

TITLE 21.

Proposed Amendments to the California Codes of Regulations

§6662.5. Performance Audits of Transportation Planning and Programming Entities

(a) Each transportation planning agency, county transportation commission and metropolitan transit development board shall designate an independent entity to make a performance audit of its activities with respect to the Act pursuant to Public Utilities Code section 99246. The performance audit shall be submitted to the Director by July 1 triennially, in accordance with a schedule established by the transportation planning agency, county transportation commission and metropolitan transit development board.

(b) If the transportation planning agency or county transportation commission, or metropolitan transit development board fails to transmit a performance audit report of its activities within one year after the date on which the report was due, the agency, commission, or board shall not be eligible to receive funds allocated for administration or planning until the audit report is transmitted or unless prior approval is granted by the Director.

(c) The performance audit prepared pursuant to this section shall be made available to the public pursuant to the California Public Records Act (Chapter 3.5(commencing with Section 6250) of Division 7 of Title 1 of the Government Code.)

§ 6663 Entities Responsible for Fiscal and Performance Audits of Claimants

(a) The transportation planning agency, county transportation commission or metropolitan transit development board shall be responsible to ensure that each claimant under its jurisdiction receiving an allocation submits to it the annual certified fiscal audit described in section 6664. Each claimant shall also transmit a copy of the audit report to the State Controller.

(b) The transportation planning agency, county transportation commission or metropolitan development board, after consultation with the operator, shall designate an entity other than itself to conduct the triennial performance audit described in section 6664.5. The performance audit shall be submitted to the transportation planning agency, county transportation commission or metropolitan transit development board as the case may be.

(1) Each transportation planning agency, county transportation commission and metropolitan transit development board shall certify, in writing to the Director, that any performance audits of operators under its jurisdiction due that fiscal year have been completed.

(2) The performance audit prepared pursuant to this section shall be made available to the public pursuant to the California Public Records Act (Chapter 3.5(commencing with Section 6250) of Division 7 of Title 1 of the Government Code.)

§ 6753 Allocation Resolution/Instruction

Allocations to claimants shall be made and take effect by resolution adopted by the governing board of the regional entity. Each allocation shall be numbered or otherwise identified for record keeping and reporting purposes. Allocations made to the same claimant for different purposes, as defined in Sections 6730 and 6731, shall be identified separately. Each allocation ~~resolution~~ instruction shall designate (1) the fiscal year for which the allocation is made, (2) the amount allocated to the claimant for each of the purposes defined in Sections 6730 and 6731, and (3) any other terms and conditions of the allocation. The ~~resolution~~ allocation instruction shall also specify conditions of payment and may call for a single payment, for payments as moneys become available, or for payment by installments monthly, quarterly, or otherwise. The transportation-planning agency shall convey allocation instructions to the county auditor by written memorandum of its executive director accompanied by a certified copy of the resolution authorizing the action. No allocation is made or shall take effect except by such allocation instruction. The transportation-planning agency shall convey at least one allocation instruction annually and prior to the beginning of the fiscal year for each operator or city, county or transit district, which has filed an annual claim pursuant to Sections 6730 and 6731. The transportation-planning agency may, however, delay an allocation instruction until after the beginning of the fiscal year with the consent of the claimant.

The amount of a regional entity's allocation for a fiscal year that is not allocated to claimants for that fiscal year shall be available to the regional entity for allocation in the following fiscal year.

§ 6754 Required Findings

(a) The regional entity may allocate funds to an operator or a transit service claimant only if, in the resolution allocating the funds, it finds all of the following:

- (1) The claimant's proposed expenditures are in conformity with the Regional Transportation Plan.
- (2) The level of passenger fares and charges is sufficient to enable the operator or transit service claimant to meet the fare revenue requirements of Public Utilities Code sections 99268.2, 99268.3, 99268.4, 99268.5, and 99268.9, as they may be applicable to the claimant.
- (3) The claimant is making full use of federal funds available under the Urban Mass Transportation Act of 1964, as amended.
- (4) The sum of the claimant's allocations from the state transit assistance fund and from the local transportation fund does not exceed the amount the claimant is eligible to receive during the fiscal year.
- (5) Priority consideration has been given to claims to offset reductions in federal operating assistance and the unanticipated increase in the cost of fuel, to enhance the existing public transportation service, and to meet high priority regional, countywide, or area-wide public transportation needs.

(b) The regional entity may allocate funds to an operator for the purposes specified in section 6730 only if, in the resolution allocating the funds, it also finds the following:

- (1) The operator has made a reasonable effort to implement the productivity improvements recommended pursuant to Public Utilities Code section 99244. This finding shall make specific reference to the improvements recommended and to the efforts made by the operator to implement them.
- ~~(2) For an allocation made to an operator for its operating cost that the operator is not precluded by any contract entered into on or after June 28, 1979, from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license.~~
- ~~(3-2)~~ A certification by the Department of the California Highway Patrol verifying that the operator is in compliance with section 1808.1 of the Vehicle Code, as required in Public Utilities Code section 99251. The certification shall have been completed within the last 13 months, prior to filing claims.
- ~~(4 3)~~ The operator is in compliance with the eligibility requirements of Public Utilities Code section 99314.6 or 99314.7.

(c) The regional entity may authorize an operator to exchange funds pursuant to Public Utilities Code section 99314.4(b) only if, in the resolution allocation the funds made available pursuant to Public Utilities Code section 99231, it finds that the operator is eligible to receive state transit assistance funds.