



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
CALIFORNIA DIVISION
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IN REPLY REFER TO
HDA-CA
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Mr. Will Kempton, Director
California Department of Transportation
1120 N Street
Sacramento, CA 95814

Attention: Federal Resources Office, M.S. 23
For Fardad Falakfarsa
Planning Office, M.S. 32
For Joan Sollenberger
Programming Office, M.S. 82
For Rachel Falsetti

Dear Mr. Kempton:

SUBJECT: California Statewide Planning Finding, 2008/09 – 2011/12 FSTIP

The Federal Highway Administration (FHWA) California Division and the Federal Transit Administration (FTA) Region IX, hereby find that California's 2008/09 – 2011/12 Federal – Statewide Transportation Improvement Program (FSTIP) is based on a transportation planning process that meets the requirements of 23 U.S.C. Sections 134 and 135 and 49 U.S.C. Sections 5303-5305. Our finding is based on the State and 18 MPO self-certifications of the statewide and metropolitan transportation planning processes, review of self-certification supporting documentation, the Federal certification reviews of TMAs within the State, and our involvement in the State and MPO transportation planning processes.

While the State and Metropolitan Planning Organizations (MPOs) meet the joint Federal planning requirements, we make the following recommendations to improve the overall transportation planning, and programming processes:

1) Public Participation Plan

The State's new Public Participation Plan (PPP), adopted in June 2008, has been found to be in substantial compliance with the 23 CFR 450.210(b) requirements. The process of regularly reviewing the PPP was noted in the documentation, and will be a necessary feature of the State's ongoing consultation process.



Recommendation 1: FHWA and FTA encourage the State to review the PPP at regular, recurring intervals to ensure that the processes and procedures continue to be applicable for their intended purposes. If areas found to require public review or participation arise that have not been documented in the PPP, existing procedures in the document should be tailored to fit the specific situation until the document can be updated appropriately. If it is found that some portions of the PPP do not adequately meet the State's or the public's needs, then revisions should be made.

2) Amendment and Administrative Modification Procedures

With SAFETEA-LU explicitly defining administrative modifications per 23 CFR 450.104, the existing administrative modification process was examined to determine whether any changes were necessary. The upper limits of administrative modifications were expanded from a maximum of \$2 million per project or 20 percent of total project cost, whichever is lower, to a maximum of \$5 million or 25 percent of total project cost, whichever is lower. Additionally, Caltrans has documented a process by which the MPOs will temporarily utilize programming capacity that the State does not utilize through its own programming of funds.

Recommendation 2: The State should document, at least once in each FSTIP cycle, the amount of programming capacity available and analyze the MPOs administrative modifications to ensure that programming capacity being utilized does not exceed the available capacity at any point.

3) Financial Planning – Estimating Costs and Revenues to Operate and Maintain Federal-aid Highways and Public Transportation

SAFETEA-LU mandates the reflection of costs for maintaining and operating the system of Federal-aid facilities. Caltrans has addressed the issue to a degree by providing a narrative explanation of how the State accounts for the maintenance and operations of its Federal-aid roadways. However, the Federal requirement to provide an estimate of the costs of adequately maintaining and operating the system has not been completely satisfied. Due to fiscal constraint requirements, a reflection of available revenues to support those costs or a discussion of any shortfall and plans to address the lack of available funds should also be provided.

Recommendation 3: The State and each MPO should document the basis for its calculation of operations and maintenance needs, as well as a thorough analysis of available revenues dedicated to these activities. The ultimate goal must be the provision of a system-wide estimate of costs and available revenue available for operations and maintenance. A discussion of how any shortfall in available funds will be addressed may also be necessary.

4) Congestion Management Process (CMP) – Analysis and Documentation

The Federal CMP requirement stipulates that a State congestion management system must meet the Federal requirements if it is to function as an adequate substitute for the statutorily-mandated CMP. While California has a State CMP that is well-documented in California Government Code, Title 7, Chapter 2.6 (Congestion Management), it has not been certified as compliant with the Federal CMP requirements as modified via SAFETEA-LU. While there are differences in the content of a CMP in Federal and State law, in order for FHWA and FTA to find an MPO

compliant with the CMP provisions, the Federal CMP requirements found in U.S. Code, regulation and the USDOT Congestion Management Process Guidance must be met.

Recommendation 4A: *The State should document that the Statewide congestion management process and procedures meet the revised SAFETEA-LU CMP requirements, and follow the new USDOT Interim Congestion Management Guidance.*

Recommendation 4B: *Through the certification review process, the MPOs in TMA areas should provide documentation that their portion of the State CMP meets the Federal CMP requirements or, for those MPOs that have opted out of the State CMP, documentation that their own congestion management process meets the Federal CMP requirements.*

5) Overall Work Program (OWP) – Reflection of Administrative Costs and Ineligible Work

Per the requirements of 2 CFR Part 225, (formerly OMB Circular A-87) recipients of Federal funds are required to show that indirect/administrative costs are allocated to all activities receiving benefit from those expenses. The use of a single work element for indirect/administrative costs is not acceptable.

During our review of the draft 2008 OWPs, we identified, and discussed with the individual MPOs, issues on activity description, products, scope, eligibility, etc. To assist the MPOs in addressing these issues, and to assist in the development of SAFETEA-LU compliant work programs, FHWA in conjunction with Caltrans recently provided work program development training to the MPOs

Recommendation 5A: *The State should work with the MPOs to ensure that indirect/administrative costs are reflected in accordance with Federal requirements in their OWPs.*

Recommendation 5B: *The State should ensure, that for those transportation planning work elements proposed for Federal funding,, that the work elements are, are (a) eligible for Federal funding and (b) reflected in sufficient detail (i.e. activity description, products, schedule, cost, etc.) to clearly explain the purpose and results of the work to be accomplished, including how they support the Federal transportation planning process.*

6) Reflection of Advanced Construction project conversion to Federal funds in the TIP

The State and MPOs utilize the advance construction process to maximize the efficiency of their use of Federal funds by spending local or State monies on Federally-eligible projects in advance of the availability of Federal funds. Project sponsors seeking reimbursement for the local or State funding expended in advance construction must list those projects in the individual MPO FTIPs, or with the State through the FSTIP process.

Recommendation 6: *The State should work with MPOs and project sponsors to ensure that projects funded through the advance construction process are listed in the TIP prior to seeking reimbursement of Federal funds.*

7) The Congestion Mitigation and Air Quality improvement program (CMAQ) – project eligibility, tracking and reporting

Prior to the obligation of Federal CMAQ funds, the project must demonstrate CMAQ eligibility based upon calculations that demonstrate the project would provide a net emissions reduction to the region. The State is required to file an annual report with FHWA through the online CMAQ database regarding details of the projects funded through the CMAQ program, and should have adequate record-keeping in order to provide that report. The State is also required to ensure that all MPOs eligible to expend CMAQ dollars have project selection procedures in place for CMAQ candidate projects to ensure that the projects selected for funding have been evaluated and prioritized. The State should have records of what those procedures are and be able to provide documentation of how those procedures work.

Recommendation 7A: The State should work with project sponsors and the MPOs and to ensure that project eligibility requirements for CMAQ program funding have been met prior to obligation of CMAQ funds.

Recommendation 7B: The State should maintain a database of CMAQ projects, and keep the database updated throughout each TIP cycle, to ensure that annual reporting is completed in a timely manner.

Recommendation 7C: The State should work with the MPOs to ensure that adequate project selection procedures for the CMAQ program are in place and utilized appropriately.

There are no outstanding corrective actions that have been issued through previous planning findings to the State of California or through the TMA certification review process to MPOs. All previous corrective actions and conditional approvals resulting from earlier planning findings, FSTIP approvals or certification reviews have been addressed.

The Federal agencies want to thank Caltrans planning and programming staff for their cooperation and assistance during our review of the 2008/09 – 2011/12 FSTIP and the associated planning process. If you have questions or need additional information concerning the planning finding, please contact Steve Luxenberg, FHWA, at 916-498-5066 (steve.luxenberg@fhwa.dot.gov), or Ray Sukys, FTA, at 415-744-2802 (raymond.sukys@dot.gov).

Sincerely,

/s/ Leslie T. Rogers

Leslie T. Rogers
Regional Administrator
Federal Transit Administration

K. Sue Kiser

For
Gene K. Fong
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cc: (email)

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