

State of California  
Business, Transportation and Housing Agency  
Department of Transportation

PROGRAM STATUS  
Reimbursement from Proposition 192 Funds  
for Prior Year Seismic Expenditures  
Information Item

Prepared By:  
Ileen Jellison  
Program Manager,  
Budgets Program  
(916) 654-4556

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*Original Signed by*

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W.J. EVANS, Deputy Director  
Finance  
July 1, 2000

**REIMBURSEMENT FROM PROPOSITION 192 FUNDS**  
**FOR PRIOR YEAR SEISMIC EXPENDITURES**

The Seismic Retrofit Bond Act of 1996 requires that the Department be reimbursed with Proposition 192 Bond funds for seismic retrofit expenditures during Fiscal Years (FYs) 1994-95 and 1995-96.

On January 28, 1997 the Commission approved resolution FM 97-17. This resolution would have transferred \$103 million in Seismic Retrofit Bond funds to the State Highway Account (SHA) and \$11 million in Seismic Retrofit Bond funds to the Toll Bridge Accounts for a total of \$114 million.

Subsequent to the allocation, the State Treasury's Office raised a concern regarding federal tax provisions related to the use of the bond proceeds to reimburse past expenditures. Federal tax law states that the use of federally tax-exempt bond proceeds to reimburse funds already expended gives rise to arbitrage conditions. As a result, the amounts to be reimbursed could not be directly transferred into the SHA and Toll Bridge Accounts.

To address the federal tax concerns, the Department proposed that Proposition 192 proceeds be applied directly to future projects. In the case of the SHA, State Transportation Improvement Program (STIP) projects would be funded with Proposition 192 funds. For the Toll Bridge Accounts, Proposition 192 funds would be used to fund rehabilitation projects. The Bond Council confirmed to the State Treasury's Office that the Department's proposed plan would satisfy federal tax concerns.

On September 8, 1997, the Department informed and clarified with the Commission the proposed plan to reimburse prior years seismic expenditures incurred by the SHA and Toll Bridge Accounts with Proposition 192 proceeds.

On November 19, 1997, the Seismic Retrofit Finance Committee signed an Official Intent Resolution providing the Department with the authority to use the Proposition 192 proceeds to accomplish the reimbursement of prior year expenditures as proposed.

The Department has elected to fund \$103 million of the FY 1999-00 Minor Program with Proposition 192 Bond proceeds to accomplish the reimbursement of SHA funds. This would be consistent with the Department's initial proposal with the exception that State Highway Operations and Protection Program (SHOPP)-Minor Program projects would be substituted for STIP projects. The budget for the SHOPP program will not be increased by the amount of the Prop 192 reimbursement amount, consequently, savings generated in the SHOPP program will be available to fund STIP projects.

The Department had selected the new Benicia Martinez project (Bay Area Toll Authority \$9.6 million), Replace Timber Fender System project (San Diego Coronado Toll Revenue Account \$0.9 million), and Arch Span Traveler project (Vincent Thomas Toll Revenue Account \$0.5 million) to fund with Proposition 192 Bond proceeds to reimburse the Toll Bridge Accounts.