

**California Transportation Commission
Guidelines for the Determination of Eligible
Public Partnership Transportation Projects
High Occupancy Toll Lanes**

Background:

In accordance with AB 1467, until January 1, 2012, Regional Transportation Agencies, in cooperation with the Department of Transportation (Department), may apply to the California Transportation Commission (Commission) to develop and operate high-occupancy toll lanes, including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit, as specified. The number of projects that may be approved is limited to four, two in Northern California and two in Southern California.

In order to ensure that Public Partnership (PP) transportation projects selected promote California's transportation goals and advance the public interest, the Commission will use technical and financial criteria to determine eligibility of PP applications relative to the development and operation of the facilities proposed. The proposed eligibility criteria and procedures for the Commission to evaluate PP transportation project eligibility are set forth below.

Legislative Background:

Assembly Bill 1467, Nunez, added Section 149.7 to the Streets and Highways Code to read:

- (a) A Regional Transportation Agency, as defined in Section 143, in cooperation with the Department, may apply to the Commission to develop and operate high-occupancy toll lanes, including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit, consistent with the established standards, requirements, and limitations that apply to those facilities in Sections 149, 149.1, 149.3, 149.4, 149.5 and 149.6.
- (b) The Commission shall review each application for the development and operation of the facilities described in subdivision (a) according to eligibility criteria established by the Commission. For each eligible application, the Commission shall conduct at least one public hearing in Northern California and one in Southern California.
- (c) Following public hearings, the Commission shall submit an eligible application and any public comments made during the hearings to the Legislature for approval or rejection. Approval shall be achieved by the enactment of a statute. The number of facilities approved under this section shall not exceed four, two in Northern California and two in Southern California.
- (d) A Regional Transportation Agency that develops or operates a facility, or facilities, described in subdivision (a) shall provide any information or data requested by the

Commission or the Legislative Analyst. The Commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the progress of the development and operation of a facility authorized under this section. The Commission may submit this report as a section in its annual report to the Legislature required pursuant to Section 14535 of the Government Code.

(e) No applications may be approved under this section on or after January 1, 2012.

Guidelines for Determining PP Transportation Project Eligibility

Proposed PP transportation project applications arising from AB 1467 will be evaluated for eligibility according to the following criteria:

Phase One: Review of Application

Commission staff will perform a preliminary qualification review of each application to determine whether the proposer has:

- A project that conceptually meets the requirements of AB 1467.
- Evidence that the application was submitted in cooperation with the Department.
- A project plan which appears technically feasible.
- A financial plan which appears to allow access to the necessary capital to finance the facility.

Phase Two: Evaluation of Project Eligibility

A. In order to determine project eligibility, Commission staff will evaluate project applications against eligibility criteria. The Commission may obtain professional opinions from necessary experts in the evaluation of the detailed application. For example, consultation and opinions could be obtained from expert engineers, accountants and attorneys as applicable.

B. Eligibility Objectives

Eligibility objectives include obtaining evidence to support that:

- The proposed project complies with Sections 149, 149.1, 149.3, 149.4, 149.5, 149.6 and 149.7 of the Streets and Highways Code.
- The application was submitted in cooperation with the Department and the Department has determined that the project is consistent with State Highway System requirements.
- The project is technically and financially feasible.
- The project is consistent with the Applicant's Regional Transportation Plan.

- The Regional Transportation Agency has established performance measures for project tracking and reporting purposes.

C. Eligibility Criteria

Eligibility criteria for public partnership transportation projects submitted in accordance with AB 1467 are set forth in Attachment I.

D. Executive Director's Recommendation to the Commission

Upon final evaluation of the project application against eligibility criteria, the Commission's Executive Director will make a recommendation to the Commission to accept or reject the application.

Phase Three: Public Hearings & Legislature Review and Approval/Rejection

A. Public Hearings

For those applications accepted as eligible by the Commission, one public hearing will be held in Northern California and one in Southern California. The purpose of the public hearings is to allow agencies, stakeholders and the public an opportunity to present concerns pertaining to the project.

B. Legislative Approval

For those applications meeting the eligibility requirements established by the Commission, the eligible application(s) and any public comments made during the hearings will be forwarded to the Legislature for approval or rejection. Approval will be achieved by the enactment of a statute.

Phase Four: Approved PP Application

Upon Legislature's enactment of a statute for the project, the Department will enter into an agreement with the Regional Transportation Agency. This agreement will include all the requirements outlined in AB 1467 and all applicable laws and regulations.

Phase Five: Report to the Legislature

Annually the Commission, in cooperation with the Legislative Analyst, will provide a report on the progress of the development and operation of each facility approved under these guidelines and the Streets and Highways Code Section 149.7.

Attachment I

California Transportation Commission Public Partnership Application Eligibility Criteria High Occupancy Toll Lanes

The eligibility criteria set forth below will be considered by the California Transportation Commission (Commission) staff in making a determination whether a public partnership (PP) transportation project submitted in accordance with Assembly Bill 1467 should be recommended to the Commission for approval, public hearings, and final submission to the Legislature.

Documentation to support the development and operation of high-occupancy toll lanes including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit should be provided with each project application submitted. Applications that do not satisfactorily address the primary elements of the eligibility criteria will be considered incomplete and will not be recommended for approval.

Eligibility Criteria

Compliance with Streets & Highways Code

1. Streets & Highways Code

Was evidence provided to support that the proposed project is consistent with the established standards, requirements, and limitations that apply to those facilities in Sections 149, 149.1, 149.3, 149.4, 149.5, 149.6 and 149.7 of the Streets and Highways Code?

Department of Transportation Cooperation & State Highway Compatibility

1. Department of Transportation Cooperation

Was evidence provided that the Department of Transportation (Department) supports this project and that the project application was submitted in cooperation with the Department?

2. State Highway System Compatibility

Has the Department determined the project to be consistent with State Highway System requirements?

Technical Feasibility

1. Project Definition

Is the project described in sufficient detail to determine the type and size of the project, the location, all proposed interconnections with other transportation facilities, the communities that may be affected, and alternatives (e.g. alignments) that may need to be evaluated?

2. Proposed Project Schedule

Is the time frame for project completion clearly outlined? Is the proposed schedule reasonable given the scope and complexity of the project? Does the proposal contain adequate assurances that the project will be completed and will be completed on time?

3. Operation

Does the applicant present a reasonable statement setting forth plans for operation of the facility?

4. Technology

Does the technology proposed maximize interoperability with relevant local and statewide transportation technology?

5. Conforms to Laws, Regulations and Standards

Is the proposed project consistent with applicable state and federal statutes and regulations and standards? Does the proposed design meet appropriate state and federal standards?

6. Federal Permits

Is the project outside the purview of federal oversight, or will it require some level of federal involvement due to its location on the National Highway System or Federal Interstate System or because federal permits are required?

7. Meets/Exceeds Environmental Standards

Has the project received environment clearance? If not, is the project likely to receive environmental clearance to meet the timeline set forth in the project proposal?

8. State and Local Permits

Does the proposal list the required permits and schedule to obtain them? Are there negative impacts known for the project? If so, is there a mitigation plan identified?

9. Right of Way

If not too early to determine, does the proposal set forth the method by which the operator proposes to secure all property interests required for the transportation facility?

10. Maintenance

Is there a process in place to develop a maintenance plan with the Department? Specifically, is there a process to clearly define assumptions or responsibilities during the operational phase including law enforcement, toll collection and maintenance?

Financial Feasibility

It is expected that the proposer will provide information relative to the project financial plan and feasibility. This will include information to support whether the proposer has provided a financial plan and financial guarantees which will allow for access to the necessary capital to finance the facility as well as the following:

1. Financing and Financial Plan

Does the financial plan demonstrate a reasonable basis for funding project development and operations? Are the assumptions on which the plan is based well defined and reasonable in nature? Are the plan's risk factors identified and dealt with sufficiently? Are the planned sources of funding and financing realistic? Did the proposer demonstrate evidence of its ability to obtain the other necessary financing? Does the proposer have the ability to fund shortfalls if revenues do not meet projections?

2. Estimated Cost

Is the estimated cost of the facility reasonable in relation to the cost of similar projects? A significant portion of the final determination will rely on a cost/benefit analysis.

3. Life Cycle Cost Analysis

Does the proposal include an appropriately conducted analysis of projected rate of return and life cycle cost estimate of the proposed project and/or facility?

4. Business Objective

Does the proposer clearly outline the reason for pursuing this project? Do the assumptions appear reasonable?

5. Financial Condition

Is the financial information submitted by the proposer sufficient to determine the financial capability to fulfill its obligations described in the project application?

6. Project Ownership

Does the application identify the proposed ownership arrangements for each phase of the project and indicate assumptions on legal liabilities and responsibilities during each phase of the project?

7. Competitive Bidding

To what extent have adequate and transparent procurement policies been adopted by the applicant to maximize competitive bidding opportunities for potential contractors and suppliers?

Regional Transportation Plan & Community Support

1. Consistency with Local, Regional and State Transportation Plans

Is the project consistent with City and County comprehensive plans and regional transportation plans? Is this project consistent with plans and documents for the Regional Transportation Agency's long range plan? If not, are steps proposed that will achieve consistency with such plans?

2. Compatibility with the Existing Transportation System

Does this project propose improvements that are compatible with the present and planned transportation system? Does the project provide continuity with existing and planned state and local facilities?

3. Fulfills Policies and Goals

Does the proposed project help achieve performance, safety, mobility or transportation demand management goals? Does the project improve connections among the transportation modes?

4. Air Quality and Environmental Statutes and Regulations

Is the proposed project consistent with applicable state and federal environmental statutes and regulations? Is the project consistent with the air quality component of the RTP? Does the proposal adequately address or improve air quality conformity?

5. Enhance Community-Wide Transportation System

Are there identified project benefits to the affected community transportation system? Does this project enhance adjacent transportation facilities?

6. Economic Development

Will the proposed project enhance the state's economic development efforts? Is the project critical to attracting or maintaining competitive industries and businesses to the region, consistent with state objectives?

6. Local Support

Has the regional agency governing body taken action to approve this proposal? How have or will local impacts be addressed?

7. Community Benefits

Will this project bring a significant transportation and economic benefit to the community, the region, and/or the state? Are there ancillary benefits to the communities because of the project?

8. Community Support/Environmental Justice

What is the extent of support or opposition for the project? Does the project proposal demonstrate an understanding of the national and regional transportation issues and needs, as well as the impacts this project may have on those needs? Is there a demonstrated ability to work with the community? Have all affected local

jurisdictions provided clear written statements of the extent of their support for the project?

Performance Measures

Does the Regional Transportation Agency have performance measures in place to track and report annually on the following?

1. Safety

The ratio of the number of fatalities to the number of vehicle miles traveled, the ratio of the number of fatal collisions to the number of vehicle miles traveled, and the ratio of the number of injury collisions to the number of vehicle miles traveled.

2. Mobility

The total amount of delay per traveler that exists on a designated area over a selected amount of time, the average travel time for peak period trips taken on regionally significant corridors and between regionally significant origin and destination pairs, the average travel time for non-peak period trips taken on regionally significant corridors and between regionally significant origin and destination pairs.

3. Accessibility

The accessibility of transit service.

4. Reliability

The difference between expected travel time and actual travel time and the ability of transit service operators to meet customers' reliability expectations.

5. Productivity

The utilization of the transportation system by all vehicles, by people, and by trucks as well as the effectiveness of mass transportation system operations by measuring the number of passengers carried for every mile of revenue service provided.

7. System Preservation

The number of lane miles in poor structural condition or with bad ride (pavement condition) and roadway smoothness.

8. Return on investment/Lifecycle Cost

The ratio of resources available to assets utilized. Lifecycle cost analysis is a benefit cost analysis that incorporates the time value of money.

9. Emission Reduction

The amount of emission reduction achieved as required to be reported in accordance with Assembly Bill 32, Nunez, and set forth in the Health and Safety Code, Division 25.5 commencing with Section 38500.

Secondary Evaluation and Eligibility Criteria

The following evaluation and eligibility criteria are to be addressed only if the project team is known. Where a project team is not known given the stage of the project, this secondary evaluation and eligibility criteria is not required to be addressed.

Qualifications and Experience

Does the Regional Transportation Agency propose a team which is qualified, led, and structured in a manner which will clearly enable the team to complete the proposed project?

1. Experience with Similar Infrastructure Projects

Have members of this team previously worked together constructing, improving or managing transportation infrastructure? Has the lead agency managed, or any of the member agencies worked on infrastructure projects?

2. Demonstration of Ability to Perform Work

What commitments has the team made to carry out the project? Does the team possess the necessary financial, staffing, equipment, and technical resources to successfully complete the project? Do the team and/or member agencies have competing financial or workforce commitments that may inhibit success and follow-through on this project?

3. Leadership Structure

Does the organization of the team indicate a well thought out approach to managing the project? Is there an agreement/document or joint powers agreement in place between members and/or multiple agencies?

4. Project Manager's Experience

Depending on applicability given the stage of the project, is a Project Manager identified, and does this person work for the Regional Transportation Agency, Lead Agency or principal firm? If not, is there a clear definition of the role and responsibility of the Project Manager relative to the member firms? Does the Project Manager have experience leading this type and magnitude of project?

5. Management Approach

Have the primary functions and responsibilities of the management team been identified? Have the members of the team developed an approach to facilitate communication among the project participants?

Public Involvement Strategy

What strategies are proposed to involve local and state elected officials in developing this project? What level of community involvement has been identified for the project? Is there a clear strategy for informing, educating and obtaining community input through the development and life of the project?