

California Transportation Commission

Corridor Mobility Improvement Account (CMIA) & State Route 99 (SR 99)

Accountability Implementation Plan

Supplement 2 (DRAFT)

Project Cost Savings

1. **General:** The Accountability Implementation Plan for the CMIA and SR 99 programs was approved by the Commission in October 2007 and Supplement 1 (Financial Accountability) was approved by the Commission in June 2008. The Commission later extended the applicability of the Accountability Implementation Plan and Supplement 1 to the Trade Corridors Improvement Fund (TCIF) and the Highway Railroad Crossing Safety Account (HRCSA) Proposition 1B bond programs. The purpose of Supplement 2 is to clarify and expand the Commission's policy regarding project cost savings for CMIA and SR 99 projects and to communicate to project sponsors and implementing agencies the expectations related to financial accountability, and more specifically, how project savings will be administered. Supplement 2 also addresses the special provisions for cost savings on projects subject to Assembly Bill X3-20 or a private placement Bond Purchase Contract. As such, Supplement 2 revises only the **Project Cost Savings** provisions of Supplement 1 for CMIA and SR 99 projects with the exception of the provisions related to *Cost Savings on Projects Subject to Assembly Bill X3-20* and *Cost Savings on Projects Subject to a Private Placement Bond Purchase Contract*. These provisions may also apply to certain TCIF and HRCSA projects under the limited circumstances detailed in Supplement 2. Absent these special circumstances, the **Project Cost Savings** provisions of Supplement 1 remain in effect for TCIF and HRCSA projects as originally adopted. All other provisions of Supplement 1 remain in effect for all designated bond programs (CMIA, SR 99, TCIF and HRCSA) as originally adopted.
2. **Project Cost Savings/CMIA Projects:** Since the adoption of the CMIA program, the Commission approved a Financial Accountability plan (Supplement 1) that allows funds to be de-allocated from a project at contract award when the cost to award the construction contract is lower than the total sum of allocated funds. However, funds de-allocated from the project at contract award were to remain available to address potential cost increases necessary to complete the project or to supplement a funding plan for another project or contract only upon prior Commission approval. In the latter case the project sponsor would have to commit to funding any cost increases to ensure the completion of both projects – the original project where the savings were realized and the resulting new project using the savings in bond funds. The Commission has continued to emphasize its intent that the use of CMIA bond funds

will be limited to the cost of construction, and that bond funds will not be utilized to cover project cost increases. As a condition of adopting a project into the CMIA, the Commission resolved that all project cost increases beyond the February 2007 program adoption are the responsibility of the nominating and sponsoring agencies.

When the cost to award the construction contract is lower than the total sum of allocated funds, the project sponsor is required to provide documentation identifying a proportional credit to each of the respective funds shown in the original (or amended) baseline agreement for the construction component. The project sponsor may consider crediting the funding source that contributed additional funds in preparation for contract advertisement prior to applying the proportional credits to the funding sources in the original (or amended) baseline agreement. This supplement provides that remaining bond funds de-allocated from the project at project award, and will be administered in the following manner:

- Ten percent of the project's bond savings will be held in a CMIA program reserve and available, upon approval by the Commission, to contribute to funding potential construction cost increases necessary to complete the project where the savings were taken from. Upon project close-out, the remaining bond funds will be available for re-programming by the Commission.
- Remaining project bond savings, beyond those reserved for potential construction cost increases and are not subject to the constraints of Assembly Bill X3-20 or a private placement Bond Purchase Contract, will be available for programming by the Commission for additional or enhanced benefits, consistent with the statutory intent of the CMIA program.

Under the Bond Act, a CMIA project must be on the state highway system or on a major access route to the state highway system on the local road system. To include a project in the CMIA program, the Commission must find that it "improves mobility in a high-congestion corridor by improving travel times or reducing the number of daily vehicle hours of delay, improves the connectivity of the state highway system between rural, suburban, and urban areas, or improves the operation or safety of a highway or road segment." The Bond Act also requires the Commission, in adopting a program for the CMIA, to find that the program is geographically balanced, consistent with the north/south split that applies to the STIP (40% north, 60% south), and to find that it "provides mobility improvements in highly traveled or highly congested corridors in all regions of California." Further, the Bond Act requires the Commission to find that the program targets funding "to provide the mobility benefit in the earliest possible timeframe." It also mandates that the inclusion of a project in the CMIA program be based on a demonstration that the project can commence construction or implementation no later than December 31, 2012.

In addition, Commission policies reflected in the CMIA program guidelines include provisions for program updates and allow the Department of Transportation and regional agencies to request program amendments in the same manner as for STIP amendments, except that "CMIA program amendments will not add new projects

that were not included in the nominations for the initial program” received by the Commission on or before January 16, 2007.

The Commission will consider proposals to program projects nominated and considered during the original CMIA process that were not programmed as part of the 2007 CMIA Adopted Program of Projects or projects which will enhance the benefits of already programmed CMIA projects. The Commission expects the Department of Transportation and individual projects sponsors to jointly propose those projects that meet eligibility requirements detailed in the CMIA Guidelines, including, but not limited to, the following:

- The proposed corridor enhancement project either (1) reduces travel time or delay, (2) improves connectivity of the state highway system between rural, suburban, and urban areas, or (3) improves the operation or safety of a highway or road segment.
- The project improves access to jobs, housing, markets, and commerce.
- The project can commence construction no later than December 31, 2012.

The Commission expects that bond funding contributions for these additional projects will be limited to the costs of construction and that projects will have a full funding commitment through project completion and closeout. The Commission also intends to program project savings consistent with the north/south provisions of the original CMIA Program.

3. **Project Cost Savings/SR 99 Projects:** Similar to the CMIA program, the de-allocation of bond funds are allowed from a project in the SR 99 program at contract award when the cost to award the construction contract is lower than the total sum of allocated funds. De-allocated funds will remain available to address potential cost increases necessary to complete the project, or may be utilized to supplement a funding plan for another project or contract only upon prior Commission approval. The SR 99 program distributed funds based on 15 percent to the north for the Sacramento Valley and counties north of Sacramento/San Joaquin County line and 85 percent to the south for the San Joaquin Valley. Project savings will remain within the geographic boundaries where the savings were attained.

When the cost to award the construction contract is lower than the total sum of allocated funds, the project sponsor will provide documentation identifying a proportional credit to each of the respective funds shown in the original (or amended) baseline agreement for the construction component. The project sponsor may consider crediting the funding source that contributed additional funds in preparation for contract advertisement prior to applying the proportional credits to the funding sources in the original (or amended) baseline agreement. This supplement provides that remaining bond funds will be de-allocated from the project at project award, and will be administered in the following manner:

- Ten percent of project bond savings will be held in a SR 99 program reserve and available, upon approval by the Commission, to contribute to funding potential construction cost increases necessary to complete construction of all programmed SR 99 projects. Upon project close-out, the remaining bond funds will be available for re-programming by the Commission.
 - The remainder of bond savings may also be used to add new projects or enhancements on already programmed SR 99 projects. Prior to making any proposals to program additional projects into the SR 99 program, the Department of Transportation will consult with the San Joaquin Valley and/or the Sacramento Valley Regional Transportation Planning Agencies to identify corridor priorities for the reprogramming of project savings. When proposing additional projects into the 99 Bond Program, consideration must be given to existing projects and needs identified in the SR 99 Business Plans, Corridor System Management Plans, and project deliverability within the timelines established in the SR 99 Guidelines. The following criteria will be used to reprogram any SR 99 project savings:
 - Proposed new project or enhancement is identified in the SR 99 Business Plan, or in a Corridor System Management Plan (CSMP) produced as a result of SR 99 bond programming.
 - Proposed new project can begin construction by December 31, 2012.
 - SR 99 Bond funding, or a combination of bond funding and other committed funds, will complete the funding needs for the new project.
 - Project selection will take into consideration the priorities outlined in the Sacramento and San Joaquin Valley Route 99 Business Plans.
4. **Cost Savings on Projects Subject to Assembly Bill X3-20:** Under the provisions of Assembly Bill X3-20, if a metropolitan planning organization, county transportation commission, regional transportation planning agency, or other local agency uses federal Recovery Act funds to fund a project programmed under a Proposition 1B Bond Program with the effect of displacing the need for those bond funds on the project, the Commission will allocate funds for one or more qualifying projects in the appropriate program, in the jurisdiction of that agency, and in the same amount of the displaced bond funds. Requests to re-program such funds are subject to the eligibility requirements of the appropriate Proposition 1B program and subject to Commission approval.
5. **Cost Savings on Projects Subject to a Private Placement Bond Purchase Contract:** If a metropolitan planning organization, county transportation commission, regional transportation planning agency, or other local agency enters into a private placement Bond Purchase Contract with the Treasurer of the State of California to secure funding for a Proposition 1B Bond Program project(s), the provisions of the Bond Purchase Contract state that if Bond proceeds remain after completion of the Projects, such proceeds will be expended for other projects

qualified under the Bond Act and located in the same geographic region as the projects funded with those proceeds.

6. **Cost Savings on Projects with a Letter of No Prejudice (LONP):** For projects using LONPs, allocations will be adjusted to reflect the cost to award the contract, thus making the savings available for reserve and reprogramming.

7. **Submittals of Project Proposals:** Proposals to program additional CMIA or SR 99 projects will be evaluated on their merits if they are received by February 1, 2010. Proposals to program additional CMIA or SR 99 projects received on or after February 2, 2010 will be evaluated on an ongoing, first come, first serve basis. Proposals must include:
 - A cover letter from the sponsoring agency with signature authorizing and approving the proposal to program the project.
 - A letter from the Department of Transportation with signature authorizing and concurring with the proposal to program the project.
 - An updated Project Programming Request (PPR) form that describes the project scope, cost, funding plan, project delivery milestones, and major benefits.
 - A brief narrative (1-2 pages) that updates information submitted as part of the original nomination.

The proposals must be submitted in hard copy and addressed or delivered to:

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

**CMIA and SR 99 Accountability Implementation Plan
Supplement 2 (Draft)
Project Cost Savings
Comments**

Supplement 2 should clarify how the project reserve will be calculated.

The language in Supplement 2 is consistent with the Accountability Implementation Plan and Supplement 1 – Financial Accountability.

Supplement 2 should provide for a flexible project reserve amount and not limit the project reserve to ten percent.

The contract allotment amount should include sufficient funding for the low bid amount, state furnished materials, supplemental funds and a contingency amount to cover known or expected cost increases (change orders). The proposed ten percent project reserve is to provide a program reserve for unforeseen project cost increases.

The Commission should consider giving priority to programming projects in regions that were under funded in the original CMIA Program.

Although Supplement 2 does not give priority to under funded regions, it does not preclude the Commission from considering regional balance when programming additional projects from the original CMIA list of projects.

The Commission should give priority to CMIA projects that are included in a Corridor System Management Plan (CSMP).

The Commission may consider prioritizing projects included in the CSMPs once the CSMPs are adopted and implemented.

For the SR 99 Program, the Commission should revise Supplement 2 to state that construction on new projects will begin by June 30, 2015, with priority given to projects that can begin construction by December 31, 2012.

Staff believes that earlier delivery remains a priority of the Commission and given that three years remain before the current construction start deadline of December 31, 2012, eligibility for new projects in the SR 99 Program should include beginning construction by this date.

The Commission should not mandate proportional savings.

Staff believes that crediting project cost savings on a proportional basis is the most equitable policy. However, the Commission can approve, and has approved, exceptions to crediting project cost savings on a proportional basis where it is in

the best interest of the state and the region, particularly where such an exception maximizes funding available to transportation projects.

Supplement 2 should reflect a date to submit project proposals for evaluation on merit prior to the “first come, first serve” basis.

Supplement 2 was revised to include an initial submittal period.

The Commission should clarify provisions for projects a Letter of No Prejudice (LONP) or AB 3090.

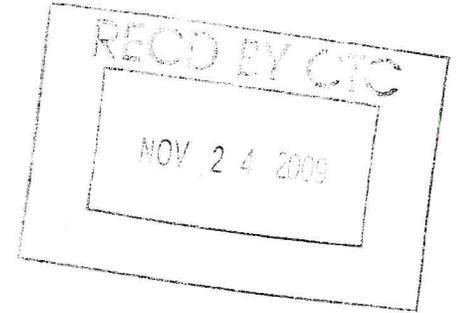
Supplement 2 was revised to include provisions for projects with a LONP. AB 3090 is not applicable to CMIA or SR 99 funds.

San Joaquin Valley Regional Planning Agencies' Directors' Committee

c/o Merced County Association of Governments - 369 W. 18th St. - Merced, CA 95340
Phone: 209-723-3153 - FAX 209-723-0322

November 20, 2009

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



Dear Director Rhinehart,

Thank you for the opportunity to provide comments on the California Transportation Commission's DRAFT Corridor Mobility Improvement Account (CMIA) & State Route 99 (SR 99) Accountability Implementation Plan Supplement 2 - Project Cost Savings. The San Joaquin Valley Regional Planning Agencies Directors Committee respectfully submits these comments for Section 3, Project Cost Savings / SR 99 Projects. Individual COGs may submit comments separately for other sections of the DRAFT guidelines.

As you know, the San Joaquin Valley COG Directors and our elected officials were very instrumental in the inclusion of the \$1 billion in Proposition 1B for SR 99. The Valley COG Directors collaborated across regions and with Caltrans District 6 and District 10 in developing the original SR 99 Guidelines and program of projects adopted by the CTC. We feel strongly that the accountability for managing and delivering the program must remain within this collaborative effort. We were delighted to be informed that Maura Twomey of your staff requested that Caltrans, working collaboratively with the Valley COG Directors, prepare draft guidelines to address project cost savings for the SR 99 bond program. Over the past few months, we have done exactly that. It is our understanding that our proposal was forwarded to Ms. Twomey through Caltrans.

Section 3, Project Cost Savings / SR 99 Projects of the CTC's DRAFT guidelines, while substantially rewritten, is similar to the recommendation developed by the Valley COG Directors and Caltrans with a few notable exceptions.

SR 99 Program Reserve. We appreciate the consideration of a program reserve, as opposed to an individual project reserve, as this allows increases flexibility in reprogramming a larger amount of project cost savings. The DRAFT guidelines include an arbitrary 10% of project savings for the program reserve. This may or may not be an appropriate reserve depending on the amount of award savings. We recommend that the guidelines delete the size of the program reserve and instead require that the program reserve be established, based on a recommendation from Caltrans and the Valley COGs, prior to programming savings to any new project.

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Ronald Brummett

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Madera County
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Commission
Patricia Taylor

San Joaquin
Council of
Governments
Andrew Chesley

Stanislaus
Council of
Governments
Vince Harris

Tulare County
Association of
Governments
Ted Smalley

Construction Start Date. The CTC's DRAFT guidelines include a requirement that proposed new projects must commence construction by December 31, 2012. While we appreciate the desire to commit bond dollars to projects at the earliest possible date, there are some logistical and practical difficulties with the December 2012 date for new projects.

- As currently planned, nearly one-third of the program will not award a construction contract until 2012. It would be difficult or impossible to use these savings for another project that could start construction within the same year.
- Delivery of existing programmed projects may be impacted by the inability of the State to sell Proposition 1B bonds. Many of the existing SR 99 bond projects require Proposition 1B funding for project support and right-of-way. Any delay in allocating bond funds for existing programmed projects will increase the difficulty in using project savings by December 2012.
- Finally, the highest priority projects that could take advantage of project savings may not be deliverable by 2012. The RTPA Directors and Caltrans recommend language that requires construction on new projects to begin by June 30, 2015, with higher consideration given to projects that can be delivered earlier. We believe project selection should be balanced between the criteria developed in the SR 99 Business Plan and construction readiness.

Thank you again for your outreach to involve the San Joaquin Valley RTPA Directors in the development of the Commission's policy. We will schedule time to discuss our comments with you and your staff prior to the CTC's December meeting.

Sincerely,

COUNCIL OF FRESNO COUNTY
GOVERNMENTS



Tony Boren, Executive Director

MERCED COUNTY ASSOCIATION OF
GOVERNMENTS



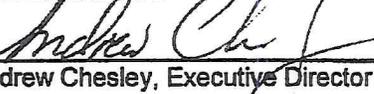
Jesse Brown, Executive Director

KERN COUNCIL OF GOVERNMENTS



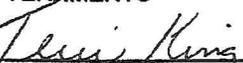
Ronald E. Brummett, Executive Director

SAN JOAQUIN COUNCIL OF
GOVERNMENTS



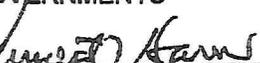
Andrew Chesley, Executive Director

KINGS COUNTY ASSOCIATION OF
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Terri King, Executive Director

STANISLAUS COUNCIL OF
GOVERNMENTS



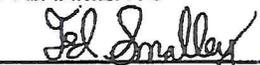
Vince Harris, Executive Director

MADERA COUNTY TRANSPORTATION
COMMISSION



Patricia Taylor, Executive Director

TULARE COUNTY ASSOCIATION OF
GOVERNMENTS



Ted Smalley, Executive Director

Cc: Randell Iwasaki, Caltrans Director
Ross Chittenden, Caltrans District 10 Director
Brian Everson, Caltrans District 6 Interim Director
Maura Twomey, California Transportation Commission Deputy Director



"Yale, David"
<YaleD@metro.net>
11/23/2009 03:58 PM

To 'Maura Twomey' <maura_twomey@dot.ca.gov>
cc "Chen, Patricia" <ChenPL@metro.net>
bcc
Subject RE: [CalRTPA] Policy Document for Comment/CMIA & SR
99 Project Cost Savings

Maura -- I have been noticing a number of "first-come, first served" approaches to funding and other policy opportunities before the Commission, and I would like to suggest that such approaches work fine so long as there is an initial starting point for the "first-come, first served" policy that everyone knows in advance. For example, for the design-build contracting opportunities being administered by the Commission, all submittals made before January 1, 2010 are to be considered equally on their merits, and then it would be "first, come, first served" after that point.

This report appears to invite funding proposals for CMIA savings and I might suggest that an initial date be set before the "first come, first served" approach begins, as follows:

6.1. Submittals of Project Proposals: All proposals will be considered on their merits if they are received by February 1, 2010, proposals to program additional CMIA or SR 99 projects received on or after February 2, 2010 will be evaluated on an ongoing, first come, first serve basis. Proposals must include:

- A cover letter from the sponsoring agency with signature authorizing and approving the proposal to program the project.
- A letter from the Department of Transportation with signature authorizing and concurring with the proposal to program the project.
- An updated Project Programming Request (PPR) form that describes the project scope, cost, funding plan, project delivery milestones, and major benefits.
- A brief narrative (1-2 pages) that updates information submitted as part of the original nomination.

The proposals must be submitted in hard copy and addressed or delivered to:

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

From: CalRTPA@yahoogroups.com [mailto:CalRTPA@yahoogroups.com] **On Behalf Of** Maura Twomey
Sent: Thursday, November 19, 2009 4:49 PM
To: CalRTPA@yahoogroups.com
Cc: CTC Policy Staff
Subject: [CalRTPA] Policy Document for Comment/CMIA & SR 99 Project Cost Savings



Dianne Steinhauser
<DSteinhauser@tam.ca.gov>

11/24/2009 05:40 PM

To 'Maura Twomey' <maura_twomey@dot.ca.gov>

cc 'Stewart D Ng' <stewart_d_ng@dot.ca.gov>, 'Doanh Nguyen'
<doanh_nguyen@dot.ca.gov>, Dan Cherrier
<DCherrier@tam.ca.gov>, 'Betsy Joseph'

bcc

Subject RE: [CalRTPA] Policy Document for Comment/CMIA & SR
99 Project Cost Savings

Maura,

Thanks for sharing the policy, attached, and allowing additional comments. The way this policy reads is that any CMIA project with bid savings will contribute 10% of those savings "into a CMIA program reserve", from which the Commission could "contribute to funding potential cost increases necessary to complete the project where the savings were taken from." We understood previous policy to say that bid savings would remain available to the project until construction is completed, in their entirety. It remains necessary to seek CTC approval for use of savings; this policy seems to imply additional limitations.

Our CMIA project at the 580/101 Interchange in Marin County is 100% funded from CMIA funds. The project had a bid opening on September 30th with approximately \$2.4 million in bid savings (assuming contract award and approval with the low bidder, which is progressing). Given our location at the edge of the Bay, a major structure being built and an existing one demolished, next to a very bike/ped oriented low-income community, and all of the work on or over our most significant freeway access corridor in Marin (Interstate 580), my experience tells me that we could very well need 10% or more to ultimately complete the project. TAM is not stating the design is faulty, I am just of the experience that projects of this nature run into challenges and one challenge can easily require \$240,000, 10% of bid savings, or more.

As well, Caltrans and TAM are bringing forward a request for approximately \$300,000 to be dedicated from bid savings to construction support, for TAM to provide engineering designer-of-record services as well as coordinate community interaction. We spoke about this briefly in late September before bid opening, Maura, and have been pursuing this through District 4 Caltrans. Our funding for design support during construction was expended re-doing design when the engineer's estimate came in higher than available funds.

We have no other revenue source to put into this project.

I am unsure how this savings policy affects us. Are we capped at 10% of bid savings being applied to needs during the construction phase? Are we very very unlikely to receive more? Can consideration be given to projects funded wholly from CMIA funds? Is the 10% cap a guiding principle for future CTC decisions? How will this be interpreted by the CTC Commissioners?

Any additional clarity on this issue is appreciated.

Dianne Steinhauser
Executive Director
Transportation Authority of Marin
dsteinhauser@tam.ca.gov
(415) 226-0833 Office



"Abanathie, Bruce"
<Bruce.Abanathie@co.kings.
ca.us>
11/30/2009 04:49 PM

To 'Maura Twomey' <maura_twomey@dot.ca.gov>
cc
bcc
Subject RE: [CalRTPA] Policy Document for Comment/CMIA & SR
99 Project Cost Savings

Good Afternoon Maura,

Thank you for putting together an excellent draft of the CMIA and SR 99 Accountability Implementation Plan (supplement 2). KCAG would like to submit just the two following comments on the Draft Plan:

1. The CMIA Guidelines should be consistent with the SR 99 Guidelines in that (page 4, #3. first sub-bullet - allowing for program identification changes) **a proposed new project or enhancement is identified in a CSMP produced as a result of the CMIA bond programming.**

2. We encourage the Commission and the project selection process to adhere to the statement at the bottom of page 3 (onto page 4) that states that **"CMIA program amendments will not add new projects that were not included in the nominations for the initial program" received by the Commission on or before January 16, 2007.**

We would suggest that any new projects that are considered outside of this statement be considered **ONLY** after all original program submissions have been funded. This would include consideration of "projects that will enhance the benefits of already programmed CMIA projects."

Thank you again and hope to see you December 9th,

*Bruce Abanathie
Regional Planner III
Kings County Association of Governments
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Lemoore, CA 93245*

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From: CalRTPA@yahoogroups.com [mailto:CalRTPA@yahoogroups.com] **On Behalf Of** Maura Twomey
Sent: Thursday, November 19, 2009 4:49 PM
To: CalRTPA@yahoogroups.com
Cc: CTC Policy Staff
Subject: [CalRTPA] Policy Document for Comment/CMIA & SR 99 Project Cost Savings

Attached for your review is the proposed Supplement 2 to the CMIA and SR 99



"Daniel Little"
<dlittle@co.shasta.ca.us>
12/01/2009 10:44 AM

To "Maura Twomey" <maura_twomey@dot.ca.gov>
cc
bcc
Subject Shasta Commens on Policy Document for Comment/CMIA &
SR 99 Project Cost Savings

Maura,

Thanks for inviting comments on this supplement. Our comments are limited to the CMIA provisions. Generally, we support its simplicity and that it tiers off the prior CMIA process and projects lists.

Section 2 states, "the Commission intends to program project savings consistent with the north/south provisions of the original CMIA program." It is not clear if this means a 60/40 goal in total or just for the savings portion of the CMIA program. In other words and for example, do project savings in the north stay in the north?

Beyond north/south split considerations, the Commission should also continue to consider the geographic balance provisions in statute and CMIA guidelines. In doing this, the Commission should at a minimum review how well or poorly the CTC did in meeting the CTC-established targets within the eight CMIA regions that were intended to achieve geographic balance during the initial CMIA distribution. In proportionately under funded regions, CMIA savings should be more strongly considered providing there are viable projects that enhance the benefits of already programmed projects.

There should be language about maintenance of effort so agencies don't supplant funds already committed to a project with CMIA savings.

Viable projects on the prior CMIA list that were not funded and remain completely unfunded and unprogrammed should receive stronger consideration than projects that were not on the prior CMIA list or projects that were on the prior CMIA list but since received full or partial funding through other means.

Please let me know if you have questions and if you are still on track to adopt this supplement at the December CTC meeting.

Dan

Dan Little, AICP
Executive Director
Shasta County RTPA
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Redding, CA 96001
(530) 245-6819
<http://www.scrtpa.org/>

From: CalRTPA@yahoogroups.com [mailto:CalRTPA@yahoogroups.com] **On Behalf Of** Maura Twomey
Sent: Thursday, November 19, 2009 4:49 PM
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Subject: [CalRTPA] Policy Document for Comment/CMIA & SR 99 Project Cost Savings



METROPOLITAN
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December 2, 2009

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Steve Heminger
Executive Director

Ann Fleener
Deputy Executive Director, Policy

Andrew B. Fremier
Deputy Executive Director, Operations

Ms. Maura Twomey, Deputy Director
California Transportation Commission
Mail Station 52, Room 2222
1120 N Street
Sacramento, CA 95814

SUBJECT: MTC COMMENTS ON CMIA PROJECT COST SAVINGS DRAFT

Dear Ms. Twomey:

Thank you for the opportunity to provide comments on the Draft Accountability Implementation Plan (Supplement 2) addressing Cost Savings on CMIA projects. MTC looks forward to working with the Commission to deliver additional projects in the region's congested corridors using cost savings. The region submits the following comments for Commission consideration:

1. Project Definition

Staff should clarify what is meant by "project". MTC recommends that cost savings on a project *segment* be held in reserve for future project segments. Once the entire project is completed (all segments), then cost savings (if any) may be subject to Supplement 2. The project sponsor, however, could request that savings from a project segment be moved to another corridor project outside the originally approved CMIA project; however, those redirected savings would no longer be available for use in the original CMIA project, and the sponsor would be responsible for funding any cost increases or claims.

2. Exceeding the 10% CMIA Reserve

In most cases, a 10% reserve contingency of project savings will be enough to address any potential cost increases or project claims, after first exhausting the project contingency (built in to the contract allotment amount). However, the Commission should establish a process should this amount not be enough to cover cost increases or claims. For instance, if there are increases above the 10% reserve, the State could prioritize future CMIA savings, if any, to make the original project whole.

3. Provisions for LONPs and AB 3090s

The Commission should clarify how savings would be addressed for projects using Letters of No Prejudice (LONPs) or AB 3090s, in instances where the State bond funds are unavailable and the local agency uses its own funds to construct the project. The recommendations should consider comment 4, below.

4. Recognition of Local Advancement of Funds

Supplement 2 provides a fair and comprehensive policy under normal fiscal circumstances in which state bond funds are available for allocation when a project is ready to proceed to construction. However, in the current environment where the State is unable to provide allocation of funds, local agencies may be required to advance their own funds in order to bring projects to construction. The Commission should recognize the increased cost and risk of local agencies advancing their own funds first by disproportionately crediting savings to local sources rather than State bond funds.

MTC appreciates your consideration of the above comments, and looks forward to working with the CTC and our partner agencies to deliver CMIA projects. Please feel free to contact me at (510) 817-5850, or Kenneth Kao of my staff at (510) 817-5768, if you need further information about our comments.

Best regards,



Alix A. Bockelman
Director, Programming and Allocations

cc: Bimla Rhinehart, CTC Executive Director

AAB:KK

J:\PROJECT\Funding\Infrastructure Bond\I-Bond\CMIA - Corridor Mobility Improvement Account_CMIA Implementation\CMIA Cost Savings\CMIA Cost Savings- MTC Comments.doc



"Nuncio, Jose"
<jnu@sandag.org>
12/02/2009 11:02 AM

To 'Maura Twomey' <maura_twomey@dot.ca.gov>
cc
bcc
Subject: CMIA savings comments

Hi Maura,

Attached are comments on the draft CMIA savings. I may have comments from other folks later, but since you need these today, I'm sending them to you. Please call me if questions. Thanks.

José

José A. Nuncio, P.E.
San Diego Association of Governments
401 "B" Street, Ste. 800
San Diego, CA 92101
Phone: 619.699.1908
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visit our website: www.sandag.org



Financial Accountability Supplement 2 - 111809.doc

California Transportation Commission
Corridor Mobility Improvement Account (CMIA)
& State Route 99 (SR 99)

Accountability Implementation Plan

Supplement 2 (DRAFT)

Project Cost Savings

1. **General:** The Accountability Implementation Plan for the CMIA and SR 99 programs was approved by the Commission in October 2007 and Supplement 1 (Financial Accountability) was approved by the Commission in June 2008. The Commission later extended the applicability of the Accountability Implementation Plan and Supplement 1 to the Trade Corridors Improvement Fund (TCIF) and the Highway Railroad Crossing Safety Account (HRCSA) Proposition 1B bond programs. The purpose of Supplement 2 is to clarify and expand the Commission's policy regarding project cost savings for CMIA and SR 99 projects and to communicate to project sponsors and implementing agencies the expectations related to financial accountability, and more specifically, how project savings will be administered. Supplement 2 also addresses the special provisions for cost savings on projects subject to Assembly Bill X3-20 or a private placement Bond Purchase Contract. As such, Supplement 2 revises only the **Project Cost Savings** provisions of Supplement 1 for CMIA and SR 99 projects with the exception of the provisions related to *Cost Savings on Projects Subject to Assembly Bill X3-20* and *Cost Savings on Projects Subject to a Private Placement Bond Purchase Contract*. These provisions may also apply to certain TCIF and HRCSA projects under the limited circumstances detailed in Supplement 2. Absent these special circumstances, the **Project Cost Savings** provisions of Supplement 1 remain in effect for TCIF and HRCSA projects as originally adopted. All other provisions of Supplement 1 remain in effect for all designated bond programs (CMIA, SR 99, TCIF and HRCSA) as originally adopted.

2. **Project Cost Savings/CMIA Projects:** Since the adoption of the CMIA program, the Commission approved a Financial Accountability plan (Supplement 1) that allows funds to be de-allocated from a project at contract award when the cost to award the construction contract is lower than the total sum of allocated funds. However, funds de-allocated from the project at contract award were to remain available to address potential cost increases necessary to complete the project or to supplement a funding plan for another project or contract only upon prior Commission approval. In the latter case the project sponsor would have to commit to funding any cost increases to ensure the completion of both projects – the original project where the savings were realized and the resulting new project using the savings in bond funds. The Commission has continued to emphasize its intent that the use of CMIA bond funds

will be limited to the cost of construction, and that bond funds will not be utilized to cover project cost increases. As a condition of adopting a project into the CMIA, the Commission resolved that all project cost increases beyond the February 2007 program adoption are the responsibility of the nominating and sponsoring agencies.

When the cost to award the construction contract is lower than the total sum of allocated funds, the project sponsor is required to provide documentation identifying a proportional credit to each of the respective funds shown in the original (or amended) baseline agreement for the construction component. The project sponsor may consider crediting the funding source that contributed additional funds in preparation for contract advertisement prior to applying the proportional credits to the funding sources in the original (or amended) baseline agreement. This supplement provides that remaining bond funds de-allocated from the project at project award, and will be administered in the following manner:

- Ten percent of the project's bond savings will be held in a CMIA program reserve and available, upon approval by the Commission, to contribute to funding potential construction cost increases necessary to complete the project where the savings were taken from. Upon project close-out, the remaining bond funds will be available for re-programming by the Commission.
- Remaining project bond savings, beyond those reserved for potential construction cost increases and are not subject to the constraints of Assembly Bill X3-20 or a private placement Bond Purchase Contract, will be available for programming by the Commission for additional or enhanced benefits, consistent with the statutory intent of the CMIA program.

Under the Bond Act, a CMIA project must be on the state highway system or on a major access route to the state highway system on the local road system. To include a project in the CMIA program, the Commission must find that it "improves mobility in a high-congestion corridor by improving travel times or reducing the number of daily vehicle hours of delay, improves the connectivity of the state highway system between rural, suburban, and urban areas, or improves the operation or safety of a highway or road segment." The Bond Act also requires the Commission, in adopting a program for the CMIA, to find that the program is geographically balanced, consistent with the north/south split that applies to the STIP (40% north, 60% south), and to find that it "provides mobility improvements in highly traveled or highly congested corridors in all regions of California." Further, the Bond Act requires the Commission to find that the program targets funding "to provide the mobility benefit in the earliest possible timeframe." It also mandates that the inclusion of a project in the CMIA program be based on a demonstration that the project can commence construction or implementation no later than December 31, 2012.

In addition, Commission policies reflected in the CMIA program guidelines include provisions for program updates and allow the Department of Transportation and regional agencies to request program amendments in the same manner as for STIP amendments, except that "CMIA program amendments will not add new projects

Comment [JNU1]: Mandating a proportional distribution of the savings may not be in the best interest of the region or the state. If a project has stimulus funds, for example, the approach should be to spend those first and not return any ARRA money back, or they could be lost. Other similar instances may exist. A more flexible approach is recommended rather than a strict proportional one that minimizes the risk of losing these funds from the state or region.

Comment [JNU2]: 10% of bond savings amount could conceivably be a very small amount. It seems that a more reasonable figure should be calculated based on the contract amount in order to be more useful.

that were not included in the nominations for the initial program” received by the Commission on or before January 16, 2007.

The Commission will consider proposals to program projects nominated and considered during the original CMIA process that were not programmed as part of the 2007 CMIA Adopted Program of Projects or projects which will enhance the benefits of already programmed CMIA projects. The Commission expects the Department of Transportation and individual projects sponsors to jointly propose those projects that meet eligibility requirements detailed in the CMIA Guidelines, including, but not limited to, the following:

- The proposed corridor enhancement project either (1) reduces travel time or delay, (2) improves connectivity of the state highway system between rural, suburban, and urban areas, or (3) improves the operation or safety of a highway or road segment.
- The project improves access to jobs, housing, markets, and commerce.
- The project can commence construction no later than December 31, 2012.

The Commission expects that bond funding contributions for these additional projects will be limited to the costs of construction and that projects will have a full funding commitment through project completion and closeout. The Commission also intends to program project savings consistent with the north/south provisions of the original CMIA Program.

3. **Project Cost Savings/SR 99 Projects:** Similar to the CMIA program, the de-allocation of bond funds are allowed from a project in the SR 99 program at contract award when the cost to award the construction contract is lower than the total sum of allocated funds. De-allocated funds will remain available to address potential cost increases necessary to complete the project, or may be utilized to supplement a funding plan for another project or contract only upon prior Commission approval. The SR 99 program distributed funds based on 15 percent to the north for the Sacramento Valley and counties north of Sacramento/San Joaquin County line and 85 percent to the south for the San Joaquin Valley. Project savings will remain within the geographic boundaries where the savings were attained.

When the cost to award the construction contract is lower than the total sum of allocated funds, the project sponsor will provide documentation identifying a proportional credit to each of the respective funds shown in the original (or amended) baseline agreement for the construction component. The project sponsor may consider crediting the funding source that contributed additional funds in preparation for contract advertisement prior to applying the proportional credits to the funding sources in the original (or amended) baseline agreement. This supplement provides that remaining bond funds will be de-allocated from the project at project award, and will be administered in the following manner:

Comment [JNU3]: When are proposals due for savings already identified? We are concerned that if there is no date for funds already identified, a “delay” by a region could be interpreted by the CTC and/or others as having those funds available for re-programming in a different region, even though we understand the CTC’s authority to do so. I think it’s a matter of informing all affected regions that they need to propose by a certain date, or else, their project won’t even be considered. We would propose allowing at least three months after adoption of these guidelines to allow for regions to go to their boards and then the 60-day CTC agenda prep time.

- Ten percent of project bond savings will be held in a SR 99 program reserve and available, upon approval by the Commission, to contribute to funding potential construction cost increases necessary to complete construction of all programmed SR 99 projects. Upon project close-out, the remaining bond funds will be available for re-programming by the Commission.
- The remainder of bond savings may also be used to add new projects or enhancements on already programmed SR 99 projects. Prior to making any proposals to program additional projects into the SR 99 program, the Department of Transportation will consult with the San Joaquin Valley and/or the Sacramento Valley Regional Transportation Planning Agencies to identify corridor priorities for the reprogramming of project savings. When proposing additional projects into the 99 Bond Program, consideration must be given to existing projects and needs identified in the SR 99 Business Plans, Corridor System Management Plans, and project deliverability within the timelines established in the SR 99 Guidelines. The following criteria will be used to reprogram any SR 99 project savings:
 - Proposed new project or enhancement is identified in the SR 99 Business Plan, or in a Corridor System Management Plan (CSMP) produced as a result of SR 99 bond programming.
 - Proposed new project can begin construction by December 31, 2012.
 - SR 99 Bond funding, or a combination of bond funding and other committed funds, will complete the funding needs for the new project.
 - Project selection will take into consideration the priorities outlined in the Sacramento and San Joaquin Valley Route 99 Business Plans.

4. **Cost Savings on Projects Subject to Assembly Bill X3-20:** Under the provisions of Assembly Bill X3-20, if a metropolitan planning organization, county transportation commission, regional transportation planning agency, or other local agency uses federal Recovery Act funds to fund a project programmed under a Proposition 1B Bond Program with the effect of displacing the need for those bond funds on the project, the Commission will allocate funds for one or more qualifying projects in the appropriate program, in the jurisdiction of that agency, and in the same amount of the displaced bond funds. Requests to re-program such funds are subject to the eligibility requirements of the appropriate Proposition 1B program and subject to Commission approval.

5. **Cost Savings on Projects Subject to a Private Placement Bond Purchase Contract:** If a metropolitan planning organization, county transportation commission, regional transportation planning agency, or other local agency enters into a private placement Bond Purchase Contract with the Treasurer of the State of California to secure funding for a Proposition 1B Bond Program project(s), the provisions of the Bond Purchase Contract state that if Bond proceeds remain after completion of the Projects, such proceeds will be expended for other projects

Comment [JNU4]: How long after an X3-20 approval does the replacement project have to be identified? We need this schedule to help us determine timing of asking our Board. Obviously, we'd like to do it soon, but not sure how soon would be expected.

qualified under the Bond Act and located in the same geographic region as the projects funded with those proceeds.

6. **Submittals of Project Proposals:** Proposals to program additional CMIA or SR 99 projects will be evaluated on an ongoing, first come, first serve basis. Proposals must include:

- A cover letter from the sponsoring agency with signature authorizing and approving the proposal to program the project.
- A letter from the Department of Transportation with signature authorizing and concurring with the proposal to program the project.
- An updated Project Programming Request (PPR) form that describes the project scope, cost, funding plan, project delivery milestones, and major benefits.
- A brief narrative (1-2 pages) that updates information submitted as part of the original nomination.

The proposals must be submitted in hard copy and addressed or delivered to:

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

Comment [JNUS]: Again, if you could clarify when the submittals need to be submitted for both projects with savings already identified, and for those that will happen in the future?

Brenda
Schimpf/D03/Caltrans/CAGov

12/03/2009 07:44 AM

To Maura Twomey/HQ/Caltrans/CAGov@DOT

cc bimla_rhinehart@dot.ca.gov

bcc

Subject COMMENTS: Fw: [CalRTPA] Policy Document for
Comment/CMIA & SR 99 Project Cost Savings

Thank you for providing an opportunity to comment on the draft guidelines for the CMIA and SR 99 cost savings. The Department would like to make the following comments/suggestions:

1 - Page 2 - First bullet - project cost savings of 10% will be held in CMIA reserve. Can you add a comment that a greater reserve can be requested for CTC consideration if the implementing agency believes there are high risks with the contract (caldecott boring, working on a main street with much community involvement or high potential for unidentified utilities, etc)

2 - Page 3 - CMIA eligibility requirements - please include a comment that the project will be given priority if it is in a CSMP.

3 - Page 4 - First bullet - project cost savings of 10% will be held in SR 99 reserve. Can you add a comment that a greater reserve can be requested for CTC consideration if the implementing agency believes there are high risks with the contract (working on a main street with much community involvement or high potential for unidentified utilities, etc)

4 - Page 4 - Second bullet, Second sub-bullet - begin construction by December 31, 2012. Please consider revision to say that priority will be given to projects that can begin construction by December 31, 2012. As you know, there will be no "award savings" for a long time, and #2) there is little if any funds for pre-construction. The savings policy that funds can not be reprogrammed until there is a bid savings coupled with the 2012 date is really unworkable.

Thank you for your consideration.

BRENDA SCHIMPF, PMP
Bond Program Manager
(916) 654-4252 office
(916) 825-8342 cell

Brenda Schimpf/D03/Caltrans/CAGov



Maura Twomey
<maura_twomey@dot.ca.gov
>

Sent by:
CalRTPA@yahoogroups.com

11/19/2009 04:49 PM

To CalRTPA@yahoogroups.com

cc CTC Policy Staff <CTC_Policy_Staff@dot.ca.gov>

Subject [CalRTPA] Policy Document for Comment/CMIA & SR 99
Project Cost Savings

Attached for your review is the proposed Supplement 2 to the CMIA and SR 99



ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY

1333 BROADWAY, SUITE 220 • OAKLAND, CA 94612 • PHONE: (510) 836-2560 • FAX: (510) 836-2185
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December 3, 2009

AC Transit
Director
Greg Harper

Alameda County
Supervisors
Nate Milley
Scott Haggerty

City of Alameda
Mayor
Beverly Johnson
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City of Albany
Councilmember
Pam Javandel

BART
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Thomas Blalock

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City of Union City
Mayor
Mark Green
Chair

Executive Director
Dennis R. Fay

Ms. Maura Twomey, Deputy Director
California Transportation Commission
Mail Station 52, Room 2222
1120 N Street
Sacramento, CA 95814

SUBJECT: COMMENTS ON CMIA PROJECT COST SAVINGS DRAFT

Dear Ms. Twomey:

The Alameda County Congestion Management Agency has reviewed the Draft Accountability Implementation Plan (Supplement 2) addressing Cost Savings on CMIA projects and is providing the following comments for the Commission to consider:

We would encourage the Commission to leave all existing CMIA funding commitments in place until all project segments in a Corridor have been completed. Over the last two years construction projects have realized substantial cost saving as a result of an extraordinarily, low bid environment. While the projects with early delivery dates have benefited from this, projects scheduled for delivery over the next two years may face a much more challenging bid environment if the economy rebounds and the bid environment is less favorable.

Leaving potential savings in the Corridor until all projects have been delivered will help facilitate the delivery of all CMIA commitments in a potentially varying bid environment while still not exceeding the original programmed CMIA funds within the Corridor. In Alameda County, the three projects in the I-580 Corridor that received CMIA funding are an example of what we are defining as a Corridor. While the CMIA program includes three distinct projects on I-580, the full corridor-wide benefits will not be realized until all three projects are completed.

Should the Commission decide to de-allocate "savings" to a project prior to project/Corridor close-out, we recommend the Commission clarify how "savings" are calculated. Savings should be realized only after a total Project Allotment is calculated that includes sufficient funding for the low bid, state furnished materials and non-bid items and a contingency equal to at least 10% of the total project cost.

Prior to considering programming funds to any new projects, we believe it is important to make every effort to deliver the existing CMLA program commitment. While we support the policy that it is a sponsor's responsibility to make every effort to deliver the original scope of CMLA projects within the programmed budget, there may be instances where cost increases are beyond the control of the project sponsor. Changes in Caltrans design standards and unanticipated mitigation requirements are two examples that could result in cost increases that are beyond the control of the implementing agency. Any cost savings policy should allow for the consideration of funding for unique circumstances such as these.

Thank you for considering these comments. Please contact me at 510-350-2312 if you would like to discuss these comments further.

Regards,



Dennis R. Fay
Executive Director

cc: Bijan Sartipi, Caltrans
Frank R. Furger, ACCMA
Alix A. Bockelman, MTC
Bimla Rhinehart, CTC