



S A C O G

Item #07-1-4
Consent

SACOG Board of Directors

January 11, 2007

Contribution to Statewide Funding Pool for Caltrans to Administer Federal Environmental Law

Issue: Should SACOG agree to contribute 0.12% (\$41,300 per year) of its share of federal funding into a statewide pool, as requested by Caltrans of all regions, to support Caltrans' costs to administer federal environmental laws and processes for local agency projects under authority delegated in SAFETEA-LU?

Recommendation: The Strategic Planning Committee recommends that the Board approve this contribution to the statewide pool for the remainder of this fiscal year (prorated to 50%) and the next two years, to be skimmed off the top by Caltrans before it distributes federal funds to regions.

Committee Action/Discussion: SAFETEA-LU authorized five states (one of which is California) to assume federal environmental responsibilities under the National Environmental Policy Act (NEPA) from Federal Highway Administration (FHWA), to whatever degree each state wanted to assume that responsibility. California has long sought this NEPA delegation authority, and Caltrans has proposed to take full delegation for all federalized highway and road projects, both rehab and new construction, both state and local. Caltrans presumes it can administer NEPA more efficiently than FHWA was able to, and expects to save time in decision-making and project delivery and reduce paperwork costs. The Board supported legislation early in 2006 to waive sovereign immunity, allowing the State/Caltrans to be sued under NEPA; that legislation passed, and Caltrans expects to sign final NEPA delegation agreements in January 2007.

Caltrans has been staffing up to take care of NEPA processes for its own state projects. It has asked all urban regions to contribute proportional shares to a statewide pool of \$1,000,000 for each of the remaining 2½ years under SAFETEA-LU, to support staffing up within Caltrans to take care of NEPA processes for local and regional projects. SACOG's share would be \$41,300 per year (0.12% of the region's federal funds), as shown on the attached chart. Staff believes Caltrans's objectives to be reasonable, if Caltrans is more adequately staffed than FHWA was and is willing to take some calculated risks that FHWA was not. This region stands to save at least \$800,000 in project costs if Caltrans could shave three months off project delivery time lines for local projects, at recent construction inflation rates – a very reasonable objective - which makes the \$41,300 contribution look like a huge bargain. However, while NEPA delegation represents an exciting opportunity, the outcome in practice remains to be seen. There is no precedent, and California is the only state asking to take on full NEPA delegation.

NEPA delegation is a pilot program, good only through the end of SAFETEA-LU in 2009. The funding contribution staff recommends here would only run for 2½ years, at which time we could evaluate the success and value of Caltrans administration – and Congress could be deciding whether to extend or make permanent the NEPA delegation experiment. Staff believes NEPA delegation to be an experiment worth pursuing – FHWA has been notoriously slow and risk-averse in NEPA activities - and worth the effort and minor funding contribution to achieve success statewide.

Approved by:

Mike McKeever
Executive Director

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Attachment

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