

**Metropolitan Transportation Commission  
Programming and Allocations Committee**

**June 12, 2013**

**Item Number 3d**

**Resolution No. 4108**

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**Subject:** Adopt Transportation Development Act (TDA), Article 3 Policies and Procedures which define the process for allocating funds to bicycle and pedestrian projects.

**Background:** This resolution updates the policies and procedures for the allocation of TDA, Article 3, Pedestrian and Bicycle funding. The existing policies contained in MTC Resolution 875, Revised were first adopted in November 1980 and were last updated in March 2005.

The new policies and procedures would be effective with the FY2014-15 funding cycle since the process for selecting projects for FY2013-14 funding is well underway or even completed in all counties.

The most significant changes are as follows:

1. All projects – both bicycle and pedestrian -- must be reviewed by the jurisdiction or county's *Bicycle and Pedestrian Advisory Committee (BPAC) or similar public advisory group*. Previously, only bicycle projects required review by a Bicycle Advisory Committee (BAC).
2. The new policies and procedures explicitly prohibit use of these funds for project level environmental, planning, and right-of-way work, consistent with PUC Sections 99233.3 and 99234.

In addition to the changes identified above, some of the other changes include:

- Clarification of which joint powers agencies are eligible for TDA Article 3 funding
- Expansion of the examples of eligible projects, particularly pedestrian projects
- Clarification of the required deadlines for reimbursable expenditures and the process and timing of disbursement of funds

Staff conducted two rounds of review of the draft policies and procedures with the Active Transportation Working Group, and reviewed them with the Local Streets and Roads Working Group. The guidelines were distributed to all county TDA Article 3 coordinators for them to distribute to their jurisdictions for their review and comment. The guidelines were also distributed to the Programming and Delivery Working Group. Most comments were focused on the role of Bicycle and Pedestrian Advisory Committees in reviewing TDA Article 3 projects.

**Issues:** Staff has received input from some stakeholders (see attached letter from Marty Martinez of the Safe Routes to School National Partnership and Andy Peri of the Marin Bicycle Coalition) expressing concern that the proposed update will eliminate a requirement present in the current guidelines that each jurisdiction that receives TDA Article 3 funds have a Bicycle Advisory Committee. The current guidelines were written in response to a Transportation Control Measure in the 1991 Clean Air Plan approved by the Bay Area Air Quality Management District. That Plan has since been revised and no longer requires that each jurisdiction have a Bicycle Advisory Committee. Therefore, as an alternative, staff is recommending that the revised guidelines require that both bicycle and pedestrian projects be reviewed by either a jurisdiction's Bicycle and Pedestrian Advisory Committee, or in the event such a Committee does not exist, by the county or countywide Bicycle and Pedestrian Advisory Committee.

Other stakeholders expressed appreciation for a more flexible Advisory Committee requirement, especially for those cities that do not have the staff capacity to support a local Bicycle Advisory Committee, and the recommended countywide process is consistent with current practice in several counties. Given the relatively small amount of funding available through the TDA Article 3 program, a strict requirement for all jurisdictions to form and maintain a Bicycle and Pedestrian Advisory Committee may not be practical or cost effective.

Further, state legislation and regional and local policies related to complete streets and the promotion of active transportation in general, make it more likely that jurisdictions will continue to maintain Advisory Committees and staff does not anticipate that many jurisdictions with existing Committees will disband them as a result of the proposed update to Article 3 guidelines.

**Recommendation:** Refer MTC Resolution No. 4108 to the Commission for approval.

**Attachments:** Letter from Safe Routes to Schools Partnership and Marin County Bicycle Coalition.  
MTC Resolution No. 4108



May 30, 2013

Alix Bockelman  
Director, Programming and Allocations  
Metropolitan Transportation Commission  
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**Re: Opposition to eliminating TDA-3 Bicycle Advisory Committee Requirement**

Dear Director Bockelman:

We are writing to express deep concern regarding the recent MTC staff proposal to eliminate the requirement that local jurisdictions that receive TDA-3 funds for bicycle projects maintain a Bicycle Advisory Committee (BAC) to review the proposed projects. We appreciate that MTC has met with us to discuss the issue but we are extremely concerned that MTC staff will present to the Programming and Allocations Committee a proposal to eliminate this requirement. We must strongly oppose eliminating this requirement.

MTC currently requires all local jurisdictions receiving TDA-3 funds for bicycle projects to vet those projects through a Bicycle Advisory Committee (BAC). MTC staff has offered to the Active Transportation Working Group (ATWG) at its last two meetings proposed language changes that eliminate this requirement. While the proposed language does some good things that we can support, such as requiring review of pedestrian projects, we oppose eliminating the requirement for BAC review of bicycle projects and urge staff to reconsider moving this language forward. Many individuals at the ATWG meetings echoed a desire to see the BAC's continue.

We are also concerned that the public discussions on this language change have been confusing and may have made it difficult for advocates to give appropriate input. For example, the May 9, 2013 MTC

staff memorandum (addressed to the Local Streets and Roads Working Group (LSRWG), the ATWG, and the County Coordinators of TDA Article 3) contained the following language, “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”. We read that statement to mean that the language that had been discussed at the January 17 ATWG meeting—at which many people expressed a desire to keep a BAC or BPAC requirement—had been reversed.

However, the May 9 memo’s description of the language is different from what was unveiled at the May 19 ATWG meeting, which in fact includes an elimination of the BAC requirement. Under the proposed language, a local jurisdiction could eliminate their BAC or BPAC and rely on doing a “public notice”, in other words, putting something on the city council agenda, thereby satisfying this requirement. Cities could alternatively attempt to push BPAC requirements on to their County BPAC or the CMA BPAC, neither of which necessarily have members who live in or understand the issues and needs in that county’s respective cities and towns.

We do not understand why the existing BAC requirement is proposed to be eliminated. Staff has indicated that changes are needed to address the fact that pedestrian projects are not having the same public oversight as TDA-funded bike projects. We fully support a more public process for TDA-funded pedestrian projects but this is not a justification for eliminating the BAC’s. In fact, we suggest simply changing the requirement so that all projects (bicycle and pedestrian) be reviewed by a bicycle pedestrian advisory committee (BPAC), instead of a BAC.

Another issue that is being raised by staff is that there is a preference to align this program more closely with OBAG. There are two fundamental problems with this rationale. The first is that the OBAG requirements reference the TDA BAC requirement. One of the reasons we did not ask for advisory committee language to be put in the OBAG requirements is because the TDA BAC requirement was already in place. It is problematic to suggest that MTC needs to align the TDA BAC requirement with OBAG when, in fact, OBAG refers to the TDA requirement. It is a circular argument that is problematic.

BPAC requirements that currently exist for OBAG only apply to those local jurisdictions that pass a Complete Street resolution. However, not all cities will be receiving OBAG funds and therefore are not subject to the requirement to pass a Complete Streets policy resolution. Second, many cities are complying with the OBAG requirement by indicating that their general plan complies with AB 1358, the Complete Streets Act of 2008, and therefore will not be required to pass a Complete Streets resolution. Finally, for those jurisdictions that do pass a Complete Streets resolution, one of the elements in MTC’s requirements (see element #7 here: <http://saferoutescalifornia.files.wordpress.com/2012/07/cs-mtc-obag-requirements.pdf>), explicitly references the very BPAC requirement that is proposed for elimination. Therefore, we are concerned that this proposed change does not foster consistency between existing requirements, but rather undermines the intent and practice of the BPAC requirement and Complete Streets policy. A better way to align the TDA program with OBAG would be to require all jurisdictions to pass a Complete Streets resolution.

BAC's and BPAC's serve a very important role in local cities and towns. BPAC's do far more than review TDA funding requests. BPAC's help to create and implement bicycle plans and are often the primary eyes and ears in local municipalities regarding problems and helping to create improvements for bicycle/pedestrian safety and for helping to increase bicycle/pedestrian mode share. The work of BPAC's ultimately supports increasing bicycle/pedestrian transportation mode share, which strongly supports AB32 and SB375. In our conversation regarding the ATWG strategic planning, we discussed the importance of health-based outcomes as a future metric for evaluating non-motorized/transit mode outcomes. BPAC's work to make the roads safer for all users and help to increase physical activity, providing health benefits to members of local communities—we cannot weaken them.

The current requirement for BAC or BPAC formation to receive TDA-3 funds is far from onerous for jurisdictions and ultimately helps to make jurisdictions more bicycle and pedestrian friendly. Current requirements allow for fairly broad flexibility in what kind of group is designated to fulfill the BPAC requirement.

This TDA-3 requirement is one of very few incentives to encourage a jurisdiction to form a BPAC. Recently, a city in Marin County was poised to eliminate its BPAC and only after realizing that TDA-3 funding would be jeopardized did they drop the proposal. This requirement is vital for encouraging BPAC's in the San Francisco Bay Area.

We urge MTC staff to work to revise this language. We strongly oppose any changes that would eliminate the requirement that a BAC or BPAC be in place for jurisdictions seeking TDA-3 funds.

Thank you for addressing our concerns. We look forward to working with you on this issue and appreciate the time you and your staff have taken.

Sincerely,

Marty Martinez, MPP  
Bay Area Policy Manager  
Safe Routes to School National Partnership  
[marty@saferoutespartnership.org](mailto:marty@saferoutespartnership.org)

Andy Peri  
Advocacy Director  
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CC: Sean Co, Transportation Planner, [sco@mtc.ca.gov](mailto:sco@mtc.ca.gov)  
Cheryl Chi, Transit Analyst, [cchi@mtc.ca.gov](mailto:cchi@mtc.ca.gov)

Date: June 26, 2013  
W.I.: 1514  
Referred By: PAC

ABSTRACT

Resolution No. 4108

This resolution establishes policies and procedures for the submission of claims for Article 3 funding for pedestrian and bicycle facilities as required by the Transportation Development Act in Public Utilities Code (PUC) Section 99401.(a). Funding for pedestrian and bicycle projects is established by PUC Section 99233.3.

This resolution supersedes MTC Resolution No. 875, Revised commencing with the FY2014-15 funding cycle.

Further discussion of these procedures and criteria are contained in the Programming and Allocations Summary Sheet dated June 12, 2013.

Date: June 26, 2013  
W.I.: 1514  
Referred By: PAC

RE: Transportation Development Act, Article 3. Pedestrian and Bicycle Projects.

METROPOLITAN TRANSPORTATION COMMISSION

RESOLUTION NO. 4108

WHEREAS, the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99200 et seq., requires the Transportation Planning Agency to adopt rules and regulations delineating procedures for the submission of claims for funding for pedestrian and bicycle facilities (Article 3, PUC Section 99233.3); state criteria by which the claims will be analyzed and evaluated (PUC Section 99401(a); and to prepare a priority list for funding the construction of pedestrian and bicycle facilities (PUC Section 99234(b)); and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the Transportation Planning Agency for the San Francisco Bay Region, adopted MTC Resolution No. 875 entitled "Transportation Development Act, Article 3, Pedestrian/Bicycle Projects", that delineates procedures and criteria for submission of claims for Article 3 funding for pedestrian and bicycle facilities; and

WHEREAS, MTC desires to update these procedures and criteria commencing with the FY2014-15 funding cycle, now therefore be it

RESOLVED, that MTC adopts its policies and procedures for TDA funding for pedestrian and bicycle facilities described in Attachment A ; and be it further

RESOLVED, that the prior policy governing allocation of funds contained in Resolution No. 875 is superseded by this resolution, effective with the FY 2014-15 funding cycle.

METROPOLITAN TRANSPORTATION COMMISSION

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Amy Rein Worth, Chair

The above resolution was approved by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California, on June 26, 2013.

TRANSPORTATION DEVELOPMENT ACT, ARTICLE 3,  
PEDESTRIAN/BICYCLE PROJECTS  
Policies and Procedures

Eligible Claimants

The Transportation Development Act (TDA), Public Utilities Code Sections 99233.3 and 99234, makes funds available in the nine-county Metropolitan Transportation Commission (MTC) Region for the exclusive use of pedestrian and bicycle projects. MTC makes annual allocations of TDA Article 3 funds to eligible claimants after review of applications submitted by counties or congestion management agencies.

All cities and counties in the nine counties in the MTC region are eligible to claim funds under TDA Article 3. Joint powers agencies composed of cities and/or counties are also eligible provided their JPA agreement allows it to claim TDA funds.

Application

1. Counties or congestion management agencies will be responsible for developing a program of projects not more than annually, which they initiate by contacting the county and all cities and joint powers agencies within their jurisdiction and encouraging submission of project applications.
2. Claimants will send one or more copies of project applications to the county or congestion management agency (see "Priority Setting" below).
3. A project is eligible for funding if:
  - a. The project sponsor submits a resolution of its governing board that addresses the following six points:
    1. There are no legal impediments regarding the project.
    2. Jurisdictional or agency staffing resources are adequate to complete the project.
    3. There is no pending or threatened litigation that might adversely affect the project or the ability of the project sponsor to carry out the project.
    4. Environmental and right-of-way issues have been reviewed and found to be in such a state that fund obligation deadlines will not be jeopardized.
    5. Adequate local funding is available to complete the project.
    6. The project has been conceptually reviewed to the point that all contingent issues have been considered.

- b. The funding requested is for one or more of the following purposes:
  - 1. Construction and/or engineering of a bicycle or pedestrian capital project
  - 2. Maintenance of a multi-purpose path which is closed to motorized traffic
  - 3. Bicycle safety education program (no more than 5% of county total).
  - 4. Development of a comprehensive bicycle or pedestrian facilities plans (allocations to a claimant for this purpose may not be made more than once every five years).
  - 5. Restriping Class II bicycle lanes.Refer to Appendix A for examples of eligible projects.
- c. The claimant is eligible to claim TDA Article 3 funds under Sections 99233.3 or 99234 of the Public Utilities Code.
- d. If it is a Class I, II or III bikeway project, it must meet the mandatory minimum safety design criteria published in Chapter 1000 of the California Highway Design Manual (Available via Caltrans headquarters' World Wide Web page); or if it is a pedestrian facility, it must meet the mandatory minimum safety design criteria published in Chapter 100 of the California Highway Design Manual (Available via Caltrans headquarters' World Wide Web page).
- e. The project is ready to implement and can be completed within the three year eligibility period.
- f. *If the project includes construction, that it meets the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.) and project sponsor submits an environmental document that has been stamped by the County Clerk within the past three years.*
- g. A jurisdiction agrees to maintain the facility.
- h. The project is included in a locally approved bicycle, pedestrian, transit, multimodal, complete streets, or other relevant plan.

#### Priority Setting

- 1. The county or congestion management agency (CMA) shall establish a process for establishing project priorities in order to prepare an annual list of projects being recommended for funding.
- 2. Public review and input is required of all projects programmed for these funds. If a jurisdiction has a Bicycle and Pedestrian Advisory Committee (BPAC) or similar public advisory group, all projects submitted to the county or CMA must have prior review by this

committee. This review should occur in an early project development phase to verify bicycling and pedestrian needs are identified and adequately addressed by the project.

If a jurisdiction does not have a BPAC or similar public advisory group, the project/s may be submitted to the county BPAC or countywide BPAC or similar public advisory group for review if the county or countywide group is willing to take on this obligation. As part of their administration of this program, the county or CMA may require jurisdictions to have a BPAC.

If the project is a comprehensive bicycle and pedestrian plan, the jurisdiction's BPAC must be involved in the development and review of the plan. If a jurisdiction does not have a BPAC, then one must be convened for the purpose of developing or updating the bicycle and/or pedestrian plan. All future projects submitted for this funding would then need to be reviewed by the BPAC as described above.

3. All proposed projects shall be submitted to the County or congestion management agency for evaluation/prioritization. Consistent with the county process, either the Board of Supervisors or the Congestion Management Agency (CMA) will adopt the countywide list and forward it to MTC for approval.
4. The county or congestion management agency will forward to MTC a copy of the following:
  - a) Applications for the recommended projects, including a governing body resolution, stamped environmental document, and map for each, as well as a cover letter stating the total amount of money being claimed; *and confirmation that each project meets Caltrans' minimum safety design criteria and can be completed before the allocation expires.*
  - b) The complete priority list of projects with an electronic version to facilitate grant processing.
  - c) A Board of Supervisors' or CMA resolution approving the priority list and authorizing the claim.

#### MTC Staff Evaluation

MTC Staff will review the list of projects submitted by each county. If a recommended project is eligible for funding, falls within the overall TDA Article 3 fund estimate level for that county, and has a completed application, staff will recommend that funds be allocated to the project.

#### Allocation

The Commission will approve the allocation of funds for the recommended projects. The County Auditor will be notified by allocation instructions to reserve funds for the approved projects. Claimants will be sent copies of the allocation instructions and funds should be invoiced in accordance with the “Disbursement” section below.

#### Eligible Expenditures

Eligible expenditures may be incurred from the start of the fiscal year of award plus two additional fiscal years. Allocations expire at the end of third fiscal year following allocation. For example, if funds are allocated to a project in October 2014, a claimant may be reimbursed for eligible expenses that were incurred on or after July 1, 2014. The allocation expires on June 30, 2017 and all eligible expenses must be incurred before this date. All disbursement requests should be submitted by August 31, 2017.

#### Disbursement

1. The claimant shall submit to MTC the following, no later than two months after the grant expiration date:
  - a) A copy of the allocation instructions along with a dated cover letter referring to the project by name, dollar amount and allocation instruction number and the request for a disbursement of funds;
  - b) Documents showing that costs have been incurred during the period of time covered by the allocation.
  - c) With the final invoice, the claimant shall submit a one paragraph summary of work completed with the allocated funds. This information may be included in the cover letter identified in bullet “a” above and is required before final disbursement is made. If the project includes completion of a Class I, II or III bicycle facility, this information should be added to Bikemapper or a request should be made to MTC to add it to Bikemapper.
2. MTC will approve the disbursement and, if the disbursement request was received in a timely fashion and the allocation instruction has not expired, been totally drawn down nor been rescinded, issue an authorization to the County Auditor to disburse funds to the claimant.

#### Rescissions and Expired Allocations

Funds will be allocated to claimants for specific projects, so transfers of funds to other projects sponsored by the same claimant may not be made. If a claimant has to abandon a project or cannot complete it within the time allowed, it should ask the county or congestion management

agency to request that MTC rescind the allocation. Rescission requests may be submitted to and acted upon by MTC at any time during the year. Rescinded funds will be returned to the county's apportionment.

Allocations that expire without being fully disbursed will be disencumbered in the fiscal year following expiration. The funds will be returned to county's apportionment and will be available for allocation.

#### Fiscal Audit

All claimants that have received an allocation of TDA funds are required to submit an annual certified fiscal and compliance audit to MTC and to the Secretary of Business and Transportation Agency within 180 days after the close of the fiscal year, in accordance with PUC Section 99245. Article 3 applicants need not file a fiscal audit if TDA funds were not expended (that is, costs incurred) during a given fiscal year. However, the applicant should submit a statement for MTC's records certifying that no TDA funds were expended during the fiscal year. Failure to submit the required audit for any TDA article will preclude MTC from making a new Article 3 allocation. For example, a delinquent Article 4.5 fiscal audit will delay any other TDA allocation to the city/county with an outstanding audit. Until the audit requirement is met, no new Article 3 allocations will be made.

TDA Article 3 funds may be used to pay for the fiscal audit required for this funding.

## Appendix A: Examples of Eligible Projects

1. Projects that eliminate or improve an identified problem area (specific safety hazards such as high-traffic narrow roadways or barriers to travel) on routes that would otherwise provide relatively safe and direct bicycle or pedestrian travel use. For example, roadway widening, shoulder paving, restriping or parking removal to provide space for bicycles; a bicycle/pedestrian bridge across a stream or railroad tracks on an otherwise useful route; a segment of multi-purpose path to divert young bicyclists from a high traffic arterial; a multi-purpose path to provide safe access to a school or other activity center; replacement of substandard grates or culverts; adjustment of traffic-actuated signals to make them bicycle sensitive. Projects to improve safety should be based on current traffic safety engineering knowledge.
2. Roadway improvements or construction of a continuous interconnected route to provide reasonably direct access to activity centers (employment, educational, cultural, recreational) where access did not previously exist or was hazardous. For example, development of Multi-purpose paths on continuous rights-of-way with few intersections (such as abandoned railroad rights-of-way) which lead to activity centers; an appropriate combination of Multi-purpose paths, Class II, and Class III bikeways on routes identified as high demand access routes; bicycle route signs or bike lanes on selected routes which receive priority maintenance and cleaning.
3. Secure bicycle parking facilities, especially in high use activity areas, at transit terminals, and at park-and-ride lots. Desirable facilities include lockers, sheltered and guarded check-in areas; self-locking sheltered racks that eliminate the need to carry a chain and racks that accept U-shaped locks.
4. Other provisions that facilitate bicycle/transit trips and walk/transit. For example, bike racks on buses, paratransit/trailer combinations, and bicycle loan or check-in facilities at transit terminals, bus stop improvements, wayfinding signage.
5. Maintenance of multiple purpose pathways that are closed to motorized traffic or for the purposes of restriping Class II bicycle lanes (provided that the total amount for Class II bicycle lane restriping does not exceed twenty percent of the county's total TDA Article 3 allocation).
6. Funds may be used for construction and plans, specification, and estimates (PS&E) phases of work. Project level environmental, planning, and right-of-way phases are not eligible uses of funds.
7. Projects that enhance or encourage bicycle or pedestrian commutes, including Safe Routes to Schools projects.

8. Intersection safety improvements including bulbouts/curb extensions, transit stop extensions, installation of pedestrian countdown or accessible pedestrian signals, or pedestrian signal timing adjustments. Striping high-visibility crosswalks or advanced stop-back lines, where warranted.
9. Purchase and installation of pedestrian traffic control devices, such as High-intensity Activated crossWalk (HAWK) beacons, rectangular rapid flashing beacons (RRFB), or pedestrian safety “refuge” islands, where warranted.
10. Projects that provide connection to and continuity with longer routes provided by other means or by other jurisdictions to improve regional continuity.
11. The project may be part of a larger roadway improvement project as long as the funds are used only for the bicycle and/or pedestrian component of the larger project.
12. Bicycle Safety Education Programs. Up to five percent of a county's Article 3 fund may be expended to supplement monies from other sources to fund public bicycle safety education programs and staffing.
13. Comprehensive Bicycle and Pedestrian Facilities Plan. Funds may be allocated for these plans (emphasis should be for accommodation of bicycle and walking commuters rather than recreational uses). A city or county may not receive allocations for these plans more than once every five years. Environmental documentation and approval necessary for plan adoption is an eligible expense.