

Memorandum

To: Chair and Commissioners

Date: February 2, 2009

From: JOHN F. BARNA, JR.

File: Agenda Item 2

ACTION

Ref: CASH MANAGEMENT STRATEGIES FOR ON-GOING PROPOSITION 1B CONSTRUCTION CONTRACTS

ISSUE: Should the Commission communicate a position with regards to Proposition 1B funding uncertainty and the resulting impact to on-going construction contracts?

RECOMMENDATION: Staff recommends that the Commission adopt the following statements as a framework for moving forward with the delivery of already executed Proposition 1B construction contracts:

- The Commission expects that all programmed bond funds will remain committed to projects already under contract for construction completion and will be made available as quickly as possible to meet project cash flow needs.
- The Commission encourages the Department and regional and local agency sponsors to work collaboratively toward project cash management approaches that will keep these construction contracts moving forward.
- The Commission expects that regional and/or local agencies which advance their own funds to keep these construction contracts moving forward will receive priority over new project commitments for reimbursement when bond funds become available.
- The Commission recognizes that cash management strategies may require technical amendments to these projects to identify alternate funding strategies.
- The Commission expects the Department to coordinate those technical amendments, consistent with state statutes and specific program guidelines, with regional and local agency sponsors provided that overall State funding commitments remain the same.
- The Commission expects the Department to present these technical amendments to the Commission for approval at its regularly scheduled meetings.

BACKGROUND: On December 17, the Pooled Money Investment Board (PMIB) froze disbursements, with the exception of accrued interest and necessary administrative costs, of all existing AB 55 loans pending actions to be taken by the Board at a meeting in January 2009. AB 55 authorized the Pooled Money Investment Account (“PMIA”) to make loans for two purposes: for State bond programs; or to prepay or replace existing financing. Since the inception of the AB 55 Loan Program, virtually all of the loans have been short-term loans for State bond programs.

The State Treasurer's Office (STO) has been unable to issue General Obligation (GO) bonds or Lease Revenue Bonds (LRB) since June 2008 due to the delayed enactment of the 2008-09 State Budget and the State's current fiscal crisis. The STO has also not been able to issue any new-money commercial paper (CP) notes since September 10, 2008. Historically, the State has issued GO bonds about six times per year, issued GO CP Notes 3-4 times per month, and issued Lease Revenue Bonds (LRB) five times per year.

On December 18, 2008, the Department of Finance (DOF) issued a Budget Letter to all State agencies and departments to: (1) immediately cease authorizing any new grants or obligations for bond projects, including new phases for existing projects; (2) suspend all projects, excluding those for which DOF authorizes an exemption, unless the contracting entity can continue with non-state funding sources (private, local or federal funds); and (3) notify all grant or loan recipients not to enter into any new construction or other agreements that would be funded from AB 55 loans. DOF also instructed the agencies and departments to immediately report information on any project which, if suspended, would subject the State to unacceptable legal liability, fines or penalties.

On December 19, 2008, Governor Schwarzenegger issued Executive Order S-16-08, declaring a fiscal emergency and ordering Departments to initiate furloughs, layoffs and other program efficiency measures to achieve a reduction in General Fund payroll.

On January 16, 2009, the PMIB voted to continue to the suspension of disbursements except for a total of \$650 million to cover bond funded administrative costs and the estimated value of unpaid bills for work already performed on a limited number of projects as identified by DOF. DOF reported that the disbursement amount may need to be reduced if a budget solution is not reached by February 1, 2009.

On January 16, 2009, State Controller John Chiang announced cash shortages expected in February will force him to delay some critical payments next month in order to preserve cash flow and protect payments the State must make to fund education and repay outstanding debts.

The Department and regional and local agencies have been working collaboratively to identify available options to prevent suspension of ongoing construction contract. The Bay Area's Metropolitan Transportation Commission (MTC) has authorized the purchase of \$200 million in state bonds to support ongoing Bay Area freeway projects that otherwise were slated to be halted due to the suspension of state funding. Essentially, MTC will be loaning the funds to the state, which in turn will use the money to continue work on the projects. The Los Angeles County Metropolitan Transportation Authority (Metro) is also considering a similar action for bond funded projects already under contract.