

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input type="checkbox"/> <b>POLICY DIRECTIVE</b> <input checked="" type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>
<b>Subject</b> <b>Colorado State Infrastructure Bank (SIB) Procedure</b>		<b>Number</b> <b>720.1</b>
<b>Effective</b> <b>5/12/23</b>	<b>Supersedes</b> <b>10.6.21</b> <b>2.10.15</b>	<b>Originating Office</b> <b>Office of Financial Management and Budget</b>

## **I. PURPOSE**

The purpose of this Procedural Directive is to establish procedures for the Colorado State Infrastructure Bank (SIB) loan process.

## **II. AUTHORITY**

Executive Director, pursuant to § 43-1-105, C.R.S.

§ 43-1-113.5(3), C.R.S., Creation and Administration of Transportation Infrastructure Revolving Fund

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

## **III. APPLICABILITY**

This Procedural Directive applies to any public or private applicants for public transportation projects within the state of Colorado and to any Division, Office, Branch, or Region within the Colorado Department of Transportation (CDOT or Department).

## **IV. DEFINITIONS**

“CAB” refers to the Colorado Aeronautical Board created pursuant to § 43-10-104, C.R.S.

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

“Committee” refers to the SIB Review Committee established by Rule IV Section 4 of the SIB Rules, and is comprised of one (1) member of the Commission (or CAB for aviation loans) 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 (CFO) or designee, and the CO SIB Manager.

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

“CO SIB” refers to the Colorado State Infrastructure Bank.

“OFMB” refers to the CDOT’s Office of Financial Management and Budget.

“CO SIB Manager” refers to the CDOT Division of Accounting and Finance (DAF) employee designated by DAF to be responsible for processing and underwriting CO SIB loans. The SIB Rules refer to this position as the CO SIB administrator.

## **V. PROCEDURE**

### **1. Loan Process**

The following provisions outline the CO SIB loan process:

A. CDOT provides an application package available on the OFMB and divisional websites, as well as the CDOT external website. Aeronautics SIB loan applications will be submitted electronically via the Division of Aeronautics’ Web Based Information Management System (WIMS) platform. The application package includes 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 applicants seeking to submit a loan application.

B. The application for a CO SIB loan comprises five (5) sections:

1. Section I requests pertinent information from the applicant such as the name of the borrower; employer ID#; business address; name of the contact person; phone number; fax number; e-mail address.
2. Section II requests Escrow Agent/Vendor Information such as: name of Escrow Agent; business address; name of the contact person; phone number; fax number; and e-mail address; or, in the case of equipment purchases or any other escrow-exempted transactions, vendor name; business address; name of the contact person; phone number; fax number and e-mail address.

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3. Section III requests 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 requests 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.

4. Section IV requests 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 indicates: 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) (C.R.S. 30-20-601, et. seq.) or an Urban Renewal District (URD) (C.R.S. 31-25-102) or similar entity.

5. Section V requests acknowledgement and certification by the applicant that the information provided in the application is true and the applicant understands that any intentional or negligent misrepresentation of information contained in the application may result in civil liability and/or criminal penalties under the laws 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 an applicant submits an application for CO SIB assistance for an eligible project to any CDOT divisional or regional office or to the OFMB CO SIB Manager. From the date CDOT receives the application, the CFO and/or the CO SIB Manager will 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 will forward the application to the CO SIB Manager immediately.

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2. When the CO SIB Manager receives an application, the CO SIB Manager prepares the application for evaluation by the Committee, sets up a loan file for the prospective borrower, and simultaneously therewith, notifies the Executive Director and CFO that an application has been received.

3. Upon receipt of a complete application, the CO SIB Manager will date the application and have the application evaluated, approved, or disapproved, within sixty (60) calendar days, as is practicable. If an incomplete application is submitted, the CFO or their designee will have thirty (30) calendar days to notify the applicant in writing with additional required information. The deadline for the applicant to provide the additional required information will be set forth in the written notification.

4. The CO SIB Manager will forward the applicant a blank, standard form of the CO SIB loan contract for the applicant's review. After receiving the standard form loan documents, the applicant will take one (1) of the following three (3) courses of action:

(a) If in agreement with all of the terms and provisions of the loan contract, communicate such agreement in writing to the CO SIB Manager so that application processing can continue.

(b) If the applicant disagrees with any of the terms and provisions of the loan contract and intends to withdraw from the loan, the applicant must notify the CO SIB Manager in writing of its intent to withdraw from the loan application, at which point all further action on the application will cease; or

(c) If the applicant seeks to negotiate or alter certain terms or provisions, the applicant must identify any specific disagreement(s) within the contract and propose alternative language to the CO SIB Manager. The CO SIB Manager will then forward the specifics of the proposed alternative language to the CFO, State Controller's Office, or designee, and, if needed, the Department of Law for legal review and/or assistance in the negotiation.

i. If agreement cannot be reached on the proposed alternative loan contract terms and provisions after such review and potential revision(s), all further action on the application will cease and the CO SIB Manager will withdraw the loan request, close the applicant's file, and notify the Executive Director and CFO of the withdrawal.

ii. If after such review, negotiated loan contract terms and conditions are agreed to by the applicant, CFO, and State Controller's office, the CO SIB Manager will document the results of that negotiation, and update the loan contract documents to reflect the mutually agreed upon revised terms and conditions.

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5. Loans are subject to availability of funds.

6. The loan interest rate is that currently in effect at the time of submittal of a complete application as forwarded to the CO SIB manager per step V.1.C. above.

D. For applications for aviation loans, the following requirements/process will also apply:

1. The Division of Aeronautics staff will provide the Colorado Aeronautical Board (CAB) with a technical, non-financial, analysis and recommendation prior to consideration and approval of a resolution.

2. The (CAB evaluates the technical, non-financial aspects of the loan application and adopts a resolution recommending or not recommending approval.. At its discretion, the CAB may adopt a resolution approving the loan pending satisfactory review and concurrence by the Committee. The CAB's technical review and evaluation includes but not be limited to:

(a) A review of the merits of the project;

(b) A determination whether the project is within the airport's Capital Improvement Plan; and

(c) An analysis of the adverse effects or consequences if the projects are not completed.

E. The Committee evaluates and documents each loan and makes a recommendation on the loan for presentation to the Commission, and for aviation loans, to the CAB, if contingent approval was not initially granted by the CAB in step D.2 above.

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 five million dollars (\$5,000,000) or greater. Costs associated with a third-party review may be required to be paid by the applicant and may be included with the loan principal amount to be repaid.

2. The CO SIB Manager will review the application to calculate applicable financial metrics to inform the Committee's recommendation.

F. The Commission will act on the Committee's recommendation and evaluation, and, for aviation loans, the CAB will act on the Committee's recommendation and evaluation.

G. The Committee may submit a recommendation to the Commission (or CAB for aviation loans) for a loan amount based on a preliminary cost estimate; subsequently, the loan amount may be adjusted to an amount based on the actual invoice amount or final cost estimate.

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1. If the adjusted loan amount is equal to or below the preliminary loan amount, the CO SIB Manager will prepare the loan agreement, based on the adjusted loan amount.
2. If the adjusted loan amount is above the preliminary loan amount, the process will restart in Section V.1.C.3.

H. If the Commission or CAB approves the loan, the CO SIB Manager will:

1. Prepare a loan agreement, using an unaltered template approved by the Colorado Department of Law and the State Controller’s Office, or an approved, negotiated loan agreement as may be developed in accordance with Section V.1.C.4., as directed by the Commission or CAB.
2. Send three (3) copies, (or via digital version using a CDOT-approved digital platform) of the loan agreement to the approved applicant for review and signature.

I. Upon receiving signed loan documents from the applicant, the CO SIB Manager secures signatures from the following:

1. The CDOT Executive Director or Designee
2. The Department of Law
3. The CDOT Controller—the loan will be deemed executed upon the Controller’s signature. If, however, changes were made to the contract template, the State Controller’s Office will sign the contract in lieu of the CDOT Controller.
4. Submit specific loan agreement information to CDOT’s Accounting Office, and they will enter the specific loan information into the SAP system creating the loan in the system.

J. The CO SIB Manager will distribute one (1) of the three (3) copies, (or via digital version using a CDOT-approved digital platform) of the executed loan documents to each of the following:

1. The CDOT Controller’s office
2. The applicant (borrower)
3. The respective CDOT divisional or regional office

K. After the loan documents have been signed by the Controller, CDOT Accounting Office will:

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1. Disburse the loan to the Escrow Agent, if applicable.
2. Pay and clear the customer payment.
3. Post loan receivables to the customer account in SAP.

L. The approved applicant (borrower) will make all scheduled payments in full and on time, according to the signed loan document.

M. The CDOT Accounting Office processes and posts all incoming loan payments.

## **2. Loan Default Provisions**

A. If a loan falls into default:

1. The Accounting Office notifies the applicant and the CO SIB Manager of the condition. If the applicant cures within thirty (30) days, the loan will no longer be in default and the Accounting Office will notify the CO SIB Manager of the cure action.
2. The CO SIB Manager notifies the appropriate CDOT divisional or regional office and the Committee of any loans in the condition of default, and any loans where the condition of default has been cured. Subsequently, the CO SIB Manager will notify the Commission or CAB of any default.
3. When a loan has been cured after a failure to make a scheduled loan payment, the Committee may determine whether a late charge will be assessed and the amount of such assessment.

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

1. The Accounting Office notifies the CO SIB Manager that the loan has not been cured.
2. The CO SIB Manager then collaborates with the Department of Law, CDOT Controller's office and the Committee to determine the best course of action for CDOT.
3. The SIB Manager notifies the applicant of the Department's intentions to remedy the loan condition.

## **3. Prepayments and/or Overpayments**

If the applicant submits a scheduled payment early, makes a payment for more than the amount due, or both, the CFO will have authority to adjust the loan payment schedule, with notice to the applicant.

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#### 4. Loan Contractual Amendments

A. Any proposed amendment to the terms of a loan/agreement after it is executed will be forwarded to the CO SIB Manager. In consultation with the CFO, the CO SIB Manager will handle all discussions/negotiations regarding contractual amendments.

B. The CO SIB Manager reviews the proposed amendments and, if necessary, forwards the amendments to the Department of Law for legal review and/or the CDOT Controller for fiscal review.

C. After reviewing and/or receiving legal and/or fiscal reviews on the proposed amendments, the CO SIB Manager prepares the proposed amendments to be reviewed by the Committee.

D. The Committee reviews any proposed amendments and make its recommendation to the Commission or CAB.

E. The Commission or CAB will act on the Committee's recommendation and provide direction to the CO SIB Manager for amending the contract.

F. The CO SIB Manager will:

1. Prepare an amended loan/agreement based on direction from the Commission or CAB;
2. If necessary, request the Accounting Office to adjust the loan/agreement information in the Contact Management System (CMS) and SAP systems; and
3. Send three (3) copies, (or via digital version using a CDOT-approved digital platform) of the amended loan/agreement document to the approved applicant for review.

G. After receiving the amended loan/agreement documents, the approved applicant will sign and return all three (3) copies, (or via digital version using a CDOT-approved digital platform) of the amended documents to the CO SIB Manager. The process then resumes with the necessary actions beginning at Section V.1.I.

#### VI. IMPLEMENTATION PLAN

This Procedural Directive will be effective upon signature.

The Office of Policy and Government Relations will post this Procedural Directive on CDOT's intranet as well as on public announcements.



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**VII. REVIEW DATE**

This directive will be reviewed on or before October 2028.

  
Executive Director

5/12/23  
Date of Approval