

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: November 3-4, 2010

Reference No.: 4.2  
Action

From: BIMLA G. RHINEHART  
Executive Director

Subject: **IMPACT OF DELAYED BUDGET ON TIMELY USE OF FUNDS POLICY**

## **ISSUE:**

Commission policy requires that construction contracts for State Transportation Improvement Program (STIP) and State Highway Operation and Protection Program (SHOPP) projects be awarded within six months of the date of allocation. During the first quarter of the year the Commission made STIP and SHOPP allocations that were contingent upon passage of the state budget. The record delay in enacting a budget makes it likely that the majority of these allocations will not be awarded within six months. In addition, the award of contracts for some projects that received allocations from prior-year appropriations was delayed in order to limit cash expenditures during the budget delay. The Commission accepted and deferred action on a number of extension requests for such projects in September, with more on the Commission's November agenda.

## **RECOMMENDATION:**

Staff recommends that the Commission modify its Timely Use of Funds policy so that the six months to award a STIP or SHOPP construction contract begins on the date the 2010-11 Budget Act was signed: October 8, 2010. This modified policy applies to construction allocations, including intercity-rail projects or allocations for purchase of equipment, that were allocated contingent upon passage of the 2010-11 budget. For projects that received an allocation from a prior-year appropriation and that the Commission accepted and deferred action on an extension request, staff recommends the Commission direct the Department to prepare, for the Commission January meeting, a project-specific analysis of the time needed to complete contract award.

## **BACKGROUND:**

By statute, as a general rule, STIP funds may be allocated by the Commission for each project component only until the end of the fiscal year for which that component is programmed in the STIP, and the funds are available for expenditure during that fiscal year and the following two fiscal years. In addition, by Commission policy, funds allocated for construction or acquisition of equipment are subject to award of a contract within 6 months of the date of allocation. The Commission has also extended this 6 month deadline to SHOPP projects.

If any of these deadlines is not met, the funds are no longer available for the project. The Commission may extend a deadline if it finds “that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension.” The extension is not to exceed the period of delay directly attributed to the extraordinary circumstance and, for a STIP project, may not exceed 20 months.

In practice, the timely use of funds rule applies to all components for local STIP projects and only to construction for Caltrans projects. That is because Caltrans support costs are not subject to allocation by the Commission and because Caltrans right-of-way is not allocated on a project-by-project basis.

Where a project fails to meet the deadline for allocation, the project is dropped from the STIP. Any county share applied to the project is lost for that county share period. However, that share is carried over and becomes available to the county again in the following 4-year county share period. Where a project fails to meet an award or expenditure deadline, the allocation ceases and any remaining funds from the allocation are no longer available. As with any other STIP project, no adjustment is made to the county share for any unexpended portion of the allocation.