Little Hoover Commission

Testimony by Andre Boutros
Chief Delivery Officer
California Transportation Commission
October 23, 2008

Proposition 1B – Bond Accountability

The California Transportation Commission (Commission) consists of eleven voting members and two non-voting ex-officio members. Of the eleven voting members, nine are appointed by the Governor, one is appointed by the Senate Rules Committee, and one is appointed by the Speaker of the Assembly. The two ex-officio members are appointed from the State Senate and Assembly, usually the respective chairs of the transportation policy committee in each house.

The Commission is supported by a small staff that report to an executive director who serves at the pleasure of the Commission. The Staff develops policies and procedures that carry out the mandates of the Commission. The Commission also relies on the Department of Transportation (Department) to perform certain work that is necessary for the Commission to carry out its duties and responsibilities.

The Commission is responsible for the programming and allocating of funds for the implementation of highway, passenger rail and transit improvements throughout California. The Commission also advises and assists the Secretary of Business, Transportation and Housing Agency and the Legislature in formulating and evaluating policies and plans for California's transportation programs. Additionally, the Commission is an active participant in the initiation and development of State and federal legislation that seeks to secure financial stability for the State's transportation needs.

Proposition 1B designates the Commission as the programming and allocating body for seven new programs, in addition to monies made available to augment the existing State Transportation Improvement Program (STIP) and the State Highway Operations and Protection Program (SHOPP). Proposition 1B refers to existing laws, regulations, and processes and contains specific expectations and accountability requirements.

Since the passage of Proposition 1B, Governor Schwarzenegger issued Executive Order S-02-07 which requires the Commission to be accountable for ensuring that bond proceeds are expended in a manner consistent with the provisions of either the applicable bond act and the State General Obligation Bond Law or laws pertaining to State lease revenue bonds and all other applicable State and federal laws. The Executive Order also requires that the Commission establish and document a three-part accountability structure for bond proceeds and requires information be made available to the public in a transparent and timely manner.

Senate Bill 88, a trailer bill to the Budget Act of 2007, also includes implementation and accountability requirements for Proposition 1B projects and defines the role of the

Commission further as the administrative agency for certain bond programs. SB 88 requires project nominations to include project delivery milestones, and identifies reporting requirements as a condition of allocation of bond funds. SB 88 also requires the Commission to approve or direct the recipient agency to modify its corrective plan when project costs are anticipated to exceed the approved project budget and the recipient agency is considering a reduction in the project scope to remain within budget.

Transportation programming is the commitment of transportation funds to be available over a period of several years to particular projects. Programming activities begin with the development of an estimate of available resources to assign to a suite of projects. Programming guidelines are then developed to identify program objectives, project eligibility, evaluation criteria, and program development milestones. The Commission utilizes an open and transparent process for its programming activities that begins with stakeholder conferences and public testimony, and vetting of staff recommendations at public Commission meetings, and finally adoption of a particular program. An adopted program will identify a list of projects, anticipated delivery milestones, and the amount of funds assigned to each of these projects for four distinct phases: Environmental, Design, Right of Way, and Construction.

To date, the Commission has programmed all available Proposition 1B dollars within its purview with the exception of the State-Local Partnership Program, where the development of the guidelines is currently underway, and a program for fiscal year 2008/09 is expected to be in place by April 2009.

Program	**Available**
	(thousands)
Corridor Mobility Improvement Account	$4,500,000
Route 99 Corridor Account	$1,000,000
Trade Corridors Improvement Fund	$2,000,000
State Transportation Improvement Program Augmentation	$2,000,000
State Highway Operations and Protection Program Augmentation	$500,000
Traffic Light Synchronization	$250,000
Local Bridge Seismic Retrofit Account	$125,000
Highway-Railroad Crossing Safety Account	$250,000
State-Local Partnership Program	$1,000,000
	$11,625,000

In its program adoption actions, the Commission has required the development of project baseline agreements that would consequently be signed by the recipient agency's executive director and the director of the Department, and for some programs the Commission's Executive Director. The baseline agreements set forth the agreed upon project scope, schedule, cost and expected benefits. These agreements also include the estimated cost of and the start and completion dates for the environmental, right-of-way, design, and construction phases of the project. Recipient agencies are responsible for managing the scope, cost and schedule of the project consistent with the adopted programs and executed baseline agreements. The baseline agreement is considered the front-end document that forms the foundation for the Commission's in-progress and follow-up accountability.

The Commission has also required recipient agencies to report, on a quarterly basis, on the activities and progress made towards the implementation of a project, including those taking place prior to allocation of bond funds. The quarterly progress report includes approved budgets, actual expenditures, and forecasted cost, as well as approved schedules, progress to date, and forecasted completion dates of each phase of a project.

The Commission will only consider allocation (or award) of funds for a project when it receives an allocation request and a recommendation from the Department. Recipient agencies submit their requests for allocation to the Department for a project or a project component. The Commission will approve the allocation only if the funds are available, upon annual budget appropriation by the Legislature, and are necessary to implement the project as programmed. The allocation will specify the amount of funds authorized to each phase of work and allows the recipient agency to submit invoices to the Department and be reimbursed for actual costs incurred up to the allocated amount.

The Department controls and provides oversight of budget expenditures through internal accounting and administrative processes (in accordance with the Financial Integrity and State Managers Accountability Act of 1983) and by entering into master agreements or project agreements (or fund transfer agreements) with recipient agencies, other than itself, for actual expenditures related to work performed. A master agreement defines the general terms and conditions which must be met by the recipient agency to receive federal-aid and State funds. The Department has master agreements with most agencies with programmed Proposition 1B projects. A project agreement is executed by both parties to encumber funds for a project in the State accounting system and to allow payments to be made to the recipient agency. The recipient agency will be reimbursed for eligible participating costs in arrears upon submittal of progress invoices to the Department for expenditures actually made.

Upon acceptance of a completed project and final payment to the contractor, the recipient agency is responsible for preparing and submitting a final report, including the final invoice, to the Department. This report provides key information required to initiate timely project close-out and payment. The Department will review the completed project and verify that it was completed in accordance with the scope and description of the project authorization documents before processing the final invoice.

For Proposition 1B programs, the Commission has put forth an accountability implementation plan that incorporates provisions from Proposition 1B, the Governor's Executive Order, and SB 88. The accountability implementation plan emphasizes transparency and accountability along the lifetime of a project. One of the most significant accountability actions taken by the Commission, in its program adoption actions for most Proposition 1B programs, is the mandate that bond funding be limited for the cost of construction. This mandate ensures bond funds are expended for physical capital improvements with quantifiable benefits, once all project planning and design activities are completed.

Transparency is achieved at many levels: the Commission is subject to open meeting laws; all program development and monitoring activities are publicly vetted; and, Commission guidelines and publicly discussed reports are available on the Commission's website. The public may address the Commission at any of its public meetings with regards to any of its agenda items. The Commission provides semi-annual reports to the Department of Finance (Finance) and the Legislature on the status of each program to communicate whether projects are being executed in a timely fashion and are within the scope and budget identified in the executed baseline agreements. The Commission also provides in its annual report to the Legislature a summary of its activities relative to the administration of bond programs highlighting significant issues with these programs, and may recommend legislative proposals that could facilitate their implementation.

The Commission's accountability process builds on many decades of transportation project delivery and established roles and responsibilities involving the Department and other recipient agencies. Most of the recipient agencies are regional planning agencies responsible for developing regional transportation plans that utilize a 20 year look ahead. Some of the recipients are also Self-Help Counties with local voter-approved special sales tax that raises money for transportation purposes. These agencies also rely on their public boards or commissions for oversight of their expenditure plans or programs of projects.

The Commission continues to utilize lessons learned from cooperation and feedback that these agencies provide through the normal course of business on a variety of State funded programs. Of significant influence though, the Commission's accountability plan builds on lessons learned from the Toll Bridge Oversight Committee (TBPOC). TBPOC was legislatively created to implement project oversight and control processes for the State toll bridge seismic retrofit program.

The Commission's accountability implementation plan allows the review of the project's progress on a quarterly basis, and requires the recipient agency to develop a corrective plan to address anticipated deviations or variances from the approved project baseline agreement. Efficiency measures for possible cost increases or schedule delays are addressed on an ongoing basis by the project team and in this case through the corrective plan. The accountability plan emphasizes the delivery on promises - the scope and benefits (outputs and outcomes) of the project are the most critical to accomplish.

The Commission has incorporated audit requirements in its program guidelines as mandated by SB 88. The audits are expected to be performed at the completion of construction when the facility becomes operable, typically when the construction contractor has completed the work, and the recipient agency has opened the facility to traffic. Additional activities such as the resolution of contract disputes and the completion of possible mitigation work will routinely take place after the construction contract is completed. Additional expenditures are subject to a supplemental audit at the conclusion (close-out) of all project activities to document the full cost of the project.