

Approved:

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Director

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Responsible Division: Finance

STATE INFRASTRUCTURE BANK (SIB) LOANS AND BONDS

SIB LOANS

BACKGROUND:

In 1995 Ohio was one of eight states selected for designation under the SIB pilot program authorized by the 1995 National Highway System Bill (Bill). The Bill allowed ODOT to use 10% of its federal highway and transit funding to capitalize the SIB. In addition to \$87 million in Federal Title XXIII Highway Funds, the program was capitalized with a \$40 million authorization of state general revenue funds (GRF) from the Ohio State Legislature, and \$10 million in state motor fuel tax funds.

AUTHORIZATION:

In addition to the 1995 National Highway System Bill the SIB is authorized by Section 5531.09 of the Ohio Revised Code (ORC). Under ORC Section 5531.09, the SIB was created as a fund of the State Treasury to be administered by the Director of Transportation (Director). The fund is to consist of federal grants and awards, investment earnings on money in the fund, and such other amounts as may be provided by law.

PURPOSE:

The purpose of the SIB program is to encourage economic development and public investment in public transportation facilities that contribute to the multi-modal and intermodal transportation capabilities of the state, develop a variety of financing techniques to expand the availability of funding resources, reduce direct state costs, maximize local participation in financing projects, and improve the efficiency of the state transportation system by using and developing the advantages of each transportation mode to the fullest extent. Assistance shall be in the form of loans, loan guarantees, letters of credit, leases, interest rate subsidies, debt service, cash reserves, and other forms the Director determines to be appropriate.

ODOT's objective is to maximize the use of Federal and State funds in order to make direct loans to eligible projects. Repayments from these loans will be made to ODOT and then re-loaned to subsequent projects, hence creating a SIB revolving loan program. The SIB revolving loan program will enhance the number of transportation projects that can be completed within the State that otherwise would not have been considered.

ELIGIBLE BORROWERS:

Qualified borrowers include any public entity such as political subdivisions, state agencies, boards, or commissions, regional transit boards, and port authorities. Publicly dedicated roads and transportation or infrastructure facility projects are eligible but must have a local government sponsor to receive funding. The loan must go to a public entity and be pledged to be paid back with public funds.

PROJECTS TO BE FUNDED BY THE SIB:

Qualified projects include public transportation projects including without limitation, construction, reconstruction, resurfacing, restoring, rehabilitation, or replacement of public transportation facilities within the state; any highway, transit, or other transportation project eligible for financing or aid under any federal act or program; and any project involving the maintenance, repair, improvement, or construction of a public or highway, road, street, parkway, or transit project, any related right-of-way, bridges, tunnels, railroad-highway crossings, drainage structures, signs, guardrails, or protective structures.

Project costs that are generally not eligible include preliminary engineering and design, environmental studies, major investment studies, and interchange justification analysis.

SIB FUND ACCOUNTS:

Federal (1st generation) – Funding is used only for Title 23 eligible projects (highway or transit). Use of this funding requires that the project follows federal mandates. This account requires a 20% match from the Motor Fuel Tax or General Revenue Fund accounts or matched by the local.

Title 23 (2nd generation) – Funding is used for Title 23 eligible projects. All other federal requirements are removed with these funds yet all state guidelines must be followed. The funding can be used for 100% of the project cost and does not require a state or local match.

Motor Fuel Tax (MFT) – The state motor fuel tax fund is used as the non-federal match to a Title 23 federally eligible project, or as 100% pure state funds for local roadway projects.

General Revenue Fund (GRF) – The GRF fund is to support industrial parks, service roads, railroad projects, aviation projects and local roads or any infrastructure related project that is not Title 23 eligible.

STATE INFRASTRUCTURE BANK LOAN COMMITTEE (“LOAN COMMITTEE”)

To assist in the implementation of the SIB Loan Program, the Director hereby creates a three-member committee to be made up of the Director or his designee, the Deputy Director of the Division of Finance, and the Assistant Director for Business Management. These members shall also serve as the SIB Bond Committee.

PROGRAM GUIDELINES:

Under ORC 5531.09 the Director shall adopt rules establishing guidelines necessary for the implementation of the SIB program including rules for evaluation and selection of projects to receive assistance (qualified projects). Fees, charges, rates of interest, payment schedules, security and other terms and conditions of assistance shall be determined by the SIB loan committee and approved by the Director. Loan guidelines determined by the SIB loan committee and approved by the Director are as follows:

1. The interest free period is months 1-12 following the loan closing date.
2. The interest accrual (capitalization) period is months 13-24 following the loan closing date.
3. Interest will begin to accrue at the date of the first loan disbursement excluding disbursements to pay for closing fees and after the interest free period, if applicable.
4. The first scheduled loan repayment will be the 31st month after the loan closing date with the exception of Metropolitan Planning Organization (MPO) and County Engineer's Association of Ohio (CEAO) payments.
5. Loans will be approved for costs associated with the project with the exception of environmental.
6. If a loan is refinanced with proceeds from a SIB bond issue, the application of a prepayment penalty will be determined on a case by case basis.
7. Six months will be allowed for a loan to close after written notification of loan committee approval. If an application is resubmitted for the same project, a reapplication fee will be assessed.
8. The borrower will have one year after the project completion date cited in the loan agreement to withdraw the approved loan amount, and such date shall be referred to as the loan withdrawal date. At the loan withdrawal date, the amount of the original loan that was not withdrawn will be cancelled and the loan amount will default to the amount of the loan withdrawn at the loan withdrawal date. A borrower's request for an extension will be determined on a case by case basis.
9. Extension of the loan withdrawal date will be considered by the Board if a request to extend is received 60 days prior to the loan withdrawal date. The Board will decide on the extension prior to the withdrawal date and if granted, the extension period will not exceed 12 months.
10. If a loan is prepaid, a penalty will be applied unless there are mitigating circumstances.
11. Loan documents must be closed for a project to sell through ODOT. Federal authorization is required for debt service payments, when the original federal SIB funds are used or an MPO or the CEAO repays with federal funds.
12. The interest rate is set by the SIB loan committee and approved by the Director. It must be at or below the market rate as of the Loan Committee loan approval date.
13. Loan requests greater than 2 million dollars may be referred to the SIB bond program.

14. The term of the loan will not exceed the useful life of the asset being financed. The maximum term for a loan will not exceed 30 years.
15. GRF funds will not be loaned to MPOs or to the CEAO or to any community for the portion of the loan that will be repaid with MPO or CEAO federal funds.
16. Policy changes will apply to all loans approved after the effective date of the policy, regardless of when the application was submitted.
17. Changes to approved loan terms must be approved by the Loan Committee. Changes to loan terms include but are not limited to changes of the interest rate, the number of loan payments, the length of the loan, deferment of loan payments and balloon payments.
18. Loans may be increased up to 5% of the original loan as decided by the Deputy Director of Finance, Budget Administrator and SIB Program Manager if the financial advisor reviews and opines in writing that the borrower is credit worthy. Loan increases greater than 5% must be approved by the SIB loan committee. The loan committee will be notified of loan increases less than 5% of the original loan.
19. The loan agreement shall specify the documents that are required to be received by ODOT prior to the loan closing and the documents that are required to be received by ODOT prior to the first disbursement.
20. The loan application procedures are prepared by the loan committee and approved by the Director.
21. The provisions contained herein describe the standard SIB loan structure. Modifications thereof may be requested by the borrower and approved by the Loan Committee
22. Loans with a term of 3 years or less are considered short term loans. The interest rate, administrative fee, and repayment terms will be set by the Loan Committee on a case by case basis.
23. At their discretion, the loan committee can override the guidelines and criteria stated in this policy and within the confines of federal regulations and state law as long as it is not in contradiction to a state or federal law or requirement.

SIB TITLE XXIII AND GRF BOND ISSUANCES

BACKGROUND:

The 1995 National Highway System Bill (Bill) anticipated a variety of funding assistance by the SIB. In addition to loans the Bill allows funding of reserves to support bond issues as well as using the proceeds of bond issues for loans to qualified borrowers. By leveraging on the bond reserves and the loan repayment streams, the SIB bond program increases the amount of funds available to borrowers. By spreading the loss risk over a pool of borrowers, the borrower will normally receive an interest rate that is lower than what they would get if they did their own bond issue. The interest rate on the SIB bonds will be the market rate and it is dependent on the bond rating.

AUTHORIZATION:

The SIB bond program is authorized by the 1995 National Highway System Bill, Section 13 of Article VIII of the Ohio Constitution and Section 5531.10 of the Ohio Revised Code (ORC). Under Section 5531.10 of the ORC, the SIB is authorized to issue bonds to finance qualified projects as described under section 5531.09 of the ORC.

ISSUER:

The bonds are issued by the Treasurer on behalf of the State. The bonds are not general obligations of the state of Ohio or of any political subdivision thereof and are not payable from any tax source. The rights of holders of the bonds to payments of amounts due thereunder is limited solely to the revenues pledged to such a payment. The bonds are not a debt of the State and bondholders have no right to moneys raised from any tax source.

PURPOSE:

The Transportation Infrastructure Bond Fund Program has been created to promote the development of eligible projects, which include State and Federal roadways, and transit projects as well as multi-modal and intermodal transportation capabilities. The State intends to accomplish this goal by enabling borrowers to benefit from the State's access to the national capital markets through the issuance of bonds. The bonds provide long-term credit and enhanced, fixed-rate financing to the contracting parties.

Like the SIB loan program, the purpose of the SIB bond program is to encourage economic development and public investment in transportation facilities that contribute to the multi-modal and intermodal transportation capabilities of the state, develop a variety of financing techniques to expand the availability of funding resources, reduce direct state costs, maximize private and local participation in financing projects, and improve the efficiency of the state transportation system by using and developing the advantages of each transportation mode to the fullest extent.

ELIGIBLE BORROWERS:

As with the SIB loan program, qualified borrowers include any public entity such as political subdivisions, state agencies, boards, or commissions, regional transit boards, and port authorities. Publicly dedicated roads and transportation infrastructure or facility projects are eligible but must have a local government sponsor to receive funding.

PROJECTS TO BE FUNDED BY THE SIB:

Like the SIB loan program, qualified projects for the bond program public transportation projects including without limitation, construction, reconstruction, resurfacing, restoring, rehabilitation, or replacement of public transportation facilities within the state; any highway, transit, or other transportation project eligible for financing or aid under any federal act or program; and any project involving the maintenance, repair, improvement, or construction of a public highway, road, street, parkway, or transit project, any related right-of-way, bridges, tunnels, railroad-

highway crossings, drainage structures, signs, guardrails, or protective structures. Project costs that are generally not eligible include preliminary engineering and design, environmental studies, major investment studies, and interchange justification analysis.

FLOW OF FUNDS:

At the time the bonds are issued a loan will be made to the borrower for the amount of the bond proceeds. The interest rate on the loan will be at the same rate as the interest rate of the bonds. The balance of the bond proceeds will be held by the Trustee in a project account and disbursed to the borrower to finance approved project spending on a reimbursement basis. After the disbursement of bond proceeds to the borrower, the loan repayments will fund the bond debt service payments.

DEBT SERVICE:

SIB semi-annual debt service payments are due to the trustee on April 15 and October 15. The trustee then disburses payments to the bondholders on May 15 and November 15. Bond payment structures using other than semi-annual payments may be approved.

BOND PROCEEDS SPENDING REQUIREMENTS:

Most SIB bonds will be issued as tax exempt bonds. As tax exempt bonds, the bond proceeds must be spent down in accordance with the following timetable set by USC Title 26, Section 148 Internal Revenue Code (IRC): 10% within 6 months, 45% within 12 months, 75% within 18 months and 100% within 24 months of issue. If the spend down requirements are not met and the bond proceeds held earn more in interest income than the interest expense on the bonds, the excess earnings must be paid to the Internal Revenue Service. An arbitrage computation is required every five years over the life of the bonds to determine any amounts due. If bond proceeds are disbursed according to the IRC timetable, an arbitrage filing is still required, but no payment is due regardless of the amount of excess interest earned. To help meet the federal spend down requirements, bond proceeds should be used only for the construction phase of the project. Bond proceeds should not fund right of way and design phases unless planned expenditures can reasonably be expected to meet IRC spend down requirements. The borrower is responsible for any and all arbitrage payments.

STATE INFRASTRUCTURE BANK BOND COMMITTEE (“BOND COMMITTEE”)

To assist in the implementation of the SIB Bond Program, the Director hereby creates a three-member committee to be made up of the Director or his designee, the Deputy Director of the Division of Finance, and the Assistant Director for Business Management. These members shall also serve as the SIB Loan Committee.

PROGRAM GUIDELINES:

Under ORC 5531.09 the Director shall adopt rules establishing guidelines necessary for the implementation of the SIB program including rules for evaluation and selection of projects to

receive assistance (qualified projects). The estimated fees, charges, rates of interest, payment schedules, security and other terms and conditions of assistance shall be determined by the SIB bond committee, with the assistance of the financial advisor, and approved by the Director. The final debt payment schedule shall be determined at closing. Bond guidelines under the bond program are as follows:

1. Loan requests of 2 million dollars or more may be referred to the SIB bond program.
2. The term of the loan will not exceed the useful life of the asset financed and it will be the same as the term of the bond. The maximum term will be 25 years.
3. The scheduled loan payments are per the loan amortization schedule that accompanies the bond documents. Loan repayments are used to make bond debt service payments.
4. Loans will be approved for costs associated with the project with the exception of environmental.
5. If a loan is refinanced with proceeds from a SIB bond issue, the application of a prepayment penalty will be determined on a case by case basis.
6. Twelve months will be allowed for a bond issue to close after formal notification of bond committee approval. If the application is resubmitted for the same project, a reapplication fee will be assessed. Exceptions may be approved by the Deputy Director of Finance.
7. Bonds may be redeemed and the loan prepaid as specified in the loan agreement and in the official statement.
8. Loan documents must be closed for a project to sell through ODOT. Federal authorization is required when federal funds are used or an MPO or a CEAO repays with federal funds.
9. Policy changes will apply to all bond issuances approved after the effective date of the policy, regardless of when the application was submitted.
10. If a borrower requests to prepay or refinance a SIB loan that is associated with a SIB bond, any principal, interest, legal, administrative, arbitrage, or other costs related to the transaction will be borne by the borrower and any cost incurred by ODOT in its performance of the transaction will be passed on to and borne by the borrower.
11. An ODOT administrative fee may be charged for the bond program.
12. At their discretion, the bond committee can override the guidelines and criteria stated in this policy and within the confines of federal regulations and state law as long as it is not in contradiction to a state or federal law or requirement.

SCOPE:

This policy is Department wide and applies most specifically to the Division of Finance. This policy applies specifically and only to loans and bonds issued in association with the SIB.

FEDERAL-AID HIGHWAY BOND REFERENCES:

US Code Title 23, Sections 115, 122, 120, and 610

Ohio Constitution, Article VIII, Section 13

IRC, Section 148

ORC, Title LV, Sections 5531.09 and 5531.10

National Highway System (NHS) Act of 1995, Section 350; Public Law 104-59

Official Statement of Transportation Project Revenue Bonds Series 2009-1 and Series 2006-2

TRAINING:

At this time, no additional training of Division of Finance and Forecast employees is contemplated. Future training may be required from time to time as laws, policies and accepted practices change or are modified.

FISCAL ANALYSIS:

Development of the SIB loan and bond program will provide an additional source of project funding to local government entities to leverage future funding to build much needed transportation projects including multi-modal and intermodal facilities and projects.