

December 10, 2014

Bruce Roberts, Chief  
Division of Rail and Mass Transportation  
California Department of Transportation  
P.O. Box 942873  
Sacramento, CA 94273-0001

**Re: Comments on the Draft Guidelines for the Low-Carbon Transit Operations Program**

Mr. Roberts:

On behalf of the California Transit Association (Association), representing California's public transit systems, thank you for the opportunity to provide comment on the Low-Carbon Transit Operations Program (LCTOP), created as part of the state's efforts to reduce greenhouse gas (GHG) emissions through Cap and Trade. The Association is excited about the prospects that the Cap and Trade program provides for improving and expanding transit service throughout California. The Association appreciates Caltrans and the California State Transportation Agency's (CalSTA) willingness to engage our members as you continue your efforts to develop and implement guidelines for these programs.

In July 2014, the Association's Executive Committee established the Subcommittee on Cap and Trade (Subcommittee), created to participate in, and respond to, the development of guidelines by state agencies as required by SB 862. The Association's Subcommittee consists of representatives from 14 transit agencies throughout the state, including: San Francisco Municipal Transportation Agency; Southern California Regional Rail Authority (Metrolink); Solano Transportation Authority; San Mateo County Transit District; Santa Cruz Metropolitan Transit District; Monterey-Salinas Transit; Santa Clara Valley Transportation Authority; Bay Area Rapid Transit; Orange County Transportation Authority; Sacramento Regional Transit District; Capitol Corridor Joint Powers Board (Capitol Corridor); Los Angeles County Metropolitan Transportation Authority; Antelope Valley Transit Authority; and San Diego Metropolitan Transit System.

Generally speaking, the Association appreciates the simplicity of the draft LCTOP guidelines and similarity to the Proposition 1B PTMISEA Program, something our members are very familiar with. We also greatly appreciate the ability for transit agencies, beginning in 2015-16, to reserve their shares of Cap and Trade funding across multiple fiscal years for larger projects, as well as the use of Letters of No Prejudice allowing agencies to begin projects in advance of receiving approved funds through the program. The draft guidelines are a great starting point for the LCTOP and we feel, with some minor revisions, our members we be able to deliver effective GHG-reducing projects in support of the goals of AB 32. Therefore, the Association requests

that Caltrans and CalSTA please consider the following changes to the draft guidelines:

- 1) ***Allow transit agencies to pool resources.*** The draft guidelines currently do not address the issue of transfers between operators or the dissemination of unclaimed funding. The ability for transit operators to contribute funding to another operators project was a critical element of the Proposition 1B PTMISEA Program, as well as the Proposition 1A connectivity projects. In the near-term, many operators will receive minimal shares of funding under the Program may wish to transfer these funds to another agency within the region to be contributed to a project benefitting the region. We propose to simplify this by allowing an agency to notify Caltrans that it wishes to transfer its funding to its regional agency to apply the unwanted funds to other projects within the LCTOP. The regional agency would then be responsible for those funds, as prescribed in guidelines, as if it were the project lead/recipient agency. Additionally, the Association proposes a similar outcome for funds not claimed by an operator in a fiscal year.
- 2) ***Clarify the commitment of funds over multiple years.*** The guidelines allow a recipient to wait until a full year of auctions have occurred before submitting a project request or to bank its funding over multiple years for use on a larger project beginning in FY 2015-16. The Association urges you to consider also allowing an agency to program, at a level not to exceed its last full allocation, a project over multiple fiscal years and begin work on that project earlier in anticipation of receiving the same commitment of funding in to the future. For example, if an operator is allocated \$1 million in FY 2015-16, it should be authorized to program a five-year, \$5 million project and begin that project in FY 2015-16 and count on receiving the same \$1 million allocation in the following four fiscal years. This seems to be an allowable approach contained in the draft guidelines for the Transit and Intercity Rail Capital Program.
- 3) ***Clarify a number of terms related to whether an entity is a recipient of GGRF funds initially, and/ or whether an entity actually expends the funds on a transit project.*** For example, the guidelines are not clear with regard to the PUC 99313 agencies.

Again, we look forward to continuing to work with you as the guideline development process continues. Please do not hesitate to contact me with any questions at 916-446-4656.

Sincerely,



Matt Robinson  
Legislative Advocate

Cc: Brian Annis, Undersecretary, California State Transportation Agency  
Chad Edison, Deputy Secretary for Transportation, California State Transportation Agency

California Transit Association  
Recommended Changes to Draft Low-Carbon Transit Operations Program

- 1) On pages 5 and 6 at various points, and elsewhere throughout the document, the different terms “eligible project sponsor” and “project lead/ recipient agency” are used, sometimes interchangeably, and sometimes it’s not clear whether they are meant to be interchangeable. We therefore recommend refinement and clarification of these terms. For example, pick one term and stick with it throughout the document. For instance, try to distinguish between the entity that will actually spend the money versus the entity that receives the money, e.g. a regional transportation planning agency (i.e. the initial 99313 recipient) will rarely if ever *spend* the money, but *will*, at least initially, *apply* for the money.

Similarly, it is unclear whether the term “sub-recipient” (e.g. see page 6, number 7, second bullet) is defined anywhere in the document; we suggest it be so defined.

Note: Our suggestions that follow do NOT try to make those distinctions, as we thought it would be easier to read if we followed your existing terminology (i.e. even though in some cases we think that terminology needs to be clarified).

- 2) On Page 5, under “6. Eligible Project Sponsors...” amend the first bullet as follows:
  - A transportation planning agency and county transportation commission, or the San Diego Metropolitan Transit Development Board, that is eligible for State Transit Assistance funds, per PUC 99313, is eligible for allocations from the GGRF for this program. The allocation share is determined by formula based on the ratio of the population of the area under its jurisdiction to the total population of the state. [The agency, commission or the Board shall then sub-allocate the funds to the eligible transit operators in its region, pursuant to the applicable sections of the Public Utilities Code governing the responsibilities and duties of the agency, commission or the Board in allocating State Transit Assistance funds.](#)

Note: We also believe the header of this section is somewhat or potentially misleading. Are the 99313 regional agencies really “Project Sponsors”? Or, are they entities that are eligible to receive an allocation of GGRF funds, which, by operation of STA law, they are then required to sub-allocate to the transit operators in their region (while acknowledging that in some cases a county’s large transit operator is also the county’s 99313 regional agency, e.g. LA Metro, OCTA, SDMTS)? Our suggestion is to sort this out and choose terminology that more closely reflects the reality on the ground and the operation of STA law.

For instance, should the 99313 agencies more appropriately be called “Regional Allocating Agencies” or something like that? And, should the header of this section more appropriately be called “Entities Eligible to Receive GGRF Funds, qualified by PUC 99313 and 99314”? (If you do something like this, perhaps our note and suggestions for terminology clarification – from our comment number 1 above -- are aided, if not solved...)

3) On Page 6, under “7. Project Lead/Recipient Agency” amend the third bullet as follows:

- Unless requested by a sub-recipient agency and approved by both the original/initial recipient agency and the Department, All project documentation (i.e., Reports, Transportation Development Act Audits, Corrective Action Plans, Reassignment of GGRFs requests, Final Reports, and any additional information needed in case of an audit) is the responsibility of the project lead/recipient agency. In addition, the original/initial recipient agency is responsible for ensuring the project is completed as described in the allocation request and in compliance with all items included in the Certifications and Assurances document.

4) On Page 6, under “7. Project Lead/Recipient Agency” insert after the last bullet:

- An eligible project sponsor receiving an allocation under PUC 99314 may transfer its allocation share to a regional transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, to be combined with that recipient agency’s share of funding received pursuant to PUC 99313, for subsequent allocation by the regional transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board to a project or projects of regional significance. The eligible recipient under PUC 99313 shall be responsible for all project documentation and for meeting the program’s disadvantaged community requirements. Additionally, a project sponsor receiving an allocation under PUC 99314 may transfer its share to another eligible project sponsor that is a joint powers authority responsible for providing transit service when the recipient agency is the member of the joint powers authority.
- If a project sponsor receiving an allocation under PUC 99314 does not notify the Department of its intended use for its allocation share by June 30 of each fiscal year, its allocation share shall be transferred to that agency’s regional recipient identified pursuant to PUC 99313.

5) On Page 6, under “Project Eligibility Criteria” amend the first paragraph as follows, for clarity:

Projects must be evaluated to ensure ~~it~~ they provides ~~a~~ greenhouse gas reduction benefits and evaluated to see if the investments could result in projects that benefit disadvantaged communities, and/or are located within a disadvantaged community.

6) On Page 11, under “10. Eligible Projects” amend first sentence as follows:

Per Public Resource Code 75230 (d) (1-3) moneys shall be expended to provide transit operating or capital assistance that meets ~~all of~~ the following criteria:

7) On Page 11, under “10. Eligible Projects” amend the second bullet under “B., Transit Operations Projects” as follows:

- Costs of operational revisions that will increase mode share, increase ability to reduce GHG emissions, and benefit the residents of a DAC (if such a requirement is otherwise required by law).

8) On Page 13, under “14. Documentation” amend the fourth bullet under “d., Allocation Request” as follows:

- Detailed Description of major benefits (compliance details of improved mobility, increased mode share, greenhouse gas reduction, and benefits to disadvantaged communities [\[if a DAC benefit is otherwise required by law\]](#)).

9) On Page 18, under “Funding Process/ Appropriation” amend the second paragraph as follows:

The State Controller’s Office will list eligible project sponsors [and eligible agencies, commissions and boards](#), and the amount of funds each will receive, [based on the amounts due each if GGRF funds were State Transit Assistance program funds and GGRF funds were allocated based on the amounts due each if GGRF funds were State Transit Assistance program funds and GGRF funds were allocated](#) per PUC Sections 99313 and 99314, [based on a formula from previously allocated State Transit Assistance \(STA\) funds to local agencies](#). The allocation is split evenly between funds received based on population and funds received based on revenue generated.

10) On Page 20, under “18. Program Process and Timeline” amend Paragraph 2 as follows:

2. Caltrans will release the final program guidelines by December 19, 2014. Eligible recipients may begin submitting project information to Caltrans, in the format proscribed by Caltrans, to confirm eligibility of proposed expenditures. Project proposals will be due by ~~Feb. 1~~ [Feb. Apr. 1](#), 2015, to Caltrans’ Division of Rail and Mass Transportation.

11) On Page 21, under “Continuous Appropriation Effective 2015-16” amend Paragraph 2 as follows:

2. By September 1 of that fiscal year, or within 60 days of Caltrans notification, whichever is later, the SCO releases the estimate of funding available for each transit operator [and each agency, commission or the Board](#) for the fiscal year.

12) On Page 21, under “Continuous Appropriation Effective 2015-16” amend Paragraph 3 as follows:

3. Upon release of the funding level by SCO, eligible recipients may begin submitting project information to Caltrans, in the format proscribed by Caltrans, to confirm eligibility of proposed expenditures in the fiscal year. All project proposals must be received by November 1, of that fiscal year. In addition to the “baseline plan” that may not exceed the SCO estimate of funding available, eligible recipients may submit a “supplemental plan” that may include additional expenditures up to 20 percent [above](#) of the SCO estimate of funding [for that fiscal year. Eligible recipients may also submit a “supplemental plan” that may include expenditures equal to the SCO estimate projected across multiple fiscal years.](#) Eligible recipients are encouraged to request allocations in a timely manner to realize public benefit, but may also retain the continuous appropriation allocation across multiple fiscal years to accumulate funding for a larger expenditure [upon notification to the Department](#). Additionally, an eligible recipient may choose to resolve uncertainty on the level of auction proceeds by postponing submittal of an expenditure plan until all auction for a fiscal year are complete, and then submitting a plan to expend those known funds in the following fiscal year.