

Memorandum

To: Chair and Commissioners

Date: October 29, 2007

From: JOHN F. BARNA, JR.
Executive Director

File: Book Item 4.13
Action

Ref: Amendment of STIP Guidelines to Incorporate Changes Made by SB 184

ISSUE: Should the Commission amend the STIP guidelines to incorporate changes in statute made by Chapter 462 of the Statutes of 2007 (SB 184)?

RECOMMENDATION: Staff recommends that the Commission adopt the attached amendment to section 64A of the STIP guidelines. The attachment shows proposed changes in bold italic and strikeout.

BACKGROUND: SB 184, enacted as Chapter 462 of the Statutes of 2007, amended Section 14529.17 of the Government Code to make various changes governing STIP allocations to reimburse expenditures incurred for a STIP project prior to the approval of an allocation by the California Transportation Commission. The attached proposed amendment incorporates those changes into section 64A of the STIP guidelines. The amendments to the STIP guidelines that the Commission adopted on October 24, 2007, did not include these changes.

Under the changes made by SB 184, a local agency must submit its allocation request prior to making expenditures for later reimbursement, and eligible expenditures are limited to those made during the current fiscal year. The bill also added legislative intent language specifying that local funds expended to advance STIP projects under Section 14529.17 shall be reimbursed if the requirements of the section are met. Under prior law, a local agency was not required to notify the Commission in advance of expenditures, and the Commission could approve reimbursements for expenditures from up to 12 months prior to the allocation.

PROPOSED AMENDMENT TO STIP GUIDELINES SECTION 64A

64A. Reimbursement Allocations. Government Code Section 14529.17, as ~~added~~ *amended* by ~~AB 872 (1999)~~, *SB 184 (2007)* permits a *regional or* local agency to expend its own funds for a STIP project, in advance of the Commission's approval of a project allocation, and to be reimbursed for the expenditures subsequent to the Commission's approval of the allocation. However, the statute does not require the Commission to approve an allocation it would not otherwise approve. *To qualify for reimbursement of expenditures prior to the Commission's approval of a project allocation, the regional or local agency must submit a project allocation request that includes notice of the agency's intent to expend its own funds for the project prior to the allocation approval. The regional or local agency should submit a copy of the allocation request to the Executive Director of the Commission at the same time it submits the original to Caltrans.* The local entity must comply with all legal requirements for the project and any project expenditures, including Federal and State environmental laws. Expenditures for projects programmed for Federal funding still require advance approval of the Federal obligation for the project (E-76). It is important that any local agency intending to take advantage of the reimbursement provisions of Section 14529.17 understand its obligations and the risk that is inherently involved.

Only those expenditures made by or under contract to a *regional or* local agency for a project that was and is programmed in the STIP are eligible for reimbursement allocations by the Commission. Project expenditures must be in accordance with the STIP at the time of expenditure and at the time of allocation. The following expenditures are not eligible for reimbursement allocations by the Commission:

- expenditures made prior to adoption of the project component in the STIP;
- ~~expenditures made more than 12 months prior to the date of Commission approval of the reimbursement allocation;~~ *expenditures made prior to the submittal of the allocation request or prior to the beginning of the fiscal year for which the project is programmed;*
- expenditures that exceed the amount that was or is programmed in the STIP for the particular project component;
- expenditures made by Caltrans;
- expenditures made by a *regional or* local agency for a project component that was or is programmed for Caltrans implementation;
- expenditures made by a *regional or* local agency on the State highway system, except in accordance with a project-specific cooperative agreement executed between the local agency and Caltrans; and
- expenditures made by a *regional or* local agency for a project component that was or is programmed for implementation by another *regional or* local agency, except in accordance with a project-specific agreement between the two agencies.

The Commission will approve reimbursement allocations only if ~~it~~ *the regional or local agency submits an allocation request prior to the first expenditure and the Commission* finds that there was no legal impediment to a Commission allocation, other than lack of State budget authority, at the time of expenditure. *If, at the time of the allocation request, the Commission finds that there is a lack of sufficient funding available and that it would otherwise approve the allocation, then the Commission will approve the project for future allocation when funding becomes available.* However, even the inclusion of a project in the STIP, the availability of state budget authority, and the lack of specific legal impediment do not obligate the Commission to approve an allocation where the Commission finds that the allocation is not an effective use of state funds, is inconsistent with the Commission's guidelines or policies, or is inconsistent with state or regional plans.