

COLORADO DEPARTMENT OF TRANSPORTATION		<input type="checkbox"/> POLICY DIRECTIVE <input checked="" type="checkbox"/> PROCEDURAL DIRECTIVE
Subject COLORADO STATE INFRASTRUCTURE BANK (SIB) PROCEDURE		Number 720.1
Effective 4/7/2011	Supersedes None	Originating Office Office of Financial Management and Budget

PURPOSE

The purpose of this procedural directive is to establish procedures for the CO SIB loan process.

AUTHORITY

Transportation Commission
 CDOT Policy 720.0, Colorado State Infrastructure Bank (SIB) Policy
 43-1-113.5(3) CRS
 2 CCR 605-1

APPLICABILITY

This policy directive applies to any public or private project sponsor of public transportation projects within the State of Colorado and to any division, office or region within the Colorado Department of Transportation (CDOT).

DEFINITIONS

Transportation Infrastructure Revolving Fund (Fund 715):
 Colorado State Infrastructure Bank (CO SIB):

PROCEDURE FOR CREATING AND UPDATING DIRECTIVES

The following outlines the CO SIB loan process:

- 1) The application for a CO SIB loan shall be comprised of four sections and each section shall include the following:
 - a) Section 1 shall request pertinent information from the applicant such as the name of the borrower; employer ID#; brief description of the project or purchase; business address; name of the contact person; phone number; fax number; e-mail address; name and pertinent information about the borrower's third party fiduciary.
 - b) Section 2 shall request financial information about the loan such as: the amount requested to be loaned; the desired terms to repay the loan; particulars about additional debt on the project; and if applicable, a rating letter from the rating organization that evaluated the entity's last bond issue indicating the rating and when it was established. In addition, this section shall

- request pertinent financial information about the applicant including: a plan that identifies the anticipated funding or revenue sources pledged to repay the loan; a plan that identifies other funds, anticipated revenue, or securities that are available to secure the loan; the latest financial statements for the organization making the application; and a resolution from the applicant's council or board authorizing this application and borrowing from the CO SIB.
- c) Section 3 shall request information about the project or purchase such as: a statement of work of the project or a detailed description of the purchase; the total cost (estimate) of the project, the property appraisal or an invoice for a purchase; a brief explanation of the need for the project; a brief explanation of how this project enhances the overall transportation system and the benefits such as congestion mitigation, environmental mitigation, safety, economic development, and connectivity; a brief explanation that identifies the extent to which CO SIB assistance accelerates project implementation; a brief description of the likely negative effects of not receiving CO SIB assistance. In addition, in this section, the applicant shall indicate: the type of project i.e., highway, transit, aviation, or rail; if the project is part of a local, regional or the Statewide Transportation Improvement Program plan (STIP); if the project meets the federal-aid eligibility requirement; if the project involves a public/private partnership; if the project involves the formation of a Local Improvement District (LID) or an Urban Renewal District (URD) or similar entity.
 - d) Section 4 shall request acknowledgement and certification of the applicant that the information provided in the application is true and understand that any intentional or negligent misrepresentation of information contained in the application may result in civil liability and/or criminal penalties under the state statutes of Colorado, and liability for monetary damages to the lender, its agents, successors and assigns, insurers and any other person who may suffer any loss due to reliance upon any misrepresentation which has been made on the application.
- 2) The process for executing CO SIB loan contracts begins when a project sponsor submits an application for CO SIB assistance for an eligible project to any Colorado Department of Transportation (CDOT) divisional or regional office or to the CDOT Office of Financial Management and Budget (OFMB).
 - a) If an application is submitted to a CDOT divisional or regional office that office shall forward the application to the OFMB.
 - b) When the OFMB receives an application it shall prepare the application for evaluation by the review committee (the committee) and set up a loan file for the prospective borrower.
 - 3) The committee shall evaluate and document each loan and make a recommendation on the loan for presentation to the Colorado Transportation Commission (TC).

- 4) The TC shall act on the committee's recommendation and evaluation.
- 5) The committee may submit a recommendation to the TC for a loan amount based on a preliminary cost estimate; subsequently, the loan amount shall be adjusted to an amount based on the actual invoice amount or final cost estimate.
 - a) If the adjusted loan amount is equal to or below the preliminary loan amount, OFMB shall prepare the contract based on the adjusted loan amount.
 - b) If the adjusted loan amount is above the preliminary loan amount, the process shall resume at step 3.
- 6) If the TC approves the loan, the OFMB shall:
 - a) Prepare a loan contract document, using an unaltered template approved by the Colorado Department of Law and the State Controller's Office, as directed by the TC;
 - b) Enter specific loan contract information into the contract management system (CMS) for the purpose of tracking the loan;
 - c) Enter specific loan contract information into the SAP system creating the loan in the system; and
 - d) Send five copies of the contract document to the approved project sponsor for review.
- 7) After receiving the contract documents, the approved sponsor shall take one of the following three courses:
 - a) If in agreement with all of the terms and provisions of the loan contract, sign and return all five copies of the contract documents to the OFMB.
 - b) If the approved sponsor disagrees with any of the terms and provisions of the loan contract and intends to forgo the loan, the sponsor shall notify the OFMB of its intent to forgo the loan; or
 - c) If the approved sponsor seeks to negotiate or alter certain terms or provisions, the sponsor shall identify any specific disagreement(s) within the contract and propose alternative language.
- 8) After receiving such notice, the OFMB shall act accordingly:
 - a) If it is the intent of the sponsor to forgo the loan, the OFMB shall withdraw the loan request; close the sponsors file and notify the TC of the withdrawal.

- b) If it is the intent of the sponsor to negotiate certain terms and provisions within the contract document, the OFMB shall then forward the specifics to the State Controller's Office and, if needed, the Department of Law for legal review and/or assistance in the negotiation. When the State Controller's Office and the Department of Law, if applicable, provide the negotiated language, the process shall resume at step 6.
- 9) Upon receiving signed contract documents from an approved sponsor, the OFMB shall secure signatures from the following:
 - a) The CDOT Executive Director office
 - b) The Department of Law
 - c) The CDOT Controller—the contract shall be deemed executed with the Controller signature. If, however, changes were made to the contract template, the State Controller's Office shall sign the contract in lieu of the CDOT Controller.
- 10) The OFMB shall distribute one of the five copies of the executed contract documents to each of the following:
 - a) The Controller's office
 - b) The project sponsor (borrower)
 - c) The respective CDOT divisional or regional office
 - d) The Department of Law
 - e) The sponsor's loan file (in the OFMB)
- 11) After the contract documents have been signed by a Controller, CDOT Accounting shall:
 - a) disburse the loan
 - b) pay and clear the customer payment
 - c) posts loan receivables to the customer accounts
- 12) The OFMB shall send the loan check and the official payment schedule to the sponsor's third party fiduciary/escrow agent or administrator of the loan.
- 13) The approved sponsor shall make all scheduled payments in full and on time.
- 14) CDOT Accounting shall process and post all incoming loan payments.

- 15) If a loan falls into default:
 - a) Accounting shall notify the sponsor and the OFMB of the condition. If the sponsor cures within thirty (30) days, the loan shall no longer be in default and accounting shall notify OFMB of the cure action.
 - b) The OFMB shall notify the appropriate CDOT divisional or regional office and the committee of any loans in the condition of default, and also of any loans where the condition of default has been cured. Subsequently, the OFMB shall notify the TC of any default.
 - c) If the default of a loan that has been cured occurred because of failure to make a scheduled loan payment, the committee shall determine if a late charge will be assessed and the amount of such assessment.
- 16) If the sponsor fails to cure within thirty (30) days of default:
 - a) Accounting shall notify the OFMB that the loan has not been cured.
 - b) The OFMB shall then collaborate with the Department of Law, CDOT Controller's office and the committee to determine the best course of action for CDOT.
 - c) The OFMB shall notify the sponsor of the department's intentions to remedy the loan condition.
- 17) If the sponsor submits a scheduled payment early, makes a payment for more than the amount due, or both, the CDOT Chief Financial Officer shall have authority to adjust the loan payment schedule.
- 18) Except for the provision in step 17, any proposed amendment to the terms of a contract after it is executed shall be forwarded to the OFMB.
 - a) The OFMB shall review the proposed amendments and, if necessary, forward the amendments to the Department of Law for legal review and/or the CDOT Controller for fiscal review.
 - b) After reviewing and/or receiving legal and/or fiscal reviews on the matter, OFMB shall prepare the proposed amendment to be reviewed by the committee.
- 19) The committee shall review any proposed amendments and make its recommendation to the TC.
- 20) The TC shall act on the committee's recommendation and provide direction to the OFMB for amending the contract.

- 21) The OFMB shall:
- a) Prepare an amended contract based on direction from the TC;
 - b) If necessary, adjust the loan contract information in the CMS and SAP systems; and
 - c) Send five copies of the amended contract document to the approved project sponsor for review.
- 22) After receiving the amended contract documents, the approved sponsor shall sign and return all five copies of the amended documents to the OFMB. The process shall then resume with the necessary actions beginning at step 9.

IMPLEMENTATION PLAN

This Procedural Directive shall become effective immediately upon approval by the Executive Director and shall be implemented by the OFMB.

REVIEW DATE

This procedural directive shall be reviewed by April 2016.



EXECUTIVE DIRECTOR

04/07/11

Date of Approval