Memorandum

To: Chairman and Commissioners **Date:** April 24, 2001

From: Robert I. Remen **File No:** BOOK ITEM 4.6 ACTION

Ref: **Consideration of Transportation Enhancement Activities (TEA) Program Reforms**

Issue: What options for reform of the TEA program have Caltrans and regional agencies offered to help overcome lagging project delivery and other problems in this program?

Recommendation: Staff recommends the Commission discuss the reforms presented here, plus any from other groups and other states that may be brought forward by the meeting, to help direct staff preparation of a package of reforms for Commission consideration and action next month.

Caltrans and Regional Ideas: Staff discussed ideas for reform of the TEA program with Caltrans staff and a representative group of regional agencies during the past three weeks, as well as soliciting Commissioner's ideas at the March meeting. There is general agreement about where reform attention is needed, but as might be expected Caltrans and regional ideas in some ways coincide and in other ways diverge.

The ideas presented and discussed here are arranged by the general topic headings discussed last month:

A. TEA projects and agencies do not fit easily into transportation programs and procedures

1. Caltrans suggested limiting the agencies that can sponsor TEA projects to only local public works agencies, qualified and familiar with federal transportation programs and requirements. Regional agencies would not likely favor this approach, and in fact the genie may already be out of this bottle because so many other kinds of agencies have successfully completed TEA projects over the past five years. Nevertheless, these other agencies have typically required extra help to succeed, causing a burden and uncertainty for the program, and federal requirements (particularly DBE) seem to be getting more, not less, onerous.

B. TEA projects have typically been ad hoc rather than coming from a plan context

1. Caltrans favors requiring TEA projects to be based in a regional transportation plan or the state transportation plan (or by attachment to STIP projects, which all originated in plans), saying "ad hoc programming has a bad track record." Regions on the other hand favor direct project competition, noting that it would be harder for local agencies to participate in the regional planning process way ahead of time than to propose projects when ready. The problem has been too many ad hoc projects have not in fact been ready when proposed. In addition, some regions may not be eager to go through the effort and cost to add a TEA element into their regional transportation plans.

2. Caltrans and some regions favor using TEA investment as a tool in environmental streamlining, but most regions do not want to be forced to use it that way, or do not see a need for it in their area; regions agreed that if regional share TEA funds were to be used this way for Caltrans projects in the STIP, then state share TEA funds should be brought to the table at the same time. As an option, this idea gets wide support, and several regions have already been doing it to a limited extent.

C. The Commission's TEA program design is confusing

1. Both Caltrans and regions favor consolidating the state share into one unified program, perhaps with internal targets for certain kinds or classes of projects. Caltrans and regions suggested several desirable features for the state share: regularly scheduled programming rounds with plenty of lead time, rounds more frequent than every three years, and a place in the state share for projects from statewide environmental interests. Caltrans noted that "conservation lands is strategically valuable as a separate concept," and the details of the design of the state decision-making committee and process are a critical feature to the outcome of the state program

2. Regions strongly defend the concept of regional shares, saying "it saves a lot of effort to program at the regional level," and Caltrans agrees that regional shares are desirable without endorsing the current 75%/25% split of funding. Caltrans suggests that more uniformity in applications would be helpful across all regions, but regions strongly want to keep the current freedom in design, scheduling, applications, and procedures for their own regional share rounds.

3. Both Caltrans and regions endorse multi-year programming, ahead of time, even across the seam into future federal acts, as essential to ensure better delivery. Caltrans is willing to consider some moderate amount of deliberate overprogramming, with delivery to weed out the projects that do and don't get funded, to improve timely use of funds.

D. Programming is not coming out as intended

1. Both Caltrans and regions consider screening for project eligibility to be a major problem needing attention. FHwA has delegated screening for eligibility to Caltrans, where it is done in headquarters. The current screening has become such a bottleneck that many regions routinely ignore it, resulting in ineligible projects and ineligible elements within projects being caught at the very end, at allocation, not a desirable outcome. Caltrans wants to delegate screening out to its districts, once they can be trained sufficiently to ensure sound and uniform performance statewide, whereas regions want to be able to screen themselves, as they do for some other federal local assistance programs. All parties do agree that Caltrans headquarters and FHwA should bear the end responsibility to make precedent-setting or grey-area final eligibility calls.

2. No one really screens effectively for project readiness, but both Caltrans and regions agree in concept that this would be valuable. Such a screening process would have to allow for projects found not ready to reapply later, and ideally to help them get ready. At least some other states do this type of screening. Some regions have tried to incorporate project study report (PSSR)-type features into their project applications, to expose unready projects. Others try to provide extra regional help to project sponsors who turn out to be unprepared for the process of federal

project reviews, even offering outreach workshops up front to help potential sponsors understand what they are getting into. The regions also suggested Caltrans do field reviews to identify potential problems before projects can be programmed. One region suggested prohibiting environmentally-sensitive projects from getting TEA funding, and another noted that any attempt to trim the amount of TEA funding a project sponsor requests is typically fatal to successful delivery.

3. Regions asked for the ability to use state-only STIP funds as blanket match for federal TEA funds, just as they now do for federal CMAQ and RSTP funds. The Commission will consider making this available in upcoming amendments to STIP guidelines. Regions in the past extolled the value of programmatic match in the TEA program, whereby the smallest projects use state-only funding, and thereby can be defederalized, and get credited as match for larger projects which then proceed using 100% federal TEA funds, and would no doubt like to see some way to revive and broaden this practice.

4. Some regions have limited project size, to the minimum $100,000 suggested in guidelines, and some have suggested that the limit should be higher, say $250,000, because of the cost of federal red tape overhead; others prefer and even favor small projects, and seem willing to provide extra assistance from the region to help small projects succeed. Caltrans currently tries to hold the line at minimum project size of $100,000.

5. Both Caltrans and regions criticize panic programming, but from opposite viewpoints. Caltrans sees shortsighted programming by regions facing use-it-or-lose-it deadlines or local political pressures as a problem, while regions see the hurry-up, poorly-advertised application periods for state share rounds as a problem. The end result, either way, has yielded too many half-baked, hard-to-deliver projects. Both sides look to better planning and more certain and deliberative programming rounds.

E. TEA program has serious implementation problems

1. Both Caltrans and regions agree, as a high priority, on the need for better communication from headquarters to districts and then to regions, and better district assistance in project delivery. Caltrans has shifted management of the TEA program into its local assistance program, which focuses on project delivery, and designated TEA "expert staff" (which it is currently training) at each district. Both Caltrans and regions suggested Caltrans use traveling "expert consultants" from headquarters as necessary, and Caltrans may consider rotational assignments from districts to headquarters for training and better statewide perspective.

2. Both Caltrans and regions agree on the need to streamline TEA program administration: manuals, requirements, project tracking, procedures. Both see the need as urgent, and seek drastic streamlining, beyond other federal programs – but it seems elusive to accomplish. Problems that hamper project changes during delivery seem especially to demand attention. Regions suggested a checklist to eliminate federal requirements that do not apply or can be made ministerial for TEA projects, and both Caltrans and regions want to work with FHwA to simplify the way requirements get applied to TEA projects. Caltrans asked that the

Commission delegate some TEA project allocations in the state share program to Caltrans, similar to what it has done elsewhere.

3. Caltrans and regions diverge on program reporting and tracking. Regions prefer to keep the responsibility for managing regional projects themselves. Most regions program their regional share TEA funds as lump sums, then program projects, and deduct funds from the lump sum as projects are delivered and allocated by the regional agency; they see no reason to involve Caltrans at all. Caltrans has improved its TEA program data base, and sees a need to track programming (of all projects) and delivery statewide, partly because it is periodically asked to report on project diversity and status as part of nationwide tracking efforts, and partly to manage federal funds obligation.

4. Both Caltrans and regions see a need to improve project applications, for better definition of project scope, cost, and schedule. Some regions would be amenable to inserting a state-designed section into all applications for this purpose, others prefer to figure out for themselves how to achieve the end with no state direction. Caltrans suggested it may be able to design an on-line application that could automatically assign federal/state project tracking and funding codes.

5. The AB 1012 use-it-or-lose-it provisions pose quandaries, for rural regions in particular. The first deadline, for the state to reclaim unused 1998 and 1999 TEA funds, is coming up in December 2001. For various reasons, including late programming and slow delivery, some regions will not have enough project delivery to use all funds the state may reclaim by December 2001, and face the choice of juggling funds among projects at the cost of considerable red tape or asking the Commission to extend the deadline at least this one time until already-programmed projects can get delivered. Some rural regions have been trying to save up small increments of annual TEA funding to build a larger project, and now risk losing those funds; others have programmed the funds to projects slow in delivery, and have no good substitute projects available.

Commission is continuing to gather other ideas, from environmental interests, from FHwA, and from other states with good reputations for managing and delivering their TEA programs. Staff intends to present any other ideas it may discover on pink at the meeting, to add to the discussion. Staff will be seeking Commission reaction to the various ideas, to help inform preparation of a package of TEA program reforms to be brought forward at the next Commission meeting.

In addition, the Commission at the March meeting asked the regional moderator how regional-share programming is going around the state, whether regions give "extra points" to joint transportation/TEA projects, and what the regions see as the main reasons for slow TEA project delivery. She surveyed the regions, and received answers from sixteen. Those answers are reported in a letter to Commission staff, which also articulates regional recommendations for TEA program reform described above; that letter is attached.

Attachment