



METROPOLITAN
TRANSPORTATION
COMMISSION

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Memorandum

TO: Local Streets and Roads Working Group (LSRWG)
Active Transportation Working Group (ATWG)
County Coordinators of TDA, Article 3

DATE: May 9, 2013

FR: Cheryl Chi

W. I. 1514

RE: **Proposed Update to Transportation Development Act, Article 3 Policies and Procedures**

MTC plans to update its policies and procedures for Transportation Development Act (TDA), Article 3, Pedestrian and Bicycle funding. The current guidance was initially developed in 1980 and was last updated in March 2005.

A first draft of the proposed changes was presented to the Active Transportation Working Group and distributed to the County Coordination of TDA, Article 3 in January. Based on feedback received, a revised draft is being presented for your feedback. Also attached for your reference are the relevant Public Utilities Code Statutes pertaining to this funding source.

Key changes from the current policies are identified below.

1. **JPA Eligibility:** We initially proposed eliminating JPAs as eligible entities based on language contained in the statute. Based on feedback received and consultation with MTC's Legal staff, JPA eligibility has been restored, but has also been made more specific.
2. **Bicycle Advisory Committee (BAC):** Staff proposes making Bicycle and Pedestrian Advisory Committee (BPAC) a mandatory part of the project delivery process for all TDA Article 3 funded projects. The revised language is very similar to the language contained in MTC's One Bay Area Grant Complete Streets requirement.

The current policies focus on BPAC review before a project is submitted for TDA, Article 3 funding and is limited to bicycle projects. The revised policies recognize the importance of BPACs during project development and for all proposed projects.

3. **Project readiness:** Current guidelines require that projects be ready to implement within the next fiscal year. Based on feedback received, the policies have been revised to specify that projects should be completed within the funding eligibility period.
4. **Eligible projects:** In the past, some projects have been allocated funding for feasibility studies and early planning work. These project phases are ineligible for funding. TDA statute limits project eligibility to "construction and/or related engineering." In an effort to further

clarify eligible work, the new resolution will expressly identify project level environmental, planning, and right-of-way as ineligible project phases (Bullet 6 on page 7).

MTC was asked to include pedestrian safety education as an eligible expenditure for safety education projects. Our Legal Counsel has advised staff that the statute should be read restrictively to permit only *bicycle* safety education projects at this time.

5. **Examples of eligible projects:** Staff has expanded the list of example projects based on feedback received. Please provide any additional suggestions for examples of other eligible projects that we should include in Appendix A1 starting on page 7. This section used to be called “Suggested Criteria.”

Next Steps: Below is the proposed timeline for updating the TDA, Article 3 policies and procedures:

January 11	Send to TDA 3 County Coordinators and Active Transportation Working Group (ATWG)
January 17	Presentation to ATWG
January 28	Deadline for Round 1 of comment by County Coordinators and Active Transportation Working Group
May 9	Presentation to LSRWG
May 16	Presentation to ATWG
May 23	Deadline for Round 2 of comments
June 12	Presentation to MTC Programming and Allocation Committee
June 26	Adoption by the Commission

As noted above, please send any comments or concerns to me by May 23. You can email me at cchi@mtc.ca.gov or call me at 510-817-5939.

PUBLIC UTILITIES CODE
CHAPTER 4, TRANSPORTATION DEVELOPMENT
ARTICLE 3 – LOCAL TRANSPORTATION FUNDS

Pedestrian and Bicycle Allocations

99233.3

Two percent of the remaining money in the fund shall be made available to counties and cities for facilities provided for the exclusive use of pedestrians and bicycles unless the transportation planning agency finds that the money could be used to better advantage for the purposes stated in Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275), or for local street and road purposes in those areas where the money may be expended for such purposes, in the development of a balanced transportation system. Of the amount made available to a city or county pursuant to this section, 5 percent thereof may be expended to supplement moneys from other sources to fund bicycle safety education programs, but shall not be used to fully fund the salary of any one person.

Claims for Pedestrian and Bicycle Facilities

99234

- (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles or for bicycle safety education programs shall be filed according to the rules and regulations adopted by the transportation-planning agency.
- (b) The money shall be allocated for the construction, including related engineering expenses, of those facilities pursuant to procedures or criteria established by the transportation-planning agency for the area within its jurisdiction, or for bicycle safety education programs.
- (c) The money may be allocated for the maintenance of bicycling trails, which are closed to motorized traffic pursuant to procedures or criteria established by the transportation-planning agency for the area within its jurisdiction.
- (d) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.
- (e) Facilities provided for the use of bicycles may include projects that serve the needs of commuting bicyclists, including, but not limited to, new trails serving major transportation corridors, secure bicycle parking at employment centers, park and ride lots, and transit terminals where other funds are unavailable.
- (f) Notwithstanding any other provision of this section, a planning agency established in Title 7.1 (commencing with Section 66500) of the Government Code may allocate the money to the Association of Bay Area Governments for activities required by Chapter 11 (commencing with Section 5850) of Division 5 of the Public Resources Code.
- (g) Within 30 days after receiving a request for a review from any city or county, the transportation-planning agency shall review its allocations made pursuant to Section 99233.3.

- (h) In addition to the purposes authorized in this section, a portion of the amount available to a city or county pursuant to Section 99233.3 may be allocated to develop a comprehensive bicycle and pedestrian facilities plan, with an emphasis on bicycle projects intended to accommodate bicycle commuters rather than recreational bicycle users. An allocation under this subdivision may not be made more than once every five years.
- (i) Up to 20 percent of the amount available each year to a city or county pursuant to Section 99233.3 may be allocated to re-stripe class II bicycle lanes.