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## **Local Assistance Highway Bridge Program High Cost Projects Programming Policy and Procedures**

### **I. BACKGROUND**

Chapter 6, Highway Bridge Program (HBP), Local Assistance Program Guidelines, defines eligibility requirements and high level programming instructions. Office Bulletin DLA-OB-10-01 establishes procedures for programming the Federal Transportation Improvement Program (FTIP) in compliance with federal regulations. This Office Bulletin establishes policy and procedures to program high cost HBP funded projects. This Office Bulletin also replaces Section 6.2.11, High Cost Bridge Projects, Chapter 6, Highway Bridge Program, Local Assistance Program Guidelines.

### **II. POLICY**

- 1) Federal code, 23USC(144)(j) states, “Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.”  
Allowing several very large projects to consume all HBP funds in one year would not be fair and would idle large sums of federal funds. The State will administer the HBP in a fair and equitable basis throughout the State of California.
- 2) The Department, Cities, and Counties, authorized under Streets and Highways Code Section 2400-2414 are required to fully utilize HBP funds to expedite projects.
- 3) High cost projects are defined as projects with construction or Right-of-Way (R/W) total costs in excess of \$20 million.
- 4) It has been demonstrated that high cost projects commit large sums of federal funds but cannot spend the funds in one year due to local agency contract processes, time to mobilize the contractors and the time it takes to actually construct large projects. These idled federal funds could be used to advance other projects. Cash management is critical to effective stewardship of the local assistance HBP.

### **III. IMPLEMENTATION**

- 1) Upon approval of this Office Bulletin, the Department will identify the high cost projects and make contact with the project sponsors to explain this Office Bulletin and secure funding commitments consistent with this Office Bulletin.
- 2) A funding commitment letter will be issued when a high cost phase (R/W or Construction) of work needs to be programmed in the 4 year element of the FTIP or as needed for a Federal Highway Administration (FHWA) required High Profile Project Financial Plan. National Environmental Policy Act (NEPA) and R/W clearance along with status of the Plans Specifications and Estimate (PS&E) package will play a role in determining the need for the funding commitment letter.
- 3) The Department will issue a funding commitment letter (Exhibit A), and associated funding sheet (Exhibit B) to the local agency for a high cost project that commits the Department, subject to state and federal budget legislation and other limitations, to specify HBP funds in the FTIP over a multiple year period. The Department will program HBP funds in the FTIP after the local agency executes the Advance Construction (AC) Commitment Block included in Exhibit A.



- 4) Local agencies will need to secure the availability of local funds (budget authority) to back the AC commitment.
- 5) Local agencies that cannot obtain a source of local funds for AC will not have construction (or high cost R/W) programmed within the 4 year element of the FTIP using HBP funds. These agencies may appeal this policy and request a meeting with the Department to review the specific situation.

Members of the Local Assistance Highway Bridge Program Advisory Committee (Committee) representing the League of California Cities and the California State Association of Counties (Streets and Highway Code Section 2413) may be invited to the meeting to offer advice to the Department on implementing the policy defined in this Office Bulletin as applied to the project in question.

- 6) The sum of cash managed high cost projects in any Federal Fiscal Year (FFY) should not exceed 50% of the annual revenue for that federal sub-apportionment for which the project is eligible without concurrence from the Local Assistance Highway Bridge Program Advisory Committee.
- 7) Funds allocated to a project for AC conversion should not exceed \$20 million per year without concurrence from the Committee.
- 8) High Cost projects shall not be accepted into the local assistance HBP if all (including high cost projects) projects cannot be funded over a 20 year period. If the project is not accepted into the local assistance HBP, local agencies have the option of proceeding with their own funds using AC, but the Department will not budget the project(s) for AC conversion using HBP funds.
- 9) AC conversion in the year programmed will not be obligated unless at least 50% of the prior years' federal funds have been invoiced. This keeps the federal funds available to advance other projects that could be delivered.
- 10) In reference to Office Bulletin DLA-OB-10-01 which establishes procedures for programming the FTIP, the advancement of future year AC conversion using Expedited Project Selection Procedures (EPSP), for high cost projects will be after April 15<sup>th</sup> of each year instead of after March 30<sup>th</sup>.

This will provide smaller projects programmed in future years the opportunity to advance before the high cost projects use up available HBP funds.

After April 15<sup>th</sup> of any year, conversion of AC for high cost projects will be prioritized and prorated as follows:

- a. High Cost Projects with eligible costs that could be immediately reimbursed with AC conversion will be first priority for conversion and proration will be based on outstanding reimbursable expenditures.
- b. Second priority will be advancing AC conversion amongst the high cost projects with remaining AC even if there are no project expenditures that could be immediately reimbursed.



- c. Depending on current year delivery of the HBP and other local assistance programs, the Department may delay AC conversion of eligible projects in paragraphs III(10)(a) and (b) to a later date.

#### IV. APPLICABILITY/IMPACTS

This Office Bulletin applies to local assistance bridge projects funded through the federal Highway Bridge Program (23USC144) as authorized by Streets and Highways Code 2400 – 2414, 179 – 179.3.

This policy/procedure is subject to annual review and recommendation of the Committee. Members include the Department (Chair), representatives from the League of California Cities, the California State Association of Counties, the California Association of Councils of Governments, California Transportation Commission staff, and the FHWA.

Recommended: Original Signed By 2/24/2011  
Eric Bost, PE, Statewide HBP Coordinator Date

Approved: Original Signed By 2/24/2011  
Yin-Ping Li, PE Date  
Chief, Office of Bridge and Safety Programs

Attachments: Exhibit A: Sample Funding Commitment Letter  
Exhibit B: Sample funding sheet for use in Exhibit A

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF LOCAL ASSISTANCE – M.S. 1  
1120 N STREET  
P. O. BOX 942874  
SACRAMENTO, CA 94274-0001  
PHONE (916)  
FAX (916)  
TTY 711



*Flex your power!  
Be energy efficient!*

Date:  
FTIP/FSTIP ID:  
Federal Aid Project Number  
Project Description

Dear Public Works Director,

The purpose of this letter is to commit the California Department of Transportation (Department) to fund the {fill in} bridge project (Project) consistent with the attached draft project funding sheets. The Department requests the {fill in} (Agency) to concur with this proposal and commit local resources to allow the Department to produce a new financially constrained Program list for the {MPO name} region. The {MPO} will then incorporate the revised Program list into the Federal Transportation Improvement Program (FTIP).

The Department, in cooperation with the Local Assistance Highway Bridge Program (HBP) Advisory Committee (California Streets & Highway Code Section 2413), has implemented a policy (Office Bulletin 11-02) to fund high cost projects. Members of Local Assistance HBP Advisory Committee include the Department (Chair), representatives from the League of California Cities, the California State Association of Counties, the California Association of Councils of Governments, California Transportation Commission staff, and the Federal Highway Administration.

It has been demonstrated that high cost projects commit large sums of federal funds but cannot spend the funds in one year due to local agency contract processes, time to mobilize the contractors and the time it takes to actually construct large projects. These idled federal funds could be used to advance other projects. Cash management is critical to effective stewardship of the local assistance HBP.

This letter implements the cash management policy for the Project. The Project is subject to the high cost policy because the {Right of Way (R/W) or Construction, specify} phase exceeds \$20 million.

The Department's funding commitments, as shown in the attached draft project funding sheet, are conditional. The conditions are as follows:

1. Agency is responsible for committing (budgetary) non-federal fund sources to fund the Advance Construction (AC) to cash flow the high cost phase of the Project.

Date:

FTIP/FSTIP ID:

Federal Aid Project Number:

Project Description:

2. AC conversion may not be automatic if there are delays in constructing the Project. At least 50% of the federal funds obligated on the Project must be spent to justify future programmed AC conversion.
3. Office Bulletin 10-01 authorizes the Department to reserve current year HBP funds for projects programmed in that current year through March 30th. After March 30th, Department redirects the HBP funds to other projects that may be advanced from future years of the FTIP. Current year programmed AC conversion must be obligated prior to March 30th.
4. Additional AC conversion may be obligated in {specify FFYs} using Expedited Project Selection Procedures (EPSP), if HBP funds are available after April 15<sup>th</sup> of each year.
5. Proposition 1B bond funds, Local Bridge Seismic Retrofit Account, matching funds may only be encumbered on the project when matching federal funds are obligated on the Project as shown in the attached draft project funding sheets.
6. Congress has not yet authorized a new transportation act. It is unknown what the State's authority to commit and/or obligate future HBP funds will be until there is a new act.
7. If the federal funds for the initial authorization of {R/W or Construction, specify} phase shown in the attached draft project funding sheets is not obligated in the year programmed, the Agency must commit additional local AC resources on the project in the following year to ensure the Project is fully funded or the project must be removed from the 4 year element of the FTIP until the next FTIP cycle. In either case, the funding commitment in this letter will be vacated and a new letter must be developed.
8. In the event the Project becomes inactive, the funding commitment in this letter may be vacated and a new a new letter must be developed. An "inactive project" is a project for which no expenditures have been charged against federal funds for the past 12 months. (23CFR630.106(a)(5))
9. Nothing in this letter can be considered a payable contractual commitment by the Department. Contractual commitments to the Agency are made through the procedures/processes defined in the Local Assistance Procedures Manual.

## Other Recommendations:

10. The Agency is advised to ensure HBP funds are obligated prior to March 30<sup>th</sup> of any given year or risk losing programmed funds. It is recommended the Agency schedule project authorizations and AC conversions in the late fall of any given year to ensure federal funds are available.
11. This letter, returned to the District Local Assistance Engineer (DLAE), with Agency approval signature (below) may be used in lieu of the submittal of Exhibit 3-I, Request

Date:

FTIP/FSTIP ID:

Federal Aid Project Number:

Project Description:

for Local Advance Construction Authorization, from the Local Assistance Procedures Manual.

- 12. The local agency is further reminded that this project is subject to mandatory value analysis since the total project cost is in excess of \$20 million. If the total project cost is greater than \$100 million, additional federal oversight will be required such as a multi-year financial plan and other project specific federally mandated oversight.

The Department requests the Agency to commit their local resources consistent with this proposal to allow the Department to produce a new financially constrained bridge program list for the {MPO} region. In the event the Agency cannot commit local funds to cash manage the Project, the Agency may request a meeting with the Department to appeal this policy.

If you have questions, please contact \_\_\_\_\_.

Sincerely,

DLAE

Local Agency AC Commitment Block  
{Specify Federal Aid Project Number}

The Agency agrees to use local funds in lieu of federal funds to finance the cost of work as shown in the attached draft project funding sheets shown as LOCAL FUNDED AC until such time that federal funds become available for obligation and subsequent reimbursement of eligible work. It also is understood that federal reimbursement is not guaranteed for funds identified as LOCAL FUNDED AC.

The Agency understands that work performed prior to federal authorization is ineligible for federal reimbursement and that advertising the construction contract prior to federal authorization will deem the construction and construction phases of work ineligible for federal funds.

\_\_\_\_\_  
Local Agency Representative Authorized to Commit Local Funds

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

## FOR DRAFT REVIEW ONLY --- 2008/9-2013/14 Highway Bridge Program

10/4/2010, 5:17 PM

- Notes
- 1) MPOs/RTPA's must not use this listing.
  - 2) This is NOT an approved listing for use in developing the FTIP/FSTIP. See the HBP web site for the official proposed FTIP/FSTIP program listings: <http://www.dot.ca.gov/hq/LocalPrograms/>

Note id 18

District: 50 County: Sample County Location

Responsible Agency HBP-ID Project Description

Sample Responsible Local Agency 3715 Sample High Cost Project: Replace 2 lane bridge with 6 lane bridge, on Sample Road, between Example Dr. and Fictitious Ave.

Fed Proj: BRLS-0268(001)

| <b>Phase Summary:</b> | Prior            | 8/9 | 9/10             | 10/11 | 11/12             | 12/13 | 13/14 | Beyond | Total             |
|-----------------------|------------------|-----|------------------|-------|-------------------|-------|-------|--------|-------------------|
| PE                    | 7,000,000        |     |                  |       |                   |       |       |        | 7,000,000         |
| R/W                   |                  |     | 7,000,000        |       |                   |       |       |        | 7,000,000         |
| CON                   |                  |     |                  |       | 85,000,000        |       |       |        | 85,000,000        |
| <b>Total</b>          | <b>7,000,000</b> |     | <b>7,000,000</b> |       | <b>85,000,000</b> |       |       |        | <b>99,000,000</b> |

| <b>Fund Source Summary:</b> | Prior            | 8/9 | 9/10             | 10/11 | 11/12             | 12/13       | 13/14       | Beyond      | Total             |
|-----------------------------|------------------|-----|------------------|-------|-------------------|-------------|-------------|-------------|-------------------|
| Fed \$                      | 6,197,100        |     | 6,197,100        |       | 5,710,185         | 20,000,000  | 20,000,000  | 29,540,315  | 87,644,700        |
| Local Match                 | 802,900          |     | 802,900          |       | 9,749,500         |             |             |             | 11,355,300        |
| LSSRP Bond                  |                  |     |                  |       |                   |             |             |             |                   |
| Local AC                    |                  |     |                  |       | 69,540,315        | -20,000,000 | -20,000,000 | -29,540,315 | -0                |
| <b>Total</b>                | <b>7,000,000</b> |     | <b>7,000,000</b> |       | <b>85,000,000</b> |             |             |             | <b>99,000,000</b> |

| <b>PE Summary:</b> | Prior            | 8/9 | 9/10 | 10/11 | 11/12 | 12/13 | 13/14 | Beyond | Total            |
|--------------------|------------------|-----|------|-------|-------|-------|-------|--------|------------------|
| Fed \$             | 6,197,100        |     |      |       |       |       |       |        | 6,197,100        |
| Local Match        | 802,900          |     |      |       |       |       |       |        | 802,900          |
| LSSRP Bond         |                  |     |      |       |       |       |       |        |                  |
| Local AC           |                  |     |      |       |       |       |       |        |                  |
| <b>Total</b>       | <b>7,000,000</b> |     |      |       |       |       |       |        | <b>7,000,000</b> |

| <b>R/W Summary:</b> | Prior | 8/9 | 9/10             | 10/11 | 11/12 | 12/13 | 13/14 | Beyond | Total            |
|---------------------|-------|-----|------------------|-------|-------|-------|-------|--------|------------------|
| Fed \$              |       |     | 6,197,100        |       |       |       |       |        | 6,197,100        |
| Local Match         |       |     | 802,900          |       |       |       |       |        | 802,900          |
| LSSRP Bond          |       |     |                  |       |       |       |       |        |                  |
| Local AC            |       |     |                  |       |       |       |       |        |                  |
| <b>Total</b>        |       |     | <b>7,000,000</b> |       |       |       |       |        | <b>7,000,000</b> |

| <b>CON Summary:</b> | Prior | 8/9 | 9/10 | 10/11 | 11/12             | 12/13       | 13/14       | Beyond      | Total             |
|---------------------|-------|-----|------|-------|-------------------|-------------|-------------|-------------|-------------------|
| Fed \$              |       |     |      |       | 5,710,185         | 20,000,000  | 20,000,000  | 29,540,315  | 75,250,500        |
| Local Match         |       |     |      |       | 9,749,500         |             |             |             | 9,749,500         |
| LSSRP Bond          |       |     |      |       |                   |             |             |             |                   |
| Local AC            |       |     |      |       | 69,540,315        | -20,000,000 | -20,000,000 | -29,540,315 | -0                |
| <b>Total</b>        |       |     |      |       | <b>85,000,000</b> |             |             |             | <b>85,000,000</b> |