PASSED BY
CTC
APR 2 6 2006
CALIFORNIA
TRANSPORTATION COMMISSION

CALIFORNIA TRANSPORTATION COMMISSION
Adoption of the Revised Traffic Congestion Relief Program Guidelines

Resolution G-06-04
Replacing Resolutions G-00-23, G-03-12, and G-03-14

1.1 WHEREAS in accordance with Government Code Section 14556.11 the California Transportation Commission (Commission) established, in consultation with the Department of Transportation (Department) and regional agencies, guidelines to implement the Traffic Congestion Relief Program/Act of 2000 (Act); and

1.2 WHEREAS in accordance with Government Code Section 14556.33 the Commission is to review and revise its guidelines commencing with FY 2006-07; and

1.3 WHEREAS the Commission, in consultation with the Department reviewed and revised its guidelines; and

1.4 WHEREAS the Commission gave public notice on the proposed guidelines revisions on March 16, 2006; and

1.5 WHEREAS the proposed guidelines were drafted in consideration of received comments regarding the draft guidelines; and

1.6 WHEREAS the proposed guidelines apply to all projects, funds, and lead applicant and implementing agencies specified in Government Code in Section 14556.4, from Article 5 of the Act.

2.1 NOW THEREFORE BE IT RESOLVED the California Transportation Commission does hereby adopt the revised guidelines for the Traffic Congestion Relief Program; and

2.2 BE IT FURTHER RESOLVED the Commission requests the Department, in cooperation with the Commission staff, to distribute copies of the adopted TCRP guidelines to lead applicant agencies, regional agencies, transit agencies and representatives of local agencies.

PASSED BY
CTC
APR 2 6 2006
CALIFORNIA
TRANSPORTATION COMMISSION

CALIFORNIA TRANSPORTATION COMMISSION
GUIDELINES FOR
TRAFFIC CONGESTION RELIEF PROGRAM

Resolution G-06-04

Replacing Resolutions G-00-23, G-03-12 and G-03-14

Adopted April 26, 2006

CALIFORNIA TRANSPORTATION COMMISSION
GUIDELINES FOR
TRAFFIC CONGESTION RELIEF PROGRAM

TABLE OF CONTENTS

1 AUTHORITY AND PURPOSE
- 1.1 Authority and Scope
- 1.2 Definitions
- 1.3 Purpose and Objective of Guidelines
- 1.4 Contact Points

2 RESPONSIBILITIES
- 2.1 Applicant
- 2.2 Commission
- 2.3 Department
- 2.4 Implementing Agency
- 2.5 Regional Agency
- 2.6 Overlapping Responsibilities

3 DEADLINES
- 3.1 Application
- 3.2 Allocations
- 3.3 Expenditure and Reimbursement
- 3.4 Project Amendment

4 PROJECT APPLICATION
- 4.1 Submittal of Application
- 4.2 Content and Format of Application
- 4.3 Project Financial Plan
- 4.4 Other State and Federal Program Requirements
- 4.5 Application for Alternative Project
- 4.6 Review of Applications.
- 4.7 Commission Approval of Applications

5 ALLOCATION OF FUNDS
- 5.1 Commission Allocations
- 5.2 Cooperative Agreement Timing
- 5.3 Environmental Documents
- 5.4 Project Funding Approval
- 5.5 Special Case Projects
  - North Coast Railroad
  - Alameda Corridor East

6 ADMINISTRATION OF FUNDS
- 6.1 Cooperative Agreement
- 6.2 Reimbursement
- 6.3 Advance Payments
- 6.4 Cost Increases and Savings
- 6.5 Project Close-out and Audits

7 PROJECT AMENDMENTS
- 7.1 Changes to the Project
- 7.2 Minor Changes
- 7.3 Major Changes Requiring Amendment of the Application
- 7.4 Changes after Allocation
- 7.5 Project Delays and Failures-Lapsing Funds
- 7.6 Managing Cash between Traffic Congestion Relief Projects

8 LETTERS OF NO PREJUDICE (LONP)
- 8.1 Intent of LONP
- 8.2 Submittal of LONP Request
- 8.3 Content and Format of LONP Request
- 8.4 Review of LONP Requests
- 8.5 Commission Approval of LONPs
- 8.6 Initiation of Work
- 8.7 Monitoring Progress of Projects with a LONP
- 8.8 Project Changes
- 8.9 Diligent Progress and Rescinding of LONP
- 8.10 Allocations for LONPs
- 8.11 Partially Completed Phases Under an Approved LONP

9 PROGRESS OF PROJECT IMPLEMENTATION
- 9.1 Fund Condition
- 9.2 Progress Reports
- 9.3 Annual Report

10 APPENDICES
- 10.1 Addresses
- 10.2 Application Form
- 10.3 Allocation Request Form
- 10.4 Progress Report Form

1 AUTHORITY AND PURPOSE

1.1 **Authority and Scope:** Government Code Section 14556.11 requires the California Transportation Commission (Commission) to establish guidelines to implement the Traffic Congestion Relief (TCR) Program, which was established by Chapters 91 (AB 2928) and 656 (SB 1662) of the Statutes of 2000. These statutes require the Commission to adopt guidelines within 90 days of the effective date (July 6, 2000) of the TCR Act, to consult with the Department of Transportation (Department) and representatives of regional and local agencies in developing the guidelines, and to hold one public hearing prior to adopting the guidelines.

Government Code Section 14556.33, established by Chapter 908 (AB 1335) of the Statutes of 2001 and amended by Chapter 375 (SB 66) of Statutes of 2005, allows the Commission to establish guidelines regarding Letter of No Prejudice (LONP) approval for applicants allowing the applicant to expend its own funds for any component of its TCR Program project. These statutes require the Commission to consult with the Department and representatives of regional and local agencies in developing the guidelines. These Guidelines also incorporate various policy decisions made by the Commission to improve the management and delivery of the TCR Program.

These guidelines apply to all projects, funds, and applicant and implementing agencies specified in Government Code Section 14556.40, from Article 5 of the TCR Act. The guidelines become effective upon adoption by the Commission. In establishing and implementing these guidelines, the Commission complies with statutes that took effect prior to March 16, 2006.

The Commission may amend these guidelines at any time after first giving notice of the proposed amendments.

1.2 **Definitions:** For purposes of the guidelines the following definitions apply:

- **TCR Act** - the Traffic Congestion Relief Act of 2000.
- **TCR Program** - the Traffic Congestion Relief Program as defined in the TCR Act.
- **TCR Fund** - the Traffic Congestion Relief Fund.
- **Project** - any of the projects specified in numbered paragraphs in Article 5 of the TCR Act.
- **Alternative Project** - an alternative or substitute project proposed to replace one specified in Article 5 of the TCR Act.
- **Funds** - unless otherwise clarified or noted, the TCR Funds authorized for each project specified in Article 5 of the TCR Act.
- **Cooperative Agreement** - a contract between the Department and a local or regional implementing agency to carry out specified work using specified funds, under conditions specified therein; for some projects a series of cooperative agreements may be executed, with an original master agreement covering specified work followed by one or more supplemental agreements adding to the original.

- **Allocation** - the Commission's direction to the Department to authorize expenditure of specified funds for specified project work, and then to include those funds in a cooperative agreement that encumbers the funds, or to encumber those funds to a project if the Department is the implementing agency.
- **Encumbrance** - designation of an amount of funds pledged and secured within the TCR Fund and authorized to be expended for a project, for reimbursement of expenditures on the project by a local or regional agency upon execution of a cooperative agreement, or for expenditure by the Department if it is the implementing agency.
- **Spread of Funds** - the amount of funds from the TCR Act that the Commission assigns to each phase of a project specified in the TCR Act.
- **Rate of Reimbursement** - the maximum percent, as determined by the Commission, of any billed project cost that may be reimbursed by funds from the TCR Act.
- **Committed Funding** - federal, state, local and/or private funds programmed or otherwise pledged, designated, or reserved to a specified project or project phase by resolution or similar official action of the elected or appointed authority with legal power to assign those funds.
- **Local Funds** - funding that is generated by, and/or under the direct control of the local entity and is not earmarked for a specific project or purpose, including, but not limited to:
  - ✓ City/County share of gas tax, general funds, Mello-Roos bonds, etc.
  - ✓ County sales tax measures
  - ✓ Redevelopment agency funds
  - ✓ Private funding
  - ✓ Native American Tribes funds
  - ✓ Funding from neighboring counties and states
  - ✓ Federal Congestion Mitigation and Air quality (CMAQ) or Regional Surface Transportation Program (RSTP) funds
  - ✓ Other funds as may be determined by the Commission
  - ✓ Local funds do not include funds from:
    - State Transportation Improvement Program (STIP)–Interregional Improvement Program (IIP)
    - STIP-Regional Improvement Program (RIP)
    - State Highway Operation and Protection Program (SHOPP)
    - Federal High Priority (Demo) Program
    - Other non-locally controlled funds.
- **LONP** - Letter of No Prejudice that, if approved by the Commission, allows the applicant to expend its own funds for any component of the TCR Program project.
- **State and Federal Laws and Procedures** - as cited in Government Code Section 14556.33.(b)(3) means the State policies and regulations and Federal Code of Regulations governing the uniform administration of grants and cooperative agreements to State and local agencies, contracting regulations, acquisition of real property, cost principles, and related matters.

- **Applicant** - the lead applicant agency designated in Article 5 of the TCR Act; where the statute lists more than one applicant, the agencies should consult and agree which one will take the lead responsibility.
- **Commission** - the California Transportation Commission.
- **Department** - the state Department of Transportation.
- **Implementing Agency** - the agency responsible for carrying out the work necessary to complete the project.
- **Regional Agency** - the agency responsible under state statutes for the Regional Transportation Plan or Regional Transportation Improvement Program, as appropriate for the reference.

1.3 **Purpose and Objectives of Guidelines:** These guidelines are intended to clarify and interpret statutes and to guide and facilitate local, regional and state actions related to defining, scoping, approving, funding and implementing the projects identified in the TCR Act. The Commission intends with these guidelines to:

- Limit the scope of guidelines consistent with the TCR Act.
- Clarify roles and responsibilities.
- Expedite project approval, funding, and implementation.
- Provide flexibility to accommodate the broad range of projects in the TCR Act.
- Maintain accountability for actions of the agencies involved.
- Enable applicants that are considering a LONP to assess the risk for allocation and reimbursement from the TCR Fund when planned.
- Manage approval of allocations to maintain sufficient cash balances to make timely allocation and reimbursements for completed phases with an approved LONP.

1.4 **Contact Points:** Generally, applicants and implementing agencies should contact the Department project coordinator or project manager (the person at the appropriate district office designated as responsible to coordinate activities for each project or to manage projects on the state highway system) for general information, matters pertaining to project management, other project related issues and reimbursement billings; an agency should also apprise the Department project coordinator, with a copy of communications, about discussions and actions involving the Commission and Department headquarters. Questions on policy issues and interpretation of guidelines should be directed to the Department in Sacramento, at the address listed in the appendix, for resolution and consultation with the Commission office as appropriate.

Applicants and implementing agencies should jointly submit to the Commission and Department at the addresses listed in the appendix project applications, allocation requests, progress reports, and project amendments. Both the Commission and Department will accept communications, project applications, allocation requests, LONP requests, progress reports, and proposed project amendments for this program electronically (by fax or e-

mail). When submitting an application, allocation or LONP request by e-mail, an agency must follow up by sending official signed copies within five days.

2 RESPONSIBILITIES

2.1 **Applicant:** The applicant is responsible for:

- Submitting all project applications.
- Securing funding commitments to complete the project.
- Concurring in decisions affecting project purpose, scope, cost, or schedule recommended by the implementing agency.
- Making progress reports to the Commission.
- Working with the Metropolitan Planning Organization to ensure the project meets federal planning, programming and air conformity requirements.
- Submitting amendments when changes are necessary to approved projects.
- Submitting request(s) for LONP approval including all necessary documentation including project applications and amendments, STIP allocation requests, replacement funding description and commitment verification.
- Making diligent progress on the TCR Program project with an approved LONP and reporting that progress to the Commission.
- Submitting amendments when changes are necessary to an approved LONP.
- Communicating with and monitoring progress of implementing agencies.
- Submitting allocation requests and all necessary information in accordance with these guidelines.
- Executing an agreement with the Department and providing all necessary documents required for receiving a reimbursement.
- Dispensing reimbursement to contributors of local funds for TCR Program projects with an approve LONP.

2.2 **Commission:** The Commission is responsible for:

- Adopting and amending program guidelines.
- Receiving, reviewing, and approving (or denying) project applications and LONPs.
- Reviewing draft and final environmental documents as a responsible agency under CEQA.
- Directing the allocation of funds for project implementation and the reimbursement of approved LONPs.
- Considering and approving (or denying) amendments to applications, LONPs and allocations, and minor and major changes to projects.
- Approving assumptions and accepting cash forecasts in TCR Fund Cash and Allocation Capacity.
- Establishing priorities for reimbursement.
- Making findings regarding project progress.
- Reporting on program implementation annually to the Legislature and Governor.

2.3 **Department of Transportation:** The Department is responsible for:

- Co-signing applications for projects on a state highway or intercity rail line or that include IIP funds.
- Reviewing applications and LONP requests and advising the Commission.
- Preparing and executing a cooperative agreement with the implementing agency.
- Allocating funds as directed by the Commission.
- Administering the program, including payout of allocated funds.
- Administering and tracking of LONP status.
- Preparing and administering agreement(s).
- Assisting the Commission in meeting its intent for timely reimbursements, and applicants in assessing the risk associated with using local funds and seeking reimbursement under a LONP.
- Producing the TCR Fund Cash and Allocation Capacity projection. The TCR Fund Cash and Allocation Capacity projections will include: Existing resources and expected new revenue for the TCR Fund.
  - Estimated cash-flow requirements for existing allocations.
  - Reserves of resources for the allocation and reimbursement of approved LONPs and to make new allocations for those projects and phases that will proceed without an approved LONP.
  - TCR Fund approved amounts for existing approved LONPs, shown with the anticipated allocation and reimbursement schedule.

2.4 **Implementing Agency:** The implementing agency is responsible for:

- Carrying out feasibility or environmental studies, preparing plans, acquiring rights of way, and completing construction or procurement, as appropriate to complete the project.
- Ensuring the applicant, Commission, Department, and the regional agency receive notice, opportunity to comment, and final environmental documents required by CEQA.
- Executing a cooperative agreement with the Department.
- Certifying sustained level of transportation expenditures consistent with FYs 1997/98, 1998/99 and 1999-00 during the period that allocated funds are available for use.
- Requesting allocation of funds.
- Seeking concurrence with the applicant for project changes.
- Fulfilling administrative requirements, including billing for reimbursement.
- Communicating with the applicant.
- Performing work using alternate local funds.
- Reporting project progress.
- Submitting notice of completion.
- Accounting for expenditure of alternate local funds in accordance with these Guidelines for allocated funding, including Section 6.5, Audits.
- Complying with all legal requirements for the project, including the requirements of CEQA (Division 13 (commencing with Section 21000) of the Public Resources Code).

2.5 **Regional Agency:** The regional agency is responsible for:

- Ensuring projects are contained in or consistent with the Regional Transportation Plan.
- Co-signing applications for projects that include regional improvement funds.

2.6 **Overlapping Responsibilities:** For some projects, the applicant and implementing agency may be the same; for some projects, the Department or a regional agency may be the applicant, or the implementing agency, or both.

3 DEADLINES

3.1 **Application:** The statutes require an applicant specified in Article 5 of the TCR Act to prepare and submit to the Commission an application for each project specified no later than July 6, 2002. For each project for which an application is not received, the statutes require the Commission to notify the Governor and the Legislature and seek statutory identification and approval of another project or projects to use the funds. The Commission may reject without cause any application received after July 6, 2002; the Legislature and Governor may at any time render moot any application received after July 6, 2002 by assigning funds to other projects or purposes.

The statutes allow the Commission 90 days to review and act on applications, but the Commission intends to review applications that are complete and clear in no more than 45 days.

3.2 **Allocations:** As noted below, the Commission establishes the time schedule by fiscal year for a project, including the start of work, with its approval of the application. The statutes require the implementing agency to seek an allocation from the Commission and start the first phase of work during the fiscal year scheduled, and failure to do so voids the Commission's approval of the application. For construction or procurement phases, start of work means award of a contract.

The Commission will consider allocation requests on its regular meeting agenda, except as allocations may be delegated to the Department. The Commission intends to place allocation requests on its next agenda whenever those requests are received at least 21 business days before the meeting date, unless an allocation request raises issues that need more time for examination.

3.3 **Expenditure and Reimbursement:** State statutes allow up to three years after the date of allocation of funds to an applicant for the implementing agency and Department to execute a cooperative agreement by which the Department completes the allocation and encumbers the funds for project expenditures, and the statutes allow the funds to be available for expenditure and reimbursement for up to five years after the date of allocation of funds. Any funds not encumbered or expended by the respective time limits will remain as

unused funds in the TCR Fund for future use as authorized by the TCR Act. Thus, the Commission advises implementing agencies not to seek allocation of funds far in advance of start of work, and to seek partial allocations to fit the timing of expenditures as shown in the project financial plan for projects where construction or procurement is expected to extend over a period longer than five years.

The Commission, with respect to any allocated funds that revert to the TCR Fund, may direct the Department to reallocate those funds to the same project if the Commission finds that the applicant is pursuing the project diligently and that the project has been delayed by factors external to the control of the applicant. In no case may the amount made available for expenditure on a project exceed the amount specified for that project in the TCR Act.

3.4 **Project Amendment:** The Commission will consider project amendments on its regular meeting agenda. The Commission intends to place minor amendments on the consent calendar on its next agenda when received at least 21 business days before the meeting date, and intends to consider major amendments expeditiously depending on the significance and complexity of issues and the time needed for examination. The Commission also may approve relatively straightforward project amendments as part of an allocation.

4 PROJECT APPLICATION

4.1 **Submittal of Application:** The statutes require an applicant to prepare and submit to the Commission an application for each project specified in the TCR Act. The statutes describe four phases of work: 1) studies, environmental review, and permits; 2) preparation of project plans and specifications; 3) right of way acquisition; and 4) construction or procurement. Timely submittal of an application covering at least the first phase of work for a project satisfies this requirement.

The Commission recognizes that applicants for some projects may not be able to determine accurately scope, costs, schedules, and funding sources for all project phases in advance of further environmental analysis or financial commitments. Therefore the Commission will accept three types of applications:

- Applications to cover all work to complete the project;
- Applications to cover one or more phases of work, typically through project plans, specifications and estimates, but not including all phases to complete the project; or
- Applications to cover a partial stage of capital construction or procurement, resulting in a usable segment or portion of the project, but not completion of the entire project specified in the TCR Act.

Regardless of type, an application must be complete as to contents and other requirements for any work for which it will serve as the basis for a subsequent funding allocation.

Applicants should submit completed project applications jointly to the Commission and Department, at the addresses listed in the appendix.

4.2 **Content and Format of Application:** The Commission expects a complete application to include at a minimum the following information, unless some of the information is not applicable:

- Reference to the numbered paragraph in Article 5 of the TCR Act that identifies the project and amount of funds authorized for the project.
- Project title.
- Identification of, and contact for applicant agency and implementing agency.
- Description of project location and scope (including county, route and post mile limits for projects on the state highway system).
- Map of project location.
- Purpose of project.
- Cost and committed sources of funding to cover any phases of work included in the application.
- Schedule for starting and completing any phases of work included in the application by fiscal year, and projected fiscal year to begin and complete any remaining phases of the project.
- A proposed financial plan for the entire project, including breakdown of project cost for each of the four project phases and corresponding proposed funding by amounts and sources of funds, specifying the status of funding commitments.
- Proposed spread of funds from the TCR Act across phases of the project, including explanation and justification to support a request for the Commission to consider the proposed spread, fund advance, and rate of reimbursement.
- Documentation from the regional agency that a project with proposed phases involving right-of-way or construction is included in or is consistent with the Regional Transportation Plan.
- Signature of authorized representative of the applicant agency.
- Co-signature of an authorized representative of the regional agency if the project will use funds from the Regional Transportation Improvement Program or other funds approved by the regional agency, and the Department if the project will use funds from the Interregional Transportation Improvement Program or make improvements to the state highway or intercity rail system.

For any project for which a final environmental document has been completed, the applicant should ensure that the document is submitted to the Commission and Department concurrent with the application.

For projects specifying low emission vehicles or vessels, the applicant should include with the application information to demonstrate low emission

performance in context with safety, cost effectiveness, and current status of technology.

A sample project application form is included in the appendix to these guidelines, and is also available on the Internet at www.dot.ca.gov/tcrp. Although not mandatory, use of the standard format may facilitate review and expedite approval of an application.

4.3 **Project Financial Plan:** The Commission will use the financial plan in the application to evaluate the project's financial feasibility and to help guide its decisions related to spread of funds among the project phases, percentage rates of reimbursement of costs during each phase of the project, and advance payments of funds. The Commission needs a plan consistent with the project's schedule, covering all phases of the project included in the application as well as subsequent phases that may be applied for at a later date, showing total amount of funding available or proposed by fund source and by fiscal year needed to complete the entire project. Any expected funding not yet committed to the project should be noted and explained.

Each financial plan should include recommendations for spread of funds between project phases, rates of reimbursement of funds for each phase and if appropriate, recommendations for advance payments. The Commission will consider recommendations and requests to advance or delay use of funds from the TCR Act. Any recommendation or request for spread of funds between project phases, for rates of reimbursement of costs within a project phase, or for advance payment of funds must be explained and justified for consideration by the Commission. The Commission will take into account at least demonstration of financial hardship for the implementing agency, net savings in cost for the overall project, or ability to accelerate the project schedule in determining the spread or advancement of funds. The Commission may also consider prior expenditure of local funds to complete initial phases of work, soundness of the overall financial plan and the likelihood that proposed funding commitments will be realized in determining advancement or spread of funds.

The applicant takes responsibility for cost estimates for all project phases, based on consultation with the implementing agency. The financial plan should indicate current base costs for project phases, with spread of costs into future years escalated at the rates currently specified for the STIP.

4.4 **Other State and Federal Program Requirements:** The TCR Act did not waive statutory requirements applying to other state programs, and the Commission cannot do so either. The Commission's adoption of these guidelines does not amend or waive guidelines for other state programs. Thus applicants may need to consider, in preparing an application, requirements and timelines for other programs from which projects in this program will also receive funds.

The Commission particularly advises applicants to consider federal and regional requirements. Standard federal requirements will apply to all projects receiving federal funds, requiring a federal agency permit, or posing a regionally significant air quality impact. Many projects in the TCR Act will also need supplemental federal funding from the STIP and/or federal permits, and a few may affect air quality at a regional scale. A project will have to be found consistent with the regional transportation plan at the point when federal funds are used on any project phase. While some federal requirements, such as contract, labor, and reporting requirements, may be avoided on early project phases or staged projects by using only state or local funds on those phases or stages, the environmental requirements of National Environmental Protection Act must be followed for any project that will subsequently use federal funds on any phase or require one or more federal permits; applicants should contact the designated Department project coordinator for more detail about federal project requirements.

4.5 **Application for Alternative Project:** The statutes allow an applicant to submit an application for an alternate or substitute for a project specified in the TCR Act, excluding intercity rail projects, if certain conditions can be met.

The Commission expects applicants to consider thoroughly all projects specified in the TCR Act before seeking an alternative project, and exhaust all reasonable efforts to eliminate or relieve the conditions that would cause a project specified in the TCR Act to be abandoned.

The Commission will treat a project for which all funds provided from the TCR Act are proposed to build a partial stage of the project specified in the TCR Act, without committed funding to complete the remaining stages, or a project proposed with a greater scope than specified in the TCR Act, accompanied by sufficient committed funding to complete the project, as an alternative project. However, if an implementing agency must change the scope of a project during the environmental process, but the project purpose and need remain the same, the project does not automatically become an alternative project.

In addition to all other requirements of an application, an application for an alternative project must demonstrate that the specified project to be replaced satisfies at least one of four statutory conditions: 1) it will be significantly delayed by environmental or other factors external to the control of the applicant that are not likely to be removed within a reasonable time; 2) sufficient funds will not become available to secure the funds specified in the TCR Act and complete the project within a reasonable time; 3) the designated project is not in or consistent with the respective regional transportation plan, and the regional agency will not or cannot include it; or 4) completion of the specified project would jeopardize the completion of other projects programmed in the State Transportation Improvement Program (STIP).

The statutes also require an alternative project to be located within the jurisdiction of the applicant and designated to relieve congestion consistent with the TCR Act. An applicant can meet this requirement by demonstrating that the alternative project serves substantially the same purpose as the project being replaced.

4.6 **Review of Applications:** The statutes require the Commission to begin review of an application within 30 days, and to act within 90 days, of receipt of the application; if the Commission receives an incomplete or ambiguous application and needs to send it back for more information; the timeline starts upon receipt of the information requested. When many applications are received and must be reviewed concurrently, the Commission will undertake review in the time order received, although the time needed to complete review may vary depending on complexity, clarity, and completeness of the applications. In fact, for applications that are complete and clear, the Commission intends to complete review within 45 days or less. The Department will review applications concurrently with the Commission, and may present its advice or recommendations for Commission consideration.

Commission approval of the proposed schedule and financial plan in the application sets the schedule by fiscal year and funding for any phases of the project covered by the application, in the context of the whole project, unless or until the application may subsequently be amended as described in Section 7 of these guidelines. In making a determination about schedule and funding, the Commission will consider at least the proposed schedule, the availability and mix of funds from all sources that make up the project financial plan, special needs that may be documented in the allocation request, and the availability of funds from the TCR Act.

4.7 **Commission Approval of Applications:** The statutes require the Commission to approve or deny an application within 90 days of receipt of an application, or of receipt of additional information the Commission may have requested from the applicant.

The statutes require the Commission to approve an application, which meets the requirements of the TCR Act, the adopted guidelines, and any other applicable statutes, and an application that substantially meets these requirements and the applicant has agreed to modifications requested by the Commission. Commission approval of an application establishes:

- Scope, cost, schedule, and funding participation for all phases of work included in the application, subject to subsequent amendment,
- Eligibility for the implementing agency to start reimbursable work and seek allocation of funds,
- The time schedule by fiscal year for implementation of each project phase, including the deadline for securing an allocation and starting work on the first phase, and

- The spread of funds to be allocated to project phases, the percentage rate of reimbursement of costs within project phases, and approval of any advance payments for specified phases of a project.

The statutes require the Commission, if it denies an application, to document and communicate to the applicant the reasons for denial. The Commission will also specify a reasonable time deadline for submittal of an amended application for reconsideration, or an application for an alternative project, taking into consideration the complexity, size, and challenges of the project.

5 ALLOCATION OF FUNDS

5.1 **Commission Allocations:** The Commission will allocate funds only when the implementing agency is ready to start (or continue) work and requests an allocation for that work. The implementing agency should send a request for allocation of funds jointly to the Commission and Department, at the addresses listed in the appendix. Allocation requests for a study or initial phase of work may be submitted concurrent with the project application. Commission approval of an allocation request authorizes the Department to complete the allocation and encumber funds for expenditure on a project by executing a cooperative agreement with the implementing agency, and then to reimburse eligible expenditures by the implementing agency as specified in the allocation approval.

Requests for allocations should include all information in the format, which is contained in the appendix. Allocations will be made in units of $1,000 and allocation requests should therefore be rounded to the nearest $1,000. Copies of the allocation request form are available on the Internet at www.dot.ca.gov/tcrp. Additionally, an allocation request for the construction or procurement phase of a project that expands transit service (rail, bus, or ferry) must be accompanied by demonstration of financial capability to operate the expanded service once the project has been completed.

The Commission allocates funds only for work specified in an approved application (except for the special case noted in Section 5.5 of these guidelines). Generally, an allocation covers at least one complete phase of work, and may cover more than one. The allocation will specify the amount of funds allocated to each project phase, except the Commission may specify a unified amount for project development usable for both environmental studies and preparation of plans and specifications. At the first allocation, the Commission will indicate how it intends to spread the total funding authorized by the TCR Act among the phases of the project; however, the Commission may revise the spread of funds for later phases of work if it determines later that a different spread of funds would facilitate earlier implementation and completion of the project.

At the time of each allocation the Commission will also determine the percentage rate of reimbursement of costs for each phase of work, and any

advance payments. Different rates of reimbursement may be specified for different phases.

The statutes prohibit reimbursement of costs incurred prior to Commission approval of a project application. Project costs incurred after Commission approval of the project application but prior to execution of a cooperative agreement may be reimbursed retroactively. An implementing agency may start work using other funds, at risk, before application approval, but those expenditures cannot be reimbursed.

The Commission considers allocation requests on its regular agenda, which requires notice and preparation time, except as delegated below. The Commission intends to consider on the next upcoming agenda allocation requests received at least 21 business days before its meeting date, with priority by date of receipt and for projects where a final draft of the cooperative agreement between the Department and the implementing agency has already been completed, unless the allocation request raises issues related to the approved application which require more time for examination.

The Commission delegates to the Department approval of allocation requests where the allocation matches the scope of work and funding amount approved in the application and subsequent to Commission project funding approval, as applicable (as described in Section 5.4 of these guidelines), unless the Commission directs otherwise in its approval of the application or a funding allocation request.

Whenever the TCR Fund contains a sufficient balance, the Commission will allocate funds to projects or project phases earlier than the fiscal year approved in the project application, upon request as long as the work is ready to start imminently.

5.2 **Cooperative Agreement Timing:** The statutes require an implementing agency to execute a cooperative agreement with the Department to carry out the project and get reimbursed from allocated funds. The Commission urges the Department and implementing agencies to undertake and if possible complete the final draft of a cooperative agreement, as specified in Section 6.1 of these guidelines, by the time of allocation of funds. A completed final draft cooperative agreement will typically allow the Commission to expedite an allocation, but the Commission will not delay an allocation because a final draft has not yet been completed. However, for those allocations delegated to the Department, the final draft cooperative agreement must be completed and ready for execution before allocation.

5.3 **Environmental Documents:** The Commission is a responsible agency under CEQA because it makes a discretionary decision in allocating funds to a project; the Department is a responsible agency because it prepares and executes the terms of cooperative agreements on behalf of the state. Therefore implementing agencies must ensure that both the Commission and the

Department receive notices of preparation, the opportunity to review draft environmental documents, and final environmental documents before allocation of funds and execution of the cooperative agreement for project acquisition or construction.

Sections 21100 and 21150 of the Public Resources Code require, for a project that will cause significant environmental impacts, that all analysis and documentation of those impacts under CEQA, including any findings by the agency, must be completed before final decisions on project scope, design features, and cost including mitigation can be made. Thus, for projects requiring preparation of an Environmental Impact Report, pursuant to Public Resources Code Section 21102 the Commission may allocate funds to undertake both environmental studies and preparation of plans and specifications as necessary to make decisions on project feasibility, scope and design features. The Commission may allocate funds for early acquisition of right of way pursuant to the Department's current policy; the Commission will allocate funds for construction or procurement only after final environmental documents and findings have been completed, including an opportunity for review by the Commission, and the agency has decided to proceed with the project.

5.4 **Project Funding Approval:** After it reviews and considers final environmental documents, and approves findings of overriding consideration if necessary, the Commission may approve a project for funding, either concurrently or in the future. In giving project funding approval, which may include amendment of the project application, the Commission accepts final scope, estimated cost, and implementation schedule for completion of the project, as described in the environmental documents, and delegates to the Department allocation of funds for future project phases as long as the project proceeds as approved, unless specified otherwise.

5.5 **Special Case Projects**

North Coast Railroad: As required in Government Code Section 14556.50, the Commission will allocate funds authorized by the TCR Act in paragraph 32, Government Code Section 14556.40 (a) for the North Coast Railroad in accordance with the amounts, schedules and conditions specified in the following paragraphs. Except for the allocations specified for the first Commission meeting following the enactment of the State Budget Act of 2000, no part of the amounts listed below may be made available to the Authority until it has made a full accounting to the Commission demonstrating that the expenditure of funds provided to the Authority in the Budget Act of 2000 (Chapter 52 of the Statutes of 2000) was consistent with the limitations placed on those funds in that Budget Act. Unless otherwise directed by the Commission all other requirements of the guidelines will apply for allocation and use of the funds.

To defray the North Coast Railroad Authority's administrative costs the Commission will allocate to the Authority:

- $250,000 at the first Commission meeting following enactment of the State Budget Act of 2000 as directed by the Commission.
- $250,000 by December 30, 2000 as directed by the Commission.
- Up to $500,000 by June 30, 2001 if the Commission determines that additional funding is needed.

To complete the Authority's rail line projects from Lombard to Willits and from Willits to Arcata, the Commission will allocate to the Authority:

- $600,000 for Lombard to Willits at the first Commission meeting following enactment of the State Budget Act of 2000.
- $1,000,000 for Willits to Arcata by December 30, 2000.

To implement environmental remediation projects the Commission will allocate to the Authority:

- $4,100,000 by December 30, 2000 as directed by the Commission.

For the Authority's debt reduction the Commission will allocate to the Authority:

- $10,000,000 by December 30, 2000 as directed by the Commission.

The Commission will allocate to the Authority, subject to any direction the Commission deems appropriate, the remaining funds authorized in paragraph 32 of the TCR Act for the following purposes in amounts specified below:

- $5,000,000 to upgrade the Authority's rail line to Class II or III Status.
- $5,500,000 to repay the Authority's federal loan obligations. **(These obligations have since been forgiven and these funds are no longer needed for this purpose.)**
- $1,800,000 for use by the Authority as match local funds.
- $31,000,000 to fund long term railroad stabilization projects.

The Commission will consider, within statutory constraints, an amended application to shift funds, where purposes specified in the TCR Act can be fulfilled for less than the full amount specified, to other purposes specified in the TCR Act where the amount specified may be inadequate.

Alameda Corridor East: The Commission may not allocate funds to any of the Alameda Corridor East projects specified in the TCR Act in paragraphs 54, 55, and 73 of Government Code Section 14556.40 (a) until a report has been completed and submitted to the Commission, within one year of enactment of this section of statute. A team consisting of the lead applicants for the projects and the Riverside County Transportation Commission shall prepare the report. The report shall address regional mobility needs as well as regional, state, and national economic impacts of the corridor. The team shall also evaluate and assess the technical merits, determine the phasing and delivery schedule, and identify a financing strategy for the proposed corridor improvement. The

Commission may allocate funds from the amount specified in the TCR Act for the project to produce the report.

After the report has been submitted, based on good faith participation by the stakeholders, the Commission shall allocate some or all of the available funds to one or more of the lead applicants for specific projects within the corridor that meet the requirements under this chapter of the TCR Act.

6 ADMINISTRATION OF FUNDS

6.1 **Cooperative Agreement:** The statutes require the implementing agency to execute a cooperative agreement with the Department before it can be reimbursed for project expenditures. To expedite development and execution of cooperative agreements, the Commission encourages the Department and the implementing agency to maximize the use of existing agreements such as Master Agreement/Program Supplement and Fund Transfer Agreements. The implementing agency should contact the designated Department project coordinator for detailed requirements and a standard agreement, and to complete the agreement. The cooperative agreement:

- Constitutes a binding contract between the state and implementing agency governing expenditure of state funds, and completes allocation and encumbrance of funds for expenditure on a project.
- Verifies the agency's resources and capability to carry out the project, and allows for assumption of the agreement by a successor agency.
- Specifies all state requirements for administration of the work and contracts, reimbursement of funds, real property acquisition, accounting and auditing; for projects involving funds from other state programs, in particular the STIP, the cooperative agreement also may include further requirements pertaining to those other programs, and will lay out federal requirements for those projects that include federal funding or require permits from federal agencies.
- Specifies how additional project costs will be covered and how cost savings will be used or distributed among the financial contributors to the project or project phase.
- Contains a certification, by resolution of the governing board of the implementing agency, as required in the statutes, that during the time an allocation of funds from the TCR Act is available for use the agency will sustain a level of transportation expenditures, including reservations and averaging of fluctuating or one-time expenditures, consistent with the level of its program during FYs 1997/98, 1998/99 and 1999/00.

The state requirements in a cooperative agreement typically include, but may not be limited to, the following:

- Project information, including financial data, from the application.
- Special conditions from the project application.
- Non-discrimination clauses.
- Contract advertising and award requirements from the State Contract Act.

- Definition of eligible and ineligible costs.
- State accounting, records retention, and audit requirements.
- Right of Way requirements, including relocation, utilities, encroachment permits, and disposal of excess property.
- Operation, maintenance, and control of the completed project.
- Liability and hold harmless clauses.
- Conditions of acceptance and termination.

6.2 **Reimbursement:** Generally, implementing agencies will receive funds as reimbursement for billings submitted to the Department, except where the Department is the implementing agency or where the Commission authorized advance payments per Section 6.3 of these guidelines. The terms of the allocation and cooperative agreement will govern reimbursement; the Department will reimburse all billings at the percentage rate defined in the approved allocation.

If the Commission allocates funds for preparation of plans and specifications before completion of final environmental documents, the Department may reimburse an implementing agency for work to define project feasibility, scope, and design features in parallel with environmental studies, but, per Public Resources Code Section 21102, may not reimburse for final design plans and specifications until after the Commission's project funding approval.

The Commission and the Department expect implementing agencies to be reimbursed expeditiously, and the statutes require the Department to use electronic reimbursement procedures to the extent prudent and practical. In return, the Commission and the Department expect implementing agencies to submit billings within a reasonable time after work has been completed, in accordance with terms of the cooperative agreement.

6.3 **Advance Payments:** The Commission may authorize, if requested by the applicant, one advance payment for project development work including studies, environmental review and permits, and preparation of project plans and specifications, and one advance payment, subject to a demonstrated need, for the implementation phases of a project including right-of-way acquisition, construction or procurement; for projects that include studies only, and for the North Coast Railroad Authority project in Section 5.5 of these guidelines, the Commission may authorize lump sum grant payments for the whole scope of an allocation. The Commission expects to consider and approve requests for advance payments during its approval of the project application, which contains the financial plan for the project, but it may consider a request for advance payment at allocation if project circumstances have changed.

The implementing agency should request an approved advance payment by submitting a bill to the Department at the beginning of work for the agreed-upon advance amount; the Department will then reimburse billings at the approved percentage reimbursement rate until the remainder of the allocation has been expended as specified in the cooperative agreement; the Department

will recover the appropriate share of any savings in total cost at the end of work, as specified in Section 6.4 below and the cooperative agreement.

6.4 **Cost Increases and Savings:** The treatment of cost increases and savings should be defined in the cooperative agreement, within the following guidelines. The statutes limit the amount of funds available for allocation to a project to the amount authorized in the TCR Act. If cost increases require additional funding to complete a project, the applicant and implementing agencies are responsible for securing additional funds from sources other than the TCR Act.

The statutes allow the implementing agency, with concurrence from the applicant, to notify the Commission of cost savings for any project phase using funds from the TCR Act and then to use those savings on a later project phase. The notification should include the reason for the savings and how the agency intends to use the funds from the savings for later phases of work.

The statutes require savings at the end of a project, if a project is completed at a total cost lower than estimated in the approved project application, to be divided among all funding sources contributing to the project in the proportion each of the funding sources bears to the total funding for the project as defined in the application.

6.5 **Project Close-out and Audits:** All funds authorized by the TCR Act, allocated and expended, will be subject to financial and compliance audits by the Department's Audits and Investigations. The implementing agency assumes responsibility to establish and maintain records of project costs, expenditures, allocations, and reimbursements in accordance with state audit requirements. State audit requirements should be included in the executed cooperative agreement described in Section 6.1 above. Upon completion of a project, the implementing agency will prepare and submit to the Department a final project expenditure report documenting all project expenditures, before it can receive final payment. TCRP Project close-out guidance is located on the TCRP website at: http://www.dot.ca.gov/tcrp/.

7 PROJECT AMENDMENTS

7.1 **Changes to the Project:** The Commission may have to consider changes to a project at any time in the process: during consideration of the application, after an application has been approved, or following an allocation.

If the Commission returns an application because of incomplete information or ambiguity, or if the Commission denies an application, the statutes allow the applicant to submit a new application, and gives the Commission 90 days to reconsider it. In the case of an incomplete initial application or Commission denial of an application, the Commission will determine a reasonable time deadline for submittal of an amended application for reconsideration, or an

application for an alternative project, taking into consideration the complexity, size, and challenges of the project.

Once the Commission has approved a project application, the implementing agency assumes responsibility for managing the scope, cost and schedule for the project consistent with the approved application, with concurrence on major changes from the lead applicant agency and any other funding partners. The Commission understands that external factors through the environmental process, design considerations, right-of-way needs, construction contract matters, and other factors may cause the implementing agency to want to or have to change the project scope, cost, and schedule, and possibly project purpose. The Commission intends to allow and expedite project amendments consistent with its oversight responsibilities for the TCR Act.

7.2 **Minor Changes:** The statutes allow the Commission to approve minor changes in scope, cost, or schedule of any phase of work as long as the requested changes are consistent with the purpose of the project in the approved project application. The Commission intends to approve minor changes on the consent calendar at its next upcoming meeting, if it receives a request from the implementing agency at least 21 business days before the meeting date.

The Commission delegates the authority to the Department's TCR Program manager to approve minor TCR Program changes for requests that are:

- Project schedule changes within the same fiscal year that do not impact final project delivery or program year for future allocation requests.
- Fiscal year changes in project milestone delivery that does not impact or change later allocation fiscal years or ultimate project completion.
- Cost/funding changes such as changing the distribution of TCR Funds between project phases with no net change in funding for Phase 1 and 2, and using savings from Phase 1 in Phase 2.
- Increase in TCR Funds for an approved phase by no more than $1 million or 20 percent of the original approved amount.
- Minor project changes that are consistent with the original project scope, purpose and need in the approved project application.
- Change in proposed project funding other than TCR Funds.
- Cost savings at project completion.

The Department is to include approved minor TCR Program changes within their delegated authority report to the Commission.

7.3 **Major Changes Requiring Amendment of the Application:** The Commission will consider requests for major changes to project purpose, scope, cost, schedule, or implementing agency as amendments to the project application. Major changes include, but are not necessarily limited to, the following circumstances:

- Change in implementing agency.

- Change in project purpose that alters or takes away from the purpose approved in the application.
- Change in project scope and/or cost that requires additional funding from the STIP or other sources requiring approval by an agency other than the implementing agency.
- Change in project financial plan that would disproportionally change the mix of funding for the project.
- Change in project schedule that advances or delays future fiscal year allocations for funds from the TCR Act.
- Change in allocations between project phases, or reimbursement rates or advance payments from allocations.

The Commission expects the implementing agency to bring forward any amendment that would change the schedule of a future phase of a project before the fiscal year that phase is to start, and may reject without further cause any amendment brought forward after the scheduled fiscal year start date has passed.

The applicant, or the implementing agency with concurrence from the applicant, may submit jointly to the Commission and the Department proposed amendments to an approved application for project phases that have not yet received an allocation of funds. The Commission may consider and approve some changes to an application through its approval of an allocation, but for significant changes to project scope, cost, and schedule agencies should expect the Commission to consider an application amendment on its regular meeting agenda. The Commission may approve amendments at first consideration, with regular 10-day agenda notice, if no one objects or raises issues that need further examination.

The statutes require the implementing agency to report, in a timely manner, to the Commission if the first phase of a project cannot be completed on schedule such that delays to subsequent phases of the project may result, explaining the reasons for the delays and probable impacts on the project. After reviewing the report, the Commission may then reconsider the project application and request modifications to the project schedule and other elements of the application. If it deems appropriate, the Commission may instead postpone its reconsideration of the application until completion of the environmental phase of the project.

7.4 **Changes after Allocation:** An implementing agency may request to increase an allocation if the cost of a phase increases unexpectedly, for example because of unforeseen environmental or design considerations or an increase in the real estate market affecting right of way. The Commission may approve a supplemental allocation, advanced from the funding designated for a future phase, up to the amount that would preserve the approved proportional reimbursement rate throughout the phase with increased costs, if the implementing agency can satisfy the Commission that sufficient funding will be available to complete the project.

7.5 **Project Delays and Failures:** The statutes require the implementing agency to make diligent progress toward completing the project. If it does not, the statutes allow the Commission to review the status of the project, and, if it determines that the applicant or agency implementing the project is not pursuing the work and use of funds diligently, the Commission may rescind its allocation, leaving unused funds in the TCR Fund for future use as authorized by the TCR Act.

If the Commission and applicant determine that a project is being delayed by factors external to the control of the applicant or implementing agency and those factors are not likely to be removed within a reasonable time, the Commission may rescind its allocation, reserve any unused funds remaining from the original project, and allow the applicant to submit a new application for an alternative or substitute project as described in Section 4.5 of these guidelines. The Commission will determine a reasonable time deadline for submittal of the new application, which must conform to the requirements in these guidelines, taking into consideration the situation the applicant faces in coming up with a new project.

7.6 **Managing Cash Between TCR Program Projects:** When a number of projects that can be delivered are unable to proceed because TCR Funds are not available due to a severely constrained financial environment, the Commission may decide to manage TCR Funds by permitting the shifting of available unexpended funds from one project to another due to changes in the overall cash flow projections. The Commission will decide whether to allow the shifting of an existing allocation(s) from one project to another so that the applicant can proceed with a phase or project that can be more readily delivered in a severely constrained financial environment.

Before an applicant can request shifting an existing allocation to another project, it must:

- Obtain agreement, if more than one applicant agency is involved, to permit the funds to be shifted.
- Obtain concurrence from the implementing agency, as appropriate, to shift funds from a TCR Program project with an unexpended balance of allocated funds, or to redirect an existing allocation from a phase that has not yet started. The Department's concurrence is needed for projects on the state highway system or on State-supported intercity rail corridors.
- With the implementing agency, identify the total amount to be shifted from the TCR Fund allocation.

This flexibility to use previously allocated, but unexpended funds from one project on another project would be accomplished by the applicant requesting Commission approval to:

- Approve an application amendment requesting a revision to a previously approved application(s) that reflects, as appropriate, the changes to the scope, the changes to TCR Funds and other funding, the changes to cash

flow, and changes to the schedule of the donor project and the recipient project.

- Re-allocate the unexpended portion of the allocation to a recipient TCR Program project with a concurrent de-allocation from the donor project. The allocation request shall demonstrate that the recipient project conforms to the requirements for allocation as set forth in these guidelines and any condition placed upon the project at the time of its approval.

8 LETTER OF NO PREJUDICE (LONP)

8.1 **Intent of LONP:** A regional or local entity that is a lead applicant agency under the Article 5, may apply to the Commission for a LONP for the TCR Program project. If approved by the Commission, the LONP allows the regional or local agency to expend its own funds for any component of the transportation project.

It is the intent of the Commission to give equal opportunity for available funding to TCR Program applicants that are able to make progress on projects under an approved LONP and those that must seek an allocation from the TCR Fund to continue work on the project. The Commission further intends that applicants considering the use of a LONP have the most accurate information available to assess the likelihood of allocation and reimbursement as planned. Applicants proceed at their own risk, as reimbursement of the LONP is dependent on availability of TCR Program funding. The LONP is NOT an AB 3090 reimbursement or replacement project.

8.2 **Submittal of LONP Request:** LONP requests shall be submitted by the applicant in accordance with established timeframes for TCR Program applications and amendments for timely consideration by the Commission.

In order to be considered by the Commission, a LONP request shall:

- Be signed by a duly authorized agent of the applicant agency.
- Include all relevant information as described in 8.2 below.
- Indicate the specific phase(s) of the TCR Program project covered by the LONP.
- Have an approved TCR Program project application.
- Indicate that the implementing agency is ready to start (or continue) work on the specific phase(s) covered by the LONP request.
- Have a full and committed funding plan for the specific phase(s) covered by the LONP request.
- Indicate anticipated schedule for allocation and reimbursement.

8.3 **Content and Format of LONP Request:** The Commission expects a complete LONP request to include, at a minimum, the following information as applicable:

- A letter requesting LONP approval. The request shall include a summary of any concurrent actions needed from the Commission (up-dated project

application information) and a discussion of the source(s), amount and commitment of funding to be used in place of TCR Program funds.

- Documents needed for obtaining concurrent Commission approval for TCR Program applications and/or amendments in accordance with TCR Program guidelines and standards.
- LONP requests must identify the alternate local funding source(s) that will be substituted for TCR Program funds and provide a demonstration of commitment (e.g., resolution, minute order) from its policy board that the alternate funds are available.
- A cost schedule including anticipated allocation request date and expenditure schedule for the phase or phases covered by the LONP.
- LONP requests for phases of work jointly funded by the TCR Program and STIP shall include a STIP allocation request or a STIP AB 3090 request.
- LONP requests for the construction or procurement phase of a project that expands or extends transit service (rail, bus, or ferry) must be accompanied by demonstration of financial capability to operate the expanded service once the project has been completed.
- LONP requests for capital phases (right of way and/or construction) must include documentation for Commission review of the final environmental document, as appropriate, and approval for consideration of future funding.

8.4 **Review of LONP Requests:** Review of LONP requests shall be conducted in accordance with Section 4.6 of these guidelines and established timeframes for project application approval.

8.5 **Commission Approval of LONPs:** The Commission will generally approve requests for LONPs that meet the guidelines, except for LONP requests for phases of work jointly funded by the TCR Program and STIP, which shall be dependent upon concurrent approval of the STIP allocation or a STIP AB 3090 request.

The Commission will consider concurrently an application approval or application amendment request with a LONP request from an eligible applicant. A LONP will only be granted for the phase or phases that are in an approved application or application amendment and is valid for the scope(s), schedule(s) and funding that is approved.

8.6 **Initiation of Work:** The applicant shall report to the Department when a phase of work covered by an approved LONP is ready to proceed. Within six months following this date, the applicant shall report to the Department on progress in executing agreements and third-party contracts needed to execute the work.

8.7 **Monitoring Progress of Projects with a LONP:** An applicant for TCR Program projects with an approved LONP shall report on progress to date in conformance with Section 9.2 of these guidelines regarding expenditures to

date, work completed, problems and issues with project, and updating the funding plan for each phase of the project.

8.8 **Project Changes:** Proposed changes in funding, schedule or project scope for a TCR Program project with an approved LONP must be requested by the applicant, and is subject to Commission approval.

8.9 **Diligent Progress and Rescinding a LONP:** If progress reports from an applicant on a TCR Program project with an approved LONP show that diligent progress is not being made in completing the project as reported by the Department, the Commission may request the applicant to explain its lack of progress. The Commission may rescind the LONP or may direct the applicant to demonstrate it is making diligent progress within the next six-month reporting period. If the Commission finds the applicant is not pursuing project work diligently, the Commission may rescind the LONP.

The Commission will not make an allocation to an applicant requesting reimbursement for a TCR Program project with an approved LONP if its LONP is rescinded.

8.10 **Allocations for LONPs:** Up to one-half of the resources appropriated in a given fiscal year to the TCR Fund will be reserved for allocation and reimbursement for approved LONPs.

Upon completion of the phase(s) of a LONP approved by the Commission, the applicant may request to have its LONP liquidated with an allocation by the Commission or at the Commission's direction by the Department. The applicant shall identify the source(s) and estimated expenditures of all funds used in completing the phase or phases of the project for which the applicant is seeking an allocation from the Commission.

If multiple LONPs are approved on the same date, and resources are insufficient to allocate and reimburse all LONPs, allocation and reimbursement will be made on a prorated basis with the remaining allocation and reimbursement scheduled for the next fiscal year, subject to availability of funding in that fiscal year.

For LONPs approved prior to June 30, 2005, Government Code Section 14556.33, amended by Chapter 375 (SB 66) of Statutes of 2005, requires that the Commission assure that applicants are reimbursed on an equitable basis that serves the interest of the entire state transportation program, taking into account various factors, including, but not limited to, all of the following:

- The impact on allocations for other projects funded under Article 5.
- The cash flow requirements necessary for projects in Article 5.
- The extent in which the applicant has deferred other high priority STIP or TCR Program projects because of advancing their own funds.
- The extent to which reimbursements would be spent on the construction phase of other STIP or TCR Program projects.

- Any adverse impact on the applicant's high priority projects of postponing reimbursement until project completion as opposed to allowing payment to be made based upon the amount of funds expended on eligible costs for a project, payment to be made upon the documentation of those eligible costs.
- The level of commitment made by the applicant in expending its own funds for any component of a transportation project under Article 5.

Upon allocation, the statutes require the Department to execute a cooperative agreement or Master Agreement/Program Supplement before it can provide reimbursements for eligible project expenditures. The Department will enter into the agreement with the applicant.

Applicants will receive funds as reimbursement for eligible costs included in invoices submitted in accordance with the provisions of the cooperative agreement. It is the responsibility of the applicant to disperse funds to all contributors of the alternate local funds.

Statutory provisions related to cost increases or savings and for compliance audits shall remain in effect for project phases with an approved LONP.

8.11 **Partially Completed Phases Under an Approved LONP:** When funds exist, the applicant with a partially completed phase(s) may request an allocation to convert the LONP for reimbursement of eligible costs to date and periodic (monthly) reimbursement for the remainder of the phase(s).

9 PROGRESS OF PROJECT IMPLEMENTATION

9.1 **Fund Condition:** The Commission, with assistance from the Department, will monitor appropriations to, encumbrances from, and balances in the TCR Relief Fund to ensure the fund contains an adequate balance to cover allocations, reimbursements, and contingencies. The Commission will keep track of project savings that need not be allocated, and rescinded allocations or project savings which had been allocated but were not expended, leaving unused funds in the TCR Fund for future use as authorized by the TCR Act; the Commission will report annually to the Governor and the Legislature on fund condition and balances, including excess funds not needed for remaining projects specified in Article 5 of the TCR Act.

9.2 **Progress Reports:** To assist the Commission in assessing the program and preparing its annual report, each applicant will prepare and submit jointly to the Commission and the Department project progress reports for each project identified in the TCR Act, twice a year by April 1 and October 1, at the addresses listed in the appendix. Each report shall provide information appropriate to assess the current project progress, which may include the estimated or actual date for submittal of the project application, estimated or approved project costs by phase, proposed or approved implementation schedule by phase, and actual expenditures and status of work, until projects

have been completed. The report should identify and discuss any significant issues which may impact implementation of the project including financial constraints and commitments, environmental clearance, regional plan consistency, and impacts on other planned and programmed projects. If the applicant fails to submit timely progress reports, the Commission may report to the Governor and the Legislature that no progress is being made on the project.

A sample progress report form is included in the appendix to these guidelines, and is also available on the Internet at www.dot.ca.gov/tcrp.

To keep the Commission apprised of the flow of projects, the Department will notify the Commission, monthly or on an ongoing basis, of all completed allocations, and identify projects for which a cooperative agreement has not been executed within 90 days of a Commission allocation.

9.3 **Annual Report:** The statutes require the Commission to report annually to the Governor and the Legislature on progress in implementing the TCR Program. These annual reports will assess program-wide implementation progress including projects and project phases for which applications have not yet been submitted, project schedules, project delays, project failures and cost savings, and discuss opportunities and needs for identifying alternative projects or additional projects; the report may also discuss significant issues with the program and recommend legislative changes that could improve program implementation.

10 APPENDICES

- **10.1** **Addresses**
- **10.2** **Application Form**
- **10.3** **Allocation Request Form**
- **10.4** **Progress Report Form**

Appendix 10.1 – Addresses

Traffic Congestion Relief Program

A. COMMISSION ADDRESS

Mr. John F. Barna, Jr.
Executive Director
California Transportation Commission
1120 N Street, MS 52
Sacramento, CA 95814

- Phone: (916) 654-4245
- FAX: (916) 653-2134
- E-mail: john_barna@dot.ca.gov

B. DEPARTMENT ADDRESS

Mr. Eric Koch
Chief
Office of the Traffic Congestion Relief Program
Department of Transportation
1120 N Street, MS 82
Sacramento, CA 95814

- Phone: (916) 653-9082
- FAX: (916) 654-2738
- E-mail: eric_koch@dot.ca.gov

Appendix 10.2 - Project Application

Traffic Congestion Relief Program

Section I. Application Information

A. Specify the paragraph number, authorized dollar amount, and project description pursuant to Government Code section 14556.40 (a) (AB 2928, Chapter 91 of the Statues of 2000) authorizing this project:

Paragraph Number: _____ Amount: $ _____ million

Description: _____
_____
_____
_____

B. Applicant Agency: _____
Address: _____
_____

Contact Person: _____

Phone #: _____ FAX #: _____
Email: _____

C. Implementing Agency: _____
Address: _____
_____

Contact Person: _____

Phone #: _____ FAX #: _____
Email: _____

D. Department District:
_____
Address: _____
_____

Project Manager/Coordinator: _____

Phone #: _____ FAX #: _____
Email: _____

E. Application Type:

____Study Only *(Complete Sections II, IV, VI, & VIII)*

____Non-Capital Phase(s)
(Complete All Sections except VII. Detail for requested phase(s), estimate otherwise)

____ Studies, environmental review, and permits
____ Preparation of project plans and specifications

____Capital Phase(s) – **Must attach required environmental documents**
(Complete All Sections except VII. Detail for requested phase(s), estimate otherwise)

____Right of Way Acquisition
____Construction or Procurement

____Complete Project *(Complete All Sections except VII)*

____Alternative Project *(Complete All Sections)*

Section II. General Project Information

A. Project Name: _____

B. Project Purpose: _____

C. Project Location *(attach a map if applicable)*: _____

D. Project Description: _____

E. Project Scope: _____

F. Total Estimated Cost of Project: _____
G. Project Start Date: _____
H. Construction Start Date: _____
I. Project End Date: _____
J. Justification for Amendment: _____
_____
_____
_____
_____

Section III. Project Phase Information

(Dollars in Thousands)

		Schedule (month/year)		
Phase of work	Scope	Start	End	Cost
1. Studies, environmental review, and permits				
2. Preparation of project plans and specifications.				
3. Right of Way acquisition				
4. Construction or procurement				
			Total:	

Section IV. Project Phases and TCRP Funds covered by this Application

(Dollars in Thousands)

	Phase 1	Phase 2	Phase 3	Phase 4	Total
TCRP Funds					
Estimated Allocation Date (month/year)					

A. The Implementing Agency requests TRCP fund allocation in the amount of $_____ concurrent with this Application.

B. The Implementing Agency requests an advance payment of $_____.

Please explain and justify:

_____
_____
_____
_____
_____
_____

C. The Implementing Agency requests the following rate of reimbursement be considered in association with the requested allocation:

____ Proportionally spread across all funding sources.

____ Other, please explain and justify: _____
_____
_____
_____
_____

Section V. Funding Information for the Total Project

(Dollars in Thousands)

Source	Type		Phase 1	Phase 2	Phase 3	Phase 4	Total
		Committed					
		Proposed					
		Committed					
		Proposed					
		Committed					
		Proposed					
		Committed					
		Proposed					
		Committed					
		Proposed					
		Committed					
		Proposed					
		Committed					
		Proposed					
		Committed					

		Proposed					
		Committed					
	Total:	Proposed					
	Project Totals:						

Section VI. Additional Information

A. Will this project utilize Regional or Inter-Regional Transportation Improvement Program funding?

____Yes (application must be co-signed by regional planning agency or the Department, whichever is applicable.)
____No

B. For Projects with a Right of Way or Construction/Procurement Phase, the Lead Agency must demonstrate that it is part of, or in conformity with, the appropriate Regional Transportation Plan. Attach a copy of the relevant section(s) of the Regional Transportation Plan.

C. If this project will utilize other fund sources (i.e. STIP, local measure tax, demo funds, etc.), have they been programmed or committed? Please provide a narrative describing how they have been committed or a strategy that the Agency will undertake to commit necessary funds:

_____
_____
_____
_____
_____
_____
_____
_____

Section VII. Justification for Alternative Project Application

A. Reasons for Alternative Project (check all that apply):

_____Significant delay caused by environmental or other factors external to the control of the lead applicant agency that are not likely to be removed within a reasonable time.

_____Sufficient funds will not become available to secure the funds specified in the Act and complete the project within a reasonable time.

_____ The designated project is not in or consistent with the respective regional transportation plan, and the regional agency will not or cannot include it.

_____ Completion of the specified project would jeopardize the completion of other projects programmed in the State Transportation Improvement Program as of July 2000.

B. Explain items checked above in more detail:

C. Is the alternative project within the applicant's jurisdiction?
____Yes
____No

D. Explain how the proposed project presented in this Application will relieve congestion consistent with the Act:

Section VIII. Signatures of Applicant Agencies

By affixing the signature(s) below, the agency certifies it has provided complete and accurate information necessary for the California Transportation Commission to review and process this Project Application; that the agency will in good faith pursue this work for the public's benefit in a timely and diligent manner and comply with all existing and future Commission policies and rulings; and that the Regional Planning Agency or the Department has reviewed and approved this project.

_____ _____

Officer or Director of Applicant Agency — Date

_____ _____

Officer or Director of Implementing Agency (Required if different from Applicant Agency) — Date

_____ _____

Officer or Director of Regional Transportation Planning Agency (Required for use of RTIP funding.) — Date

_____ _____

Deputy Director of Finance, Department (Required for use of ITIP funding.) — Date

_____ _____

Department District Representative (Required for State Highway projects.) — Date

Appendix 10.3 – Allocation Request
Traffic Congestion Relief Program

Section I. Project Information

A. Project Name: _____
_____

B. Specify the paragraph number, authorized dollar amount, and project description pursuant to Government Code section 14556.40 (a) (AB 2928, Chapter 91 of the Statues of 2000) authorizing this project:

Paragraph Number: _____ Amount: $ _____ million

C. Has the Project changed as defined in Section 7.2 or Section 7.3 of the TCRP Guidelines?

____Yes as defined in Section 7.2; complete this Allocation request form and prepare a narrative describing the nature (what and why) of the change for submittal the CTC for approval.

____Yes as defined in Section 7.3; complete this Allocation request form and indicate;

_____ A narrative describing the nature (what and why) of the change is attached
_____An Amended Application for submittal to the CTC for approval is attached

____No; complete the Allocation request form.

Section II. Approved Application Information

A. What was the date of approval for the TCRP Application that covers this allocation request? _____

B. Is this Allocation request for a capital phase(s) (Phase 3 or 4 as defined in the Guidelines and Application)?

____Yes, answer the following:
Does the Approved Application cover any capital phase(s)?

____*Yes, therefore, any required environmental documents were submitted and approved along with the Application. Complete the Allocation Request*

____*No, attach required environmental documents and complete the Allocation request. This request will require CTC approval.*

____No, complete Allocation request

Section III. Project Phases and TCRP Funds covered by this Request

(Dollars in Thousands)

Planned: (From Application)	Phase 1	Phase 2	Phase 3	Phase 4	Total
TCRP Funds					
Estimated Allocation Date (month/year)					
History: (List all previously approved allocations)					
TCRP Funds					
Allocation Date (month/year)					
Requested: Differences, if any, should be explained					

D. The Implementing Agency requests an advance payment of $_____.

Please explain and justify:

_____

_____

_____

_____

_____

E. The Implementing Agency requests the following rate of reimbursement be considered in association with the requested allocation:

____ Proportionally spread across all funding sources.

____ Other, please explain and justify: _____
_____
_____
_____
_____

Section IV. Signatures of Requesting Agencies

_____ _____
Officer or Director of Implementing Agency Date

_____ _____
Officer or Director of Applicant Agency Date
(Required if different from Implementing Agency)

Appendix 10.4 - Progress Report

Traffic Congestion Relief Program
Progress Report
Scope, Schedule, Cashflow and Funding

Project #: Date:

GENERAL PROJECT INFORMATION

PROJECT STATUS

Check the appropriate box:

- ☐ Project work is on-going using allocated TCRP funds only
- ☐ Project work is on-going using non-TCRP funds only
- ☐ Project work is on-going using allocated TCRP funds and non-TCRP funds
- ☐ All TCRP allocated funds have been expended and the project work is on-going using non-TCRP funds
- ☐ Project work has been suspended
- ☐ Project work is complete
  - ☐ Close out report was submitted on
  - ☐ Final invoice will be submitted on
  - ☐ Close out report will be submitted on
  - ☐ There was a project savings in the amount of (indicate TCRP funds savings only, in $1,000s)

PROJECT SCOPE

Please indicate below if the project scope has changed from the last Commission approved application/amendment.

PROJECT SCHEDULE

Phase	*Scope*	Start	End
1	Environmental		
2	Plans, Specifications & Estimates		
3	Right of Way Acquisition		
4	Construction		
4	Procurement		

Does this information reflect a change in the currently approved project schedule?

If yes, briefly explain the reason(s) for change in the box below:

PROJECT CASHFLOW

Indicate amount in $1,000s

APPROVED ALLOCATION(S)

Phase	*Scope*	Current Approved Allocation(s) by Phase	Expenditures Reimbursed as of 9/30/05	Remaining Expenditures FY 2005-06	Estimated Remaining Cashflow Need FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	Beyond FY 2009-10	Total
1	Environmental	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Plans, Specifications & Estimates	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
3	Right of Way Acquisition	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
4	Construction	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
4	Procurement	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -

LAPSING ALLOCATED FUNDS IN FISCAL YEAR 2005-06

The following provides the phase, amount and month allocated funds will lapse in Fiscal Year 2005-06.

Go to the Department of Transportation's at website http://www.catc.ca.gov to find instructions in

Phase	*Scope*	Current Approved Allocation(s) by Phase	Month Funds Lapse
1	Environmental	$ -	
2	Plans, Specifications & Estimates	$ -	
3	Right of Way Acquisition	$ -	
4	Construction	$ -	
4	Procurement	$ -	

APPROVED LONP(S)

Phase	*Scope*	Approved LONP Amount by Phase	Expenditures Made by Local Agency as of 9/30/05	Remaining Expenditures to be Made by Local Agency in FY 2005-06	Estimated Expenditure of Local Funds: FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	Beyond FY 2009-10	Total	Estimated FY When LONP Reimbursement will be Requested
1	Environmental	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
2	Plans, Specifications & Estimates	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
3	Right of Way Acquisition	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
4	Construction	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
4	Procurement	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	

FUTURE ALLOCATION(S)

Phase	*Scope*	Allocation(s) Not Yet Approved by Phase	Estimated FY When Allocation will be Requested	Estimated Cashflow Need: FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	Beyond FY 2009-10	Total
1	Environmental	$ -		$ -	$ -	$ -	$ -	$ -	$ -
2	Plans, Specifications & Estimates	$ -		$ -	$ -	$ -	$ -	$ -	$ -
3	Right of Way Acquisition	$ -		$ -	$ -	$ -	$ -	$ -	$ -
4	Construction	$ -		$ -	$ -	$ -	$ -	$ -	$ -
4	Procurement	$ -		$ -	$ -	$ -	$ -	$ -	$ -
		$ -		$ -	$ -	$ -	$ -	$ -	$ -

PROJECT FUNDING PLAN

Indicate amount in $1,000s

Source	*Type*		*Phase 1*	*Phase 2*	*Phase 3*	*Phase 4*	*Total*
TCRP	State	Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
		Committed	$ -	$ -	$ -	$ -	$ -
		Proposed	$ -	$ -	$ -	$ -	$ -
	Totals	**Committed**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**
		Proposed	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**

Does this information reflect a change in the currently approved project funding plan?

If yes, briefly explain the reason(s) for change in the box below: