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CALIFORNIA
TRANSPORTATION COMMISSION

California Transportation Commission
STATEMENT OF POLICY FOR APPROVAL OF AB 3090 REPLACEMENT PROJECTS OR DIRECT CASH REIMBURSEMENTS
Resolution G-03-05
April 3, 2003

1.1 WHEREAS under Government Code Section 14529.7, as amended by AB 3090 (1992), the Commission, the Department, a regional agency, and a local agency may enter into either one of two types of arrangements whereby a local agency pays for the delivery of a State Transportation Improvement Program (STIP) project with its own funds in advance of the year in which the project is programmed, and

1.2 WHEREAS under the first type of arrangement, the local agency that advances the STIP project has another project or projects of equivalent value programmed in its place, and these arrangements are implemented by a STIP amendment designating the specified dollar amount for an "AB 3090 replacement project" without identifying the specific project to be implemented as the replacement, and

1.3 WHEREAS under the second type of arrangement, the local agency that advances the STIP project is programmed to receive a direct cash reimbursement, and these arrangements are implemented by a STIP amendment that gives approval to the Department to execute a reimbursement agreement and programs the reimbursement for the fiscal year in which the project was scheduled in the STIP, and

1.4 WHEREAS the Commission has adopted AB 3090 Reimbursement Guidelines, as required by statute, which specify procedures for reimbursement arrangements, and

1.5 WHEREAS those Guidelines do not describe a Commission policy for approval of AB 3090 arrangements for either replacement projects or reimbursements, and

1.6 WHEREAS scheduled project reimbursements have the highest STIP priority among projects within a programmed fiscal year, and

1.7 WHEREAS direct reimbursements are normally made as a lump sum, though the Guidelines permit the Department to "specify in the agreement that reimbursement is to be paid quarterly on a schedule that corresponds to quarterly progress of construction, to avoid draining too large a sum from the state's accounts at one time," and

1.8 WHEREAS the Commission heard a presentation from staff on policy for replacement projects and reimbursements at its February 27, 2003 meeting and received comment from other interested parties, and

1.9 WHEREAS the Commission has received further comment and suggestions from staff and the Department regarding annual limitations on direct reimbursements,

2.0 NOW THEREFORE BE IT RESOLVED that the Commission adopts the following statement of policy for the approval of AB 3090 arrangements:

1. The Commission intends to encourage local agencies who wish to use local funds to advance the delivery of projects programmed in the STIP when State funds are not sufficient to support direct project allocations. In doing so, the Commission will consider the approval of either AB 3090 replacement projects or AB 3090 direct reimbursement arrangements, giving preference to the programming of AB 3090 replacement projects where feasible.

2. Where a local agency proposes to use its own funds for early delivery of a project component programmed in the STIP for a future fiscal year, the Commission will consider approval of an AB 3090 <u>replacement project</u> under the following conditions:

   a. The regional agency approves the arrangement.

   b. The local agency has identified a local fund source for the project component, and there is a reasonable expectation that the AB 3090 approval will result in the acceleration of construction delivery of a STIP project.

   c. The local agency commits to award a contract or otherwise begin delivery of the project component within 12 months of the Commission's approval, with the understanding that the arrangement may be cancelled if that condition is not met.

   d. The STIP amendment approving the arrangement will replace the project component with an unidentified replacement project in the same fiscal year.

3. Where a local agency proposes to use its own funds for early delivery of a project component programmed in the STIP for a future fiscal year, the Commission will consider approval of an AB 3090 <u>reimbursement</u> only when the following additional conditions are met:

   a. The regional agency explicitly finds the project to be the region's highest priority among projects programmed for that fiscal year.

   b. The project is federalized and will not require Public Transportation Account funding for reimbursement, unless the Commission determines that a State-only reimbursement would be consistent with the fund estimate.

   c. The source of local funds to be used to deliver the project could not or would not be made available for an AB 3090 replacement project. The request for AB 3090 reimbursement approval should identify the source of local funds to be used, why the funds would not be available for the STIP project without an AB 3090 direct reimbursement arrangement, and what the funds would be available for if not used for the STIP project.

   d. Before approving an AB 3090 reimbursement arrangement, the Commission will consider programming the reimbursement in a later fiscal year, consistent with the project's regional and state priority for funding and the projected availability of funds to support other projects. The Commission will not change the programming of the reimbursement after approval.

e. The Commission will not approve AB 3090 reimbursement arrangements intended solely to protect a project from being reprogrammed or to protect a local agency's share of STIP funding.

4. The Commission will also consider approval of an AB 3090 reimbursement arrangement for a project component programmed <u>in the current fiscal year</u> if there are not sufficient funds currently available to approve a direct allocation. In this case, the AB 3090 approval will schedule the reimbursement for the next fiscal year or a later year.

5. In considering approval of AB 3090 reimbursement arrangements, the Commission intends to insure that no more than $200 million in reimbursements is scheduled statewide for any one fiscal year and that no more than $50 million in reimbursements is scheduled for the projects of any single agency or county for any one fiscal year.