PASSED BY

CTC

MAY 29 2008

CALIFORNIA TRANSPORTATION COMMISSION

CALIFORNIA TRANSPORTATION COMMISSION
Adoption of Proposition 1B Local Bridge Seismic Retrofit Guidelines

RESOLUTION LBS1B-G-0708-01

1.1 WHEREAS the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Bond Act) was approved by voters as Proposition 1B on November 7, 2006; and

1.2 WHEREAS the Bond Act establishes a $125 million Local Bridge Seismic Retrofit Account (LBSRA) for allocation by the California Transportation Commission (Commission), upon appropriation by the Legislature in the annual Budget Act. And, the LBSRA is established to specifically provide the 11.5 percent required local match for the remaining seismic retrofit work on local bridges, ramps, and overpasses, as identified by the Department of Transportation (Department); and

1.3 WHEREAS the entire $125 million LBSRA is not available for projects, as a $2.5 million set-aside needs to be deducted to cover bond administrative costs per the Department of Finance; and

1.4 WHEREAS The LBSRA is subject to the provisions of Government Code Section 8879.23(i), as added by Proposition 1B, and to Section 8879.62, as enacted through implementing legislation in 2007 (SB 88), designating the Commission as the administrative agency responsible for programming LBSRA funds, and the agency authorized to adopt guidelines for the program; and

1.5 WHEREAS the Commission intends to allocate LBSRA funds only to the right-of-way and construction phases for the seismic retrofit work of eligible projects; and

1.6 WHEREAS the Commission authorizes the Department to sub-allocate LBSRA funds to local seismic retrofit projects on a "first come, first serve" basis, including projects outside the current fiscal year, until the annual LBSRA allocation is exhausted; and

1.7 WHEREAS the Department will program the local bridges, ramps and overpasses that are eligible for LBSRA funds per baseline scope, cost and schedule commitments (baseline agreements) made by the local agencies and in accordance with the Local Bridge Seismic Retrofit Guidelines; and

1.8 WHEREAS the Department will also consider the availability of federal Highway Bridge Program (HBP) funds and the federal fiscal year in which local agencies request funding for their seismic retrofit projects; and

1.9 WHEREAS in some federal fiscal years, the need for federal HBP funds will exceed the available capacity; thus, some projects will have to be pushed to future years in order to match the available federal HBP fund capacity; and

1.10 WHEREAS there are 227 Bay Area Rapid Transit (BART) bridges over local streets and roads that are included in the Local Bridge Seismic Retrofit Program (LBSRP), to ensure the protection and safety of the motoring public on these affected local streets and roads; and

1.11 WHEREAS converting $201.2 million of federal HBP funds to Surface Transportation Program (STP) funds will allow programming of the 88.5% federal portion for the 227 BART bridges; and

1.12 WHEREAS the Department will annually exchange a portion of the local share of funds received through the federal HBP for state funds, as needed, to accommodate the current remaining required local match needs, up to $32.9 million. This exchange will fully fund the current local bridge seismic retrofit program required local match at $155.4 million ($122.5 million LBSRA and $32.9 million Department exchange); and

1.13 WHEREAS the Department presented the Local Bridge Seismic Retrofit Guidelines at the April 9-10, 2008 Commission meeting for information and comment.

2.1 NOW THEREFORE BE IT RESOLVED that the California Transportation Commission adopts the attached Guidelines, as presented on May 28-29, 2008; and

2.2 BE IT FURTHER RESOLVED that the purpose of these Guidelines is to identify the Commission's policy and expectations for the Local Seismic Bond Match Program and thus to provide guidance to the Department and implementing agencies in carrying out their responsibilities under the program; and

2.3 BE IT FURTHER RESOLVED that since cost increases may render the $125 million inadequate to provide match for all the identified bridges, only new phases of work will be eligible for bond funds and on a first-come, first-served basis, until the $125 million in bond funds has been exhausted. The entire $125 million is not available for projects, as a $2.5 million set-aside needs to be deducted to cover bond administrative costs per the Department of Finance; and

2.4 BE IT FURTHER RESOLVED at such time as the available $122.5 million LBSRA bond match is exhausted, the Department will annually exchange a portion of the local share of funds received through the federal HBP for state funds to accommodate the current remaining required local match needs, up to $32.9 million. This exchange will fully fund the current local bridge seismic retrofit program required local match at $155.4 million ($122.5 million LBSRA and $32.9 million Department exchange).

2.5 BE IT FURTHER RESOLVED that the Commission directs staff to post these Guidelines on the Commission's website and requests the Department assist Commission staff in making copies available to the implementing agencies.

April 24, 2008

PASSED BY
CTC
MAY 29 2008
CALIFORNIA
TRANSPORTATION COMMISSION

Proposition 1B Local Bridge Seismic Retrofit Account (LBSRA) Guidelines

Background

1. Authority and purpose. A Local Bridge Seismic Retrofit Program (LBSRP) was initially mandated by emergency legislation SB 36X (1989) after the October 17, 1989 Loma Prieta earthquake. In total 1,235 local bridges in need of seismic retrofit work were identified and included in the LBSRP. Funds for the LBSRP come from federal, state and local sources. Funds received through the federal Highway Bridge Program[1] (HBP), administered by the Department of Transportation (Department), cover up to 88.5 percent of the cost to seismically retrofit a local bridge. The other 11.5 percent, referred to as the required local match, has to come from non-federal, state or local sources. Since the LBSRP was a state mandate, state transportation funds were provided to local agencies through the annual state budget process for use as the 11.5 percent required local match. With the passage of AB 2996 (2002) the LBSRP became a discretionary program and local agencies had to secure the 11.5 percent required local match through the biennial State Transportation Improvement Program (STIP) programming process or from other local funds under their control.

   The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Bond Act), approved by the voters as Proposition 1B on November 7, 2006, established a $125 million Local Bridge Seismic Retrofit Account (LBSRA). LBSRA funds are state funds dedicated specifically to provide the 11.5 percent required local match for the remaining seismic retrofit work on local bridges, ramps, and overpasses. The entire $125 million is not available for projects, as a $2.5 million set-aside needs to be deducted to cover bond administrative costs per the Department of Finance.

   The LBSRA is subject to the provisions of Government Code Section 8879.23(i), as added by Proposition 1B, and to Section 8879.62, as enacted through implementing legislation SB 88 (2007). The implementing legislation designates the California Transportation Commission (Commission) as the administrative agency responsible for programming LBSRA funds and authorizes the adoption of implementing guidelines.

   At the time the Bond Act was approved, the Department reported that local agencies completed seismic retrofit work on 756 of the 1,235 bridges in the LBSRP leaving 479 local bridges, ramps and overpasses in need of seismic retrofit work and eligible to use LBSRA funds as their 11.5 percent required local match.

   Consistent with the 2007 Budget Act, the Commission at its July 2007 meeting, allocated $13.5 million from the LBSRA to the Department for use as the 11.5 percent required local match for seismic retrofit work on local bridges identified for delivery in state Fiscal Year (FY) 2007-08 in the LBSRP. The Commission authorized the Department to sub-allocate the $13.5 million to local seismic retrofit projects on a "first come, first

[1] Formerly known as the federal Highway Bridge Replacement and Rehabilitation (HBRR) program.

serve" basis, including projects outside FY 2007-08, until the allocation is exhausted. If projects are delivered in excess of the $13.5 million allocation, the Department will seek additional budget authority from the Legislature and will request an allocation adjustment from the Commission.

The purpose of these guidelines is to identify Commission policy for use of LBSRA funds and to provide guidance to the Department and local agencies in carrying out their respective responsibilities.

Project Programming

2. Schedule. The Commission intends to implement the LBSRA Guidelines on the following schedule:

Commission notices LBSRA Guidelines	April 9-10, 2008
Commission adopts LBSRA Guidelines	May 28-29, 2008

3. Eligibility. The only projects eligible to use LBSRA funds are the remaining 479 LBSRP bridges, ramps and overpasses listed in Exhibit A (attached). The Commission intends to allocate LBSRA funds only to the right-of-way and construction phases for the seismic retrofit work of eligible projects.

   The useful life of a LBSRA funded project shall not be less than the required useful life for capital assets pursuant to the State General Obligation Bond Law, specifically subdivision (a) of Section 16727 of the Government Code. That section requires that projects have an expected useful life of at least 15 years.

4. LBSRP. The Department will program the remaining 479 LBSRP projects that are eligible for LBSRA funds per baseline scope, cost and schedule commitments (baseline agreements) made by the local agencies and in accordance with these guidelines. In developing the program, the Department will also consider the availability of federal HBP funds and the federal fiscal year in which local agencies request funding for their seismic retrofit projects. Federal regulations limit the amount of HBP funds that can be programmed in each year of the Federal Transportation Improvement Program (FTIP). In addition to funding LBSRP projects, federal HBP funds are used for the federally mandated Bridge Inspection Program, Bridge Rehabilitation, Bridge Replacement and Preventive Maintenance Programs. To the extent both federal HBP and LBSRA funds are available, the Department will use the flexibility available in the FTIP to advance projects if requested by a local agency. It is anticipated that in some years the need for federal HBP funds could exceed the available capacity. Thus, some projects will have to be pushed to future years of the program in order to match the available federal HBP fund capacity. Nevertheless, local agencies are encouraged to expedite project delivery irrespective of the program established schedules in order to take advantage of the "first come, first serve" sub-allocation principle to fund eligible local seismic retrofit projects.

There are 227 Bay Area Rapid Transit (BART) bridges over local streets and roads. These 227 BART bridges are included in the LBSRP, to ensure the protection and safety of the motoring public on the affected local streets and roads. Converting $201.2 million of federal HBP funds to Surface Transportation Program (STP) funds will allow programming of the 88.5% federal portion for the 227 BART bridges.

The Department will annually exchange a portion of the local share of funds received through the federal HBP for state funds, as needed, to accommodate the current remaining required local match needs, up to $32.9 million. This exchange will fully fund the current local bridge seismic retrofit program required local match at $155.4 million ($122.5 million LBSRA and $32.9 million Department exchange).

Project Delivery

5. Project baseline agreements. The Department and the local agency responsible for the delivery of a local seismic retrofit project will execute a project baseline agreement, which will set forth the project scope, cost and delivery schedule. Executed baseline agreements shall be delivered to the Department and Commission within three months of the adoption date of these guidelines.

6. Project delivery. Local agencies are expected to deliver their project in the year they are programmed or earlier. Local agencies will submit to the Department the request for authorization of HBP funds in accordance with the procedures developed by the Department. The Department will date stamp the request, if it is found to be complete and correct. Regardless of the project's programming status, this date and time will establish priority for sub-allocation of the 11.5 percent required local match from the LBSRA.

   If an agency fails to deliver a project by the year in which it is programmed, the project will be removed from the FTIP. At the end of each federal fiscal year, the Department will report to the Commission the agencies and projects with failed delivery.

7. Project amendments. The Commission recognizes that the seismic retrofit strategy for some of the local bridges is not yet developed and that the baseline scope, cost and schedule may change significantly once the bridge retrofit strategy is finalized. The Department may approve amendments to project baseline agreements when a bridge's seismic retrofit strategy is finalized and the Department determines the requested change is justified. However, the Department shall not add any bridges to the remaining 479 LBSRP bridges, ramps and overpasses listed in Exhibit A. The Department may approve project schedule changes as long as the request is justified. The Department is not authorized to change the delivery schedule for projects programmed in the delivery year (the current year) of the LBSRP. Projects in the delivery year of the LBSRP can seek an extension from the Commission per the timely use of funds provisions.

8. LBSRA allocations. In accordance with Government Code Section 8879.62(b), the Commission will annually allocate LBSRA funds to the Department based on a funding

request submitted on or before September 30 of each year. The Commission may allocate LBSRA funds up to the appropriation level provided in the State Budget Act. The Department will sub-allocate funds to local agencies for project implementation based on completed final plans, specifications and estimate (PS&E), where appropriate, and only after verifying that the project is eligible to receive federal HBP funding and is ready to proceed with right-of-way or construction phase work. At PS&E, the final estimate may vary from the baseline agreement estimate. The Department is authorized to amend the baseline agreement to reflect the PS&E estimate at the time of sub-allocation if it finds the current estimate is adequately justified.

The Department is expected to use "first come, first serve" as the guiding principle in the sub-allocation of funds to eligible seismic retrofit projects. Bond funds shall be sub-allocated to projects concurrent with the obligation of corresponding federal HBP funds by the Federal Highway Administration (FHWA). The Department will report to the Commission, on a quarterly basis, the status of sub-allocations made to the local agencies. The Department will adjust the sub-allocations for any contract award cost savings and will reflect those cost savings in subsequent quarterly reports.

9. Timely use of funds. LBSRA funds sub-allocated for right-of-way costs must be expended by the end of the second fiscal year following the fiscal year in which the funds were sub-allocated. The local agency must invoice the Department for these costs no later than 180 days after the fiscal year in which the final expenditure occurred.

LBSRA funds sub-allocated for construction must be encumbered by the award of a contract within six months of the date of the sub-allocation of funds. After the award of the contract, the local agency has up to 36 months to complete (accept) the contract. At the time of sub-allocation, the Department may extend the deadline for completion of work and the liquidation of funds if necessary to accommodate the proposed expenditure plan for the project. The local agency has 180 days after contract acceptance to make the final payment to the contractor, prepare the final Report of Expenditure and submit the final invoice to the Department for reimbursement.

The Commission may extend contract award, right-of-way expenditure, or contract completion deadlines no more than one time and only if it finds that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies an extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and will in no event be for more than 20 months.

10. Delivery reports. Local agencies will submit reports to the Department, on a quarterly basis, on the activities and progress made toward implementation of the projects, including those project development activities taking place prior to the sub-allocation of LBSRA funds. The Department shall submit to the Commission, on a quarterly basis, delivery reports on the use, sub-allocation and status of the annual LBSRA allocation, and on the activities and progress made toward implementation of the remaining local bridge seismic retrofit projects.

As mandated by Government Code Section 8879.50, the Commission shall forward these reports, on a semiannual basis, to the Department of Finance. The purpose of the reports is to ensure that projects are being executed in a timely fashion and within the scope and budget identified when the decision was made to fund the projects. After sub-allocation of LBSRA funds, if project costs exceed the approved project budget, the implementing agency will identify alternatives to meet the cost increase or submit to the Commission a corrective plan for achieving the original benefit of the project. The Commission may either approve the corrective plan or direct the implementing agency to modify its plan.

11. Final delivery report. Within six months of the project becoming operable, the Department will provide a final delivery report to the Commission on the scope of the completed project, its final costs as compared to the approved project budget, its duration as compared to the project schedule in the project baseline agreement, and performance outcomes derived from the project as compared to those described in the project baseline agreement. The Commission shall forward this report to the Department of Finance as required by Government Code Section 8879.50.

    The Department will also provide a supplement to the final delivery report at the completion of the project to reflect final project expenditures at the conclusion of all project activities. For the purpose of this section, a project becomes operable at the end of the construction phase when the construction contract is accepted. Project completion occurs at the conclusion of all remaining project activities, after acceptance of the construction contract.

12. Audit of project expenditures and outcomes. The Department will ensure that project expenditures and outcomes are audited. For each project, the Commission expects the Department to provide a semi-final audit report within 6 months after the final delivery report and a final audit report within six months after the final delivery report supplement. The Commission may also require interim audits at any time during the performance of the project.

    Audits will be performed in accordance with Generally Accepted Government Auditing Standards promulgated by the United States Government Accountability Office. Audits will provide a finding on the following:

    - Whether project costs incurred and reimbursed are in compliance with the executed project baseline agreement or approved amendments thereof; state and federal laws and regulations; contract provisions; and Commission guidelines.
    - Whether project deliverables are consistent with the project scope, schedule and benefits described in the executed project baseline agreement or approved amendments thereof.