

SIB Guidelines for Federal/State

(1) Purpose.

These guidelines specify the requirements and procedures for the award and administration of the federal-funded and state-funded State Infrastructure Bank (SIB) for loans and other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under federal and state law. Loans from the SIB may bear interest at or below market interest rates. The SIB can leverage funds through loans and credit enhancement assistance to improve project feasibility.

SIB participation from the federal-funded account is limited to projects which meet all federal requirements pursuant to the Transportation Equity Act for the 21st Century (TEA-21) and are eligible for assistance under Title 23, United States Code (USC) or capital projects as defined in Section 5302 or Title 49 USC and other applicable federal guidelines.

SIB participation from the state-funded account is limited to a transportation facility project that is on the State Highway System or that provides for increased mobility on the state's transportation system in accordance with Section 339.55, Florida Statutes, or provides for intermodal connectivity with airports, seaports, rail facilities, transportation terminals, and other intermodal options for increased accessibility and movement of people, cargo, and freight. Projects of the Transportation Regional Incentive Program (TRIP) are also eligible for the state-funded SIB, provided the project is matched by a minimum of 25% from funds other than SIB. The state-funded SIB can be used in constructing and improving transportation facilities or ancillary facilities that produce or distribute natural gas or fuel.

Beginning July 1, 2017, applications for the development and construction of natural gas fuel production or distribution facilities used primarily to support the transportation activities at seaports or intermodal facilities are eligible. These loans may be used to refinance outstanding debt.

(2) Applications for Financial Assistance.

- (a) In order to receive financial assistance from the SIB, a public or private entity will be required to submit an application to ensure potential SIB projects meet eligibility, financial, and production criteria. The SIB Program Manager can assist with an indicative interest rate for planning purposes and financial model development. The Application must be submitted based on published advertisement periods via the

Department's application process found at <http://www.fdot.gov/comptroller/PFO/sib.shtm>. Consideration of an Application does not obligate the Department to advance/award funds to any public or private entity.

(b) Applications submitted by public, private entities, or district offices shall include all information requested on the SIB Application. The Secretary of Transportation shall determine which projects receive fund support in accordance with the provisions of these guidelines. For acceptable applications, the project review and prioritization will minimally include but not be limited to consideration of the following references included to assist in the application development process outlined below:

1. Projects funded by the federal SIB must be included in the adopted comprehensive transportation plan of the applicable Metropolitan Planning Organization (MPO) and the Florida Transportation Plan (FTP). Projects funded by the state SIB must be consistent, to the maximum extent feasible, with local Metropolitan Planning Organization plans and local government comprehensive plans. Consistency is defined in Section 163.3177(10)(a), Florida Statutes.
2. Preliminary Engineering reports must comply with the Project Development and Environmental Manual: Part I, Chapter 9 including exceptions that can be presented for consideration in an application.
3. Environmental impact studies or activities are outlined in the Department's Project Development and Environment Manual- Part I and II. All environmental activities funded by or required by these guidelines shall conform to requirements of the manual. The Project Development and Environment Manual: Part I and II describes a process by which transportation projects are developed by the Department.
4. Production of engineering plans and the use of personnel/consultants in the design process who meet the minimum qualifications shall conform to the relevant sections of Rule Chapter 14-75.003, Florida Administrative Code.
5. All Right of Way land acquired using the federal SIB must be in compliance with Public Law 91-646, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and all federal/state laws and rules governing Right of Way acquisition by Department. For state SIB projects, when the acquisition and construction of the project is the sole responsibility of the entity undertaking the project, the entity may utilize its own acquisition policies and procedures within applicable Florida Statutes. Right of

Way maps should conform to the requirements of Rule Chapter 61G17, Florida Administrative Code, Board of Professional Surveyors and Mappers, pursuant to Section 472.027, Florida Statutes.

6. Construction for projects using the federal SIB will be built in accordance with construction specifications as defined in Titles 23 and 49 applied as appropriate based on project type. Projects using the state SIB may be completed using the appropriate local specifications defined in the application, subject to Department review and approval of the defined specifications. Appropriate standards will take into consideration similar transportation systems in the geographic area of the proposed project. In the absence of local construction specifications which are acceptable by Department, the project will be constructed in accordance with state standard specifications as defined in the Standard Specification for Road and Bridge Construction and Standard Index defined in the Plans Preparation and Design Manual maintained by Department.

7. Manuals and publications can be obtained directly from the Maps and Publications Sales Office, Florida Department of Transportation, 605 Suwannee Street, MS 12, Tallahassee, Florida 32399-0450 or ordered on-line at <https://www.fdot.gov/publications>

- (c) Applications must be submitted to:
Florida Department of Transportation
Office of Comptroller – Project Finance
Attention: SIB Program Manager
605 Suwannee Street, MS 10
Tallahassee, Florida 32399-0450
E-Mail: stephen.rogers@dot.state.fl.us
- (d) Project cost estimates must be current (no more than six months old) and certified by the Department project cost estimating system or a nationally recognized firm of consulting engineers for all projects. Contingency amounts must be included to help ensure that the project can be fully funded and completed (i.e., a minimum of 10% contingency).
- (e) Revenue estimates must be current and certified (within six months of the application) by a nationally recognized consulting firm (i.e., traffic and revenue consultant, CPA firm or other acceptable consultant for the type of project) for all projects where estimated revenues will repay more than \$1 million of the SIB loan.

(f) The applicant must present a finance plan that fully funds the project, including all contingencies. Documentation to verify funding sources will be required. If funds are committed to repay the loan other than project revenues, such as gas taxes, local option sales taxes, etc..., then the applicant must provide proof of commitment of these funds such as an FDOT agreement or city/county resolution. In addition, the finance plan should have a secondary funding source that can facilitate completing the project should significant cost overruns occur. If the SIB loan is included in an overall financing package which includes the issuance of bonds or other indebtedness, then the SIB repayments must be included in the bond documents. The bond documents must reflect that the SIB is given priority after paying any project operation and maintenance costs, debt service and renewal/replacement reserves, with a provision that the SIB repayment could be further subordinated within applicable laws and guidelines if agreed to by the Department. In accordance with Section 339.55, Florida Statutes, SIB loans may be subordinated to senior project debt that has an investment grade rating of "BBB" or higher. These requirements will be included in the SIB loan agreement. The Department may require a bond rating on projects costing more than \$50 million.

(g) A minimum loan for each project will be \$1 million. The Department may grant exceptions on a limited basis for small or unique projects.

(3) Submission and Award.

(a) Applications are advertised on an annual basis and must be submitted by the project sponsor/borrower during the open advertisement periods posted on the Department's SIB website. Application and Negotiation dates are preliminary and are subject to change. All projects will be integrated into the Department's work program cycle.

(b) No approval will be made for financial assistance in the form of a grant.

(c) The Secretary of Transportation shall determine which projects receive fund advances or support in accordance with the provisions of these guidelines. For acceptable applications, the project review and prioritization will minimally include but not be limited to consideration of the criteria outlined below:

1. Projects with a higher present value of repayments. This would include a present value analysis of the repayments based on the projected rate of return.
2. Projects which have the most secure sources of funding to repay the SIB loan.

3. Projects which have a higher level of financial feasibility.
4. Projects which have financial safeguards which includes backup sources to complete the project should project funding fall short and to ensure that the SIB loan is repaid.
5. Projects that will encourage, enhance and/or create economic benefits.
6. Projects which the SIB would enable to proceed at an earlier date.
7. Projects which would foster innovative public-private partnerships and attract private debt or equity investment.
8. Projects which use new technologies, including intelligent transportation systems that enhance the efficiency of the project.
9. Projects which help maintain or protect the environment.
10. Projects which include transportation benefits for improving intermodalism.
11. Projects which use the SIB loan as a smaller percent of the total project costs.
12. Projects which have secured local and private funding sources to leverage the project.
13. Projects which include transportation benefits for improving safety.

(d) A SIB loan agreement shall be executed by the Department with the public or private entities, or appropriate FDOT district office when SIB funds are awarded. The agreement shall be issued by the Department for execution by the executive heads or chief administrative officers of the public or private entity who is authorized to execute such agreement. The Secretary of Transportation will execute the agreements for the Department.

(e) Advances or reimbursable expenditures made from the SIB to an entity shall be repaid as specified in the SIB loan agreement. All projects must begin repaying the loan within five years after project completion and must be repaid within thirty years of the

original loan. Loans with accelerated repayment provisions will be given higher consideration in the application process. Repayments in a particular year could be deferred, at the total discretion of the Department and only due to extraordinary circumstances. These circumstances must be reported by the entity to the SIB Program Manager, with an agreement worked out before the next scheduled repayment. A late fee, amounting to the state legal limit for delinquent repayments, will be assessed on the amounts overdue. Repayments for transit loans for the purchase of new buses or for bus replacement must begin no later than the fifth year after the date of the loan and the final repayment must be made no later than the tenth year after the date of the loan.

(4) Administration of SIB Projects.

(a) The Department shall hold public entities, private entities, and district offices accountable for compliance with all provisions of the executed SIB loan agreement and these guidelines.

(b) Prior to execution of a SIB loan agreement by the Department, the borrower shall not incur any liability for consultant services, construction or purchase of commodities to any third party with respect to the project that it intends to or will fund through a disbursement. The loan recipient will request cash as it is needed, via the Disbursement Request Form on a reimbursement basis to reimburse for actual expenditures of the project. Only project costs incurred on or after the latter of execution of a SIB loan agreement by the Department or the beginning of the state fiscal year in which the loan is programmed, and prior to any termination of the SIB loan agreement are eligible for reimbursement.

(c) Upon execution of the SIB loan agreement by the Department and public entity, private entity or district office and the satisfaction of pending special conditions, the loan recipient shall initiate fund advance (if approved in advance) and expenditure reimbursement processing (draw-down) in accordance with projected financial needs and the receipt of the Disbursement Request Form. SIB project loans will be based on cash-flow and commitment needs as well as a detailed cash forecast and summary level finance plan that estimates cash receipts and disbursements. The finance plan will be analyzed to ensure that adequate cash balances are maintained to make disbursements when needed. Loan agreements will establish estimated cash payouts. In certain circumstances, the Department reserves the right to provide advance funding, if approved in advance of execution of the loan agreement for an amount not to exceed 15% of the SIB loan amount, where it is shown to be more efficient and effective for project development and completion. In these cases, the SIB loan recipient must ensure that SIB funds are used within a short period (within 45 days) of receipt.

(d) When a repayment schedule option is selected, a schedule in the form of a resolution from the private entity or governing body of the governmental entity shall accompany the application. When repayment is elected out of the initial bond issue proceeds, provision shall be made for such repayment in the bond resolution and repayable in full upon sale of the bonds. If planned bonds are not issued, repayment schedules in the form of resolutions from the private entity or governing bodies of governmental entities shall be furnished the Department.

(e) District Secretaries of applicable FDOT Districts shall actively participate in the selection of consultants with private or local governmental entities, and in the approval of scope of work proposals and products by consultants.

(f) Public or private entities awarded trust funds by this guideline shall comply with the following provisions:

1. Chapter 287, Florida Statutes, Procurement of Personal Property and Services;
2. Chapter 119, Florida Statutes - Public Records;
3. Chapter 3A-40, Florida Administrative Code, Rules of the Bureau of Auditing.

(g) Public and private entities shall be authorized to obligate and expend trust funds and interest earnings on the basis of approved project budgets but are not authorized to use funds for administrative, audit, legal, contingency costs, or for those items prohibited by Rule 3A-40.103, Florida Administrative Code except that legal costs may be advanced for the right of way acquisition process. No entity is granted to obligate or expend funds, or initiate or conduct activities that would result in the obligation of funds for items or activities that have not been authorized in approved project budgets, schedules or objectives. Any unauthorized expenditure of funds shall be immediately paid in accordance with a schedule approved by the Department. Amended project budgets, schedules and objectives can be requested by public entities, private entities, and district offices at any time after the execution of SIB loan agreement but approval is at the discretion of the Department and shall be limited to achieving the objectives and activities first approved in the affected agreement.

(h) Public entities, private entities, and district offices shall structure and manage consultant contracts in phases to provide for the termination and payment for work to date if a project is determined non-feasible.

(i) If a project is determined to be financially unfeasible by the Department for a public or private entity, further obligation of awarded applicant project funds shall be terminated by the affected public or private entity until it is documented and approved by the Department that it is in the best interest of the public or private entity and State of Florida to continue with the project.

(j) The Department, Office of the Comptroller is the Trustee of the State Infrastructure Bank. As such, it is responsible for, and shall safeguard advances from, improper use or fiscal irresponsibility when detected, and enforce the repayment of advances with all legal means appropriate. In this regard, the following shall be implemented:

1. Public and private entities shall provide the Department, SIB Program Manager, semi-annual progress reports on program and financial activities occurring each year following the award by the SIB loan agreement. The reports shall be signed by an individual authorized by a governing body of a public or private entity. Program information shall include program accomplishments (specific actions taken to implement approved objectives/ activities and percent of accomplishments for each), problems delaying implementation and revised project schedules if activities are not conforming to approved schedules. Yearly financial information shall include beginning fund balances, purpose of expenditures for each approved activity, ending fund balances for each approved activity, interest earned to date and the amount and percent of funds being contributed to the project from other sources. Entities shall provide additional information as deemed appropriate by the Department.

2. Public and private entities shall have conducted independent audits of all transactions following the execution of the SIB loan agreement. The audits shall be performed in accordance with generally accepted government auditing standards contained in the Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the U.S. General Accounting Office and OMB Circular A-133. The audits shall be conducted annually on a per entity basis. Copies of financial reporting packages, reports, or management letters required by the SIB loan agreement shall be provided to the Office of Comptroller at 605 Suwannee Street, MS#24, Tallahassee, FL 3239-0450 or FDOTSingleAudit@dot.state.fl.us within one quarter year after the end of each

project year or as otherwise authorized by the Department until the project is completed. The Department reserves the right to require additional independent audits and to reject audits not meeting auditing standards.

3. Program records and financial records of funded projects shall be maintained by public or private entities separate and apart from non-project records and accounts to prevent comingling and assure a clear audit trail of all activities. Separate financial accounts shall be maintained for each SIB loan agreement executed. The Department shall have the right to conduct on-site monitoring visits and audits, where public and private entities shall assist the Department in the inspection and audit of books, records, accounts, data, and all related project information, or in the copying or removal of the same for such purposes at all reasonable times.

4. The Department shall have the authority to take the following actions when it is determined public entities, private entities, and district offices have not complied with these guidelines or an executed SIB loan agreement.

(a) Notify the entities of the violation and require proof of correction within a specified time period, or

(b) Suspend the processing of draw-down requests until it is documented that the violation is corrected, or

(c) Notify the entities to suspend activities approved in the specified SIB loan agreement and to stop the obligation and expenditure of funds until further notice at which time appropriate legal action shall be taken by the Department.