

## POOLED MONEY INVESTMENT BOARD

### POOLED MONEY INVESTMENT ACCOUNT LOAN POLICY

October 20, 2010

#### 1.0 POLICY

Government Code Section 16312 authorizes the Pooled Money Investment Board ("Board") to make loans from the Pooled Money Investment Account ("PMIA") to special funds with repayment to come from the later sale of notes or bonds ("Section 16312 loans"). Government Code Section 16313 authorizes the Board to make loans from the PMIA to any state agency in order to prepay or replace existing financing when the Board determines it is in the best interest of the State to do so ("Section 16313 loans," and collectively with Section 16312 loans, "PMIA Loans"). This PMIA Loan Policy ("Policy") provides guidelines for the prudent investment of PMIA funds in PMIA Loans and shall replace any previously adopted policies relating to PMIA Loans.

#### 2.0 POLICY REVIEW AND CHANGE

The Policy shall be reviewed annually by the Board each October. Any change in the Policy shall be reviewed and approved by the Board at a meeting noticed in accordance with the requirements of the Bagley-Keene open meeting law.

#### 3.0 PMIA LOAN APPLICATIONS ELIGIBLE FOR BOARD CONSIDERATION

Applications for projects that do not have an outstanding PMIA loan as of October 20, 2010 ("New Loans") or applications for the renewal of an existing PMIA loan ("Renewal Loans") that meet the following requirements can be placed on the agenda and considered by the Board at a public meeting:

- A. Completed Application. Board staff must receive a copy of a completed and signed application from the requesting state agency with all required attachments at least fifteen business days prior to the date the agenda must be posted.
- B. Bond Resolution. A resolution authorizing the issuance of bonds for the project and authorizing actions to provide for interim financing from the Board must be adopted.

- C. Valid Appropriation. The costs to be financed must have a valid appropriation at the time of application and the applicant must certify that it will seek a re-appropriation for any expiring appropriations during the life of the requested loan.
- D. No Pending Litigation. The applicant must certify that it is not aware of any pending litigation relating to the project that is to be financed by the loan, or must disclose such litigation for evaluation of whether the litigation would impact the ability of bond counsel or the Attorney General's Office to provide a customary bond opinion for the bonds that are to be issued to repay the loan. If the bond counsel or the Attorney General's Office determines that the pending litigation would preclude the issuance of their customary opinion, the loan shall not be eligible for consideration by the Board. The Board may consider an exception to this requirement on a case by case basis for Renewal Loans only.

The following additional requirements shall apply to applications from the State Public Works Board ("SPWB") for New Loans:

- E. Project Costs Eligible for Interim Financing. With the exception of the types of projects described in 4) – 6) below, loan funds shall only be approved for the following project costs:
  - 1) Preliminary plans, working drawings, performance criteria and concept drawings, acquisition, environmental work, engineering, and other preliminary costs necessary to get a project to the point where it is ready to bid ("Preliminary Costs");
  - 2) Eligible administrative costs associated with the loan; and
  - 3) Interest or principal due on the loan at the time of renewal or when being paid off.

The following types of projects are not subject to the limitations in section E(1) above:

- 4) Projects with total bond-funded costs under \$5,000,000;
- 5) Projects the Director of Finance has determined are not appropriate for upfront bond funding or the Director of Finance has determined interim financing is needed for a portion of the construction phase to allow the bid to be awarded prior to the bond sale; and
- 6) Projects required to be completed by court order where failure to comply with specific timelines may result in unfavorable actions to the state.

The application shall contain a description of the basis for the Director of Finance's determination on section E(5) or (6) above.

- F. Due Diligence Memo. The SPWB must provide a completed real estate "due diligence" memo if any loan funds are to be used for construction.

- G. State Budget. In order for New Loans to be eligible for unconditional approval by the Board, a State Budget with Budget Control Section 4.80<sup>1</sup> must be in place for the fiscal year in which the loan is considered for approval. If there is a late State Budget, the Board may conditionally approve the loan subject to enactment of a Budget.
- H. Alternative Repayment Plan. If a project is cancelled or if the SPWB determines that bonds cannot or will not be issued for the project while a loan is outstanding, the SPWB must provide an alternative repayment plan to Board staff. Specifically, the SPWB must certify that it will provide a written plan within 60 days of project cancellation or determination that bonds will not be issued that describes the SPWB's plan to pay off the loan utilizing a current or future appropriation or another funding source.

#### **4.0 PMIA LOAN APPLICATIONS INELIGIBLE FOR BOARD CONSIDERATION**

In order to preserve PMIA Loan funding for SPWB projects described in Section 3.0 E, the Board will not consider applications for New Loans for projects to be funded by General Obligation ("GO") bonds or revenue bonds issued by a State agency other than the SPWB. This is based upon the availability of alternative sources of interim financing for other bond-funded projects, including commercial paper notes for GO bond programs, and the ability of the State to issue upfront GO bonds for preliminary costs, which cannot be done for SPWB lease revenue bond projects. Additionally, at this time, the Board shall not consider applications for New Loans pursuant to Section 16313.

#### **5.0 LOAN TERMS AND INTEREST RATE**

- A. Loan Term. The term of any Section 16312 Loan shall not exceed 364 days. Loans that have not been paid off in full prior to the maturity, may be renewed by the Board.
- B. Interest Rate. In accordance with Government Code Section 16314, the interest rate on all Section 16312 Loans shall be the last available daily rate of return earned by the PMIA on the actual date of withdrawal or transfer of the loan funds, and shall be reset with any renewal.

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<sup>1</sup> Budget Control Section 4.80 has historically provided that in the event bonds authorized by the SPWB are not sold and interim financing costs have been incurred, departments that have incurred those costs shall commit a sufficient portion of their support appropriations to repay the interim financing costs.

## **6.0 AGGREGATE LOAN LIMITS AND FUNDING**

The maximum aggregate amount of all approved PMIA Loan amounts shall not exceed \$500,000,000 at any time. In accordance with Government Code Section 16429.3, PMIA Loans shall not be funded by monies in the Local Agency Investment Fund. Additionally, PMIA Loans shall not be funded by monies that are designated as Bond Funds in the Manual of State Funds maintained by the Department of Finance.

## **7.0 REPORTING**

The Board staff shall submit a monthly report to the Board that lists the amount of outstanding PMIA Loans.

New Loan  Renewal

LOAN REQUEST for Pooled Money Investment Account Loans for State Public Works Board (“SPWB”) Bond Programs. Loan is due on or before 364 days from the date loan is funded.

FOR STO USE ONLY  
PMIB NO. \_\_\_\_\_

**PART I. LOAN REQUEST/BOND PROGRAM INFORMATION**

(Completed by Requesting Department)

Department Name:		Total Project Appropriation:	Amount Requested:
Appropriation(s) to be Funded:			Date Funds Needed:
Department Contact:		Title:	Phone:
Department Director’s Name (please print):		Signature:	Date:
Name of SPWB Project:		Project Contact:	Phone:
SCO Fund # (for renewals only):	Phase of Project (select all that apply): <input type="checkbox"/> A <input type="checkbox"/> PP <input type="checkbox"/> WD <input type="checkbox"/> C <input type="checkbox"/> E - or - <input type="checkbox"/> PCCD <input type="checkbox"/> D-B		Estimated Project Completion Date:

**Use of Loan Proceeds:**

1. Will any of the loan proceeds be used (Please check if answer is yes to any of the following)
 

<input type="checkbox"/> To pay vendors directly? <input type="checkbox"/> To make advances to other state funds*? *If Yes, specify :	<input type="checkbox"/> To reimburse local government for vendor payments? <input type="checkbox"/> To make advances to State Architect Revolving Fund*? *If Yes, specify: DGS-PMB Project No.
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2. Will any part of the debt service on the bonds that secure this loan be either secured by or paid from property used in a private business or from federal funds? Yes  No
  
3. Will any of the loan proceeds be used to fund Construction or Design-Build project costs? Yes  No   
 \*If Yes, include a completed real estate “due diligence” memo; in addition, if total Bond funded costs will exceed \$5,000,000, provide a certification letter signed by the Director of Finance pursuant to PMIA Loan Policy Section 3.0 E(5) or E(6).

PROVIDE DATE(S) THE STATE PUBLIC WORKS BOARD AUTHORIZED INTERIM FINANCING (LOAN REQUESTS) FOR THIS PROJECT INCLUDING AUTHORIZING THE REPAYMENT OF THE LOAN FROM THE SALE OF BONDS:

Date Action(s) Taken	Type of Authorization
	<input type="checkbox"/> Loan <input type="checkbox"/> Sale
	<input type="checkbox"/> Loan <input type="checkbox"/> Sale
	<input type="checkbox"/> Loan <input type="checkbox"/> Sale

**PART II. RECOMMENDATION AND CONDITIONS**  
(Completed by Public Finance Division of the State Treasurer’s Office)

<input type="checkbox"/> This application is recommended for approval	
<input type="checkbox"/> This application is recommended for approval subject to the following conditions:	
<input type="checkbox"/> First \$ _____ to be used to pay/reduce existing PMIB loan # _____ <input type="checkbox"/> Reduce amount of loan to \$ _____	
Conditions (if applicable):	
<input type="checkbox"/> This application is not recommended for approval by the Public Finance Division, per the PMIB Staff Report.	
Signature: Director, Public Finance Division	Date:

**PART III. RECOMMENDATION**  
(Completed by Pooled Money Investment Board Executive Secretary)

This request is recommended for <input type="checkbox"/> approval <input type="checkbox"/> rejection <input type="checkbox"/> modification	
Approved loan amount \$ _____ Loan to be made no sooner than _____	
Signature: Executive Secretary of the Pooled Money Investment Board	Date:

**COMPLETE LOAN PACKAGE REQUIRED IN ORDER TO BE CONSIDERED**  
(See attached Instructions for detailed information)

PART IV. LOAN AGREEMENT for Pooled Money Investment Account Loans for State Public Works Board Bond Programs

FOR STO USE ONLY  
PMIB NO.

This agreement is entered into by and between the undersigned Department and the Pooled Money Investment Board. The Department borrows and the Pooled Money Investment Board (the “Board”) lends funds as specified below.

Total Project Appropriation: Loan Amount:	Proposed Funding Date:
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At the discretion of the Board and upon notice to the Department, this loan may be wholly or partially repaid using unexpended loan proceeds at any time prior to the date the loan is due. Repayment of the loan principal shall be due on or before 364 days (or the next preceding business day if the due date falls on a state holiday, a Saturday or Sunday) from the date the loan is funded. The interest rate shall be the last available daily interest rate of return earned by the Pooled Money Investment Account at the time the loan is funded. The interest shall be paid at the time the principal is repaid. The proceeds of the loan are to be used only for the purposes authorized for use of the proceeds of the sale of bonds (“Bonds”) authorized by the following statutes (“Act”):

<input type="checkbox"/> Public Safety and Offender Rehabilitation Services Act of 2007, as amended (AB 900)	<input type="checkbox"/> State Building Construction Act	<input type="checkbox"/> Other, specify: _____
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**SPWB AUTHORIZATION(S)**

This loan, including repayment from bond sales was authorized by the SPWB on the following date(s): \_\_\_\_\_

The department consents to have the proceeds of the sale of these Bonds used to repay the loan principal and interest to the Pooled Money Investment Account. From the time the loan is funded until the loan proceeds are expended by the Department, the loan proceeds shall be invested in the Surplus Money Investment Fund and earnings on this investment shall be used to pay interest on the loan. If the loan becomes due before the Bonds to repay this loan are sold, the Department shall agree to a new loan to repay the principal and interest of this loan. Repayment of the principal of and interest on this loan is a special limited obligation to be paid from the proceeds of bonds when issued or from the proceeds of a new loan, and repayment from any other source is subject to appropriation by the Legislature. If bond proceeds are not available because the project is canceled or bonds will not be issued, the Department will cooperate with the SPWB in providing an alternate plan for repayment from other lawfully available funds, including repayment from the Department's support appropriation for this current fiscal year, as authorized by the Legislature in the Budget Act.

**LOAN RECIPIENT SIGNATURES:** The Director attests, by the signature below, this loan request and the department’s use of the funds complies with all of the terms, conditions and requirements of the State Public Works Board bond program. The Department agrees to pay administrative fees in connection with this loan from any appropriation available for such purpose.

The Department further certifies by the signature below: (i) The appropriation(s) listed in Part I of the Loan Request are valid and current; (ii) it will seek a re-appropriation for any expiring unencumbered appropriations during the life of the requested loan, and (iii) *Check one of the following* ~  No litigation exists relating to this project -OR-  Litigation exists and a written explanation disclosing such litigation is attached in conjunction with this Loan Agreement for evaluation by the SPWB, bond counsel and the Attorney General’s Office.

Department Name	
Signature: Department Director	Date

The State Public Works Board certifies by the signature below: (i) it will provide a written plan for paying off a loan, within 60 days, should this project be cancelled or a determination is made that bonds will not be sold, and (ii) all necessary documentation for this loan application to be considered is attached (see instructions).

Signature: State Public Works Board Administrative Secretary	Date
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POOLED MONEY INVESTMENT BOARD EXECUTIVE SECRETARY’S CERTIFICATION		
The Pooled Money Investment Board approved this loan pursuant to Government Code Section 16312 in the amount of \$ _____ and the vote was as follows:		
MEMBER	AYE	NO
Treasurer of the State of California		
Controller of the State of California		
Director of Finance of the State of California		
Conditions (if applicable):		
Signature: Executive Secretary of the Pooled Money Investment Board		Date

## INSTRUCTIONS FOR COMPLETING LOAN REQUEST – PART I

*NOTE: A New application is not complete without cash-flow statements, a copy of the current active appropriation(s), a copy of the SPWB Bond Resolution(s), a written description of the project and/or other documentation as described in the PMIA Loan Policy, such as a Certification Letter from the Director of Finance or a written description of pending litigation. A Renewal application is not complete without cash-flow statements, a copy of the current active appropriation(s) and/or other documentation as described in the PMIA Loan Policy. A Renewal application will also need the most recent Resolution and/or project description if there have been changes or amendments since the previous loan was approved. Complete loan applications are due 15 Business Days prior to the Agenda posting and applications will not be placed on the Agenda for Board consideration until all documents are received by the STO.*

Department Name: The Department or other entity that has the authority to request the loan.

Total Project Appropriation: The combined total of all bond monies appropriated via the State Budget, special legislation, and/or augmentations for which the loan is sought. If a project includes both lease revenue bond appropriations and General Fund appropriations, then the Total Project Appropriation would only include the lease revenue bond appropriations.

### Amount Requested

**For New Loan Requests:** This amount cannot be more than the amount approved for the future bond sale by Resolution of the State Public Works Board. The amount requested should be an amount sufficient to include the Department's funding needs for the next 12 months for the particular phase the project is in. (ex: If Preliminary Plans will take 15 months and start upon loan approval, the loan request should only include 12 months of the money set aside for PP.) Cash flows must be attached to the loan request to substantiate projected needs for the next 12 months.

**For Renewal/Subsequent Loan Requests:** Loans are approved for a period not to exceed 364 days and must be repaid at maturity. A subsequent loan may be used to repay an existing loan or may also be necessary if expenditures are underestimated and/or additional funds are needed prior to the maturity date. The new loan request must be in an amount sufficient to: 1) repay an existing loan from the same Act, 2) allow needed funding for the next 12 months, 3) pay interest due on the existing loan at the time of renewal, and 4) pay the State Treasurer's Office and other authorized loan administration costs.

Appropriations to be Funded: Cite the Budget Act Item and Year or Chapter and Year of the statute containing the appropriation(s) for which you are requesting funding and/or have received prior loan funding. If more than one appropriation is used, please provide the amount of funding from each appropriation next to the appropriation. If the appropriation is augmented, copies of the Executive Order must also be provided.

Date Funds Needed: This should not be left blank. The date should be on or after the date used on the Loan Agreement "Proposed Funding Date" page, and must occur after the PMIB meeting that will hear the loan request. Typically, loans are funded within 2 business days of the PMIB meeting by the SCO.

Department Contact, Title and Phone: The person at the requesting department who can best answer questions about the Loan Request and Agreement.

Department Director's Name, Signature: Director or authorized designee.

Name of SPWB Project: The name of the Project or program as stated in the Budget Act, legislation, or established by SPWB (e.g. Patton State Hospital – Upgrade Electrical Generator Plant).

Project Contact and Phone: The project director at the department or the person at DGS handling the project on behalf of the department.

SCO Fund #: For renewal loans only, enter the 7-digit fund number assigned to the project.

Phase of Project: Phase(s) of the project for the upcoming 12-month period ~

- (i) For Design-Bid-Build projects, specify Acquisition (A), Preliminary Plans (PP), Working Drawings (WD), Construction (C), and/or Equipment (E). Select all that apply; -OR-
- (ii) For Design-Build projects, specify Performance Criteria and Concept Drawings (PCCD) and/or Design-Build (D-B).

Estimated Project Completion Date: Date the project is expected to be completed.

Use of Loan Proceeds: Check all boxes and fill in all information that applies to the Department's intended use of the loan funds. This section helps STO staff determine possible federal tax implications.

DGS-PMB Project No. : If applicable, enter the number assigned to the project by DGS. DGS-run projects require this number to be input on the application, but it can also be completed by other departments if a DGS project number is assigned and known by the project coordinator.

Construction and/or Design-Build requests : For projects starting Construction during the requested loan year and Design-Build projects, a Due Diligence memo and a certification letter from the Director of Finance must be submitted with the loan package at least 15 business days prior to the date the agenda must be posted for that month's meeting. NOTE: For those projects in which the total bond funded costs will not exceed \$5,000,000, a certification letter is not required.

Date Action(s) Taken/Type of Authorization: For each SPWB resolution, indicate the date the resolution was executed and check the box next to it for loan authorization and/or bond sale.

#### INSTRUCTIONS FOR COMPLETING LOAN AGREEMENT – PART IV

Fill out and execute the Loan Agreement and submit it along with the Loan Request, Cashflow Statement and any other required documents.

Total Project Appropriation: This should match the "Total Project Appropriation" figure provided on the Loan Request form.

Proposed Funding Date: This date must be no earlier than 2 days after the PMIB Meeting that will hear the loan request.

Loan Amount: This should match the "Amount Requested" figure provided on the Loan Request form.

Act Authorization: Select one of the following ~

*AB 900 ~ Any CA Dept of Corrections and Rehab loan pursuant to the Public Safety & Offender Rehab Services Act of 2007*

*State Building Construction ~ All other loans to state agencies pursuant to the State Building Construction Act of 1955, which are not covered by the AB 900 act*

*Other ~ please specify*

SPWB Authorization(s): The date(s) should match those provided on the Loan Request form.

Department Name: The Department or other entity that has the authority to request the loan.

Department Director's Signature: Signature of the Director or authorized designee who also signed the Loan Request.

State Public Works Board Administrative Secretary's Signature: Signature of the SPWB Administrative Secretary or authorized designee.

**REMINDER:** *A New application is not complete without cash-flow statements, a copy of the current active appropriation(s), a copy of the SPWB Bond Resolution(s), a written description of the project and/or other documentation as described in the PMLA Loan Policy, such as a Certification Letter from the Director of Finance or a written description of pending litigation. A Renewal application is not complete without cash-flow statements, a copy of the current active appropriation(s) and/or other documentation as described in the PMLA Loan Policy. A Renewal application will also need the most recent Resolution and/or project description if there have been changes or amendments since the previous loan was approved. Complete Loan Applications are due 15 Business Days prior to the Agenda posting and applications will not be placed on the Agenda for Board consideration until all documents are received by the STO.*