

Memorandum

To: Chair and Commissioners

Date: March 11-12, 2009

From: Andre Boutros, Interim Executive Director

File No: Tab 16, Item 4.10
ACTION

Ref: **Implementation of the American Recovery and Reinvestment Act of 2009 Workshop**

Issue

On February 17, 2009 President Obama signed the American Recovery and Reinvestment Act of 2009 (Act or ARRA). Among its many provision the Act provides for the apportionment of \$2.57 billion in federal stimulus funds to California for “Highway Infrastructure Investment” (eligible projects also include transit, rail, and port infrastructure). The Act specifies suballocation of 30% of these funds through the Surface Transportation Program (STP), but does not require suballocation of the remaining 70%. States have 120 days to obligate half of the 70% of the stimulus funds that are not suballocated, with any unobligated funds being redistributed to other states. In California’s case, this equates to approximately \$900 million subject to the 120 day requirement.

Under existing state law, the 70% of the stimulus funds are available for programming and allocation by the Commission in the State Highway Operations and Protection Program (SHOPP) and the State Transportation Improvement Program (STIP). Amongst the transportation community, there is strong support for enacting state legislation to distribute all the stimulus funds through a modified Surface Transportation Program process (62.5% to regions based upon population; 37.5% to the state). Such legislation would require a 2/3^{rds} vote in order to take effect immediately.

While staff sees the benefit of a statutory change, particularly in regards to the funds subject to the 120 day deadline, staff believes that both the deadlines in the Act and need for immediate economic stimulus compel the Commission to proceed along two tracks. Staff recommends that, pending a change in statute, the Commission proceed to program and allocate the 70% of the stimulus funds through the SHOPP and the STIP. Rather than commence an entire programming cycle, funds from the Act can be used to fund construction and construction support for projects already programmed in the STIP or projects amended into the STIP. When legislation is enacted, the Commission will work with Caltrans to distribute any unallocated SHOPP and or STIP stimulus funds pursuant to the legislation.

In order to proceed with the programming and allocation of stimulus funds through the SHOPP and STIP, staff recommends the following Commission actions:

- In February, the Commission adopted a SHOPP floor of \$500 million. Based on Caltrans’ recommendation, staff recommends the Commission adopt a revised initial SHOPP level of \$625 million to be used to calculate STIP targets. Attachment 1 shows STIP targets based on a SHOPP level of \$625 million. Attachment 2 shows STIP targets based on various other SHOPP levels (\$500 million, \$700 million, and \$900 million).

- Following a discussion at this workshop, adopt guidance for incorporating stimulus funds into the STIP. Key points include:
 - Direct all regions and Caltrans to submit, by March 27, 2009, a list of projects nominated for funding in the STIP with stimulus funds, and to proceed with preparing the necessary STIP allocation requests and amendments.
 - Targets for the Act will not be immediately incorporated into existing share balances.
 - Use the funds for construction and construction support for projects already programmed in the STIP or projects amended into the STIP.
 - STIP amendments, if necessary, will be presented to the Commission for approval at the time an allocation is requested.
 - Commission intent that when funds from the Act are used by a region to supplant Corridor Mobility Improvement Account (CMIA) funds, that region shall have the opportunity to program a like amount of CMIA funds in the future. If interregional shares are used to supplant non-STIP Proposition 1B funds, then Caltrans shall have the opportunity to program a like amount of the supplanted funds in the future.

Further Provisions of the Act

The Act indicates that the Federal government shall manage and expend the funds so as to achieve the following purposes as quickly as possible consistent with prudent management:

1. To preserve and create jobs and promote economic recovery.
2. To assist those most impacted by the recession.
3. To provide investments needed to increase economic efficiency by spurring technological advances in science and health.
4. To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
5. To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

The Act apportions \$26.66 billion to the states, via two formulas, for Highway Infrastructure Investment. This is defined as projects eligible for funding under the Surface Transportation Program, passenger and freight rail, and port infrastructure. Projects eligible for funding under the Surface Transportation Program include construction, reconstruction, rehabilitation, resurfacing, restoration and operational improvements on highways and bridges, transit capital, and safety infrastructure improvements.

The Act states that in selecting projects for this portion of the funds, priority shall be given to the following:

- Projects will be completed within a 3-year time frame (by February 17, 2012).
- Projects that are located in economically distressed areas as defined by section 301 or the Public Works and Economic Development Act of 1965, as amended (Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, Fresno, Glenn, Humboldt, Imperial, Kern, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Monterey, Plumas, Riverside, San Benito, San Bernardino, San Joaquin, Santa Cruz, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba counties).

- Preference shall be given to activities that can be started and completed expeditiously, including a goal of using at least 50% of the funds for activities that can be initiated not later than 120 days after the date of the enactment of the Act (June 17, 2009).
- Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.

On March 2, 2009 the Federal Highway Administration apportioned \$2,569,568,320 to California. Under existing state law, the estimated \$2.57 billion in federal stimulus funds will be distributed as follows:

- 30% (\$771 million) through the Surface Transportation Program. Surface Transportation Program funds are suballocated to regions based upon population with nearly 80% going to urbanized areas with populations greater than 200,000 based upon their relative populations.
- 67% (\$1,722 million) to the state without specified federal suballocation. Under state law, these funds will be available for the SHOPP and the STIP. SHOPP and STIP programming levels are determined based upon the statutory restrictions of the various funds and through the Commission's adoption of the Fund Estimate. STIP funds are distributed 75% to regions subject to a north/south split (40%/60%) and distributed based upon population (75%) and state highway miles (25%), and 25% to Caltrans for the interregional program.
- 3% (\$77 million) for Transportation Enhancement (TE) activities. Under state law these fund will flow through the SHOPP and STIP.

The federal stimulus bill includes use-it-or-lose-it provisions. States have 120 days to obligate half of the funds that are not suballocated, with any unobligated funds being redistributed to other states. In California's case, this equates to approximately \$900 million subject to the 120 day requirement. One year from the date of apportionment, any unobligated balances will be redistributed. All funds are to remain available through September 30, 2010.

The Act contains extensive reporting requirements. Recipients of funds from the Act are required to submit periodic reports on the use of the funds for the covered programs. By March 17, 2009 states are required to submit data on projects to be funded completely or partially with ARRA funds.

The Act also contains various certification requirements. The Governor must certify by March 19, 2009 that the State will maintain its effort with regard to State funding for the types of projects that are funded by the Act. Additionally, the Governor must certify by April 3, 2009 that the funds provided by the Act will be used to create jobs and promote economic health. For funds for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, must certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars.

Guidance on Incorporating Stimulus Funds into the STIP

The below guidance address the particular circumstances related to the funding of stimulus projects in the STIP. Notwithstanding this guidance, project sponsors must comply with all provisions of the Act.

The Commission intends to use funds from the Act to allocate construction and construction support for projects already programmed in the STIP or projects that are amended into the STIP.

Targets

The targets provided are the formula distribution of 70% of the funds made available under the Act for Highway Infrastructure Investment, less the funding level approved for the SHOPP. The STIP targets for the Act will not be immediately incorporated into existing share balances due to the need for prompt programming, allocation, obligation, and, most importantly, contract award. The Commission will incorporate this programming into existing share balances during the 2010 STIP Fund Estimate scheduled for adoption in August 2009.

The targets are not a minimum, guarantee, or limit on project nominations or on project selection in any county or region. The Commission may program over the target in some regions and under the targets in others, however, the sum of the total programmed may not exceed the funding available. The Commission does not intend to program above the target in a region that is already overprogrammed except as a last resort to prevent the loss of stimulus funds due to non-obligation.

Project Selection

Consistent with Federal Highway Administration's (FHWA) ARRA Implementation Guidance, the Commission intends to follow the below priorities in programming and allocating ARRA funds.

- Priority will be given to projects that can be delivered expeditiously. Specifically, priority will be given to projects that can be obligated by June 17, 2009.
- Priority will be given to projects that will be completed by February 17, 2012.
- Priority will be given to projects located in economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161). These are identified by FHWA (http://hepgis.fhwa.dot.gov/hepgis_v2/generalinfo/Map.aspx) as the following counties: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, Fresno, Glenn, Humboldt, Imperial, Kern, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Monterey, Plumas, Riverside, San Benito, San Bernardino, San Joaquin, Santa Cruz, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba.
- Priority will be given to projects that maximize job creation and economic benefit.

If the stimulus funds allocated to a project are not obligated in a timely manner and the inability to obligate the funds may jeopardize the state's ability to meet the deadlines in the Act, then the allocation will be rescinded and those funds will be reallocated. This first priority for reallocating the funds will be the SHOPP. The Commission may allocate more than \$625 million in stimulus funds to the SHOPP to ensure that SHOPP projects are ready to obligate any reallocated funds.

To the extent practicable, the Commission intends to give priority to TE projects that associated with a highway or transit project and are not stand alone projects.

List of Nominated Projects

All regions and Caltrans shall submit a list of projects nominated for funding in the STIP with stimulus funds by March 27, 2009. A template for the list will be posted on the Commission website no later than March 13, 2009. The list shall be submitted to the Commission electronically in a Microsoft Excel spreadsheet (California_Transportation_Commission@dot.ca.gov) and in hard copy addressed to:

Andre Boutros, Interim Executive Director
California Transportation Commission
Mail Station 52
1120 N Street
Sacramento, CA 95814

For each project, the list should include the following:

- a. The name of the agency responsible for project implementation.
- b. The project title, which should include a brief nontechnical description of the project location and limits (community name, street name, etc.), and a phrase describing the type and scope of the project. By definition, the Commission will regard the limits for a rehabilitation project on local streets and roads as including adjacent or nearby streets and roads, thus providing greater flexibility in project scope.
- c. A unique project identification number provided by Caltrans (PPNO).
- d. For projects on the State highway system, the route.
- e. The funding amount requested by component (construction and construction support) and fiscal-year.
- f. The expected date (month) of allocation, contract award, and projects completion.
- g. The relative priority of each project on the list.

The list should indicate which projects are already programmed for allocation this year, which are being nominated for advancement, which nominations are a change to a currently programmed project (other than an advancement), and which are being nominated for amendment into the STIP. The list should also indicate which projects are eligible for TE funding.

The Commission understands that, due the unique nature of the stimulus funding, the projects submitted for programming and allocation by may differ from those on the nomination lists, but the Commission expects such differences will not be significant.

STIP Amendments

On December 29, 2008 the Commission provided notice that it may amend the STIP on or after January 28, 2009 to add projects nominated by Caltrans and regional transportation planning agencies for anticipated federal transportation economic stimulus funding. This notice did not include specific project information. This notice will be updated based on the aforementioned list projects nominated.

All regional requests for STIP amendments shall be submitted directly to the appropriate Caltrans district. Caltrans will, in an expedition manner, review proposed amendments and forward them to the Commission for action. The Commission encourages Caltrans, in cooperation with regions and Commission staff, to develop and implement a set of procedures to standardize and streamline the amendment process.

To help ensure that projects amended into the STIP meet the obligation deadlines in the Act, the Commission intends that action on a proposed STIP amendment occur at the same meeting as the allocation of funds for the project.

A STIP amendment is not required to advance into the current-year for allocation a project that is programmed in a future year. Such action may occur at the time of allocation.

Supplanting Proposition 1B Funds

Because of the state's current inability to meet its Proposition 1B funding commitments, the Commission anticipates that some funding from the Act will be used to supplant the state's commitment of Proposition 1B funds. In such instances, the Commission expects the primary source of funding be funds from the Act that are available to a region. The Commission expects interregional shares to be used to supplant a commitment of Proposition 1B funds only in conjunction with the use of regional funds and in cases where the regional funding is insufficient to supplant the Proposition 1B funds.

It is the intent of the Commission that when funds from the Act are used by a region to supplant CMIA funds, that region shall have the opportunity to program a like amount of CMIA funds for an eligible project or projects in the future. If interregional shares are used to supplant non-STIP Proposition 1B funds, then Caltrans shall have the opportunity to program a like amount of the supplanted funds for an eligible project or projects in the future. Such requests for Proposition 1B programming shall be submitted to the Commission no later than three months after the Commission resumes the allocation of Proposition 1B funds.

Timely Use of Funds

Approximately \$900 million of the stimulus funds (50% of the apportioned funds excluding federally suballocated funds) must be obligated by June 30, 2009 (120 days after the apportionment of funds, which occurred on March 2). Obligation is the Federal government's promise to pay a State for the Federal share of a project's eligible cost. This commitment occurs when the Federal government approves the project and the project agreement is executed, and typically occurs within two weeks of Commission allocation.

Within one year after the apportionment of funds to California, all funds must be obligated. Obligated balances are available for expenses incurred until September 30, 2015, at which point any remaining balances will be cancelled.

The Commission expects that the stimulus funds for a project will be obligated within three weeks of allocation. Caltrans shall report, at the Commission meeting following allocation, on the projects that were not obligated within three weeks of allocation. Details of this report may not be available prior to the Commission meeting because of the limited time Caltrans will have to prepare the report.

Funds that are not obligated within one month of allocation may be rescinded and reallocated through the SHOPP or STIP in order ensure that all federal funds are obligated by the dates required in the Act.

Completion of Environmental Process

Allocations will be made only after a project has achieved environmental clearance. If the Commission has previously approved the final environmental document, the applicant shall include with the request for allocation the date of Commission approval and the Commission resolution number. Otherwise, documentation of the required environmental clearance for the project (Environmental Impact Report, Negative Declaration, or Notice of Exemption) shall be submitted with the request for allocation.

Performance Measures.

At the time of allocation, the project sponsor shall provide a brief quantitative and/or qualitative explanation how the project will further the purposes of the Act:

1. To preserve and create jobs and promote economic recovery.
2. To assist those most impacted by the recession.
3. To provide investments needed to increase economic efficiency by spurring technological advances in science and health.
4. To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
5. To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

**STIP Funds for Highway Infrastructure Investment
American Recover and Reinvestment Act of 2009**

Recommended STIP targets

County	TE	Non - TE (SHOPP of 625M)
Alameda	2,099	29,860
Alpine	59	845
Amador	136	1,936
Butte	402	5,717
Calaveras	159	2,264
Colusa	106	1,502
Contra Costa	1,360	19,346
Del Norte	102	1,446
El Dorado LTC	257	3,653
Fresno	1,455	20,695
Glenn	113	1,604
Humboldt	406	5,780
Imperial	680	9,668
Inyo	550	7,830
Kern	1,905	27,106
Kings	284	4,045
Lake	175	2,489
Lassen	258	3,664
Los Angeles	12,851	182,808
Madera	258	3,665
Marin	398	5,655
Mariposa	105	1,493
Mendocino	383	5,442
Merced	463	6,586
Modoc	137	1,946
Mono	408	5,803
Monterey	745	10,591
Napa	247	3,508
Nevada	217	3,093
Orange	3,876	55,140
Placer LTC	408	5,811
Plumas	155	2,212
Riverside	2,777	39,504
Sacramento	1,803	25,644
San Benito	135	1,918
San Bernardino	3,609	51,337
San Diego	4,248	60,431
San Francisco	1,074	15,277
San Joaquin	944	13,423
San Luis Obispo	758	10,788
San Mateo	1,114	15,854
Santa Barbara	863	12,275
Santa Clara	2,458	34,972
Santa Cruz	428	6,094
Shasta	440	6,256
Sierra	73	1,038
Siskiyou	304	4,321
Solano	644	9,156
Sonoma	784	11,152
Stanislaus	731	10,400
Sutter	165	2,348
Tahoe RPA	108	1,534
Tehama	221	3,148
Trinity	158	2,246
Tulare	894	12,722
Tuolumne	179	2,543
Ventura	1,270	18,064
Yolo	353	5,017
Yuba	126	1,797
Statewide Regional	57,815	822,458
Interregional	19,272	274,153
Total	77,087	1,096,611

**Funds for Highway Infrastructure Investment pursuant to the
American Recover and Reinvestment Act of 2009**

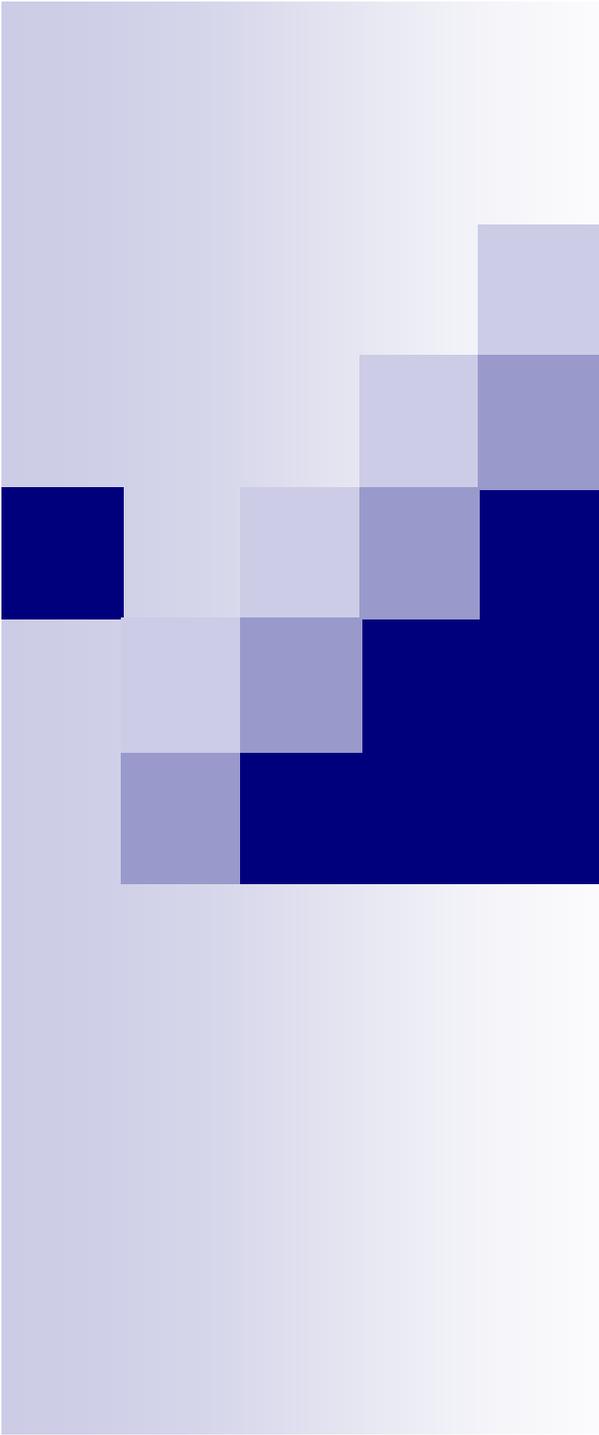
Attachment 2
Tab 16
Item 4.10

2,569,568 Apportionment to California (thousands)

STP	30%	770,870		
TE	3%	77,087		
SHOPP/STIP	67%	1,721,611		
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SHOPP/STIP		1,721,611	1,721,611	1,721,611
less SHOPP		500,000	700,000	900,000
STIP (non TE)		1,221,611	1,021,611	821,611
	Regions	916,208	766,208	616,208
	Caltrans	305,403	255,403	205,403
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Regions	RSTP	770,870	770,870	770,870
	STIP	916,208	766,208	616,208
	TE (STIP)	57,815	57,815	57,815
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Total, Regions		1,744,894	1,594,894	1,444,894
Percent, Regions		67.9%	62.1%	56.2%
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Caltrans	SHOPP	500,000	700,000	900,000
	STIP	305,403	255,403	205,403
	TE (STIP)	19,272	19,272	19,272
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Total, Caltrans		824,674	974,674	1,124,674
Percent, Caltrans		32.1%	37.9%	43.8%

Possible ARRA STIP targets

	TE	Possible Non-TE ARRA Targets (STIP)		
		SHOPP 500M	SHOPP 700M	SHOPP 900M
Alameda	2,099	33,264	27,818	22,372
Alpine	59	941	787	633
Amador	136	2,156	1,803	1,450
Butte	402	6,368	5,326	4,283
Calaveras	159	2,522	2,109	1,696
Colusa	106	1,673	1,399	1,125
Contra Costa	1,360	21,551	18,023	14,495
Del Norte	102	1,611	1,347	1,084
El Dorado LTC	257	4,070	3,403	2,737
Fresno	1,455	23,054	19,279	15,505
Glenn	113	1,786	1,494	1,202
Humboldt	406	6,439	5,385	4,331
Imperial	680	10,771	9,007	7,244
Inyo	550	8,722	7,294	5,866
Kern	1,905	30,196	25,253	20,309
Kings	284	4,506	3,768	3,030
Lake	175	2,773	2,319	1,865
Lassen	258	4,082	3,414	2,745
Los Angeles	12,851	203,646	170,305	136,965
Madera	258	4,083	3,414	2,746
Marin	398	6,299	5,268	4,237
Mariposa	105	1,663	1,390	1,118
Mendocino	383	6,062	5,070	4,077
Merced	463	7,337	6,135	4,934
Modoc	137	2,167	1,812	1,458
Mono	408	6,464	5,406	4,347
Monterey	745	11,798	9,867	7,935
Napa	247	3,908	3,268	2,628
Nevada	217	3,445	2,881	2,317
Orange	3,876	61,425	51,369	41,312
Placer LTC	408	6,473	5,413	4,354
Plumas	155	2,464	2,060	1,657
Riverside	2,777	44,007	36,802	29,597
Sacramento	1,803	28,567	23,890	19,213
San Benito	135	2,137	1,787	1,437
San Bernardino	3,609	57,189	47,826	38,463
San Diego	4,248	67,319	56,298	45,276
San Francisco	1,074	17,018	14,232	11,446
San Joaquin	944	14,953	12,505	10,057
San Luis Obispo	758	12,017	10,050	8,082
San Mateo	1,114	17,661	14,770	11,878
Santa Barbara	863	13,674	11,436	9,197
Santa Clara	2,458	38,958	32,580	26,202
Santa Cruz	428	6,788	5,677	4,566
Shasta	440	6,969	5,828	4,687
Sierra	73	1,156	967	777
Siskiyou	304	4,814	4,026	3,237
Solano	644	10,200	8,530	6,860
Sonoma	784	12,423	10,389	8,355
Stanislaus	731	11,586	9,689	7,792
Sutter	165	2,616	2,188	1,760
Tahoe RPA	108	1,709	1,429	1,150
Tehama	221	3,507	2,933	2,359
Trinity	158	2,502	2,092	1,683
Tulare	894	14,172	11,852	9,531
Tuolumne	179	2,833	2,369	1,905
Ventura	1,270	20,123	16,828	13,534
Yolo	353	5,589	4,674	3,759
Yuba	126	2,002	1,674	1,346
Statewide Regional	57,815	916,208	766,208	616,208
Interregional	19,272	305,403	255,403	205,403
Total	77,087	1,221,611	1,021,611	821,611



**Workshop:
Implementation of the
American Recovery &
Reinvestment Act**

Item 4.10

Tab 16



Overview of the Act

- \$27.5B “Highway Infrastructure Investment”
 - \$26.66B Surface Transportation (\$2.57B to CA)
- \$8.4B for Transit
- \$9.3B for Rail
- \$1.3B for Aviation



Surface Transportation

Uses include:

■ Highways

- Not local or rural minor collectors
- Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements

■ Bridges

■ Transit capital

■ Rail – passenger & freight

■ Port infrastructure



Distribution of “Highway” Funds

Based on existing law:

- 30% (\$771M) Surface Transportation Program
 - Suballocated via RSTP to regions based on population.

- 70% (\$1,799M) to SHOPP & STIP.
 - Without specified federal suballocation.
 - 3% of total (\$77M) for Transportation Enhancement.
 - 120 day use-it-or-lose-it applies to 50%



Distribution of “Highway” Funds

- March 2: \$2,569,568,320 apportioned to CA
- Parallel tracks for the 70%:
 - Existing law (SHOPP/STIP)
 - Proposed statute (RSTP)



Update on Implementation

- On today's agenda:
 - STIP guidance
 - SHOPP allocation
 - Caltrans recommends \$625M
 - RSTP lump sum allocation

Action today may impact Leg. debate.



ARRA STIP Distribution

Following discussion at this workshop, adopt:

- Revised initial SHOPP level: \$625M
 - Used this level to calculate STIP targets.
- Guidance: adding ARRA funds into the STIP.



STIP Guidance

- Roll targets into share balances in 2010 STIP:
 - Already programmed STIP projects
 - Advance STIP projects
 - STIP amendments to add projects
 - Not RTIP submittals

- Construction or construction support.

- Lists of projects due March 27.



STIP Guidance

Supplanting Prop 1B funds:

- Primary source should be regional funds
- Interregional only if regional funds insufficient.

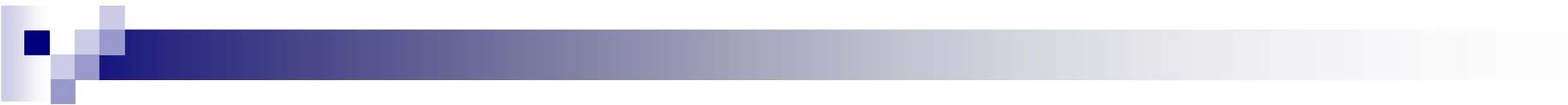
- Regions can reprogram CMIA
- Caltrans can reprogram non-STIP Prop 1B
- Reduce TCIF overprogramming.



STIP Guidance

Project selection priorities (FHWA guidance):

- Obligated by June 17
- Completed by Feb. 17, 2012
- In economically distressed areas
- Maximize job creation and economic benefit.

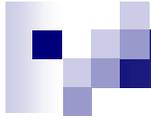


STIP Guidance

Timely Use of Funds:

- Obligation within three weeks of allocation
- Report at the CTC meeting following allocation

Funds not obligated within one month of allocation may be rescinded and reallocated through the SHOPP or STIP in order ensure that all federal funds are obligated by the dates required in the Act.



Workshop Discussion:

Implementation of the American Recovery & Reinvestment Act