



Transportation Revolving Fund

Program Guide

Innovative Financing for Kansas Communities

Office of Financial and Investment Management

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Table of Contents

1	BACKGROUND	3
2	ELIGIBLE BORROWERS	3
3	ELIGIBLE PROJECTS	4
4	TYPE OF ASSISTANCE AVAILABLE	5
5	TERMS OF ASSISTANCE.....	5
6	AMOUNT OF ASSISTANCE.....	5
7	INTEREST RATES, SERVICE FEES AND APPLICATION FEE.....	5
8	APPLICATION.....	6
9	PROJECT MODIFICATIONS AND ADJUSTMENTS.....	6
10	EVALUATION	7
11	LOAN CLOSING.....	7
12	PROCEDURE FOR DISBURSEMENT OF FUNDS.....	8
13	REPAYMENT OF THE LOAN	8
14	DEFAULT REMEDIES	9
15	CONTACT INFORMATION.....	9

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Transportation Revolving Fund

1 Background

The Kansas Transportation Revolving Fund ("TRF") is a statewide revolving loan fund. It is designed to promote innovative transportation funding solutions. The purpose of the TRF is to provide financial assistance to local governmental units for transportation projects. The TRF offers a wide range of loan and credit enhancement opportunities for eligible projects. Local governmental units can repay loans with various revenues including Special City & County Highway Fund allocations or locally raised revenues such as sales taxes.

The National Highway System Designation Act of 1995 established the program for State Infrastructure Banks, called Revolving Funds in some states. Under this law, states may provide financial assistance through the State Infrastructure Bank to local governmental units for transportation projects. Financial assistance can be loans or credit enhancements such as loan guarantees. Loan repayments are recycled to provide new loans.

K.S.A.2004 Supp. 75-5063 through 75-5069 authorized the Secretary of the Kansas Department of Transportation to establish and administer the TRF. The TRF operates under the authority of the Kansas Department of Transportation. The TRF is governed by Rules and Regulations K.A.R. 36-40-1 through 36-40-9. There is no sunset provision regarding the TRF.

A transfer of monies from the state highway fund capitalized the TRF. Proceeds from the issuance of bonds will also be used for project financing. An application for the local share of a state or federal project does not change the financing source. If a project is part of another KDOT program, such as KLINK, Geometric Improvement, or Economic Development, it is subject to all the rules of that program.

Borrowing from the TRF does not count against a local government unit's maximum bonding authority.

2 Eligible Borrowers

All cities, counties, and other governmental units of the State of Kansas are eligible to borrow from the TRF. In addition, private enterprises are eligible if they have a governmental unit as a partner.

3 Eligible Projects

A project must be a bridge, culvert, road, street, or highway. Transit, aviation, railroad projects, and trails are not eligible for financing. Projects must be consistent with the state highway system, as it exists now or in the future. Local communities identify their transportation needs and submit a project application. Applicants may combine several projects on one application as a highway improvement program; however, each project must be listed separately with supporting information on the application.

All phases of a project are eligible for financing. This includes planning, design, right-of-way acquisition, construction engineering, and construction. The TRF can finance utility adjustments if they are incidental and necessary for the completion of the approved project. However, the main purpose of the project must remain the acquisition, construction, improvement, repair, rehabilitation, maintenance, or extension of a road, bridge, or culvert.

Applicants are required to provide the following written assurances with the application.

- The project will be designed by a licensed professional engineer.
- The project's designer will approve any revisions or deviations from the plans and specifications.
- The project will be inspected by a certified inspector who shall certify that the project is constructed in substantial conformity with its plans, specifications, and any authorized revisions.

Approved borrowers are required to provide the following when the project is open to unrestricted travel.

- A written statement from the recipient's licensed professional engineer that the design of the project and any authorized revisions for the project followed the then-existing and generally recognized and prevailing engineering standards and were in compliance with the applicable federal and state laws and regulations.
- A written statement from the recipient's certified inspector indicating that the project was constructed in reasonable conformity with its plans, specifications, and any authorized revisions.

In addition, approved borrowers are required to provide the following at the time of final acceptance.

- A written statement from the recipient's certified inspector indicating that the project was constructed in reasonable conformity with its plans, specifications, and any authorized revisions.

4 Type of Assistance Available

The TRF offers direct loans and credit enhancements, such as loan guarantees and bond insurance. The TRF can refund bonds but will do so only after all demand for construction has been satisfied.

5 Terms of Assistance

The term of a loan is limited to the lesser of 20 years or the design life of the project being financed, including the construction period. For example, a 15-year loan with a two-year capitalization period has a payback period of 13 years. The term of the loan and the payback period are equal when payments begin within six months of the loan agreement's dated date. There is no penalty for early prepayment of a loan.

Applicants may be required to purchase bond insurance and/or pledge to levy ad valorem taxes without limitation as to the rate or amount upon all taxable tangible property, real or personal, within the jurisdiction. A dedicated sales tax may be substituted for the pledge of ad valorem taxes if bond insurance is purchased.

6 Amount of Assistance

There is no minimum or maximum amount of assistance set by the statute or by the regulations. However, due to the practical limits imposed by the amount of capitalization, the TRF will not make loans over \$6,000,000 to any one borrower during the fiscal year. In addition, no single borrower's capacity shall be more than 15% of the program's total capacity. These policies will be reviewed as the TRF gains experience and/or economic conditions change.

7 Interest Rates, Service Fees and Application Fee

The interest rate is set at 80 percent of the 90-day average of the *Bond Buyer 20* Bond Index. This rate must be consistent with the provisions of K.S.A. 2004 Supp. 10-1099, as may be amended from time to time. The interest rate is set on the date of the loan agreement.

A service fee of .25% is charged on each loan. The borrower is not charged interest or service fees until the first draw is made and then only on the amount drawn.

An original application fee will not be assessed. A \$500 application fee will be assessed on supplemental applications. This fee will allow the Department to recover costs incurred during the supplemental application review process.

These policies will be reviewed and revised as the TRF gains experience and/or economic conditions change.

8 Application

Applications can be submitted at any time. Applications are considered and processed as they are received by the TRF. Applications are available from the KDOT Bureau of Fiscal Services or on the department's website at www.ksdot.org.

A complete application includes:

- Three years of audited financial statements for the jurisdiction;
- A copy of a bond-rating letter or insurance binder, if the jurisdiction has issued rated or insured debt in the past;
- A schedule of payments on current debt obligations that will be made during the term of financial assistance desired from the TRF;
- A map of the project with the area of the project highlighted and beginning and end points clearly marked;
- The KDOT project number in the location or description if the project is a part of any other KDOT program;
- A completed application with any additional statements attached as indicated on the application.
- The total amount on the schedule of anticipated drawdowns must equal the amount of financial assistance requested.

It is important that applicants provide complete information. Applications that are incomplete may be delayed in processing or may be rejected altogether

9 Project Modifications and Adjustments

KDOT realizes that costs may change or projects may be modified between the time that a project is approved and the time of actual construction. The applicant should inform KDOT of all changes, in writing, as soon as possible. If a loan agreement has not been signed and a change to the application is required or requested, the applicant should file a supplemental application with the TRF.

If a loan agreement has been executed and a change to the loan agreement is required or requested, the borrower must submit a supplemental application following the requirements listed below as applicable. This supplemental application will be reviewed the same as an original application. If approved, KDOT Special Counsel will prepare an amendment to the loan agreement for execution. The following process is to be followed by a borrower seeking an amendment to the loan:

- The borrowing entity should formally authorize its officials to request to amend the loan at a public meeting and a copy of the minutes of that meeting should be provided to KDOT with the supplemental application.
- The borrower shall submit a supplemental application detailing the required or requested changes with a letter of explanation to KDOT.
- The supplemental application will be reviewed by KDOT, its financial advisor, and KDOT special counsel.

- The Secretary or her designee will approve or disapprove the request described in the supplemental application and notice will be sent to the borrower.
- An amendment to the loan agreement will be drafted by KDOT and executed contingent on the Secretary's approval.

10 Evaluation

Applications are considered on the following basis.

- Is the applicant a governmental unit of the State of Kansas as defined at K.S.A. 2004 Supp. 75-5064?
- Is the project consistent with the state highway system?
- Is the applicant creditworthy?
- Is the term of the loan equal to or less than the design life of the project?

Applicants are responsible for ensuring that all federal and state requirements are met during all phases of a project. KDOT will not monitor non-KDOT projects for compliance. KDOT will rely on the written assurances of the applicant and the applicant's licensed professional engineer that the project meets generally recognized and prevailing engineering standards. KDOT also will rely on the applicant's certified inspector that the project was constructed in reasonable conformity with its plans, specifications, and any authorized revisions. KDOT will not set specifications for projects that are not part of a KDOT program. However, the type of construction on any project will determine the design life of the project and therefore the allowable term of the loan.

Projects do not have to be part of an applicant's five-year plan to be considered for financial assistance from the TRF.

11 Loan Closing

Normal turnaround time for the approval process is approximately 60 days from application to loan agreement. An application approved by the Secretary must result in a loan (or other assistance) that is closed within six months of the date of the Secretary's approval letter unless an extension is approved in writing by KDOT. Loan documents are prepared by KDOT Special Counsel. The primary loan document is the loan agreement and its accompanying exhibits and forms. The loan agreement including its exhibits provides the terms of the loan. The agreement conforms to IRS rules for tax-exempt debt. Draft copies of the agreement are sent to the city or county clerk and to applicant's legal counsel for review. No changes to the KDOT forms are permitted without the express written approval of KDOT.

The borrower must provide additional documents at closing. At a minimum, these will include a resolution authorizing the borrowing, an opinion of counsel addressing the legality of the transaction and such other closing documents as are required by KDOT. If the borrower is securing the loan with a dedicated sales tax, proof of the statutorily

required public approval of the sales tax must be provided. KDOT will notify the borrower of the Closing Date.

12 Procedure for Disbursement of Funds

An account for each approved loan will be established in the TRF for face value of the loan. Borrowers will submit a copy of an invoice or engineer's statement with a disbursement form to the TRF for disbursement of funds. Disbursement requests must have the signature of a licensed professional engineer or inspector on construction statements. No disbursement will be made prior to the Closing Date for the loan.

If the loan is for a local government's matching share of a KDOT project, then the borrower will submit a copy of the KDOT Concurrence in the Award, Commitment of Funds resolution and the disbursement form. The money will be disbursed to the borrower who will then remit the amount due to KDOT. The authorized draw schedule will be structured to meet KDOT's requirements.

For loans not involving a KDOT project the loan funds must be withdrawn as construction on the project progresses. The borrower must make its first draw within 30 days of the loan agreement's Closing Date; thereafter the following required draw schedule must be followed:

- 15% within 6 months of the loan agreement's Dated Date;
- 35% within 12 months of the loan agreement's Dated Date;
- 75% within 18 months of the loan agreement's Dated Date; and
- 100% within 24 months of the loan agreement's Dated Date.

If a borrower cannot comply with this disbursement schedule, then either a new dated date must be used for the loan agreement or the amount of the loan must be segmented using separate loan agreements.

Any adjustment to this schedule after the loan agreement is signed must be approved by KDOT and Kansas Development Finance Authority to ensure full compliance with any applicable arbitrage requirements imposed via the U. S. Tax Code and Regulations. Such an adjustment will require a written supplemental application as discussed in section 9 above.

The TRF is not designed to be a forward hedge, and applications proposing such will not be approved.

Disbursement forms may be obtained from the office of the TRF from the address at the end of this document.

13 Repayment of the Loan

Loan payments may be deferred up to two years from the date of the loan agreement during the construction period. Repayment may not be deferred more than two years, even if the construction period is longer. Borrowers may prepay loans at any time without penalty.

14 Default Remedies

The Secretary of Transportation is authorized by K.S.A. 2004 Supp. 75-5069 to intercept a local government's allocation of special city and county highway funds in the event of default. Further explanation of default is explained in the loan agreement. All applicants should read this document carefully.

15 Contact Information

If you desire a copy of the statutes, rules and regulations, model loan document, application or any other information about the TRF, please call or write:

Danielle Marten
Program Manager, Transportation Revolving Fund
Kansas Department of Transportation
700 Harrison St., 7th Floor
Topeka, KS 66603
Voice: 785-296-3597
Fax: 785-296-1543
Email: dmarten@ksdot.org

Copies of the statute, rules and regulations, application with instructions, and the program guide are available on the KDOT website at www.ksdot.org. Look under "Doing Business."