

MEMORANDUM

TAB 124

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: August 17-18, 2022

From: STEVEN KECK, Chief Financial Officer

Reference Number: 2.8i.(1), Action Item **YELLOW MEETING HANDOUT**

Prepared By: James R. Anderson, Chief
Division of Financial Programming

Subject: **POST FACT TIME EXTENSION REQUESTS FOR 20 COMPLETED STATE HIGHWAY OPERATIONS AND PROTECTION PROGRAM (SHOPP) PHASES, AS AN EXCEPTION TO THE SHOPP GUIDELINES WAIVER 22-144**

ISSUE:

Should the California Transportation Commission (Commission) approve Post-Fact time extension requests for 20 State Highway Operations and Protection Program (SHOPP) phases, for the time periods as described in the attachment?

RECOMMENDATION:

The California Department of Transportation (Department) recommends that the Commission approve Post-Fact time extension requests for 20 SHOPP project phases, for the time periods as described in the attachment.

BACKGROUND:

These projects are coming to the Commission as Post-Fact time extension requests because they were not identified by one of the Department's project delivery reporting tools. The tool was developed primarily to track and report SHOPP project time extensions; however, it was discovered that the report was not capturing the entire population of projects, due to the way data was being filtered. This filtering resulted in missed/unidentified projects that needed time extensions across all programs (SHOPP and Non-SHOPP), as the reporting and tracking tool did not capture and alert all exceptions related to time extensions and timely use of funds requirements, due to various program nuances. As a result, the Department missed the submittal deadlines past the Timely Use of Funds (TUF) deadlines because the tool did not flag these types of projects.

The Department created the current list before the Commission by performing a detailed review through a manual analysis of each record which involved investigation all phases of the

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project in conjunction with the TUF requirements. The Department has made several enhancements and updates to the filtering of the tracking tool to make tracking and monitoring project related TUF information more accessible. The Department recognizes the need for better communication and education of the TUF requirements throughout the Department and making it part of the regular monitoring and oversight of the project delivery process.

The Department looks forward to the continued partnership with Commission staff and further discussions toward streamlining how the Department can improve its performance by meeting the TUF requirements.

Current SHOPP guidelines stipulate that the agency implementing a project request an expenditure time extension if the project phase will not be completed within 36 months of award. The Commission may approve waivers to the timely use of funds deadline one-time only for up to 20 months.

The attachment shows the details of the projects and the delays that have resulted in this time extension request.

Attachment

Post Fact Time Extension/Waiver - SHOPP Projects With Completed Phases

Reference No.: 2.8i.(1)

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Attachment 1

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YELLOW MEETING HANDOUT

Index No.	District	County	Route	Project ID	EA5	PPNO	Program	Phase	TUF Deadline	Finish Date	Months Requested by Time Extension	Time Extension Deadline	Justification
1	04	SM	082	0400020619	1G900	0730D	SHOPP	PA&ED	6/27/2020	4/20/2022	20	February-22	The project was delayed due to studies requiring identification of over 200 federally registered historical eucalyptus trees along this portion of State Route 82.
2	07	LA	027	0716000059	32290	5007	SHOPP	PA&ED	3/20/2021	7/30/2021	0	March-21	The PAED phase was delayed due to Environmental Cultural issues that required a longer review than originally anticipated.
3	02	SHA	273	0216000033	1H720	3626	SHOPP	PS&E	3/20/2021	6/9/2022	12	March-22	The project experienced delays during bidding and award due to higher than anticipated bids (requiring supplemental funds), non-responsive bidders, and missing contractor bonding information.
4	04	SON	012	0413000080	4H050	0269M	SHOPP	PS&E	6/27/2020	7/22/2022	20	February-22	Award was delayed due to a bidder protest. Legal must work to resolve the protest before the project can be awarded and contract approved.
5	06	TUL	190	0616000194	0H140	6286	SHOPP	PS&E	6/27/2020	4/1/2022	23	December-21	An endangered species plant was discovered during environmental pre-construction surveys. As a result, an additional 17 months were needed to coordinate with CDFW and obtain environmental certification. The project was successfully delivered and is now in construction.
6	07	LA	210	0714000033	30170	4705	SHOPP	PS&E	6/26/2021	4/20/2022	7	January-22	The project scope and limits were revised to include slope paving treatment to prevent erosion. Wood mulch was also added to preserve the health of existing plants. Additional irrigation components were needed to maximize the function of the system. These additional elements required additional time to modify and complete the plans, specs, and estimates.
7	07	LA	005	0716000064	32340	5013	SHOPP	PS&E	3/20/2021	3/30/2022	10	January-22	An effort was made to accelerate the bid opening, however, the project was eventually advertised during the holiday season. A three week postponement of the bid opening date to resolve bidder inquiries also contributed to the delay of awarding and approving the construction contract.

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8	07	VEN	101	0716000220	33100	5081	SHOPP	PS&E	10/16/2021	5/12/2022	4	February-22	Award was delayed due to the time required to award to the second lowest bidder. The additional time needed to accommodate the second lowest bidder was approximately one month. This involved adjusting the contingency amount of the contract, so as not to exceed the allocated amount.
9	07	LA	VAR	0717000277	34240	5287	SHOPP	PS&E	6/26/2021	10/19/2021	4	October-21	The project was programmed as a service contract, but due to new DPAC regulations, the District had to change it to a regular SHOPP PS&E. After the first advertisement, very high bids were received, the PS&E was down-scoped to budgeted funds, and re-advertised.
10	07	LA	VAR	0718000042	34400	5379	SHOPP	PS&E	6/26/2021	12/3/2021	5	November-21	The project faced delays due to being converted from a Service Contract fulfilled by DPAC into an Emergency Director's Order project. DPAC changed the cost thresholds for Service Contract projects making this project ineligible for their program. The project is now in Construction.
11	08	RIV	111	0817000230	0R302	3007U	SHOPP	PS&E	8/15/2020	5/12/2022	20	April-22	[ERROR] Should not be on list: 20 month TE awarded in August of 2020. Project awarded 3/28/22 - deadline with approved TE was 4/2022. No delay.

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12	10	SJ	005	1013000251	0P540	3118	SHOPP	PS&E	8/15/2020	11/29/2021	8	April-21	<p>The project was delayed due to a construction and maintenance agreement with the railroad. The railroad required the agreement late in the design phase and was further delayed by the railroad due to COVID. The project has lapsed.</p> <p>District submitted a Post-Fact Time Extension Amendment to HQ in April 2021 after realizing the PS&E funds lapsed. District received correspondence from HQ that the request was not supported by CTC staff as it was the 2nd request or/amendment to the already granted time extension(PPNO 3118, Tab Number 92, Reference #2.8d.(1) & Waiver 20-67). Since the Project was 2 months away from achieving Ready to List, it was in the best interest of public safety to continue working on this seismic retrofit project to achieve Ready to List (June 2021). The District did not request the phase to be closed, and continued to charge to the project as the District did not receive correspondence to stop working.</p>
13	10	SJ	205	1014000146	1C330	3146	SHOPP	PS&E	10/16/2021	5/3/2022	6	April-22	The design phase stayed open for a few extra weeks to allow for final invoicing of a task order.
14	12	ORA	055	1215000045	0G950	3483	SHOPP	PS&E	6/27/2020	6/16/2022	0	June-20	Due to challenging RW requirements, exacerbated by COVID-19, RW Cert delayed the delivery of the combined project. RW challenges consisted of; property owners/tenants had specialty equipment installed with 10 year leases which escalated the RW Capital, and meetings with owners as well as legal proceedings were delayed as a direct result of COVID-19.
15	04	NAP	121	0414000530	2J570	1485Q	SHOPP	Con Sup & Con Cap	8/16/2021	4/18/2022	7	March-22	Completion of CCA was delayed 18 days due to necessary coordination with the environmental regulatory agencies (CDFW and USFWS) to approve environmental mitigation report and complete the Certificate of Environmental Compliance (CEC). CEC completed on 4/13/2022 and CCA completed on 4/18/2022.

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16	05	SLO	001	0517000044	49283	4928W	SHOPP	Con Sup & Con Cap	7/16/2020	11/1/2021	0	July-20	This is a child split off project specifically for production of seed to be used in project-related restoration work. The additional time to complete construction was needed to allow for the distribution and use of seed produced under this project's seed production contract.
17	07	LA	010	0700000085	1170U	0309N	CMAQ, SHOPP	Con Sup & Con Cap	2/9/2017	1/11/2022	0	February-17	The project was delayed due to unanticipated utility conflicts and relocations, differing site conditions for underground storm drain systems and structure foundations, and discovery of abandoned asbestos utilities and pipes that required special handling.
18	07	LA	105	0713000149	29740	4614	SHOPP	Con Sup & Con Cap	11/15/2019	4/20/2022	0	November-19	Electrical services provided by the Department of Water and Power caused delays during construction. Additionally, confirmation of metal beam guard railing standard heights also caused a delay.
19	07	VEN	033	0714000092	30520	4725	SHOPP	Con Sup & Con Cap	11/28/2019	5/16/2022	0	November-19	Project was awarded in December of 2016. Various issues caused construction delays of 9 months before beginning plant establishment (installation of rockfall netting, ground water pumping/storage and removal from site, grouting voids in roadway embankment to enable installation of soil nails, additional GEO studies and plans were required as well as approval from environmental agencies). When the 3 year plant establishment started, a storm washed out all plants planted and the entire process had to start over. Approval from the environmental agencies was required again and this caused another 7 month delay. The 3-year plant establishment restarted in May of 2019.
20	09	MNO	395	0900020002	33500	0566	SHOPP	Con Sup & Con Cap	3/8/2018	1/4/2022	0	March-18	Construction was delayed due to a wildfire followed by a threat of landslides.