DOT, in opening the Bureau, did not fill any of the positions in the INFRA Grants Office. According to current and former DOT officials, DOT used staff in OST that administer another competitive grant funding program to administer the first round of INFRA grants, as noted above. This decision also allowed DOT to move quickly to make grants for the first round of funding. At the same time, DOT officials told us that no funding was

¹The TIFIA program also had dedicated legal support prior to the program moving to the Bureau. DOT consolidated this dedicated legal support for the Bureau in the Office of General Counsel.

provided specifically to administer the INFRA program, so hiring staff to fill those envisioned positions would have diverted resources from other Bureau priorities. In addition, one OST staff person who both worked on the INFRA program and managed the Private Activity Bonds (PAB) program continued to manage PAB after the Bureau took over administration of that program while staying in OST.²

DOT also decided to leverage other DOT offices and modal administrations to carry out some of the Bureau's work. Bureau officials stated that this model allows the Bureau to realize efficiencies by using the expertise and support of existing DOT offices rather than duplicating this expertise and support. Figure 2 summarizes the DOT offices that the Bureau interacts with, based on our analysis of Bureau and DOT documents and interviews with Bureau officials.

Figure 2: Department of Transportation Offices that Interact with the Build America Bureau



Source: GAO analysis of DOT information. | GAO-19-279

- *Support provided by other offices within OST:* As noted above, the Office of Infrastructure Finance and Innovation administers the INFRA program, leveraging the experience and knowledge of staff in that office that administer another competitive grant program.³ The Bureau

²During the course of our review, a Bureau staff person took over management of the PAB program, according to DOT officials and the Bureau's PAB documents.

³This other program is the Better Utilizing Investments to Leverage Development (BUILD) transportation discretionary grant program; it replaced the Transportation Investment Generating Economic Recovery (TIGER) grant program.

also coordinates with the Infrastructure Permitting Improvement Center on its FAST Act responsibilities related to environmental reviews and permitting.

- *Expertise from DOT's modal administrations:* Designated liaisons in FRA, FTA, FHWA, and the Maritime Administration coordinate with the Bureau to help assess project readiness or identify issues on projects applying for financing, such as ongoing litigation or work remaining on environmental reviews. Liaisons are funded by their modal administration and told us that they spend anywhere from 10 to 75 percent of their time serving as a liaison to the Bureau.

The FAST Act gave DOT authority to consolidate or eliminate offices and positions when creating the Bureau.⁴ When the Bureau opened in July 2016, DOT eliminated the FRA office that administered RRIF and the Build America Transportation Investment Center as staff and functions transferred to the Bureau. DOT also plans to eliminate the TIFIA Joint Program Office—the office that FHWA staff detailed to the Bureau formerly worked in. According to DOT officials, the FHWA staff from that office are fully integrated and working in the Bureau; however, these staff will remain FHWA employees until DOT completes actions to transfer funds and staff to the Bureau and formally eliminate that office. See below for more detail on the transfer of funds and staff. DOT officials said it was easier to eliminate FRA's RRIF office than the TIFIA Joint Program Office because the RRIF office did not have dedicated administrative funding like the TIFIA office did and FRA employees worked on RRIF as one of several duties.

Changes to Organizational Structure and Staffing

After opening and operating the Bureau, DOT made minor changes to the initial organizational structure. According to DOT officials, the Bureau has evolved and changed since it began operations—as would occur for any new office—and its current structure differs in various ways from its initial structure. Based upon the Bureau's early experience, it eliminated 7 proposed positions: 1 position providing legal support, 3 positions for outreach to sponsors, 2 for addressing risk management, and 1 for managing the Bureau's portfolio. The Bureau decided to eliminate the outreach positions because despite earlier findings that DOT's TIFIA and

⁴For instance, DOT is authorized by statute to eliminate any office it determines duplicates the purposes of the Bureau or to consolidate any office it determines has duties, responsibilities, resources, or expertise that support the purposes of the Bureau. 49 U.S.C. § 116(h)(1) and (2).

RRIF programs were underutilized, officials discovered that more sponsors than expected were interested in those financing programs. The Bureau also added 5 positions that had not been initially proposed: 2 underwriter positions and 3 positions that work across individual Bureau offices.⁵ These cross-Bureau positions handle several duties, including budget, human resources, and procurement issues for the Bureau, working closely with the Office of the Under Secretary for Policy.

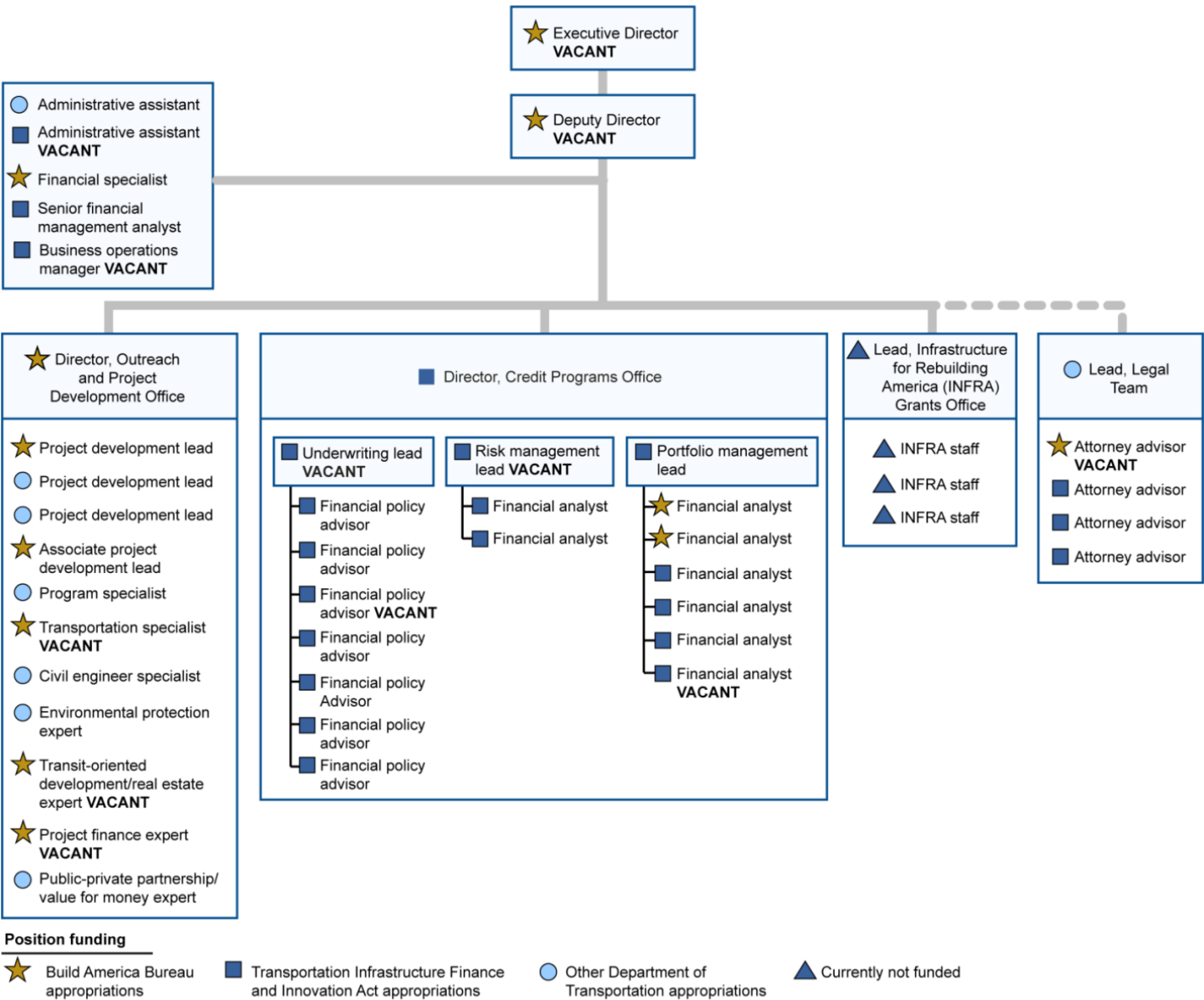
Funding for the Bureau currently comes from three sources, though DOT officials said they want to consolidate all funding for the Bureau in OST. First, 12 positions are funded through appropriations from general revenues to OST specifically for the Bureau. The President's budget request has requested funding to support these 12 positions since fiscal year 2017. Second, 23 positions for the TIFIA program are funded through appropriations from the Highway Trust Fund. This funding cannot be used for positions that do not work on matters involving the TIFIA program, unless it is formally transferred to the Bureau, according to DOT. Third, the remaining 8 positions identified in the Bureau organizational chart are not carried out by Bureau employees. Instead, they are carried out by contractors and employees supported by other units of DOT, an approach that Bureau officials said is consistent with the missions of those other units and the Bureau.⁶ For instance, FHWA funds two positions in the Outreach and Project Development Office, outside of funding for TIFIA. DOT's initial ability to transfer funds under the FAST Act to support the Bureau ended in December 2017; according to Bureau officials, this impaired the Bureau's ability to finish steps to formally consolidate staff who are paid from the Highway Trust Fund. Due to how funds for TIFIA are authorized to FHWA in the FAST Act, DOT needed to receive transfer authority beyond December 2017 so that it could maintain its ability to pay Highway Trust-funded employees in future years

⁵In early 2018, the person working in a special advisor position, reporting to the Executive Director position, left the Bureau. This person was serving on detail from another federal agency and helped the Bureau develop credit risk guidelines to aid its creditworthiness review, according to Bureau officials. DOT decided it would not refill this position. Later in 2018, when the Bureau's lead underwriter left the Bureau, DOT decided to take some of that position's responsibilities and create a new position, the business operations position, to report to the Executive Director; DOT is developing the specific duties and a description for this new position. Therefore, one position at that level was replaced with a new position, not affecting total envisioned positions but changing the role of that position.

⁶These counts do not include any positions envisioned to administer INFRA in the Bureau's organizational structure. See below for more details on the funding and administration of the INFRA program.

after they are formally transferred to OST and paid from OST's budget. In early 2018, DOT's ability to transfer funds was extended in the fiscal year 2018 Consolidated Appropriations Act. DOT provided information to the appropriations committees on transferring funds and consolidating offices, as required in statute, and is awaiting a response from these committees. See figure 3 below for position titles, locations in the organization, and funding sources as of October 2018.

Figure 3: Funding Sources for Build America Bureau Positions as of October 2018



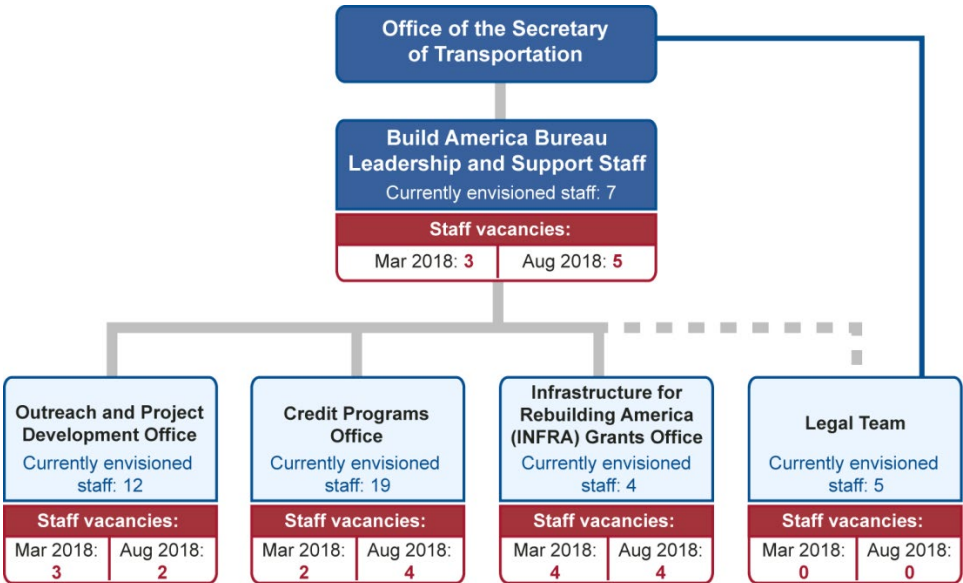
Source: GAO analysis of DOT information. | GAO-19-279

Vacant Positions

The Bureau has had many vacant positions since it opened in July 2016, based on our interviews with current and former DOT officials and our review of Bureau documents. In the 6 months after the Bureau opened,

DOT filled some positions, including competitively selecting an Executive Director. Then, in early 2017, DOT and other executive branch agencies were subject to a hiring freeze for about 3 months. However, in the time since the end of the hiring freeze, we found that the Bureau has continued to have many vacant positions (see fig. 4).

Figure 4: Number of Envisioned and Vacant Positions, as of August 2018, in the Build America Bureau, by Office



Source: GAO analysis of DOT documents. | GAO-19-279

The Executive Director position has been vacant since the person previously in that role stepped down in November 2017. DOT posted an unsuccessful announcement for this position in November 2017, followed by a second announcement in April 2018 that largely matched the earlier announcement.

Beyond the Executive Director, the Bureau has had between 8 and 11 vacant positions in its organizational structure throughout 2018.⁷ Some positions, such as the Deputy Executive Director position, have never been filled. Other positions were filled but became vacant as staff left the

⁷This count does not include the four positions in the INFRA grant program have never been filled.

Bureau for other opportunities. According to our analysis of Bureau documents, 16 of the 29 staff who were detailed or transferred to work in or for the Bureau when it was created in July 2016 remained in the Bureau as of August 2018.⁸ DOT and Bureau officials said that DOT did not want to fill vacant positions in the Bureau before filling the Executive Director position, as hiring is one of that position's duties. Therefore, between fall 2017 and spring 2018, while the Executive Director position was vacant, DOT did not actively fill other vacancies, instead taking a "wait and see" approach, according to DOT and Bureau officials. However, in spring 2018, DOT and Bureau officials said they identified 5 critical vacancies to fill but were not able to provide a written document that laid out a hiring plan or sequence for filling the remaining positions.⁹ As of October 2018, Bureau officials said they had filled 5 positions and are in various stages of filling all the remaining vacant positions, either planning to write position descriptions, working with human resources to post jobs, or are in the hiring process.

Finally, according to DOT and Bureau officials, DOT continues to use other OST staff to administer INFRA because of uncertainties related to the Bureau's funding sources. However, DOT and Bureau officials said that many members of the team that oversees the INFRA evaluation process are also members of the Council on Credit and Finance, so the Bureau has an indirect role in the program.

The Bureau has used detailees and contractors to fill vacant positions in the Outreach and Project Development Office. This office, unlike the Credit Programs Office, did not have an existing program or a large existing office to fill its positions from. Since July 2016, four detailees from other parts of DOT have filled positions in the Outreach and Project Development Office—the project development or specialized project development lead positions—on short, 4 to 6 month terms. Two of these detailees were reassigned permanently to these positions in the Bureau in summer 2018, and the other two detailees returned to their prior roles.

⁸This count includes the 4 staff transferred to the Office of General Counsel to provide dedicated legal support to the Bureau; those same 4 staff remained in the dedicated legal positions as of August 2018.

⁹The positions were the portfolio management lead in the Credit Programs Office and a financial analyst position that worked across Bureau offices—both of which existed in the organizational structure and for which DOT posted announcements—as well as the lead business operations and a risk credit officer—which are new positions that DOT will have to create positions descriptions for before posting announcements.

Recently, the Bureau filled one additional such position with a 2-year detailee from the Federal Aviation Administration. Finally, the Bureau filled two other positions with staff provided through an interagency agreement with the John A. Volpe National Transportation Systems Center effective through fiscal year 2020.¹⁰

¹⁰The Volpe Center is a fee-for-service organization that performs work for DOT as well as other federal, state, local, and international agencies and entities.

Appendix III: Comments from the Department of Transportation



**U.S. Department
of Transportation**

Office of the Secretary
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

FEB 22 2019

Susan A. Fleming
Director, Physical Infrastructure Issues
U.S. Government Accountability Office (GAO)
441 G Street NW
Washington, DC 20548

Dear Ms. Fleming:

The Build America Bureau (Bureau), U.S. Department of Transportation (DOT) is responsible for driving transportation infrastructure development projects by providing low cost, long term loans and allocations of tax exempt bonds. The Bureau serves as the single point of contact for States, municipalities and project sponsors seeking federal transportation expertise, applying for federal transportation credit programs and exploring ways to pursue public private partnerships. The Bureau offers loans through the Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation and Improvement Financing (RRIF) credit programs and allocates Private Activity Bonds (PABS) for projects seeking access to capital. The Bureau streamlines credit opportunities and grants, while also providing technical assistance and encourages innovative best practices in project planning, financing, delivery, and monitoring.

Since the Bureau was established in 2016, DOT has made lending commitments of \$9.9 billion and allocated \$3.8 billion in PABS, leading to construction of 25 projects valued at \$32.4 billion. DOT has also taken the following actions to further improve the delivery of products and services to our clients:

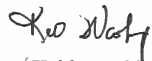
- Added products and services: Implemented a new “Rural Projects Initiative,” tailored to rural borrowers that reduces costs and fees for qualified projects.
- Diversified the project portfolio: Added 11 airport projects, 2 commercial ports and 2 short line and regional railroads to the pipeline of projects seeking credit assistance. Projects seeking credit assistance were also added in 4 states that have had no loans from DOT to date.
- Streamlined the loan application process: Developed/implemented a single TIFIA/RRIF loan application template and a TIFIA/RRIF Letter of Interest template – both of which replace difficult-to-follow templates that differed between TIFIA and RRIF.
- Built Out the Department’s Loan Making Capacity: Filled 8 staff positions to support loan underwriting, portfolio management, budget, accounting and financial management and project outreach functions essential to achieving the Bureau’s mission.

**Appendix III: Comments from the Department
of Transportation**

Upon review of the GAO's draft report, we concur with recommendations 2-3, and do not fully concur with recommendations 1, 4, and 5. We will provide a detailed response to each of the five recommendations within 180 days of the final report's issuance.

We appreciate the opportunity to respond to the GAO draft report. Please contact Madeline M. Chulumovich, Director, Audit Relations and Program Improvement, at (202) 366-6512 with any questions or if you would like to obtain additional details.

Sincerely,



Keith Washington
Deputy Assistant Secretary for Administration

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Susan Fleming, (202) 512-2834 or flemings@gao.gov

Staff Acknowledgments

In addition to the contact named above, Steve Cohen (Assistant Director); Joanie Lofgren (Analyst in Charge); Lauren Friedman; David Hooper; Lauren Lynch; Ned Malone; Malika Rice; Amy Rosewarne; and Michael Sweet made key contributions to this report.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (<https://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to <https://www.gao.gov> and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <https://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#).
Subscribe to our [RSS Feeds](#) or [E-mail Updates](#). Listen to our [Podcasts](#).
Visit GAO on the web at <https://www.gao.gov>.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: <https://www.gao.gov/fraudnet/fraudnet.htm>

Automated answering system: (800) 424-5454 or (202) 512-7700

Congressional Relations

Orice Williams Brown, Managing Director, WilliamsO@gao.gov, (202) 512-4400,
U.S. Government Accountability Office, 441 G Street NW, Room 7125,
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, spel@gao.gov, (202) 512-4707
U.S. Government Accountability Office, 441 G Street NW, Room 7814,
Washington, DC 20548



Please Print on Recycled Paper.