# Memorandum

**To:** CHAIR AND COMMISSIONERS

**CTC Meeting:** August 6, 2013

**Reference No.:** 3.5
Action

**From:** ANDRE BOUTROS
Executive Director

**Subject:** **PROPOSITION 1B SEMI-ANNUAL STATUS REPORT**

**ISSUE:**

Should the California Transportation Commission (Commission) approve the attached Proposition 1B Semi-Annual Status Report for submittal to the Department of Finance?

**RECOMMENDATION:**

Commission staff recommends that the Commission approve the attached proposition 1B Semi-Annual Status Report for submittal to the Department of Finance.

**BACKGROUND:**

Senate Bill 88 designates the Commission as the administrative agency for the Corridor Mobility Improvement Account, Route 99, Trade Corridor Improvement Fund, State & Local Partnership, Local Bridge Seismic Retrofit Account, Highway Railroad Crossing Safety Account, STIP and SHOPP programs funded by Proposition 1B. As the administrative agency, the Commission is required to report on a semiannual basis to the Department of Finance on the progress of the projects in these proposition 1B programs. The purpose of the report is to ensure that the projects are being executed in a timely manner and within the approved scope and budget.

The proposition 1B Semi-Annual Status Report, issued in July of each year, and the Commission's Annual Report, issued in December, provide the reports mandated by Senate Bill 88.

Attached is the proposed Proposition 1B Semi-Annual Report. Upon Commission approval, the attached report will be submitted to the Department of Finance with the current Proposition 1B Quarterly Reports presented at the June 2013 Commission Meeting.

# CALIFORNIA TRANSPORTATION COMMISSION

## Proposition 1B Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006

## Semi-Annual Status Report
## July 2013

## 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 intended to relieve congestion, facilitate goods movement, improve air quality, and enhance the safety of the state's transportation system. These transportation programs included the Corridor Mobility Improvement Account (CMIA), State Route 99 Corridor Account (SR 99), Trade Corridors Improvement Fund (TCIF), State and Local Partnership Program (SLPP), Local Bridge Seismic Program, Highway-Railroad Crossing Safety Account (HRCSA), Traffic Light Synchronization Program (TLSP) and the augmentation of the existing State Transportation Improvement Program (STIP) and the State Highway Operation and Protection Program (SHOPP). Consistent with the requirements of Proposition 1B, the California Transportation Commission (Commission) programs and allocates bond funds in each of the above-mentioned programs.

In clarifying legislation to Proposition 1B, Senate Bill 88 (SB 88), enacted in 2007, includes implementation and accountability requirements for Proposition 1B projects and further defines the role of the Commission as the administrative agency for the CMIA, SR 99, TCIF, STIP, SLPP, Local Bridge Seismic Account, HRCSA, TLSP, and SHOPP funded by Proposition 1B. SB 88 requires the Commission to report to the Department of Finance, on a semiannual basis, on the progress of the Proposition 1B bond projects in these programs. This report, as well as the Commission's Annual Report issued in December of each year, satisfies the reporting requirements of SB 88.

To date, the Commission has programmed all $11.6 billion of the Proposition 1B funds within its purview. The Commission has allocated $10.665 billion of the programmed Proposition 1B funds, to projects that were ready to commence construction.

## DELIVERY TRENDS & CHALLENGES

## Delivery Challenges

The Buy America provisions of Section 518 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), which Congress amended to existing law, broaden Buy America applicability to non FHWA-funded utility relocations. This has created significant challenges for Bond projects that are seeking an allocation. Some utility companies have refused to comply with these requirements, preventing projects from moving forward. Allocations for four bond projects were deferred in May and June as a result. Project sponsors continue to work towards a resolution with the utility companies in order to proceed with the projects. The Buy America issue has affected some already allocated projects as well.

## Construction Cost Trends

Since 2009, the economic downturn provided one tangible benefit for the Proposition 1B projects, that is, lower construction bids. The trend for lower construction costs continued in Fiscal Year 2012-13. The Department has received on average 6.1 bids per advertised contract, same as the prior fiscal year. The low bid for contracts was 9.1% below the Engineer's Estimate for Fiscal Year 2012-13 versus 15.6% below the Engineer's Estimate for Fiscal Year 2011-12.

## Program Specific Issues

**Corridor Mobility Improvement Account (CMIA)**

The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B on November 7, 2006. Proposition 1B authorized $4.5 billion in general obligation bond proceeds to be deposited in the CMIA. Funds in the CMIA are available for performance improvements on the state highway system, or major access routes to the state highway system on the local road system, that relieve congestion by expanding capacity, enhance operations, or otherwise improve travel times within these high-congestion travel corridors. Inclusion of a project in the CMIA program was conditioned on the commencement of construction no later than December 31, 2012.

At the time of adoption of the original CMIA program in February 2007, the Commission programmed 54 projects for $4.5 billion, leveraging another $4.6 billion in additional federal, state and local funds. As the Commission focused on assuring the delivery of the CMIA program within the statutory deadline, the Commission also worked with sponsoring agencies to recapture any cost savings at construction contract award. These contract award savings were proportioned among the mix of project funding sources. The accumulated CMIA savings were recycled to program additional CMIA projects. Through December 31, 2012, the Commission committed $1.070 billion of CMIA savings to 45 additional projects, leveraging another $1.73 billion in additional federal, state and local funds. What started as a program of 54 projects programmed at $9.1 billion in total project cost grew to a program of 99 projects programmed at $11.7 billion in total project cost, generating over 190,000 jobs and providing critical improvements to the state transportation system.

The Commission, working with the Department, was successful in capturing and utilizing all available CMIA project cost savings accrued after June 30, 2012 through the statutory deadline of December 31, 2012, by exchanging the available CMIA funds with SHOPP funds on the Gerald Desmond Bridge in Los Angeles County and the I-15 Widening and Devore Interchange Reconstruction Project in San Bernardino County.

**Trade Corridors Improvement Fund (TCIF)**

Proposition 1B authorized $2 billion of state general obligation bonds for the TCIF. Funds in the TCIF are available for infrastructure improvements along federally designated "Trade Corridors of National Significance" in the state or along other corridors within the state that have a high volume of freight movement. Acknowledging that the freight infrastructure needs of the state far exceed the $2 billion provided under Proposition 1B, the Commission supported a strategy to increase TCIF funding by $500 million from the State Highway Account to fund state-level priorities that are critical to goods movement. In April 2008 the Commission adopted a program approximately 20 percent more than the $2.5 available. The overprogramming assumed that new revenue sources would become available and would be dedicated to funding the adopted program. Unfortunately, new revenue sources to address the overprogramming have not materialized. However, the Corridor Coalitions diligently addressed the overprogramming and all three Corridor Coalitions – the Northern California Trade Corridors Coalition (NCTCC), the Southern California Consensus Group (SCCG), and the San Diego/Border Corridor (SDBC) – achieved their programming levels by May 2013.

At the time of adoption of the TCIF program, the Commission programmed 79 projects, valued at $3.088 billion. Since then, projects have been removed and new projects have been added. Through June 2013, 67 projects remain in the TCIF program. Out of the 67 projects, 6 projects have been completed, 54 are either under construction or about to start construction and 7 remain unallocated. The Commission continues to work with the coalitions and project sponsors to recapture any cost savings at construction contract award and/or close out and utilize the savings on new projects.

## ACCOUNTABILITY

In clarifying legislation to Proposition 1B, on August 24, 2007, the Governor signed into law Senate Bill 88 (SB 88) which designates the Commission as the administrative agency for the CMIA, SR 99, TCIF, STIP, SLPP, Local Bridge Seismic Account, HRCSA, and SHOPP funded by Proposition 1B. SB 88 imposes various requirements for the Commission relative to adopting guidelines, making allocations of bond funds, reporting on projects funded by the bond funds, and ensuring that the required bond project audits of expenditures and outcomes are performed.

In addition, Executive Order S-02-07, issued by Governor Arnold Scharzenegger on January 24, 2007, significantly increases the Commission's delivery monitoring responsibility for the bond funded projects. Specifically, the Commission is required to develop and implement an accountability plan, with primary focus on the delivery of bond funded projects with their approved scope, cost and schedule.

A key element of the Commission's responsibility for accountability as an administrative agency for specific bond programs is submitting reports to the Department of Finance on a semiannual basis. The purpose of these reports is to ensure that projects are proceeding on schedule and within their estimated cost. As part of its Accountability Implementation Plan, the Commission requires bond fund recipients to report to the Commission on a quarterly basis. These reports are reviewed by the Commission and posted on the Bond Accountability website. In addition, the Commission prepares the Semi-Annual Proposition 1B Status Report and the Annual Report to the Legislature, which includes the status of the Proposition 1B Programs.

Another key element of bond accountability is the audit of bond project expenditures and outcomes. Specifically, the Commission is required to develop and implement an accountability plan which includes provisions for bond audits. Under the Executive Order, expenditures of bond proceeds shall be subject to audit to determine whether the expenditures made from bond proceeds:

- Were made according to the established front-end criteria and processes.
- Were consistent with all legal requirements.
- Achieved the intended outcomes.

The Commission's Accountability Implementation Plan includes provisions for the audit of bond projects. In order to ensure that the Commission is meeting the auditing requirements of an administrative agency, as mandated by SB 88 and the Governor's Executive Order, the Commission has entered into a Memorandum of Understanding with the Department of Finance to perform the required audits of Proposition 1B projects, effective July 1, 2009. In addition, the Department of Finance, in consultation with Commission staff, is currently developing the Fiscal Year 2013-14 Audit Plan for the Proposition 1B Bond Program.