

PRINCIPLES, PROCESS AND STANDARDS APPLICABLE
TO THE TIED AID PROGRAM AND CREDIT FUND

October 29, 2020

TIED AID CREDIT PROGRAM

In accordance with 12 U.S.C. 635i-3, the Export-Import Bank of the United States (“EXIM”) has established a tied aid credit program (the “Program”) under which grants shall be made from funds available in the Tied Aid Credit Fund (the “TACF”) to carry out the purposes described in subsections (a)(6) and (b)(1) thereof.

DEFINITIONS

Terms used and not otherwise defined herein have the meanings set forth in 12 U.S.C. 635i-3.

PRINCIPLES AND STANDARDS FOR USE OF THE TACF TO FUND THE PROGRAM

The Department of Treasury (“Treasury”) and EXIM have jointly developed the following principles and standards for use of the TACF to fund the Program (the “Reed-McIntosh Procedures”), based on the principles and standards set forth in 12 U.S.C. 635i-3:

1. The TACF is a resource that is governed by the simple standard of purposeful and selective use to deter or defend against foreign tied aid or partially untied aid credits that distort trade, and it is utilized so as to maximize the value of these resources. A prime use of the TACF is to leverage multilateral negotiations to restrict the scope for aid-financed trade distortions through new multilateral rules, to police existing multilateral rules and to seek compliance by those countries that are non-Participants of the Arrangement. Other prime uses are to defend U.S. exporters from examples or patterns of foreign tied aid or partially untied aid credits that effectively (whether intentionally or not) form a significant threat to U.S. market share/access in emerging markets and to respond to offers of tied aid, including partially untied aid, that put United States exporters at a competitive disadvantage, including tied aid or partially untied aid support provided by non-Participants of the Arrangement. In this regard, its aim is to deter, or if not possible, to match trade distorting foreign tied aid and partially untied aid offers that provide a significant competitive advantage for foreign exporters.
2. The TACF may be used to counter foreign tied aid or partially untied aid support confronted by United States exporters when bidding for a capital project or capital equipment sale, including such support by non-Participants of the Arrangement.
3. The TACF may be used to enable a competitive US exporter to pursue further market opportunities on commercial terms made possible by the use of the fund, including opportunities in export markets of non-Participants of the Arrangement.

4. Each use of the TACF will be in accordance with the Arrangement, including provisions for matching “financial terms and conditions assumed to be offered by a Participant or a non-Participant”.
5. EXIM will only use the TACF for projects which have been reviewed in accordance with EXIM’s Environmental and Social Due Diligence Procedures and Guidelines.
6. The TACF may be used to preemptively counter potential foreign tied aid offers.
7. EXIM will use the TACF in cases in which credible information exists that a foreign government is offering tied aid or partially untied credit (formally or informally) to distort trade to provide a significant competitive advantage for foreign exporters.
8. As used herein, “credible information” means, with respect to the existence of a foreign offer of tied aid or partially untied aid credit, information supporting the existence of such an offer. In determining whether there is credible information regarding a foreign offer of tied aid or partially untied credit, EXIM seeks as much of the following information as practicable: specific financing terms (including currencies of denomination, grace periods, repayment terms, interest rates, grant amounts); amounts of tied aid financing; dates of foreign tied aid offers; descriptions of projects; names of donor agencies; names of recipient government agencies; names of foreign exporters. In cases where information about a specific offer of foreign tied aid (or untied aid used to promote exports as if it were tied aid) is not available in a timely manner, or is unavailable because the foreign export credit agency involved is not subject to the reporting requirements under the Arrangement, credible information may include a history of such offers under similar circumstances and other forms of credible information. Such credible information may include (without limitation) a buyer’s indication (in writing) that the buyer has available a foreign concessional financing line from an ECA; information from the buyer, the US Commercial Services or US Embassy officials, indicating a competitor’s interest in bidding on the project; a pattern of tied aid notifications in the same (or neighboring) market and in the same sector; an indication of the foreign ECA’s willingness to offer Tied Aid in the market and for that sector; expired notifications that are being used as the basis for negotiations with the buyer; evidence of a foreign ECA’s disregard for the technical rules regarding timing of notifications and their availability/expiry dates.
9. EXIM will consider as many of the following factors as may be relevant to a specific case at a particular time.
 - Total budget cost of the transaction;
 - Clarity and extent of any pattern or trend indicating intent by donor country to use tied aid or partially untied credits to acquire commercial advantage for specific exporters or products;

- Clarity and extent of any pattern or trend indicating intent by donor country to use tied aid or partially untied credits as part of a national strategy of trade promotion;
- Nature of the export of project in terms of environmental benefits;
- Economic feasibility of structuring such transactions in the specific market on standard export credit terms;
- Possible effect of the loss of the sale/access to market/market share on the medium- and long-term viability of the supplier(s) as an entity or exporter;
- Small business status of the supplier(s);
- The existence/reality of international competitive bidding procedures;
- Extent of competitor displacement;
- Clarity and specificity of documents relating to the foreign tied aid offer;
- Exports to sub-Saharan Africa;
- Renewable energy exports;
- China and transformational exports program; and
- Available TACF resources.

PROCESS FOR TIED AID TRANSACTIONS

- (1) EXIM shall process an application for tied aid in accordance with the principles and standards set forth herein.
- (2) Not less than twenty days prior to the scheduled meeting of the Board of Directors of EXIM (“Board of Directors”) at which an application will be considered (unless EXIM determines that an earlier discussion is appropriate based on the facts of a particular financing), EXIM shall brief Treasury staff on the application and deliver such documents, information, or data as may reasonably be necessary to permit Treasury staff to assist the Secretary of the Treasury (the “Secretary”) in their review of the application to determine if the application complies with the principles and standards set forth herein. The briefing shall include, at a minimum, the following information:
 - Explanation as to how the proposed use of the TACF would comply with the principles and standards set forth herein, and how the proposed use conforms with the purposes of 12 U.S.C. 635i-3(a)(6) and with the Arrangement.
 - Explanation of the terms and conditions to be offered.
 - A proposal for executing any notifications required by the Arrangement.
 - Any credible information (as described in paragraphs 7-8 above) used by EXIM in developing the terms and conditions.
- (3) The Secretary may request a single postponement of the consideration by the Board of Directors of the application for up to 14 days to allow the Secretary to submit to the Board of Directors a memorandum objecting to the application.

- (4) Case-by-case decisions on whether to approve the use of the TACF shall be made by the Board of Directors, except that the approval of the Board of Directors (or a commitment letter based on that approval) shall not become final (except as provided in Section (5)), if the Secretary indicates to the President of EXIM in writing the Secretary's intention to appeal the decision of the Board of Directors to the President of the United States and makes the appeal in writing not later than 20 days after the meeting at which the Board of Directors considered the application.
- (5) EXIM shall not grant final approval of an application for any tied aid credit (or a commitment letter based on that approval) if the President of the United States, after consulting with the President of EXIM and the Secretary, determines within 30 days of an appeal by the Secretary under (4) that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6) of 12 U.S.C 635i-3. If no such Presidential determination is made during the 30-day period, the approval by EXIM of the application (or related commitment letter) that was the subject of such appeal shall become final.
- (6) Taking into consideration the time sensitivity of transactions, the Board of Directors shall expeditiously reconsider a decision of the Board of Directors to deny an application for the use of the TACF if the applicant submits the request for reconsideration within 3 months of the denial. In any such reconsideration, the applicant may be required to provide new information on the application.

REVIEW

Treasury and EXIM staff will meet periodically to review and discuss data and trends on the application for and use of the TACF pursuant to the Program and the use of tied aid credit financing by foreign governments.

Treasury and EXIM Bank staff will meet periodically to review EXIM and Treasury cooperation with respect to the administration of the TACF and to discuss any changes to the principles and standards outlined above that may be necessary to improve cooperation and more effectively administer the program.