



Board Report

File #: 2018-0291, **File Type:** Policy

Agenda Number: 15.

PLANNING AND PROGRAMMING COMMITTEE JULY 18, 2018

SUBJECT: SENATE BILL 1 ACCOUNTABILITY MEASURES

ACTION: RECEIVE AND FILE

RECOMMENDATION

RECEIVE AND FILE report on Accountability Guidelines and the Baseline Agreements required by the California Transportation Commission (CTC) for seven projects awarded SB-1 grant funding on May 16, 2018.

ISSUE

At its May 2018 meeting the CTC awarded grant funding from the first cycle of three new discretionary funding programs created by Senate Bill 1 (SB-1)-the Trade Corridor Enhancement (TCEP), Solutions for Congested Corridors (SCCP), and Competitive Local Partnership (LPP) Programs. Metro received \$703 million in SB-1 grant awards across all eight of its project applications submitted for the LPP, SCCP, and TCEP competitions. Receipt of an SB-1 funding award by the CTC through these three discretionary programs triggers a requirement for Metro to enter into a Baseline Agreement with the CTC and commit to, and comply with, accountability measures and reporting requirements as outlined in the SB-1 Accountability and Transparency Guidelines (Accountability Guidelines). In recognition that these projects must remain on schedule to receive and maintain their SB-1 funding awards, staff will develop an SB-1 accountability report that provides a comprehensive, unified overview of the status of each project that has received an SB-1 discretionary grant award.

BACKGROUND

Following the adoption of guidelines for each of the three SB-1 discretionary programs (TCEP, SCCP, and LPP) in March 2018, the CTC announced a Call for Project Applications for each program. In response to this opportunity, Metro Planning staff worked across departments and with key stakeholders (e.g., Caltrans, Ports of Los Angeles and Long Beach) to (1) identify candidate projects through the Evaluative Criteria Framework, (2) develop and confirm project schedules, costs, and cashflow assumptions, and (3) create competitive grant applications for the three programs (Attachment A).

Staff submitted grant applications to TCEP, SCCP, and LPP for eight projects, as follows:

- Interstate 5 (I-5) Golden State Chokepoint Relief Project,
- State Route (SR) 71 Freeway Conversion Project,
- SR 57/60 Confluence: Chokepoint Relief Program,
- I-605/SR 91 Interchange Improvement: Gateway Cities Freight Crossroads Project,
- Rosecrans / Marquardt Grade Separation Project (as part of the America's Global Freight Gateway: Southern California Rail Project application),
- Airport Metro Connector 96th Street Transit Station Project,
- La Cañada Flintridge Soundwalls Project; and
- Metro Orange Line Bus Rapid Transit Improvements Project.

On April 25, 2018, CTC staff announced funding recommendations for these three programs- including recommended awards for each one of Metro's eight candidate projects totaling \$703 million. The CTC approved the recommendations and adopted grant awards for Metro's eight projects at their May 16, 2018 meeting.

DISCUSSION

Pursuant to the Accountability Guidelines, Metro must enter into Baseline Agreements for seven of the eight projects that were awarded SB-1 funding through the LPP, SCCP, and TCEP. The eighth project-the La Cañada Flintridge Soundwalls project-does not require a Baseline Agreement as its LPP award and total project cost fall below the \$10 million award and \$25 million total cost thresholds triggering a Baseline Agreement established for the LPP. Attachment A shows the award funding for the seven projects requiring Baseline Agreements. The CEO or designated staff will execute the required Baseline Agreements under the authority provided by the Board through its October 2016 Board resolution providing the CEO signature authority and delegation for all federal, state, and local grant-related documents and correspondence for Board-approved transportation projects and activities.

Baseline Agreements

Baseline Agreements commit project applicants and the respective implementing agencies to project scope, benefits, cost, and schedule for any projects receiving SB-1 grant funding. These project elements that are reflected in the Baseline Agreement are part of the CTC award language and are based upon the final application submitted by Metro as developed with input from and vetted by Metro staff across multiple departments. Subsequent to the initial Baseline Agreement, comprehensive reporting is required at various intervals including on the front-end of implementation, while in progress, and at completion as a form of follow-up accountability. **Per the adopted Accountability Guidelines, all projects are required to have a Baseline Agreement in place within four months of the program adoption (May 16, 2018), otherwise projects will not be able to seek funding allocations and funding awards could be deleted from the program.**

The required parties entering into a Baseline Agreement include the project sponsor ("Applicant"), or the agency delivering the project ("Implementing Agency"), Caltrans, and the CTC. Commitments identified within the Baseline Agreement include the following elements:

- Project cost, schedule, scope and anticipated benefits;
- Verification that the match funding sources are committed; and
- Confirmation that the costs, scope and benefits are representative of best estimates.

Further provisions require that the parties adhere to the respective funding program and the SB-1 Accountability Guidelines, including project reporting requirements and project document disclosure for auditing purposes. Attachment B includes the CTC's Project Baseline Agreement template detailing all the agreement recitals and provisions.

Reporting Requirements

Comprehensive reporting is mandated through the Accountability Guidelines, and the Baseline Agreements provide a basis and benchmark for assessing the projects through the Commission's in-progress and follow-up accountability reporting. Quarterly progress reports are to be prepared by Caltrans with input from the Applicant and Implementing Agency through Fiscal Year (FY) 2019, beginning with the first progress report due to the CTC in October 2018. Starting in FY 2020, reporting will become semi-annual with presentations to the CTC in March and October.

Follow-up reporting consists of completion and final delivery reports. The Implementing Agency is required to submit a Completion Report to Caltrans within six months of construction contract acceptance or project operation. Additionally, a Final Delivery Report is to be submitted within 180 days of the project closeout when all activities on the project are concluded and all expenditures are paid and reconciled.

Implementing Agencies that do not comply with the Accountability Guidelines could be subject to adverse actions including, but not limited to:

- Written warning identifying deficiencies and timeline for correction;
- Appearance before CTC to explain the deficiencies and the timeline for correction; and
- Placement on a watch list.

For the most egregious situations, the Implementing Agency may be subject to further actions, including the following:

- Deemed ineligible for future allocations or programming actions; and
- Reduced reimbursements on all invoices until the noncompliance issues are corrected. This penalty shall remain in effect until the reporting cycle after the noncompliance has been resolved.

SB-1 Program Requirements per Adopted Accountability Guidelines

In addition to the reporting requirements for the Accountability Guidelines, the CTC also adopted within each set of Guidelines for the TCEP, SCCP, and LPP explicit accountability measures governing the timely use of funds and approval of extensions for project award or delivery. These additional requirements are found in Attachment C.

The accountability measures provided within each set of Program Guidelines share similar features:

- Timely Use of Funds requires allocation requests be made in the fiscal year in which the

funding is programmed and contract awards made within six months afterwards.

- Time Extensions will only be granted by the CTC for unforeseen, extraordinary circumstances beyond the control of the implementing agency.
- Penalties for delays beyond a Program deadline or approved extension period include the deletion of the project-and its funding-from the Program.
- Cost overruns are the responsibility of the Project sponsor.

Development of an SB-1 Accountability Report

To support Metro's efforts to monitor and maintain project schedules and costs and provide oversight by the Board, staff will develop an SB-1 Accountability Report that provides a comprehensive, unified overview of the status of each project that has received an SB-1 discretionary grant award from the CTC. This report will be presented to the Board on a quarterly basis, with the understanding that staff will come to the Board as needed to provide updates on the progress of these projects and their ability to meet the requirements of the Accountability Guidelines and the respective Program Guidelines under which they were awarded SB-1 funding. This is part of a larger portfolio of monitoring and reporting actions staff is undertaking to maintain our fiduciary stewardship of grant funds and ensure timely obligation and expenditure to deliver projects.

DETERMINATION OF SAFETY IMPACT

Approval of this item will have no direct impact on the safety of Metro customers or employees. However, as these projects include safety enhancements, avoiding potential risks to maintaining the grant funding helps to ensure the timely realization of the projects' anticipated safety benefits.

FINANCIAL IMPACT

Entering into the required Baseline Agreements for the SB-1 grant funded projects retains the \$698 million in SB-1 funding awarded to these seven projects. Further, committing to the reporting requirements and the project scope, benefits, costs and schedule demonstrate effective project delivery and high accountability and transparency around the utilization of SB-1 funds.

Impact to Budget

The approval of this item has no impact to the FY 2018 Budget.

NEXT STEPS

Metro will:

- Work internally and coordinate with its partnering implementing agencies, including Caltrans, the Ports of Los Angeles and Long Beach and/or the San Gabriel Valley Council of Governments (Alameda Corridor-East Project), to furnish the project scopes, anticipated benefits, costs schedules and other items needed to develop and execute the Baseline

Agreements in a timely manner.

- Develop a comprehensive quarterly accountability report to track the development and implementation of these SB-1 program-funded projects in support of monitoring of project advancement to meet the deadlines provided for in the Accountability Guidelines and in each of the Program Guidelines.
- Develop an augmented accountability report to include other state and federal grant-funded projects (e.g. Infrastructure for Rebuilding America [INFRA], Better Utilizing Investments to Leverage Development [BUILD], Transit Intercity Rail Capital Program [TIRCP]) that can provide the Board with a unified and comprehensive report to track all projects receiving state and/or federal discretionary funds.

ATTACHMENTS

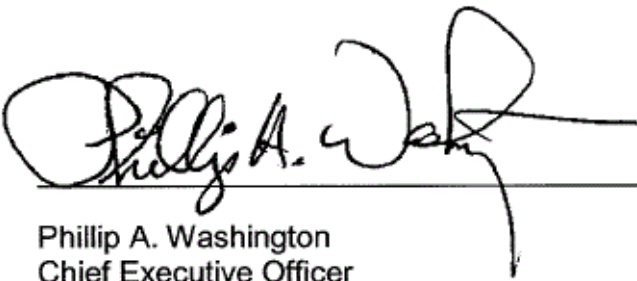
Attachment A - SB-1 Projects Requiring Baseline Agreements

Attachment B - CTC Baseline Agreement Template

Attachment C - Provisions in SB-1 Guidelines for the Timely Use of Funds, Time Extensions, and Penalties for Funding Awarded by the CTC

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