CALIFORNIA TRANSPORTATION COMMISSION

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

Semi-Annual Status Report
July 2011

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), 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 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 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, 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 $10.9 billion of the $11.6 billion of the Proposition 1B funds within its purview. The remaining $770 million represent primarily State-Local Partnership Program (SLPP) funds, which are to be programmed on a five year period on a formula basis. The Commission has allocated $5.5 billion of the programmed Proposition 1B funds, primarily to projects that were ready to commence construction.

PROJECT FUNDING ISSUES

Availability of Bond Funding

As with almost any state program during Fiscal Year 2010-11, the most pressing issue for the Proposition 1B programs has been the state's ongoing financial challenges and the limited availability of cash to fund projects. In the past, the Commission typically approved allocations to projects when requested by project sponsors. Since January 2009, however, the Commission's ability to allocate to Proposition 1B projects and allow these projects to proceed to construction has been constrained by the State Treasurer's ability to sell bonds and the availability of bond proceeds for transportation projects. These funding constraints have forced the Commission to defer allocations to delivered projects, negatively impacting project baseline agreement schedules, and reducing the economic stimulus generated through the construction of infrastructure projects. During the summer and fall of 2010, more than $700 million of shovel ready projects were stalled until bond sales in late 2010 enabled the Commission to allocate to these projects in January 2011. As ongoing budget deficits have made it untenable for the State Treasurer to sell bonds for Proposition 1B projects in the spring of 2011 and a protracted fight in the Legislature to close the remaining $9.6 billion Fiscal Year 2011-12 budget deficit will continue to restrict the State Treasurer's ability to sell bond in the fall of 2011, the Commission must once again defer allocations to delivered projects, negatively impacting project baseline agreement schedules, and reducing the economic stimulus generated through the construction of infrastructure projects. The constraints on bond sales also threaten Proposition 1B projects under construction as current cash reserves only provide funding through December 2011.

The CMIA Program is especially at risk. Through June 2012, nearly $1.5 billion in allocations will be required to fund the remaining CMIA projects. However, as Proposition 1B requires that the CMIA projects commence construction no later than December 31, 2012, any delays in the Commission's ability to allocate to the remaining CMIA projects threatens the funding and ultimate implementation of these projects. In fact, a fall 2011 bond sale is unlikely to provide adequate proceeds to fund the remaining CMIA projects and a spring 2012 bond sale is doubtful given the state's ongoing budget deficits. Without the committed CMIA funding, these projects will be severely delayed and in some cases, never constructed.

Availability of Local Funding

The ongoing economic downturn also threatens local funding for Proposition 1B projects. Nineteen counties in California have adopted local sales tax measures to fund transportation improvements, including local contributions to Proposition 1B projects. As local sales tax revenues have declined approximately 5 percent to 20 percent in the last two years, project sponsors may have difficulty meeting existing local funding commitments to Proposition 1B projects or funding potential cost increases. In addition, many local agencies issue bonds against future sales tax revenues to raise funds to pay current project costs. However, local agencies may have difficulty issuing bonds because of the tight credit markets.

DELIVERY TRENDS & CHALLENGES

Construction Cost Trends

In 2009 and 2010, the economic downturn provided one tangible benefit for the Proposition 1B projects, that is, lower construction costs. However, that benefit is quickly evaporating. Through the third quarter of Fiscal Year 2010-11, the Department of Transportation has received an average of 7.1 bidders per contract advertised, a decrease from the average of 8.8 bidders per contract in Fiscal Year 2009-10. The low bid for contracts was 12.5% below the Engineer's Estimate for the same period versus 34.0% below the Engineer's Estimate for Fiscal Year 2009-10.

Program Specific Issues

Corridor Mobility Improvement Account (CMIA)

Proposition 1B authorized $4.5 billion in general obligation bond proceeds to be deposited in the Corridor Mobility Improvement Account (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.

The Commission adopted the initial CMIA Program on February 28, 2007. Many of the projects awarded for construction since the adoption of the initial CMIA Program have accrued substantial project cost savings. In order to address these project cost savings, the Commission adopted Supplement 2 to the CMIA and SR 99 Accountability Implementation Plan in December 2009. The purpose of Supplement 2 was 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 how project cost savings will be administered by the Commission. Supplement 2 reflected the Commission's intent to program the project cost savings to eligible projects nominated but not programmed in the initial CMIA Program and/or to enhancements to existing CMIA projects.

CMIA project cost savings accrued and available through March 2010 were $234.9 million in the North and $79.8 million in the South. Given the level of accrued savings, the Commission approved amendments to the CMIA Program at the May and June 2010 Commission Meetings, programming $221.7 million for ten projects in the North and $79.6 million for 3 projects in the South.

CMIA project cost savings accrued and available from the period April 2010 through May 2011 are $127.9 in the North and $179.3 million in the South. In order to program these additional cost savings, the Commission issued a call for project in March 2011. The Commission will consider an amendment to the CMIA Program at its June 2011 meeting. The Commission will continue to assess the level of accrued project cost savings and program additional projects as warranted.

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 of 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 overprogrammed the TCIF by approximately $600 million upon adoption of the program in April 2008. The overprogramming assumed that new revenue sources would become available and would be dedicated to funding the adopted program. This assumption now appears to be at risk in the current economic environment.

Assembly Bill 268 (Chapter 756, Statutes of 2008) requires the Commission to evaluate the potential costs and benefits of the TCIF Program on the economy, environment, and public health. In accordance with AB 268, the Commission consulted with the State Air Resources Board (ARB) to determine the appropriate models, techniques, and methods to develop this evaluation. The TCIF Corridor Coalitions and the individual project sponsors used the criteria developed by ARB to evaluate the TCIF projects and the resulting report will be presented for approval at the June 2011 Commission meeting.

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. The Department of Finance is in the final stages of an audit of the CMIA Program, with the final report to be issued in the summer of 2011. In addition, the Department of Finance, in consultation with Commission staff, is currently developing the Fiscal Year 2011-12 Audit Plan for the Proposition 1B Bond Program.