



**METROPOLITAN
TRANSPORTATION
COMMISSION**

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Memorandum

TO: MTC Commission

DATE: June 19, 2013

FR: Principal, Programming and Allocations

W. I. 1514

RE: Revision to Transportation Development Act (TDA) Article 3 Policies and Procedures (Resolution No. 4108)

The proposed update to the TDA Article 3 Policies and Procedures was presented to the Programming and Allocations Committee on June 12, 2013. The Committee voted to refer the amended policies and procedures to the Commission for approval, including a provision that each county and city be required to have a Bicycle Advisory Committee (BAC) to review and prioritize TDA Article 3 bicycle projects and to participate in the development and review of comprehensive bicycle plans. This language is consistent with current requirements concerning local advisory committee review of projects funded by TDA Article 3 funds (MTC Resolution 875, Revised).

The attached Resolution No. 4108 has been highlighted to reflect the Committee's direction. Language in strikethrough identifies the language that will be deleted and the wording in underline identifies the language that will be added as approved by the Committee. Per the revised language, TDA Article 3 claimants will be required to certify compliance with advisory committee review policies prior to receiving funds.

A list of which jurisdictions currently have advisory committees that meet the requirement will be provided at your June 26 meeting.

Feedback from stakeholders about the requirement for local advisory committees received after the June 12, 2013 Committee meeting is attached for your consideration.



Anne Richman

June 12, 2013

Item Number 3d

Resolution No. 4108

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

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

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. Each county and city is required to have a Bicycle Advisory Committee (BAC) to review and prioritize TDA Article 3 bicycle projects and to participate in the development and review of comprehensive bicycle plans. BACs should be composed of both bicyclists and pedestrians.~~

~~A city BAC shall be composed of at least 3 members who live or work in the city. More members may be added as desired. They will be appointed by the City Council. The City or Town Manager will designate staff to provide administrative and technical support to the Committee.~~

~~Cities with populations under 10,000 who have difficulty in locating a sufficient number of qualified members, may apply to MTC for exemption from these requirements. Cities with populations over 10,000 may also apply to MTC for exemption from the city BAC requirement if they can demonstrate that the countywide BAC provides for expanded city representation.~~

~~A county BAC shall be composed of at least 5 members who live or work in the county. More members may be added as desired. The County Board of Supervisors or Congestion Management Agency (CMA) will appoint BAC members. The county or congestion management agency executive/administrator will designate staff to provide administration and technical support to the Committee.~~

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.

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Greve Italy
Kaniv Ukraine
Patzcuaro Mexico
Penglai China
Tokaj Hungary

June 14, 2013

Metropolitan Transportation Commission
Attn: Chair Rein Worth
101 Eighth Street
Oakland, CA 94606

Subject: Proposed Update to Transportation Development Act, Article 3 Policies and Procedures.

Dear Chair Rein Worth:

The City of Sonoma requests that the Metropolitan Transportation Commission consider allowing jurisdictions the flexibility to use a "similar advisory group" instead of a narrowly-defined Bicycle Advisory Committee (BAC) or a Bicycle and Pedestrian Advisory Committee (BPAC) when reviewing Transportation Development Act, Article 3 projects prior to submitting the project to the county or congestion management agency. Sonoma has in place a Traffic Safety Committee, which reviews proposed solutions to neighborhood traffic safety issues by City residents, and advises the City Council on physical improvements proposed as solutions to those issues. In addition, the City has a Community Services and Environment Commission (CSEC), which advises the City Council on matters related to the preservation and enhancement of parks, recreational facilities, open space and the natural environment, and reviews major Plaza Use applications. More specifically, the CSEC includes a Bicycle and Pedestrian subcommittee that meets regularly on bicycle and pedestrian issues. Either one of these committees could serve as a "similar advisory group" and the City would appreciate having the flexibility to use its existing Commission structure.

Thank you again for the opportunity to comment on the TDA, Article 3 Policies and Procedures revisions. Please contact Wendy Atkins directly at (707) 933-2204 should you have any questions or wish to discuss.

Sincerely,

Wendy Atkins
Associate Planner

cc: Sonoma County Transportation Authority
Attn: Diane Dohm
490 Mendocino Avenue, Suite 206
Santa Rosa, CA 95401

Jake Mackenzie
Councilmember, City of Rohnert Park
1536 Gladstone Way
Rohnert Park, California 94928

Metropolitan Transportation Commission
Attn: Steve Heminger, Executive Director
101 Eighth Street
Oakland, CA 94606

Metropolitan Transportation Commission
Attn: Cheryl Chi, Transit Investment Analyst
101 Eighth Street
Oakland, CA 94606

June 14, 2013

Honorable Amy Worth
Chair, Programming and Allocations
Metropolitan Transportation Commission
101 Eighth Street
Oakland, CA 94607

RE: TDA3 Policies and Procedures

Dear Chair Worth:

SCTA requests the Metropolitan Transportation Commission consider flexibility in the Bicycle and Pedestrian Advisory Committee (BPAC) requirement for the Transportation Development Act, Article 3 program.

In Sonoma County, our TDA3 process has been very successful in funding bicycle and pedestrian projects throughout all of our jurisdictions. Some jurisdictions have a BPAC or similar body that reviews TDA3 projects, but more importantly the SCTA Countywide BPAC reviews and approves all TDA3 projects for all jurisdictions in Sonoma County. The SCTA Countywide BPAC has representation from each jurisdiction, including citizen representatives, and has regular participation by advocacy groups, such as the Sonoma County Bicycle Coalition. Our Countywide BPAC meets regularly on a bi-monthly schedule and is well-attended by its members. Our TDA3 process works well for all involved.

There are several small cities in Sonoma County that do not have a BPAC. If MTC is going to mandate a local jurisdictional review process for TDA3 we suggest you grant them the flexibility to use a similar advisory body to review projects instead of establishing a new and separate committee.

SCTA is very supportive of jurisdictions maintaining a BPAC. In fact, the four largest cities in Sonoma County all maintain a BPAC/BAC. However, we also realize it can be difficult for smaller jurisdictions to take on this added responsibility. This requirement would likely cause undue hardship on some of our smallest jurisdictions due to their small staff size. It would be greatly appreciated if the Commission could consider flexibility in allowing these small jurisdictions to have a similar advisory body review their TDA3 projects.

We hope that our years of experience in successfully working with our local jurisdictions on TDA3 projects will demonstrate that our current process works well for our communities and for the cycling community.

Sincerely,



Suzanne Smith
Executive Director

Cc: Jake Mackenzie, Commissioner, MTC, Steve Heminger, Executive Director, MTC

