

August 30, 2023

Toks Omishakin, Secretary  
California State Transportation Agency  
400 Capitol Mall, Suite 2340  
Sacramento, CA 95814

**RE: Response to Informal Draft Guidelines for TIRCP and ZETCP**

Secretary Toks Omishakin:

On behalf of the California Transit Association, I write to you today to formally respond to the informal draft guidelines for the Transit and Intercity Rail Capital Program (TIRCP) and Zero-Emission Transit Capital Program (ZETCP), released by the California State Transportation Agency (CalSTA) on August 19. The Association greatly appreciates CalSTA's fast drafting and release of these informal draft guidelines, following the recent enactment of SB 125 (Committee on Budget and Fiscal Review) [Chapter 54, Statutes of 2023] on July 10. Furthermore, we thank CalSTA for its ongoing and direct engagement with California transit agencies and regional transportation planning agencies to clearly communicate its goals for the final guidelines as well as critical process steps, including through the explanatory webinar held by the agency on August 28.

The Association finds that, on balance, the informal draft guidelines represent a faithful interpretation of SB 125's statutory intent and further our shared interest in immediately advancing the historic investment in transit capital and operations authorized under AB 102 (Committee on Budget) [Chapter 38, Statutes of 2023]. We believe that the informal draft guidelines strike an appropriate balance between the quick administration of this new funding, which is vital to transit capital projects and to avoid service cuts, and accountability to the state and its taxpayers. That said, through this letter, we wish to further punctuate our priorities for these informal draft guidelines and the administration of AB 102 funding and offer a series of recommendations to support compliance with SB 125 requirements and to adhere to our understanding of the statutory intent for this funding. Recognizing that the guidelines were released as an informal or preliminary draft, the Association understands that we will have additional opportunities to engage CalSTA as the guidelines are formalized over the coming weeks and through adoption by the agency on September 30. The comments that follow represent and capture the interests of our diverse membership, which includes 220 member organizations.

**Scope of Review and Approval:** SB 125 requires regional transportation planning agencies (RTPAs) to develop and submit, and CalSTA to approve, short- and long-term financial plans to access AB 102 funding. As this requirement was enacted, we raised concerns about the

potential for CalSTA to apply a subjective analysis and an onerous approval process to these financial plans, which could slow the release of critical funding to RTPAs and the transit agencies in their jurisdiction and interfere in regional and local decision-making.

The informal draft guidelines address this concern head-on and specify that CalSTA will only review and analyze these plans for completeness and for project eligibility and will not infringe on local decision-making processes that determined the specific projects proposed for funding.

**We appreciate and support the clarification on the scope of CalSTA's review and approval of the short- and long-term financial plans included in the guidelines, as we believe it is consistent with statutory intent to move AB 102 funding forward quickly. We request that this clarification be maintained as subsequent versions of the guidelines are released.**

**Definition of Transit Operator:** SB 125 refers to “transit operator” in outlining the requirements for RTPAs relative to the short- and long-term financial plans, data reporting, and funding and project eligibility. However, the bill does not define “transit operator” directly or through cross-reference with current law, creating confusion on the most fundamental compliance requirements.

The informal draft guidelines address this omission by creating, in effect, two definitions of “transit operator” – one that applies to funding eligibility for investments in operation, and another that applies to funding for capital projects. The definition of “transit operator,” as tied to funding eligibility for investments in operations, is limited to transit agencies eligible for Section 99314 funding under the State Transit Assistance program at the time of distribution of funding to the RTPA. The definition of “transit operator,” as tied to funding eligibility for transit capital, is far broader and incorporates all public agencies – whether eligible for Section 99314 funding or not – that are eligible for traditional TIRCP.

We believe that the latter definition was likely advanced to establish congruency in funding eligibility between the General Fund-supported TIRCP authorized under AB 102 and traditional TIRCP, and thus, lessen confusion for potential funding applicants. That said, we believe this focus on congruency in funding eligibility misses an important distinction between General Fund-supported TIRCP and traditional TIRCP: General Fund-supported TIRCP is administered by RTPAs, which have established funding relationships with a narrow list of transit agencies in their jurisdiction and an interest in furthering regional priorities, and by contrast, traditional TIRCP is administered by CalSTA, which applies discretion annually on the funding relationships it enters and with an interest in furthering state priorities. We believe this more expansive definition would compel the creation of new funding and oversight requirements that are not in existence today, and that are unlikely to extend beyond the availability of this one-time funding.

**We request that CalSTA create one definition for “transit operator” which is limited to transit agencies eligibility for Section 99314 funding under the State Transit Assistance program at the time of distribution of funding to the RTPA.**

**Administrative Expenses:** As noted above, SB 125 requires regional transportation planning agencies to develop and submit, and CalSTA to approve short- and long-term financial plans to access AB 102 funding. The bill also imposes new short-term data reporting requirements on the RTPAs to continue to access this funding. Despite these new administrative and planning

requirements, the bill does not identify any funding for the RTPA to address the costs associated with them.

The informal draft guidelines address this omission by specifying that the RTPA may request a total of 5% of total multi-year ZETCP funding, or \$5 million, whichever is lower, for administration of funding and planning expenses related to development of the long-term financial plans. We support the identification of funding for the RTPAs to fulfill the new requirements imposed on them by SB 125 but believe that the current maximum of 5% of total multi-year ZETCP funding, or \$5 million, whichever is lower, is too high.

**We request that CalSTA reduce the maximum amount of funding an RTPA may request for the administration of funding and planning expenses to 2% of total multi-year ZETCP funding, or \$2 million, whichever is lower.**

**Additional Considerations:** In addition to these priorities and recommendations, we request the following: clarification in the guidelines, consistent with the verbal feedback provided on the August 28 explanatory webinar, on the scope of the requirement to provide in the allocation package narrative “an explanation of what funding and service actions are being taken within the region that utilize resources other than SB 125 funding”; clarification on what actions would be required of a transit agency to demonstrate that all available funds “fully encumbered or expended and liquidated by June 30, 2028”; and guidance on service changes and improvements that agencies can include in their project applications to demonstrate ridership increases for fleet replacement projects.

Finally, we will continue to elevate that, while we believe the guidelines further our shared interests and address many of our priorities, the Administration and Legislature must pursue amendments to SB 125 to codify the important clarifications included in the final guidelines. These amendments, should they move forward, should also address a provision in SB 125 that requires that a RTPA develop and submit, and CalSTA approve, a long-term financial plan for the agencies in their jurisdiction to access traditional TIRCP, beginning in Fiscal Year 2026-27. We believe that this requirement unreasonably conditions access to this long-standing funding program on compliance with requirements specific to funding available under AB 102.

In closing, I thank you again for the opportunity to provide feedback on the informal draft guidelines. We will continue to work constructively with you and your staff as the guidelines proceed to adoption on September 30. If you have any questions about this letter, please contact me at [michael@caltransit.org](mailto:michael@caltransit.org) or 916-446-4656 x1034.

Sincerely,



Michael Pimentel  
Executive Director

cc: Mark Tollefson, Undersecretary, California State Transportation Agency  
Chad Edison, Chief Deputy Secretary of Rail and Transit, California State Transportation Agency