



# Guidance

## FAQ – State Infrastructure Bank and Environmental Review

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### Introduction

This is an Environmental Affairs Division (ENV) guidance document that provides answers to a number of frequently asked questions regarding the environmental review requirements for a public or private entity project that have applied for state infrastructure bank (SIB) financing.

**1. Q: What is the state infrastructure bank?**

A: The state infrastructure bank, or SIB, is a financial assistance program administered by TxDOT to provide innovative financing methods to communities to assist them in meeting their infrastructure needs. The bank is an account within the state highway fund, established by state law under Transportation code, Chapter 222, Subchapter D. Eligible public or private entities may submit applications for a loan from the SIB to build eligible projects. For more information about the SIB program, see TxDOT's Project Finance, Debt and Strategic Contracts Division's web page.

**2. Q: Are projects funded by SIB loans subject to TxDOT's Chapter 2 environmental review process?**

A: Yes, but only if the project is an FHWA project or will take place on the state highway system or other real property owned by TxDOT. If either of these triggers apply, then the project will require an environmental review under 43 TAC Chapter 2 just like any other project would.

**3. Q: Do utility relocations outside the ROW funded with a SIB loan need to be reviewed under Chapter 2?**

A: No, utility re-locations outside the ROW, even if funded through a SIB loan, would not require review under Chapter 2 because, if it were a TxDOT project, that activity would not be included as part of the "transportation project" pursuant to 43 T.A.C. §2.3(e)(2).

**4. Q: Is an environmental review required prior to TxDOT's approval of the SIB loan application or execution of a SIB loan agreement?**

A: No. TxDOT's SIB rules explain that if the project is subject to TxDOT's Chapter 2 environmental review process, then the environmental review must be completed prior to any SIB funds being disbursed for construction, excluding activities described in 23 USC 101(a)(4)(A) (preliminary engineering, engineering, and other design-related work). 43 TAC 6.32(d) and 43 TAC 6.41(c). In other words, TxDOT may approve the SIB loan and execute a SIB loan agreement prior to the environmental review of the project, but will not disburse funds prior to completion of the environmental review, except for items described at 23 USC 101(a)(4)(A). By allowing a SIB loan to be approved prior to environmental review of the project, TxDOT's SIB loan rules accommodate those SIB loan applicants who seek to use SIB funds to complete the needed environmental studies for the project.

**5. Q: What environmental information is required to be provided in an application for a SIB loan?**

A: The application must include a binding commitment that the environmental consequences of the proposed project will be fully considered, and that the proposed project will comply with all applicable local, state, and federal environmental laws, regulations, and requirements. 43 TAC 6.23(a)(7). Additionally, the application must include an explanation of the status of obtaining an environmental approval under Chapter 2 and of obtaining any other required environmental permits. 43 TAC 6.23(b)(3)(B).

**6. Q: Who is responsible for providing any studies, documentation, and information needed to complete the environmental review of the project?**

A: If the project is subject to TxDOT's Chapter 2 environmental review process, then the SIB loan applicant is responsible for providing any studies, documentation, and information needed to complete the environmental review, unless TxDOT agrees otherwise. 43 TAC 6.32(d).

**7. Q: How will TxDOT's Project Finance, Debt and Strategic Contracts Division confirm the environmental review status of the project as it processes the SIB loan application?**

A: Prior to seeking a Texas Transportation Commission minute order approving the SIB loan application, TxDOT's Project Finance, Debt and Strategic Contracts Division (PFD) will email an "ENV Division SIB Application Review Form" to the ENV Project Delivery Section Director. The ENV Project Delivery Section Director will proceed as indicated below depending on the status of the project.

- No environmental review required

If the project does not require an environmental review (e.g., because it has no FHWA funding and will not take place on the state highway system or other real property owned by TxDOT, or consists of an off-ROW utility relocation), then the ENV Project Delivery Section Director will enter an explanation in the "Comments" box on the form.

- Environmental review required but not yet completed

If the project does require an environmental review but it has not yet been environmentally cleared in ECOS, then the ENV Project Delivery Section Director will enter an explanation in the "Comments" box on the form.

- Environmental review completed

If the project has already been environmentally cleared in ECOS, then the ENV Project Delivery Section Director will customize the following statement and insert it in the "Comments" box of the form: "This project has been environmentally cleared. A <category exclusion determination, FONSI, or ROD> was issued on <insert date>."

After the ENV Project Delivery Section Director inserts the appropriate statement in the "Comments" box on the form, the ENV Project Delivery Section Director will forward to the ENV Division Director for signature. After the ENV Division Director signs, the ENV Project Delivery Section Director will forward the signed form to PFD, and store both the Word version of the form and the pdf of the version signed by the ENV Division Director in this folder: Groups (T:) → PD → SIB Application Review.

**8. Q: If an environmental review is required but not yet completed at the time the SIB loan application is approved and agreement executed, how will PFD know when the environmental review is completed and therefore construction funds can be dispersed?**

A: Once the environmental review is completed and a clearance is recorded in ECOS, the applicant will inform PFD and PFD will send a new "ENV Division SIB Application Review Form" to the ENV Project Delivery Section Director. The ENV Project Delivery Section Director will process the form as indicated above.

## Appendix A: Revision History

The following table shows the revision history for this guidance document.

Revision History	
Effective Date Month, Year	Reason for and Description of Change
November 2024	<p>Version 3 was released.</p> <ul style="list-style-type: none"> <li>Updated to reflect revisions to TxDOT’s SIB rules at 43 TAC Chapter 6, which were updated in 2024 to allow the environmental review process to occur after approval of a SIB loan application and execution of a SIB loan agreement but prior to disbursement of construction funds.</li> </ul>
May 2021	<p>Version 2 was released.</p> <ul style="list-style-type: none"> <li>Updated to reflect 2020 rulemaking limiting applicability of environmental review process to FHWA projects and projects on the state highway system or other real property owned by TxDOT.</li> <li>Added instructions for ENV Project Delivery Section Director regarding handling of “ENV Division SIB Application Review Form” forwarded by TxDOT’s Project Finance, Debt and Strategic Contracts Division.</li> </ul>
March 2017	<p>Version 1 was released. Document number was changed from 100.03.FAQ to 020.04.GUI</p>