

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: March 28-29, 2012

Reference No.: 4.12
Information

From: BIMLA G. RHINEHART
Executive Director

Subject: **REVIEW OF COMMISSION POLICY AND GUIDELINES FOR THE APPROVAL OF AB 3090 REPLACEMENT PROJECTS OR DIRECT CASH REIMBURSEMENTS**

ISSUE:

Under Government Code Section 14529.7, as amended by AB (Assembly Bill) 3090 (Chapter 1243, Statutes of 1992), the Commission, the Department, a regional agency, and a local agency may enter into either one of two types of arrangements under which 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. These arrangements are typically referred to as an "AB 3090 reimbursement" or an "AB 3090 replacement project". At the Southern California STIP Hearing on February 1, 2012, a number of regional agencies requested the Commission approve AB 3090 arrangements as a part of the adoption of the 2012 STIP. The Commission directed staff to address this request and to review the Commission's AB 3090 policy and guidelines in conjunction with the STIP adoption.

Consistent with current Commission policies and guidelines, staff cannot recommend AB 3090 arrangements as a part of the initial adoption of the 2012 STIP. The 2012 STIP Guidelines (Resolution G-11-08) specifically state that "the Commission will not consider proposals for... new AB 3090 commitments as part of the 2012 STIP" and Government Code Section 14530.1 states that the Commission shall not "amend the guidelines during the period commencing 30 days after the fund estimate and before the adoption of the STIP."

Instead, staff would note that the Commission can consider AB 3090 proposals as amendments to the STIP after the initial adoption. Staff recommends that the Commission consider AB 3090 proposals within the framework of the existing policies and guidelines, and that the Commission only consider AB 3090 cash reimbursement arrangements meeting the following criteria:

- The component being advanced is construction or a transit vehicle procurement.
- The local agency awards the contract within 6 months of the Commission's approval of the AB 3090 (or the AB 3090 arrangement would be cancelled).
- The project is federally funded and federal funds are used for the reimbursement (using the local advance construction process).

BACKGROUND:

The Commission, the Department, a regional agency, and a local agency may enter into either one of two types of arrangements under which a local agency pays for the delivery of a STIP project with its own funds in advance of the year in which the project is programmed. Under the first type of arrangement, the local agency that advances the STIP project and 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. Under the second type of arrangement, the local agency that advances the STIP project is programmed to receive a direct cash reimbursement, and those 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 or a later year. Scheduled project reimbursements have the highest STIP priority among projects programmed within a fiscal year.

The Commission has adopted guidelines that describe specific procedures for reimbursement arrangements (Advance Local Funding and Reimbursement Guidelines, Resolution G-02-13) and policies for the approval of AB 3090 arrangements for either replacement projects or reimbursements (Statement of Policy for Approval of AB 3090 Replacement Projects or Direct Cash Reimbursements, Resolution G-03-02). The approval of AB 3090 arrangements is also addressed in the STIP Guidelines (section 67A) and the Policies and Procedures Specific to the 2012 STIP (Resolution G-11-08).

The Commission’s policy states that 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.

Key aspects of the Commission’s policy and guidelines are:

- There is a reasonable expectation that the AB 3090 approval will result in the acceleration of construction delivery of a STIP project.
- The AB 3090 arrangement must be approved by the appropriate regional agency.
- For an AB 3090 reimbursement, the regional agency must explicitly find the project to be the region’s highest priority among projects programmed for that fiscal year.
- Scheduled AB 3090 reimbursements have the highest STIP priority among projects programmed within a fiscal year
- The local agency commits to award a contract or otherwise begin delivery of the project component within 12 months of the Commission’s approval.
- The Commission will give preference to the programming of AB 3090 replacement projects where feasible. The primary reason for giving preference to replacement projects and limiting direct reimbursements has been that the programming of a reimbursement locks in programming priority for one project, making all other programming more inflexible, both for the region and for the Commission.
- The local agency must 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.

- The Commission will consider programming the reimbursement in a later fiscal year than the project was programmed. The Commission has been reticent to approve AB 3090 reimbursements in the past since allocations for cash reimbursements have a greater short-term impact on allocation capacity than capital allocations. A capital allocation will draw down cash over a number of years (over the life of the contract) while a cash reimbursement allocation will liquidate immediately. Thus a \$50 million capital allocation may require \$10 million in cash over a five year period whereas a \$50 million cash allocation would require the entire \$50 million up front. The Commission has attempted to limit this impact by programming the reimbursement in a later fiscal year than the project was programmed and by spreading reimbursement out over several years. This impact can also be mitigated by approving reimbursements only for projects that are federally eligible and using federal funds for the reimbursement (using the local advance construction process).
- For an AB 3090 reimbursement, the local funding may be from any local funding source, including the regional agency, however it may not include State or Federal funds.
- Where RSTP or CMAQ funds are the identified local source of funds to deliver a STIP project under an AB 3090 arrangement, the Commission will consider approval only for an AB 3090 replacement project and not for a cash reimbursement
- No more than \$200 million in reimbursements will be scheduled statewide for any one fiscal year and that no more than \$50 million in reimbursements will be scheduled for the projects of any single agency or county for any one fiscal year. To provide context, the annual STIP allocation capacity from the State Highway Account and Federal Funds, including federal Transportation Enhancement funds, in each of the last two fiscal years has been \$200 million from each source.

Attachments

Sections of the 2012 STIP Guidelines (Resolution G-11-08) pertaining AB 3090s

From the Policies and Procedures Specific to the 2012 STIP

GARVEE bonding and AB 3090 commitments. The Commission will not consider proposals for either GARVEE bonding or new AB 3090 commitments as part of the 2012 STIP. The Commission will consider AB 3090 or GARVEE bonding proposals as amendments to the STIP after the initial adoption.

STIP Guidelines section 67A

Approval of AB 3090 Arrangements. 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 under which a local agency pays for the delivery of a STIP project with its own funds in advance of the year in which the project is programmed. 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. Under the second type of arrangement, the local agency that advances the STIP project is programmed to receive a direct cash reimbursement, and those 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 or a later year. Scheduled project reimbursements have the highest STIP priority among projects programmed within a fiscal year. The Commission has adopted separate AB 3090 Reimbursement Guidelines (Resolution G-02-13) that describe specific procedures for reimbursement arrangements. The following is the Commission’s policy for the approval of AB 3090 arrangements for either replacement projects or reimbursements.

1. The Commission intends to encourage local agencies who wish to use local funds to advance the delivery of projects programmed for construction 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 replacement project 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 reimbursement 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 Commission determines that 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 in the current fiscal year 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.
 6. The use of RSTP or CMAQ funds by a regional agency that receives an apportionment of those funds under state law constitutes the use of the agency's own funds for the purpose of AB 3090 arrangements. Where RSTP or CMAQ funds are the identified local source of funds to deliver a STIP project under an AB 3090 arrangement, the Commission will consider approval only for an AB 3090 replacement project and not for a cash reimbursement.

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 replacement project 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 reimbursement 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-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 in the current fiscal year 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.

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.