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JUN 13 2002

CALIFORNIA
TRANSPORTATION COMMISSION

California Transportation Commission
ADVANCE LOCAL FUNDING AND REIMBURSEMENT GUIDELINES (AB 3090)
RESOLUTION G-02-13
(Revises Resolution G-93-08)
Adopted June 13, 2002

1. AUTHORITY

(a) These guidelines implement the provisions of subdivision (b) of Government Code Section 14529.7, which permit a local agency to enter into an agreement with the appropriate transportation planning agency, the Department of Transportation (Caltrans), and the California Transportation Commission to use its own funds to implement a project in the State Transportation Improvement Program (STIP) and to receive a later reimbursement from STIP funds.

(b) Paragraph (b)(8) of Section 14529.7, as added by AB 3090 (1992), mandates that the Commission, in consultation with the Department and local transportation officials, develop and adopt these guidelines.

2. GENERAL PROCESS

The general process has eight steps:

(1) A local agency reaches agreement with its regional transportation planning agency for local funding to be provided to implement a project in the STIP and for that funding to be reimbursed with STIP funds at a later date. The project may be one implemented by any agency eligible to implement the project and receive STIP funding. The local funding may be from a local implementing agency or from another local funding source, including the regional agency. It may not include State or Federal funds.

(2) The agency providing the local funding asks Caltrans to draw up an agreement for project implementation and reimbursement and to prepare a draft STIP amendment to implement the agreement. For a project implemented by Caltrans or for a State highway project implemented by a local agency, this will be a cooperative agreement.

(3) The agency providing the local funding and Caltrans execute the agreement. The agreement is subject to the approval of the STIP amendment by the Commission.

(4) The Commission approves the STIP amendment implementing the agreement. The amendment schedules the STIP reimbursement in the fiscal year(s) in which the project or project component(s) had been programmed.

(5) The local agency or Caltrans implements the project in accordance with the agreement. The agency providing the local funding does so in accordance with the agreement.

(6) The agency providing the local funding requests an allocation of funds from the Commission for each project component, generally in the year in which the project reimbursement is programmed.

(7) The agency providing the local funding bills Caltrans for reimbursement, as provided in the agreement.

(8) Caltrans reimburses the agency that has provided the local funding, subject to the terms of the agreement, State budget authority, and the programming and allocation of funds for the reimbursement by the Commission.

3. APPLICATION FOR PROJECT REIMBURSEMENT AGREEMENT

(a) A local agency that is considering the use of an AB 3090 reimbursement agreement should notify the regional transportation planning agency for its area as soon as possible to give that agency sufficient lead time to arrange or amend the Federal TIP and air quality conformity findings that may be necessary to accommodate the delivery of the project earlier than programmed. Action by the regional transportation planning agency as a result of this notification is at the discretion of the agency.

(b) The Commission will not approve a STIP amendment for an AB 3090 reimbursement agreement without the approval of the regional transportation planning agency.

(c) The local funding provided to implement the project must come from an account controlled and administered by that agency entering into the agreement with Caltrans.

(d) The local agency request for Caltrans to prepare the agreement and draft STIP amendment should be submitted in writing the Caltrans district office.

4. LOCAL AGENCY-CALTRANS FUNDING REIMBURSEMENT AGREEMENT

(a) A project reimbursement agreement between Caltrans and the local agency specifies agency responsibilities to carry out and provide funding for the STIP project. The agreement also specifies how and when the local agency presents billings to Caltrans and gets reimbursed for completed work.

(b) The project reimbursement agreement should specify agency responsibilities, and delineate shared responsibilities, for carrying out the project work, and review and approval of work, as appropriate.

(c) The cooperative agreement is subject to Commission approval of a STIP amendment, replacing the original project programming with a programmed reimbursement.

(d) The local agency and Caltrans may work under a series of agreements, covering separate stages of work, or a master agreement with subsequent amendments. If that is done, the

Commission will not consider amending the STIP until an agreement or amendment is being drawn up covering all work for which Commission allocation is necessary for reimbursement. Reimbursement must conform to the provisions of the agreements or amendments sequentially by date of execution.

(f) The agreement may provide for the local agency to suspend work on advancing a project, and return the project to its original place in the STIP. If the local agency suspends work and returns the project to the STIP, Caltrans will adjust its reimbursement to cover only such work that it can use in completing the project.

5. STIP AMENDMENT

(a) The local agency makes a request for STIP amendment to the Caltrans district office. The local agency must submit to the Caltrans district office all the information necessary to complete the STIP amendment within a reasonable timeframe (e.g., 90 days), prior to the date that Commission action is sought by the local agency. Transit project amendments must be submitted using the Uniform Application. Caltrans then prepares the request for STIP amendment that is sent to the Commission.

(b) The project to be programmed for reimbursement must be a project from the current adopted STIP, of any type or funding source.

(c) Caltrans shall review the request to determine whether the project meets the requirements for reimbursement under the statutes and Commission policy, and whether it can accommodate any request to advance the development and construction of the project based on funding and staffing limitations and the proposed timeline and responsibilities of the various agencies.

(d) If Caltrans and the local agency are able to proceed with project advancement, as specified in the reimbursement agreement, Caltrans brings to the Commission a proposed STIP amendment, specifying the project reimbursement to be amended into the STIP in place of the original project.

(e) The proposed amendment should indicate when the project is to be developed and constructed, and by whom, the local agency funding the project, and its source of funds, and the proposed reimbursement to be programmed in the STIP.

(f) When an amendment for project reimbursement is presented, the Commission expects consensus to have been obtained among the local agency, the regional agency, and Caltrans. Any areas of disagreement must be clearly presented, and the Commission will require demonstration that the local agency can deliver the project on the advanced schedule, that project scope and agency responsibilities and funding shares are satisfactorily defined, and that advancement will not harm legitimate interests or overall funding levels of the region.

6. PROJECT DELIVERY

(a) Project delivery should be carried out according to the terms of the agreement between the local agency and Caltrans.

(b) The agency responsible for carrying out project work is also responsible for meeting all requirements for all projects receiving federal funds, including Federal environmental clearance and receiving prior Federal authorization to proceed with any eligible work.

(c) Projects developed and constructed under a reimbursement agreement shall conform to all applicable state and federal standards, as required in subsection (b)(1) of Government Code Section 14529.7.

(d) Once the local agency and Caltrans proceed with project delivery under the agreement, state and federal funds to be allocated by the Commission for reimbursement may be treated as a lump sum, usable for right-of-way or construction (or other activities specified as eligible in the project as programmed) as needed, with mutual agreement by the parties to the agreement.

7. COMMISSION ALLOCATION

(a) The local agency may ask Caltrans to seek Commission allocation for reimbursement at the beginning of the fiscal year in which the advanced project was originally programmed, or any time after completion of the project that has been advanced, whichever comes earlier.

(b) The Commission should not be expected to allocate funds for reimbursement before the beginning of the fiscal year in which the advanced project was originally programmed, but may make such an allocation earlier if it finds that there is sufficient funding available in the appropriate state account and other project delivery with a higher priority claim on that funding is not expected in a timely way. The Commission may also delay allocation if it finds that insufficient funding is available in the appropriate state account.

(c) The local agency should expect a funding allocation to appear on the Commission agenda for approval within 60 days of a request to Caltrans for reimbursement.

(d) Commission allocations are effective only after the Governor has signed the State Budget for the fiscal year.

(e) The Commission will treat project reimbursements as the highest STIP priority among projects within a programmed fiscal year, both for allocation and for the case where projects must be reprogrammed to a later fiscal year because of funding shortages.

8. REIMBURSEMENT LIMITATIONS AND PROCESS

(a) Reimbursement is limited as specified in subsections (b)(2)-(3)-(4) of Government Code Section 14529.7, in the STIP amendment, and in the reimbursement agreement.

(b) In all cases, reimbursement shall conform to the terms of the agreement.

(c) Reimbursement for projects with multi-agency shared funding will be split as defined in the reimbursement agreement, or, if not specified, prorated based on each agency's share of funding for construction costs.

(d) Caltrans shall calculate escalation factors for reimbursement of local payments for right-of-way and construction capital outlay costs on State highway projects, as applicable, using the annual construction cost index for California for the 12 months preceding the

time of contract award and the 12 months preceding the time of Commission allocation of reimbursement funding. Where escalation is applicable, all capital outlay costs, including right-of-way and construction, shall be escalated using a single factor derived from the construction cost index for California.

(e) A local agency will be reimbursed only for the project originally described in the STIP, and for no more than the total amount programmed or allocated for the project. Project scope may be modified during environmental clearance, or otherwise within Commission guidelines for the STIP, but Caltrans and the Commission must approve any change in scope, and expect the local agency to bear any cost differential.

(f) If the project cost for a Caltrans project must be increased due to factors discovered after construction has started, the local agency must bear the immediate cost increase but may seek an increase in reimbursement, if the project is eligible, using the process for supplemental funding for Caltrans projects in the STIP, specified in CTC Resolution #G-12. Under this process, Caltrans has authority to approve supplemental state funding for project cost increases up to certain limits; supplemental state funding for cost increases beyond these limits must be brought to the Commission for review and approval. Caltrans must identify the county or interregional share from which to take the supplemental funding, and any supplemental funding shall be added into the project reimbursement programmed in the STIP.

(g) Project work undertaken and completed before execution of the reimbursement agreement between the local agency and Caltrans cannot be reimbursed. Caltrans or the Commission may deny reimbursement for expenditures made before Commission approval of the STIP amendment, even if made within the terms of the agreement, but normally would not be expected to do so.

(h) A local agency can normally expect reimbursement for expenditures as a lump sum payment in the year the project component was originally programmed. However, for very high cost projects, Caltrans may 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 account at one time.

(i) Interest or other debt service costs incurred by local agencies to finance advancement of a project are not reimbursable, per subsection (b)(2) of Government Code Section 14524.7.

(j) If a project is still under construction at the time the Commission allocates reimbursement, the local agency can only be reimbursed for work completed to date, and must submit progress payments for any remaining reimbursement.

(k) Funds reimbursed to a local agency are to be put back in the account or funding source used to pay for the project advancement, and may then be used for any legal purpose at the discretion of the local agency. Reimbursements to local agencies for projects advanced with local sales and use taxes must be used for the same purposes for which voters approved those sales and use taxes, as required by subsection (b)(6) of Government Code Section 14529.7.

(l) Caltrans and the Commission shall provide assistance to a local agency in meeting these provisions but shall have no liability for loss of reimbursements due to failure to meet requirements of these guidelines or the reimbursement agreement.

9. AGENCY RESPONSIBILITIES

(a) The local agency is responsible for:

(1) Obtaining the support of the Regional Transportation Planning Agency for the proposed project advancement and programmed reimbursement,

(2) Taking the proposed STIP amendment to Caltrans and seeking its agreement,

(3) Executing the reimbursement agreement with Caltrans,

(4) Meeting any requirements for project delivery and funding in the agreement, these guidelines, and the statutes, and

(5) Submitting billing(s) to Caltrans for reimbursement.

(b) Caltrans is responsible for:

(1) Informing the local agency about the process, and assisting the local agency with its application,

(2) Determining whether the state can proceed with project advancement, after reviewing funding and staffing availability,

(3) Drawing up the reimbursement agreement with the local agency covering the project,

(4) Preparing the proposed STIP amendment and submitting it to the Commission,

(5) Meeting any requirements for process or project delivery in the reimbursement agreement, these guidelines, and the statutes,

(6) Processing the request for Commission allocation as necessary for reimbursement,

(7) Making timely reimbursement to the local agency as called for in the reimbursement agreement, and

(8) Keeping a summary record of projects advanced and reimbursements made under this program, available to the Commission.

(c) The Commission is responsible for:

(1) Approving the STIP amendment that allows a project to be advanced by a local agency and programs the reimbursement in the STIP,

(2) Allocating funds for reimbursement in the proper program year, or earlier by local agency request if surplus state funds are available, or later if state funds are not available at the program year, and

(3) Reporting to the Legislature in its Annual Report on progress and impact of this program, as required in subsection (b)(5) of Government Code Section 14529.7.

10. DEFINITIONS

(a) Local agency means the governing body of any local jurisdiction, specifically including but not limited to a county, city, transportation sales tax authority, or transportation or transit district.

(b) Caltrans means the state Department of Transportation, including its district offices.

(c) Commission means the California Transportation Commission.

(d) STIP means the State Transportation Improvement Program adopted by the Commission.

(e) Project means any project or project component programmed by the Commission in the STIP. Project also includes a reimbursement programmed in the STIP.

(f) Reimbursement agreement means any agreement between Caltrans and a local agency covering project delivery and reimbursement, as specified in Section 4 of these guidelines, including a cooperative agreement for projects on the State highway system, program supplement and master agreement for projects off the State highway system, project agreement, or fund transfer agreement or advance expenditure of local funds agreement.

(g) Budget authority means authorization from the state Legislature in the State Budget Act for the Commission to allocate and Caltrans to expend state and federal funds, for programmed projects.