



COLORADO

Department of Transportation

Office of Policy and Government Relations

4201 East Arkansas Avenue, Room 275
Denver, CO 80222-3406

TO: All CDOT Employees

FROM: Herman Stockinger / OFMB

DATE: February 12, 2015

RE: Revisions to Procedural Directive 720.1 “Colorado State Infrastructure Bank (SIB) Procedure”

1. Name of PD: 720.1 “Colorado State Infrastructure Bank (SIB) Procedure”

2. Rationale for Updated Procedural Directive: Procedural Directive 720.1 was adopted in 2011 and updated in 2014. It outlines the SIB loan process, the loan default process, and the process to follow for contractual amendments. The modifications to the Procedural Directive are a result of the Department’s outreach efforts at the direction of Director Hunt. Director Hunt directed DAF/Aeronautics to convene a group of airport customers to seek recommendations on how the process could be improved and be more customer friendly. The current PD reflects the suggestions gathered from the airport community and members of the Colorado Aeronautical Board. It was updated on February 10, 2015 to ensure that the Executive Director would be notified when OFMB receives a grant application.

3. Reviewed By: PD 720.1 was revised and reviewed by OFMB.

4. Individuals/Entities Impacted by Procedural Directive: Airports intending to apply for future SIB loans.

5. Procedural Directive will be Implemented by: OFMB

6. Office/Individual to Contact with Questions: OFMB

7. Fiscal / Legal Impact to Implementation: beneficial only

8. Effective Date: February 10, 2015



COLORADO DEPARTMENT OF TRANSPORTATION		<input type="checkbox"/> POLICY DIRECTIVE <input checked="" type="checkbox"/> PROCEDURAL DIRECTIVE
Subject		Number
Colorado State Infrastructure Bank (SIB) Procedure		720.1
Effective	Supersedes	Originating Office
2.10.15	5.22.14	Office of Financial Management and Budget

I. PURPOSE

The purpose of this Procedural Directive is to establish procedures for the CO SIB loan process.

II. AUTHORITY

§ 43-1-113.5(3), C.R.S.

2 CCR 605-1 Rules and Regulations by the Colorado Department of Transportation for the Colorado State Infrastructure Bank.

III. APPLICABILITY

This Procedural 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.

IV. DEFINITIONS

“Commission” shall refer to the Colorado Transportation Commission created pursuant to § 43-1-106, C.R.S.

“Department” shall refer to the Colorado Department of Transportation created pursuant to § 43-1-101, C.R.S.

“SIB Committee” shall refer to the committee established by Rule IV Section 4 of the CDOT Rules Governing the Colorado State Infrastructure Bank, and is comprised of one member of the Colorado Transportation Commission who will chair the committee, the regional transportation director from the appropriate engineering region or the divisional director, from the aeronautics division, or transit and rail division as appropriate; the CDOT chief financial officer or manager of OFMB, and the CO SIB administrator.

“Transportation Infrastructure Revolving Fund” or “Fund 715” is defined in Section 43-1-113.5, C.R.S.

“CO SIB” shall refer to the Colorado State Infrastructure Bank.

“OFMB” shall refer to the Colorado Department of Transportation’s Office of Financial Management and Budget.

V. PROCEDURE

1. The following provisions outline the Colorado State Infrastructure Bank (hereinafter “CO SIB”) loan process:

A. CDOT shall provide an application package available on the OFMB and divisional websites. The application package shall provide the following information:

1. CDOT staff contact information;
2. Application materials;
3. A summary of the allowable uses of SIB funds;
4. Applicable rules, statutes, and other legal guidelines governing SIB funds; and
5. Other information designed to be helpful to project sponsors seeking to submit a loan application.

B. The application for a CO SIB loan shall be comprised of four sections and each section shall include the following:

1. 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.
2. 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.
3. 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.

4. 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.

C. 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). From the date CDOT receives the application, the CFO or his/her designee shall represent CDOT in all communications, discussions, and negotiations with the applicant.

1. If an application is submitted to a CDOT divisional or regional office that office shall forward the application to the OFMB.

2. When the OFMB receives an application it shall prepare the application for evaluation by the SIB Committee, set up a loan file for the prospective borrower, and simultaneously therewith, notify the Executive Director that an application has been received.

3. Upon receipt of a complete application, shall date the application and have the application evaluated, approved, or disapproved, within sixty days, as is practicable. If an incomplete application is submitted, the CFO or his/her designee shall have thirty days to reply to the applicant with additional required information.

4. Loans are subject to available funds.

D. The committee shall evaluate and document each loan and make a recommendation on the loan for presentation to the Colorado Transportation Commission (TC).

1. The committee may require a third party financial review as part of its evaluation of any application deemed to carry a higher risk or in the amount of \$5 million or greater. Costs associated with a third party review will be paid by the project sponsor and may be included with the loan principal amount to be repaid.

E. The TC shall act on the committee's recommendation and evaluation.

F. 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.

1. 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.

2. If the adjusted loan amount is above the preliminary loan amount, the process shall resume at step 3.

G. If the Commission approves the loan, CDOT shall:

1. 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;

2. Enter specific loan contract information into the contract management system (CMS) for the purpose of tracking the loan;

3. Enter specific loan contract information into the SAP system creating the loan in the system; and

4. Send five copies of the contract document to the approved project sponsor for review.

H. After receiving the contract documents, the approved sponsor shall take one of the following three courses:

1. 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.

2. 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

3. 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.

I. After receiving such notice, the OFMB shall act accordingly:

1. 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.

2. 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.

J. Upon receiving signed contract documents from an approved sponsor, the OFMB shall secure signatures from the following:

1. The CDOT Executive Director office

2. The Department of Law

3. 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.

K. The OFMB shall distribute one of the five copies of the executed contract documents to each of the following:

1. The Controller's office

2. The project sponsor (borrower)

3. The respective CDOT divisional or regional office

4. The Department of Law

5. The sponsor's loan file (in the OFMB)

L. After the contract documents have been signed by a Controller, CDOT Accounting shall:

1. Disburse the loan

2. Pay and clear the customer payment

3. Post loan receivables to the customer accounts

M. 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.

N. The approved sponsor shall make all scheduled payments in full and on time.

O. CDOT Accounting shall process and post all incoming loan payments.

1. For applications for aviation loans, all requirements of this section (1) shall be followed in addition to the following requirements: The Colorado Aeronautical Board (CAB) shall evaluate the technical, non-financial, aspects of the loan application and shall approve a resolution recommending or not recommending approval by the TC. The CAB's technical review and evaluation shall include but not be limited to:

- a) A review of the merits of the projects;
- b) A determination whether the the projects are within the airports' Capital Improvement Plan; and
- c) An analysis of the adverse affects or consequences if the projects are not completed.

2. The Division of Aeronautics shall provide the CAB with a technical, non-financial, analysis and staff recommendation prior to consideration and approval of a resolution.

3. The TC shall act on the committee's recommendation and evaluation, and, for aviation loans, the CAB's recommendation and evaluation. Unless extraordinary circumstances dictate a workshop, the TC shall receive CAB's recommendation as a brief action item.

2. Loan Default Provisions

A. If a loan falls into default:

1. 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.

2. 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.

3. 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.

B. If the sponsor fails to cure within thirty (30) days of default:

1. Accounting shall notify the OFMB that the loan has not been cured.
2. 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.
3. The OFMB shall notify the sponsor of the department's intentions to remedy the loan condition.

C. 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.

3. Contractual Amendments. 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. The CFO or his/her designee shall handle all discussions/negotiations regarding contractual amendments.

1. 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.
2. 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.
3. The committee shall review any proposed amendments and make its recommendation to the TC.
4. The TC shall act on the committee's recommendation and provide direction to the OFMB for amending the contract.
5. 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.

6. 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 J.

VI. IMPLEMENTATION PLAN

This Procedural Directive shall be effective upon signature.

VII. REVIEW DATE

This directive shall be reviewed on or before May 2019.


Executive Director

Feb. 10, 2015
Date of Approval