Memorandum

To: CHAIR AND COMMISSIONERS **Date:** March 23, 2010

From: BIMLA G. RHINEHART
Executive Director

File: Reference No. 4.16
ACTION

Ref: Highway Railroad Crossing Safety Account – Adoption of Updated Guidelines

ISSUE

Should the Commission approve the proposed update to Highway Railroad Crossing Safety Account (HRCSA) Guidelines?

RECOMMENDATION

Commission staff recommends that the Commission approve the update to the HRCSA Guidelines as attached to this memorandum.

BACKGROUND

Proposition 1B, approved by the voters in November 2006, authorized the issuance of $19.925 billion in State general obligation bonds for specific transportation programs, including $250 million to fund the HRCSA program. The HRCSA program includes two sub-programs. Part 1 provides $150 million for highway railroad grade separations derived from the California Public Utilities Commission's Section 190 grade separation priority list and Part 2 provides $100 million for non-Section 190 high-priority grade crossing improvements.

The Commission, at its April 9, 2008 meeting, adopted the HRCSA Guidelines and at its August 27, 2008 meeting adopted the initial HRCSA Program of projects. In accordance with the HRCSA Guidelines, all funds programmed in the initial HRCSA Program that are not allocated by June 30, 2010, will be reprogrammed into a 2010 HRCSA Program. The purpose of the updated HRCSA Guidelines is to establish the schedule for the 2010 programming process and to instruct agencies to submit nominations to Bimla G. Rhinehart, Executive Director of the California Transportation Commission. All other provisions of the HRCSA Guidelines adopted by the Commission on April 9, 2008 remain in effect.

CALIFORNIA TRANSPORTATION COMMISSION
Adoption of Proposition 1B
Highway Railroad Crossing Safety Account (HRCSA) Program
Updated Guidelines

Resolution GS1B-G-0910-01,
Amending Resolution GS1B-G-0708-01

1.1 WHEREAS the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 was approved by voters as Proposition 1B on November 7, 2006, included $250 million for the Highway Railroad Crossing Safety Account (HRCSA) Program to fund the completion of high priority grade separation and railroad crossing safety improvements, and

1.2 WHEREAS the Bond Act provided that HRCSA funds be deposited in the Highway Railroad Crossing Safety Account and are available, upon appropriation by the Legislature, to the Department of Transportation (Department), as allocated by the California Transportation Commission (Commission), and

1.3 WHEREAS the HRCSA program is subject to the provisions of Government Code Section 8879.23(j)(1) and (2), as added by Proposition 1B, and to Section 8879.63, as enacted through implementing legislation in 2007 (SB 88) designating the Commission the administrative agency responsible for programming HRCSA and the agency authorized to adopt guidelines for the program, and

1.4 WHEREAS The Commission, at its April 9, 2008 meeting, adopted the HRCSA Guidelines (Resolution GS1B-G-0708-01) and at its August 27, 2008 meeting adopted the initial HRCSA Program of projects, and

1.5 WHEREAS in accordance with the HRCSA Guidelines, all funds programmed in the initial HRCSA Program that are not allocated by June 30, 2010, will be reprogrammed into a 2010 HRCSA Program, and

1.6 WHEREAS the Commission intends to adopt a 2010 HRCSA program of projects for the funds available under each part from projects nominated by Caltrans, regional agencies or recipient local agencies, and

1.7 WHEREAS Commission staff updated the HRCSA Guidelines adopted April 9, 2008, to establish the schedule for the 2010 programming process and to instruct agencies to submit nominations to Bimla G. Rhinehart, Executive Director of the California Transportation Commission, and

1.8 WHEREAS all other provisions of the HRCSA Guidelines adopted by the Commission on April 9, 2008 remain in effect,

2.1 NOW THEREFORE BE IT RESOLVED that the Commission adopts the attached updated HRCSA Program Guidelines, and

2.2 BE IT FURTHER RESOLVED that these updated guidelines are to identify the Commission's policy and expectations for the 2010 HRCSA Program, and

2.3 BE IT FURTHER RESOLVED that the Commission directs staff to post these guidelines on the Commission's website and make copies available to regional agencies and project applicants and proponents.

Highway-Railroad Crossing Safety Account Program Guidelines

General Program Policy

1. Authority and purpose of guidelines. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B on November 7, 2006, authorized $250 million to be deposited in the Highway-Railroad Crossing Safety Account (HRCSA) to be available, upon appropriation by the Legislature, to the Department of Transportation (Caltrans), as allocated by the California Transportation Commission (CTC), for the completion of high-priority grade separation and railroad crossing safety improvements.

   In 2007, the Legislature enacted implementing legislation (SB 88) that designated the Commission as the administrative agency for the HRCSA program and directed the Commission to adopt guidelines to establish the criteria and process to allocate funds to an eligible project in the HRCSA program. SB 88 also specified various administrative and reporting requirements for all Proposition 1B programs.

2. Two HRCSA Subprograms. Proposition 1B authorized the $250 million for the HRCSA in two parts:

   (a) Part 1. Proposition 1B provided that $150 million from the HRCSA shall be made available for allocation to projects on the priority list established by the Public Utilities Commission (PUC) pursuant to the process established in Chapter 10 (commencing with Section 2450) of Division 3 of the Streets and Highways Code, with two exceptions: (1) a dollar for dollar match of non-state funds shall be provided for each project, and (2) the $5 million maximum in Section 2454 shall not apply to HRCSA funds.

   (b) Part 2. Proposition 1B provided that the other $100 million from the HRCSA shall be made available to high-priority railroad crossing improvements, including grade separation projects, that are not part of the process established in Chapter 10 (commencing with Section 2450) of Division 3 of the Streets and Highways Code. These may include projects at any of the following:

      (a) Crossings where freight and passenger rail share the affected rail line.
      (b) Crossings with a high incidence of motor vehicle-rail or pedestrian-rail collisions.
      (c) Crossings with a high potential for savings in rail and roadway traffic delay.

(d) Crossings where an improvement will result in quantifiable emission benefits.

(e) Crossings where the improvement will improve the flow of rail freight to or from a port facility.

All funds programmed in the initial HRCSA Program that are not allocated by June 30, 2010, as required under the Guidelines, will be reprogrammed into a 2010 HRCSA program. The CTC will adopt a 2010 HRCSA program of projects for the funds available under each part from projects nominated by Caltrans, regional agencies or recipient local agencies. A single nomination will be considered for funding from either part of the program, as appropriate. The principal differences between the two parts of the HRCSA program are:

- PUC priority list. Projects to be funded from Part 1 must be on the priority list established by the PUC pursuant to Section 2452 of the Streets and Highways Code. Projects to be funded under Part 2 may be, but need not be, on the PUC priority list.

- Match. Projects to be funded from Part 1 require at least a one-to-one match of local, federal or private funds. In accordance with subdivision (d) of Section 2454 of the Streets and Highways Code, no allocation shall be made unless the railroad agrees to contribute 10 percent of the cost of the project. Projects to be funded from Part 2 do not require any specific match or railroad contribution. However, the CTC will give higher priority for funding from Part 2 to projects with a non-state match.

- Program Year. As the new PUC priority list to be adopted by July 1, 2010, will be valid only for the 2010-11 and 2011-12 fiscal years, the CTC will program Part 1 funding only for projects that are expected to be ready for a project construction allocation by June 2012. The CTC anticipates that it will allocate all of the remaining funds for Part 1 by June 2012. If it has not allocated all available Part 1 funding by that time, the CTC will update the HRCSA program of projects to reflect the PUC priority list to be adopted by July 1, 2012.

  For Part 2, the 2010 program of projects may include projects scheduled for construction at any time through June 2012. However, the CTC will give higher priority for funding for Part 2 to projects with earlier delivery.

3. Eligibility of applicants and projects. The Commission will consider HRCSA allocations to Caltrans or to a public agency responsible for development of a proposed project. Eligible projects are the capital costs of high-priority grade separation and railroad crossing safety improvements projects. HRCSA projects to be funded under Part 1 will be matched at least dollar-for-dollar by local, federal, or private funds, including the railroad contribution required pursuant to subdivision (d) of Section 2454 of the Streets and Highways Code. Other state

funds, including State Transportation Improvement Program and other Proposition 1B funds, may be used for a project but will not be counted as match.

Under statute, the project recipient agency must provide a project funding plan that demonstrates that the non-HRCSA funds in the plan (local, state, or federal) are reasonably expected to be available and sufficient to complete the project. The Commission expects that HRCSA project funding will usually be limited to the costs of construction. Project development and right-of-way costs should be covered with other funding, and the expenditure of non-state funds on project development and right-of-way costs may be counted as project match. The expenditure of funds prior to the approval of Proposition 1B will not be counted as project match or as part of the project cost. The Commission expects, however, a full-funding picture of the project.

The useful life of an HRCSA project shall not be less than the required useful life for capital assets pursuant to the State General Obligation Bond Law, specifically subdivision (a) of Section 16727 of the Government Code. That section generally requires that projects have an expected useful life of 15 years or more.

4. Program Schedule. The Commission intends to implement the program of projects on the following schedule:

CTC adoption of HRCSA guidelines.	April 7, 2010.
HRCSA project applications due.	July 1, 2010.
Public hearing on HRCSA applications.	August 11, 2010
Commission staff recommendation issued.	August 26, 2010.
CTC adopts the 2010 HRCSA program of projects.	September 22, 2010.

5. Project nominations. Project nominations and their supporting documentation will form the primary basis for the Commission's HRCSA program of projects. Each project nomination should include:

- A cover letter with signature authorizing and approving the application.
- A programming request form (Appendix A) and a project fact sheet that includes a map of the project location and that describes the project scope, useful life, cost, funding plan, delivery milestones, and major project benefits. Cost estimates should be escalated to the year of proposed implementation. The project delivery milestones should include the start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout.
- A brief narrative that provides:
    - A concise description of the project scope and anticipated benefits (outputs and outcomes) proposed for HRCSA funding.

- A specific description of non-HRCSA funding to be applied to the project and the basis for concluding that the non-HRCSA funding is reasonably expected to be available.
- A description of the project delivery plan, including a description of the known risks that could impact the successful implementation of the project and a description of the response plan for the known risks. The risks considered should include, but not be limited to, risks associated with deliverability and engineering issues, community involvement, railroad agreement, and funding commitments. For projects that may be funded under Part 1, the project delivery plan should address the requirements precedent to an allocation in Section 2456 of the Streets and Highways Code.
- A description of the function of the proposed crossing project within the appropriate rail and highway corridors, including how the project would improve safety, operations and the effective capacity of the rail corridor and of streets and highways in the area.
- A description and quantification of project benefits, citing any documentation in support of estimates of project benefits. Where applicable and available, this should include a description of how the project would reduce rail and highway travel times, improve safety by reducing deaths and injuries, and reduce emissions from rail and motor vehicles. Where appropriate, this should also include the potential for enabling or improving high speed train operation and the project's location relative to the High-Speed Rail Corridor.

- Documentation supporting the benefit and cost estimates cited in the application. This should be no more than 10 pages in length, citing or excerpting, as appropriate, the project study report, environmental document, regional transportation plan, and other studies that provide quantitative measures of the project's costs and benefits, including safety, mobility, and emission reduction benefits.

6. Submittal of project nominations. For the 2010 HRCSA program of projects, the Commission will consider only projects for which a nomination and supporting documentation are received in the Commission office by 12:00 noon, July 1, 2010, in hard copy. A nomination from a regional agency will include the signature of the Chief Executive Officer or other authorized officer of the agency. A nomination from Caltrans will include the signature of the Director of Transportation or a person authorized by the Director to submit the nomination. A nomination from a city, county, or other public agency will include the signature from an officer authorized by the city council, board of supervisors, or other agency board. Where the project is to be implemented by an agency other than the nominating agency, the nomination will also include the signature of the Chief Executive Officer or other authorized officer of the implementing agency.

The Commission requests that each project nomination include five copies of the cover letter, the project fact sheet, and the narrative description, together with two copies of all supporting documentation. All nomination materials should be addressed or delivered to:

Bimla G. Rhinehart, Executive Director
California Transportation Commission
Mail Station 52, Room 2222
1120 N Street
Sacramento, CA 95814

Project Selection and Programming

7. Program of projects based on applications. The Commission will develop its HRCSA program from the nominations received by the nomination due date. The program may take into account the amount of funds appropriated.

8. Project application scoring. For Part 2 of the program, the Commission will evaluate and score project nominations according to the following weighting:

   A. 50%, the effectiveness of the project in providing transportation benefits, including the improvement of safety, operations, and effective capacity of rail and highway facilities in a corridor and the potential for facilitating development of the High-Speed Rail Corridor. The Commission will measure operational improvement and capacity benefits in terms of hours of delay saved per dollar expended. The Commission will measure safety benefits in terms of the estimated reduction in the number of deaths and injuries.

   B. 20%, the date by which the project will be ready for award of the construction contract, giving higher priority to projects delivered earlier.

   C. 10%, the degree to which the project reduces local and regional emissions of diesel particulates and other air pollutants.

   D. 20%, the financial contribution from non-state funds in the HRCSA project, giving higher priority to projects with a higher non-state contribution.

9. Evaluation committee. The Department of Transportation will form a committee to conduct a review and objective evaluation of project nominations, with representatives of staff from the Department of Transportation, the Public Utilities Commission, the High-Speed Rail Authority, and the California Transportation Commission. The evaluation will include consideration of the potential for project funding from Section 190 of the Streets and Highway Code.

10. Program adoption. The Commission will adopt its 2010 HRCSA program of projects after holding at least one public hearing. The Commission anticipates

that its adopted HRCSA program for Part 2 will include a priority list that exceeds the funding available to be programmed, just as the priority list established by the PUC has consistently exceeded the amount of funding available for that list. The Commission may, if it finds it necessary or appropriate, advise potential applicants to submit new or revised applications at any time after the program adoption.

Project Delivery

11. Project baseline agreements. Within three months after the adoption of a project into the HRCSA program of projects, the Commission, Caltrans and the implementing agency, together with the regional agency and any entity committed to providing supplementary funding for the project, will execute a project baseline agreement, which will set forth the project scope, benefits, delivery schedule, and the project budget and funding plan. The Commission may delete a project for which no project baseline agreement is executed, and the Commission will not consider approval of a project allocation prior to the execution of a project baseline agreement.

12. Quarterly delivery reports: As a part of the project baseline agreement, the Commission will require the implementing agency to submit quarterly reports on the activities and progress made toward implementation of the project, including those project development activities taking place prior to an HRCSA allocation and including the status of supplementary funding identified in the adopted HRCSA program.

    As mandated by Government Code Section 8879.50, the Commission shall forward these reports, on a semiannual basis, to the Department of Finance. The purpose of the reports is to ensure that the project is being executed in a timely fashion and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the implementing agency will provide a plan to the Commission for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The Commission may either approve the corrective plan or direct the implementing agency to modify its plan. Where a project allocation has not yet been made, the Commission may amend the program of projects to delete the project.

13. Amendments to program of projects. The Commission may approve an amendment of the HRCSA program in conjunction with its review of a project corrective plan as described in Section 12. The implementing agency may also request and the Commission may approve an amendment of the program at any time. An amendment need only appear on the agenda published 10 days in advance of the Commission meeting. It does not require the 30-day notice that applies to a STIP amendment.

14. Allocations from the HRCSA. The Commission will consider the allocation of funds from the HRCSA for a project or project component when it receives an allocation request and recommendation from Caltrans, in the same manner as for the STIP. The recommendation will include a determination that all necessary orders of the PUC have been executed, that all necessary agreements with affected railroads have been executed, and that sufficient HRCSA funding and all identified and committed supplementary funding are available. The Commission will approve the allocation if the funds are available, the allocation is necessary to implement the project as included in the adopted HRCSA program, and the project has the required environmental clearance.

15. Final delivery report. Within six months of the project becoming operable, the implementing agency will provide a final delivery report to the Commission on the scope of the completed project, its final costs as compared to the approved project budget, its duration as compared to the project schedule in the project baseline agreement, and performance outcomes derived from the project as compared to those described in the project baseline agreement. The Commission shall forward this report to the Department of Finance as required by Government Code Section 8879.50.

    The implementing agency will also provide a supplement to the final delivery report at the completion of the project to reflect final project expenditures at the conclusion of all project activities. For the purpose of this section, a project becomes operable at the end of the construction phase when the construction contract is accepted. Project completion occurs at the conclusion of all remaining project activities, after acceptance of the construction contract.

16. Audit of project expenditures and outcomes. The Department of Transportation will ensure that project expenditures and outcomes are audited. For each HRCSA project, the Commission expects the Department to provide a semi-final audit report within 6 months after the final delivery report and a final audit report within 12 months after the final delivery report. The Commission may also require interim audits at any time during the performance of the project.

    Audits will be performed in accordance with Generally Accepted Government Auditing Standards promulgated by the United States Government Accountability Office. Audits will provide a finding on the following:

    - Whether project costs incurred and reimbursed are in compliance with the executed project baseline agreement or approved amendments thereof; state and federal laws and regulations; contract provisions; and Commission guidelines.
    - Whether project deliverables (outputs) and outcomes are consistent with the project scope, schedule and benefits described in the executed project baseline agreement or approved amendments thereof.