

CALIFORNIA TRANSPORTATION COMMISSION

**Adoption of the Senate Bill 1 Accountability and Transparency Guidelines
Resolution G-18-09**

- 1.1 **WHEREAS**, on April 28, 2017, the Governor signed Senate Bill (SB) 1 (Beall, Chapter 5, Statutes of 2017), known as the Road Repair and Accountability Act of 2017, and created new and augmented existing programs, including, but not limited to, the Active Transportation Program, the Local Partnership Program, the Local Streets and Roads Program, the Solutions for Congested Corridors Program, the State Highway Operation and Protection Program (SHOPP), the State Transportation Improvement Program, and the Trade Corridor Enhancement Program, and
- 1.2 **WHEREAS**, SB 1 states that “it is the intent of the Legislature that the Department of Transportation and local governments are held accountable for the efficient investment of public funds to maintain the public highways, streets, and roads, and are accountable to the people through performance goals that are tracked and reported”, and
- 1.3 **WHEREAS**, the California Transportation Commission (Commission) is responsible for the accountability and transparency of the SB 1 program funds under its purview, and
- 1.4 **WHEREAS**, the Commission held two workshops on November 16, 2017, and January 22, 2018 to receive input on the development of the SB 1 Accountability and Transparency Guidelines.
- 2.1 **NOW THEREFORE BE IT RESOLVED**, that the Commission adopts the SB 1 Accountability and Transparency Guidelines, as presented by staff on March 21, 2018, and
- 2.2 **BE IT FURTHER RESOLVED**, that the purpose of these guidelines is to identify the Commission’s policy and expectations and thus emphasize program and project accountability, and
- 2.3 **BE IT FURTHER RESOLVED**, that the Commission intends to exercise programmatic oversight for the delivery of SB 1 projects with regard to benefits, scope, cost, and schedule consistent with the program objectives and executed agreements, and
- 2.4 **BE IT FURTHER RESOLVED**, that the Commission, through its guidelines, has set forth its expectation that the California Department of Transportation will provide the administrative oversight for SB 1 Programs and ensure that the terms and conditions of the Commission’s guidelines and subsequent programming, allocation, reporting, and other actions are followed; and
- 2.5 **BE IT FURTHER RESOLVED**, that the Commission staff is authorized to make minor technical changes as needed to the guidelines, and
- 2.6 **BE IT FURTHER RESOLVED**, that the Commission directs staff to post these guidelines to the Commission’s website.

California Transportation Commission

The Road Repair and Accountability Act of 2017

SB 1 Accountability and Transparency Guidelines

Adopted March 21, 2018

Resolution G-18-09

California Transportation Commission
The Road Repair and Accountability Act of 2017
SB 1 Accountability and Transparency Guidelines

Table of Contents

BACKGROUND 2

APPLICABILITY 2

PURPOSE..... 3

SB 1 PROGRAM ACCOUNTABILITY..... 3

A. Front-End Accountability 3

B. In-Progress Accountability..... 4

 1. Ongoing Program Monitoring and Review 5

 2. Program or Project Amendments 5

 3. Allocation of Funds..... 5

C. Program Reporting..... 5

 1. Progress Report 5

 2. Annual Reports 6

D. Follow-up Accountability 6

California Transportation Commission

The Road Repair and Accountability Act of 2017

SB 1 Accountability and Transparency Guidelines

BACKGROUND

The Road Repair and Accountability Act of 2017 (Senate Bill [SB] 1, Chapter 5, Statutes of 2017) provides the first significant, stable, and on-going increase in state transportation funding in more than two decades. The Legislature has provided additional funding to the California Transportation Commission (Commission), increased its role in several existing programs, and created new programs for the Commission to oversee. These programs include the Active Transportation Program, the Local Partnership Program, the Local Streets and Roads Program, the Solutions for Congested Corridors Program, the State Highway Operation and Protection Program, the State Transportation Improvement Program, and the Trade Corridor Enhancement Program.

SB 1 states that “it is the intent of the Legislature that the Department of Transportation and local governments are held accountable for the efficient investment of public funds to maintain the public highways, streets, and roads, and are accountable to the people through performance goals that are tracked and reported.”

The Commission’s responsibility for the accountability of SB 1 program funds is focused on the identification and reporting of expected and actual benefits of the projects along with the delivery of projects within their approved scope, cost, and schedule, and reporting these findings to the Legislature and the public in a transparent and timely manner.

APPLICABILITY

These Accountability and Transparency Guidelines (Guidelines) are applicable to the Active Transportation Program, Local Partnership Program, Solutions for Congested Corridors Program, State Highway Operation and Protection Program, and Trade Corridor Enhancement Program, collectively referred to herein as SB 1 Programs. The Guidelines are intended to supplement the Commission's programmatic guidelines for each SB 1 Program. In the event of a conflict between the provisions outlined in these Guidelines and those provided in specific programmatic guidelines adopted by the Commission, the provisions of these Guidelines will govern. These Guidelines are effective immediately upon approval by the Commission and may be amended at any time subject to a Commission action at a duly noticed Commission meeting. While the Commission is authorized to program and allocate funding for SB 1 Programs, the California Department of Transportation (Department) provides the administrative oversight for SB 1 Programs and ensures that the terms and conditions of the Commission’s guidelines and subsequent programming, allocation, reporting, and other actions are followed.

PURPOSE

SB 1 Program funded projects include but are not limited to highway, transit, active transportation, local streets and roads, congestion relief, trade corridor and other related projects, some of which are significantly complex, representing significant costs, constrained schedules, and are subject to many project delivery processes each with considerable impacts to timely project delivery. These Guidelines are intended to communicate the Commission's expectations and emphasize program and project accountability. Specifically, as described in these Guidelines, the Commission intends to exercise programmatic oversight for the delivery of SB 1 projects with regard to benefits, scope, cost, and schedule consistent with the program objectives, project applications, and executed agreements.

SB 1 PROGRAM ACCOUNTABILITY

Modelled after certain aspects of the Proposition 1B Accountability Implementation Plan, these Guidelines describe the Commission's accountability structure that is intended to allow for transparent and effective decisions and the timely delivery of transportation system improvements and resulting benefits. The following describes the components of this accountability structure. Please note, while not all SB 1 funded projects are subject to the Front-End Accountability and In-Progress Accountability requirements, all SB 1 projects are subject to the Follow-up Accountability requirements.

A. Front-End Accountability

The Commission will require project Baseline Agreements (Attachment A) for the following programs and projects:

- Active Transportation Program – only projects with a total project cost of \$25 million or greater or a total programmed amount of \$10 million or greater adopted in the 2017 Active Transportation Program Augmentation and subsequent program amendments and adoptions.
- Competitive Local Partnership Program – only projects with a total project cost of \$25 million or greater or a total programmed amount of \$10 million or greater adopted in the 2018 Competitive Local Partnership Program and subsequent program amendments and adoptions.
- Solutions for Congested Corridors Program – all projects adopted in the 2018 Congested Corridors Program and subsequent program amendments and adoptions.
- State Highway Operation and Protection Program – only projects with a total project cost of \$50 million or greater, or a total programmed amount (in right-of-way and/or construction) of \$15 million or greater adopted in the 2018 State Highway Operation and Protection Program and subsequent program amendments and adoptions.
- Trade Corridor Enhancement Program – all projects adopted in the 2018 Trade Corridor Enhancement Program and subsequent program amendments and adoptions.

If a project that initially falls below the aforementioned thresholds later increases to equal or exceed the threshold requirements, a Baseline Agreement will be required within 60 days of when the change is identified.

A Baseline Agreement will be amended, if a project receives additional SB 1 Program funds in a subsequent programming cycle, if there is a change in the responsible parties, or at the discretion of the Commission.

Each Baseline Agreement shall be signed by a duly authorized officer (ex: Board Chair, Executive Director) of the Applicant and the Implementing Agency, the Department's Director, and the Commission's Executive Director.

The Baseline Agreements set forth the agreed upon expected benefits, project scope, schedule, and cost, and provide a benchmark for comparison to the current status of the project for reporting purposes. These Baseline Agreements will also identify the agency responsible for meeting the reporting requirements and, for locally implemented projects, identify the responsibilities relative to the type and location of the project. The Baseline Agreement is considered the front-end document that forms the foundation for the Commission's in-progress and follow-up accountability.

The Commission shall approve all Baseline Agreements at a regular Commission meeting within four months after a project has been adopted into a SB 1 Program. The following exceptions apply:

- For projects adopted into the 2017 Active Transportation Program Augmentation, the Baseline Agreements are due four months after adoption of these Guidelines.
- For projects that have not received environmental clearance, the Baseline Agreements are due six months after the Lead Agency filing of a notice of exemption or filing a notice of determination pursuant to the California Environmental Quality Act.
- For projects requesting an allocation of funding for a project component other than environmental, at the May 2018 or June 2018 Commission meetings, the Baseline Agreement shall be approved by the Commission no later than the October 2018 Commission meeting.
- No Baseline Agreement will be required for State Highway Operation and Protection Program Emergency Response projects that are necessary to respond promptly to damages to the state highway system caused by floods, slides, earthquakes, fires, and other significant events.

The Commission may delete a project for which no Baseline Agreement is executed. The Commission will not consider approval of a project allocation, except for the environmental project component, without an approved Baseline Agreement.

For all SB 1 Program projects, the Commission requires that the Department enter into agreements (cooperative or funding) with implementing agencies that in pertinent part will include the accountability and transparency principles and best management practices outlined in these Guidelines, any specific requirements in the individual programmatic guidelines, and be consistent with executed Baseline Agreement. The Commission is not a signatory to cooperative or funding agreements described in this section.

B. In-Progress Accountability

The following outlines the in-progress accountability steps the Commission intends to employ to assure that SB 1 Program funded projects are successfully delivered consistent with the respective

program guidelines, Commission programming and allocation actions, and cooperative or funding agreements by and between SB 1 Program funding recipients and the Department.

1. Ongoing Program Monitoring and Review

Implementing agencies are responsible for managing the scope, cost, and schedule of the project consistent with the adopted programs and executed agreements. Commission staff shall receive routine program and project progress reports from the Department. Commission staff may also schedule routine status meetings with implementing agencies, and will perform routine assessments of project progress as compared to the executed agreements. The purpose of this assessment is to identify possible issues of concern, establish an understanding of related impacts, and prepare agenda items for the Commission. Commission staff anticipates placing projects that are unable to maintain delivery and cost commitments on a "watch list" and expects these projects to be identified in the progress reports.

2. Program or Project Amendments

The Commission will consider program or project amendments at its regular meetings. Program or project amendments requested by implementing agencies shall receive the approval of the same entities that signed the agreements (cooperative, funding, or baseline) before presentation to the Commission and will be processed in accordance with the respective programmatic guidelines.

3. Allocation of Funds

The Commission will allocate funds only when the implementing agency requests an allocation that has been prepared in accordance with the respective programmatic guidelines. The Commission will consider allocation requests on its regular agenda.

C. Program Reporting

The Commission will use various reporting mechanisms to provide regular updates to the public and the Legislature as described below and in the Follow-up Accountability Section.

1. Progress Report

Once a project has been adopted into one of the SB 1 Programs, the Implementing Agency, unless otherwise specified, will submit regular and timely project updates to the Department. The Department will prepare a program progress report for each SB 1 Program and submit to the Commission. Commission Staff will use the reports to identify issues and concerns that may be presented to the Commission for further action.

The first progress reports will be presented to the Commission during the October 2018 meeting and will cover the period of March 2018 through August 2018. Subsequent quarterly program progress reports will be presented to the Commission every December (July through September period), March (October through December period), May (January through March period) and August (April through June period). Beginning in July 2019, progress reports will become semi-annual and will be presented to the Commission in March (July thru December period) and August (January through June period).

The progress report shall be written in plain language and include information appropriate to assess the current state of the overall program and each project as compared to the previous report.

The first section of the progress report will be the overall program summary taking into account all projects in the SB 1 Programs and will identify, at a minimum, the total programmed and un-programmed funds, total dollars allocated, number of projects allocated, number of completed projects, and a summary of the benefits (outputs and outcomes) achieved with the completed projects.

The second section of the progress report will be for each project that is subject to the Baseline Agreement requirement and will include the following:

- The current cost, schedule, scope and expected benefits as compared to the cost, schedule, and scope approved under the Baseline Agreement or for projects that have not yet cleared environmental, as approved at the time the project was adopted into the respective program, and a status of the construction contract award, if applicable.
- A summary describing any changes to the scope, cost, schedule and expected benefits of the project and a corrective action plan if necessary, since the last report.
- Incurred expenditures to date for all project component costs, with the SB 1 Program funds being identified separately.
- Identification and discussion of any significant issues that may impact implementation of the project including financial constraints and commitments, and risks and impacts.
- Status of the Completion and Final Delivery Reports submittals for completed projects or completed project segments. This requirement will apply to all projects in the SB 1 Programs. See the Follow-up Accountability section for more details.

2. Annual Reports

The Commission will provide in its annual report to the Legislature a summary of its activities relative to the administration of the SB 1 Programs. This report may also discuss significant issues with these programs, and may recommend legislative proposals that could facilitate their implementation.

D. Follow-up Accountability

Beginning with the 2017 Active Transportation Program Augmentation, 2018 Formulaic and Competitive Local Partnership Programs, 2018 Solutions for Congested Corridors Program, 2018 State Highway Operation and Protection Program (only projects subject to the Baseline Agreement requirement), 2018 Trade Corridor Enhancement Program, and subsequent program adoptions, the Implementing Agency, unless otherwise specified, will submit timely Completion and Final Delivery Reports to the Department for all projects receiving funds in the aforementioned programs. The Department will review and approve the reports prior to submitting to the Commission. Commission staff will use the reports to identify issues and concerns that may be presented to the Commission for further action.

1. Completion Reports

Within six months of construction contract acceptance or the project becoming operable (open to the public), whichever comes sooner, the Department shall provide a Completion Report to the Commission on the scope of the completed project, its estimated final cost, estimated duration,

and project benefits as compared to those included in the executed project agreements. Additionally, the Completion Report shall describe the methodologies and assumptions used to evaluate how the project benefits were evaluated as compared to the methodologies and assumptions used in the executed project agreements. In the event the project benefits identified in the Completion Report differ from those identified in the executed program agreements (cooperative, funding, or baseline), the difference must be noted, quantified, and explained. Documentation used for the benefit evaluation shall be preserved and made available for review by the Department, the Commission, the Transportation Inspector General, Department of Finance, and/or the California State Auditor, if requested. The Completion Report should not be delayed due to claims, plant establishment periods, ongoing environmental mitigation monitoring, or other reasons.

For projects receiving SB 1 Program funds for pre-construction components only, the Department shall provide the Completion Report to the Commission within six months of the conclusion of the pre-construction component. The Completion Report will include the scope of the project component, its estimated final cost, and duration as compared to those included in the executed project agreements. Additionally, the Completion Report shall provide an updated schedule, a description of how the project will progress to construction, and a discussion on how the project will continue to provide the benefits described in the executed project agreements (cooperative, funding, or baseline).

For projects delivered in segments, a Completion Report will be required for each segment and note that a summary Completion Report will be provided when the final project segment is complete. An audit may be done on one or all segments of a segmented project.

The Department shall withhold an appropriate percentage of SB 1 Program funds until acceptance of the Completion Report by the Department.

2. Final Delivery Reports

A Final Delivery Report will be provided within 180 days of conclusion of all remaining project activities beyond the acceptance of the construction contract to reflect final project expenditures, any changes that occurred after submittal of the Completion Report and an updated evaluation of the benefits. The Commission may include this information in its annual reports to the Legislature.

3. Audits of Project Expenditures and Outcomes

SB 1 created the position of Transportation Inspector General as Director of the Independent Office of Audits and Investigations to ensure the Department, and external entities that receive state and federal transportation funds from the Department, are spending those funds efficiently, effectively, economically, and in compliance with applicable state and federal requirements.

The Inspector General is required to review policies, practices, and procedures and conduct audits and investigations of activities involving all state transportation funds.

In order to achieve independence, the Inspector General is required to report at least annually to the Governor, Legislature, and Commission with a summary of investigation and audit findings and to report to the Secretary of Transportation and the Department's Director and Chief Deputy Director on an ongoing basis.

The Commission expects that audits will be conducted on a representative sample of projects from each of the respective SB 1 Programs and provide a finding on the following:

- Whether project costs incurred and reimbursed comply with the executed project agreements or approved amendments thereof; state and federal laws and regulations; contract provisions, and Commission guidelines.
- Whether project deliverables (outputs) and outcomes are reasonable in comparison with the project cost, scope, schedule and benefits described in executed project agreements or approved amendments thereof.

Additional audits, if deemed necessary, may be requested by the Commission during the implementation phases of the project. In addition to any final audit performed, it may be beneficial to provide semi-final audits when a project is substantially completed. It is expected that the findings from these audits will be included in the Inspector General's reports to the Commission.

Attachments:

Attachment A: Project Baseline Agreement Template

ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017
PROJECT BASELINE AGREEMENT

[insert Project Name]

Resolution _____

1. FUNDING PROGRAM

- Active Transportation Program
- Local Partnership Program (Competitive)
- Solutions for Congested Corridors Program
- State Highway Operation and Protection Program
- Trade Corridor Enhancement Program

2. PARTIES AND DATE

- 2.1 This Project Baseline Agreement (Agreement) for the *[insert Project Name]*, effective on *[insert date Commission approved baseline]*, is made by and between the California Transportation Commission (Commission), the California Department of Transportation (Caltrans), the Project Applicant, *[insert Name of Project Applicant]*, and the Implementing Agency, *[insert Name of Implementing Agency]*, sometimes collectively referred to as the “Parties”.

3. RECITAL

- 3.2 Whereas at its *[insert meeting date Commission programmed project]* meeting the Commission approved the *[insert Funding Program]* and included in this program of projects the *[insert Project Name]*, the parties are entering into this Project Baseline Agreement to document the project cost, schedule, scope and benefits, as detailed on the Project Programming Request Form attached hereto as Exhibit A and the Project Report attached hereto as Exhibit B, as the baseline for project monitoring by the Commission.
- 3.3 The undersigned Project Applicant certifies that the funding sources cited are committed and expected to be available; the estimated costs represent full project funding; and the scope and description of benefits is the best estimate possible.

4. GENERAL PROVISIONS

The Project Applicant, Implementing Agency, and Caltrans agree to abide by the following provisions:

- 4.1 To meet the requirements of the Road Repair and Accountability Act of 2017 (Senate Bill [SB] 1, Chapter 5, Statutes of 2017) which provides the first significant, stable, and on-going increase in state transportation funding in more than two decades.
- 4.2 To adhere, as applicable, to the provisions of the Commission:
- Resolution *[insert number]*, “Adoption of Program of Projects for the Active Transportation Program”, dated *[insert date]*.
 - Resolution *[insert number]*, “Adoption of Program of Projects for the Local Partnership Program”, dated *[insert date]*
 - Resolution *[insert number]*, “Adoption of Program of Projects for the Solutions for Congested Corridors Program”, dated *[insert date]*
 - Resolution *[insert number]*, “Adoption of Program of Projects for the State Highway Operation and Protection Program”, dated *[insert date]*
 - Resolution *[insert number]*, “Adoption of Program of Projects for the Trade Corridor Enhancement Program”, dated *[insert date]*
- 4.3 All signatories agree to adhere to the Commission’s *[insert Funding Program(s)]* Guidelines. Any conflict between the programs will be resolved at the discretion of the Commission.
- 4.4 All signatories agree to adhere to the Commission’s SB 1 Accountability and Transparency Guidelines and policies, and program and project amendment processes.
- 4.5 The *[insert agency(s)]* agrees to secure funds for any additional costs of the project.
- 4.6 The *[insert agency(s)]* agrees to report to Caltrans on a quarterly basis; after July 2019, reports will be on a semi-annual basis on the progress made toward the implementation of the project, including scope, cost, schedule, outcomes, and anticipated benefits.
- 4.7 Caltrans agrees to prepare program progress reports on a quarterly basis; after July 2019, reports will be on a semi-annual basis and include information appropriate to assess the current state of the overall program and the current status of each project identified in the program report.
- 4.8 The *[insert agency(s)]* agrees to submit a timely Completion Report and Final Delivery Report as specified in the Commission’s SB 1 Accountability and Transparency Guidelines.
- 4.9 All signatories agree to maintain and make available to the Commission and/or its designated representative, all work related documents, including without limitation engineering, financial and other data, and methodologies and assumptions used in the determination of project benefits during the course of the project, and retain those records for four years from the date of the final closeout of the project. Financial records will be maintained in accordance with Generally Accepted Accounting Principles.
- 4.10 The Transportation Inspector General of the Independent Office of Audits and Investigations has the right to audit the project records, including technical and financial data, of the Department of Transportation, the Project Applicant, the Implementing

Agency, and any consultant or subconsultants at any time during the course of the project and for four years from the date of the final closeout of the project, therefore all project records shall be maintained and made available at the time of request . Audits will be conducted in accordance with Generally Accepted Government Auditing Standards.

5. SPECIFIC PROVISIONS AND CONDITIONS

5.1 Project Schedule and Cost

See Project Programming Request Form, attached as Exhibit A.

5.2 Project Scope

See Project Report or equivalent, attached as Exhibit B. At a minimum, the attachment shall include the cover page, evidence of approval, executive summary, and a link to or electronic copy of the full document.

5.3 Other Project Specific Provisions and Conditions

Attachments:

Exhibit A: Project Programming Request Form

Exhibit B: Project Report

SIGNATURE PAGE
TO
PROJECT BASELINE AGREEMENT

[insert Project Name]

Resolution _____

Name Date

Title

Project Applicant

Name Date

Title

Implementing Agency

Laurie Berman Date

Director

California Department of Transportation

Susan Bransen Date

Executive Director

California Transportation Commission