

SHORT-LINE RAILROAD IMPROVEMENT PROGRAM DISCUSSION DRAFT GUIDELINES

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California Transportation Commission



**CALIFORNIA TRANSPORTATION COMMISSION
DISCUSSION DRAFT
SHORT-LINE RAILROAD IMPROVEMENT PROGRAM GUIDELINES**

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1. Authority and Purpose

The Short-Line Infrastructure Improvement Act of 2019, (Senate Bill [SB] 87, Chapter 32, Statutes of 2019) created the Short-Line Railroad Improvement Program and provides a one-time appropriation of seven million two hundred thousand dollars (\$7,200,000). Program funds are to be allocated by the California Transportation Commission (Commission) to short-line railroad infrastructure projects intended to improve freight mobility, volume thresholds, and support modern rail freight traffic and the communities and industries they serve throughout California.

These guidelines describe the policy, standards, criteria, and procedures for the development, adoption and management of the Short-Line Railroad Improvement Program. The Commission may amend these guidelines after first giving notice of the proposed amendments.

The Short-Line Railroad Improvement Program guidelines were developed in cooperation with the California State Transportation Agency, Caltrans, Regional Transportation Planning Agencies, Class III rail industry representatives, and other transportation stakeholders.

2. Program Objectives

The primary objective of the Short-Line Railroad Improvement Program is to fund infrastructure improvement projects that will enable Class III/short-line railroads to meet critical freight volume thresholds. The projects to be funded under this program are intended to allow for Class III Rail to become more compatible in supporting modern rail freight traffic and the communities and industries they serve throughout California.

All projects nominated for the Short-Line Railroad Improvement Program must be consistent with the goals and objectives of the 2018 California State Rail Plan with regard to short-line railroad infrastructure investment.

3. Program Schedule

The following schedule lists the major milestones for the development and adoption of the Short-Line Railroad Improvement Program:

Publish Draft Guidelines	March 13, 2020
Draft Guidelines presented to the Commission	March 25-26, 2020
Adoption of the Guidelines	June 24-25, 2020
Call for Projects	June 24-25, 2020
Applications due	October 1, 2020
Release staff recommendations	December 2-3, 2020
Program adoption	January, 2021

4. Funding and Program Cycle

A one-time appropriation of seven million two hundred thousand dollars (\$7,200,000) will be available to the Short-Line Railroad Improvement Program.

The Commission intends to program the \$7,200,000, in **fiscal years 2020-21 and 2021-22**, following a single call for projects nominated for program funding.

The **maximum** request for Short-Line Railroad Improvement Program funds cannot exceed 50% of the total construction cost and no single project will receive more than 25% of the available funds, or \$1,800,000.

A nominating agency submitting multiple project nominations must clearly prioritize its projects. The Commission may elect to only evaluate the highest priority nomination(s) submitted by each nominating agency.

5. Matching Requirements

Projects funded from the Short-Line Railroad Improvement Program require at least a 30% match of private funds.

The matching funds must be expended concurrently and proportionally to the project component programmed with Short-Line Railroad Improvement Program funds, except as noted below. Costs incurred prior to allocation will not be counted towards the match.

The nominating agency must provide a project funding plan through construction that demonstrates the non-Short-Line Railroad Improvement Program funding in the plan (local, federal, state, private sources) is reasonably expected to be available and sufficient to complete the project.

6. Funding Restrictions

The Short-Line Railroad Improvement Program will only fund the construction component of a capital project. A project will be considered for funding if at time of adoption, the project has completed a project level environmental process in accordance with California Environmental Quality Act (CEQA) and, if the project is federalized, the National Environmental Policy Act (NEPA). Environmental clearance must be completed within 6 months of program adoption.

Projects on the state highway system and/or projects implemented by Caltrans require a Caltrans approved Project Report.

The Short-Line Railroad Improvement Program will not participate in cost increases to the project. Any cost increases must be funded from other fund sources. The implementing agency or agencies must provide evidence of their ability to absorb any cost overruns and deliver the project with no additional funding from the program. For jointly nominated projects between Caltrans and a Regional Transportation Planning Agency, the Commission expects the responsibility for payment of cost increases will be negotiated and agreed upon through a funding agreement between both agencies.

The Short-Line Railroad Improvement Program will only fund projects that have independent utility and will be ready to **start (award) construction by December 31, 2022.**

7. Reimbursement

The Short-Line Railroad Improvement Program is a reimbursement program for eligible costs incurred. An implementing agency may begin incurring eligible costs upon allocation, however, reimbursement is dependent upon entering into an agreement with Caltrans. Costs incurred prior to Commission allocation and, for federally funded projects, Federal Railroad Administration or Federal Highway Administration project approval (i.e. Authorization to Proceed) are not eligible for reimbursement.

8. Eligible Applicants

Caltrans or a Regional Transportation Planning Agency may nominate projects for funding. Project proposals from private entities must be submitted by an eligible applicant.

A nomination may identify an entity other than the applicant to be the project implementing agency. The implementing agency will assume responsibility and accountability for the use and expenditure of program funds.

For jointly nominated projects, the implementing agency or agencies assume the responsibility and accountability for the project as well as the use and expenditure of program funds.

Applicants and implementing agencies must comply with all relevant federal and state laws, regulations, policies, and procedures.

The Commission expects collaboration and cooperation between the Class III Short-Line Rail operators, the nominating agency, implementing agency, and Caltrans for all projects on the state highway system.

9. Eligible Projects

The Short-Line Rail Improvement Program eligible projects will be consistent with subdivisions (f) and (A)(ii) of Government Code Section 8879.52.

Projects eligible for funding under the program, apply to project for Class III Rail only which include, but are not limited to the following:

- Reconstruction, maintenance, or replacement of existing railroad right-of-way infrastructure, such as track, roadbed, bridges, and industrial leads.
- New construction of industrial leads, switches, spurs and sidings, and extensions of existing sidings.
- Advanced Technology – projects that provide infrastructure for alternative power sources, weigh-in-motion devices, tag readers (further discussion for project examples needed).

- Safety projects such as Positive Train Control, at-grade crossing gate (further discussion for project examples needed).

10. Screening Criteria

Nominations will receive an initial screening by the Commission for completeness and eligibility before moving to the evaluation process. An eligible applicant submitting multiple project nominations must clearly prioritize its project nominations.

Incomplete or ineligible nominations will not be evaluated.

Nominations will be screened for the following:

- Demonstrate a 30 percent (as outlined in Section 5).
- Project demonstrates project benefits and purpose are consistent with the program's priorities and objectives as related to short-line rail.
- Project demonstrates that all other funds for the proposed project are committed.

11. Project Rating Process

All project nominations that meet the screening criteria will be evaluated and selected through a competitive process.

Each nomination will be evaluated for compliance with the objectives of the program. Each nomination will be rated using the evaluation criteria as specified in Section 11. Each evaluation criteria will be scored with a "High", "Medium-High", "Medium", "Medium-Low", or "Low". The highest-ranking nominations will be selected for funding.

12. Evaluation Criteria

A project nomination must include documentation regarding the quantitative and qualitative measures validating the project's consistency with policy objectives. Each section must be addressed, including relative data of the performance metrics. The Commission will evaluate projects for programming using the following criteria:

- Freight Mobility – The nomination should demonstrate how the project will improve the freight volume, capacity, and speed of the freight moved throughout the state. How the project will improve connections from Class III rail to Class I rail.
- Cost Effectiveness – Projects that provide the greatest benefit in relationship to the project costs. The Commission will consider measurable benefits using the California Benefit/Cost Analysis Intermodal Freight Tool or an alternative proposed by the applicant.
- Deliverability – Projects that have completed design and right-of-way certification.
- Projects that leverage funds above the required matching funds amount (see Section 7).

- Air Quality & Greenhouse Gases – The nomination should address how the proposed project will reduce greenhouse gas emissions and criteria pollutants and advance the State’s air quality and climate goals.
- Regional and Industry Project Support – The nomination should demonstrate meaningful public outreach and engagement of the proposed project, such as a Regional Transportation Plan that includes the proposed project and public outreach, and/or letters of support from industry leaders.
- Safety – The nomination should address safety issues and concerns, including actual reported property, injury, and fatality incidents for the last 5 full years. Demonstrate how the proposed project increases safety for motorized and non-motorized users. Identify and discuss other safety measures the project will address, including health impacts.
- System Preservation – The nomination should demonstrate how the project will improve the current conditions. Identify and discuss other performance measures the project will address.

13. Programming

The program of projects for each fiscal year will include, for each project, the amount to be funded from the Short-Line Rail Improvement Program, and the estimated total cost of the project. Project costs in the Short-line Rail Improvement Program will include the construction component only. For Caltrans implemented projects, the cost of construction support will be separated out and programmed separately from the construction capital cost.

The Commission will program funding to projects in whole thousands of dollars and will include a project only if it is fully funded from a combination of Short-Line Railroad Improvement Program funds and other committed funds.

The Commission will regard funds as committed when they are programmed by the Commission or when the agency with discretionary authority over the funds has made its commitment to the project by ordinance or resolution. For federal formula funds, including Regional Surface Transportation Program, Congestion Mitigation and Air Quality, and federal formula transit funds, the commitment may be by federal Transportation Improvement Program adoption. For federal discretionary funds, the commitment may be by federal approval of a full funding grant agreement or by grant approval.

Projects programmed by the Commission in the Short-Line Railroad Improvement Program will not be given priority in other programs under the Commission’s purview.

14. Amendments

Project amendments will be considered for the Short-Line Railroad Improvement Program as follows:

- Cost Changes – The Short-Line Railroad Program will not participate in cost increases to the project. Any cost increases must be funded from other fund

sources. If there is a change in the cost estimate, the Commission should be notified as soon as possible in writing explaining the change and the plan to cover the increase. A revised Project Programming Request form identifying the source of funding must also be included.

- Schedule Changes – Schedule changes to a project will not be considered unless a time extension was approved.
- Scope Changes – The Commission will not consider changes to the scope of the project unless the change is minor and has no impact to the project benefits or the scope change increases the benefits of the project. The Commission should be notified as soon as possible. In the case where scope changes are significant, and the project benefits are less, the Commission will evaluate the proposed changes and make a determination to continue funding the project or deleting the project from the program through a formal amendment.

15. Allocations

When an agency is ready to implement a project or project component, the implementing agency will submit an allocation request to Caltrans. The typical time required, after receipt of the request, to complete Caltrans review, and recommendation and Commission allocation is 60 days.

The Commission will consider the allocation of funds for a project when it receives an allocation with a recommendation from Caltrans. The recommendation will include a determination of project readiness, the availability of appropriated funding, the availability of all identified and committed supplementary funding. The Commission will only consider an allocation of construction and/or construction support funds to projects that are ready to advertise.

For projects that are ready to advertise, the Commission expects Caltrans to certify that a project's plans, specifications and estimate are complete, environmental and right-of-way clearances are secured, and all necessary permits and agreements (including railroad construction and maintenance) are executed. Projects not ready for advertisement will not be placed on the Commission's agenda for allocation approval.

In compliance with Section 21150 of the Public Resources Code, the Commission will not allocate funds for construction prior to documentation of environmental clearance under the California Environmental Quality Act. As a matter of policy, the Commission will not allocate funds for construction of a federally funded project prior to documentation of environmental clearance under the National Environmental Policy Act.

The Commission will approve the allocation in whole thousands of dollars if the funds are available and the allocation is necessary to implement the project as included in the adopted Short-Line Railroad Improvement Program. If there is a cost increase to the project, the implementing agency must submit an updated Project Programming Request form that identifies the cost increase and the fund source that

will cover the cost increase. If the fund source(s) is not identified to cover the cost increase, the project will be deleted from the Short-Line Railroad Improvement Program.

Where the project is to be implemented by an agency other than the nominating agency, the allocation request must be signed by the implementing agency.

When Caltrans is the implementing agency, construction support costs must be allocated separately from construction capital costs.

The implementing agency must not award the contract for a project until the Commission has allocated the funds for the project.

16. Timely Use of Funds

The Short-Line Railroad Improvement Program allocations must be requested in the fiscal year of project programming and are valid for award for six months from the date of allocation unless the Commission approves an extension. When programmed funds are not allocated within the fiscal year programmed or within the time allowed by an approved extension, the project will be deleted from the Short-Line Railroad Improvement Program.

After award of the contract, the implementing agency has up to 36 months to complete (accept) the contract. At the time of fund allocation, the Commission may extend the deadline for completion of work and the liquidation of fund if necessary to accommodate the proposed expenditure plan for the project.

The Commission may extend the deadline only once for each delivery deadline only if it finds that an unforeseen and extraordinary circumstance beyond the control of the implementing agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance.

17. Delivery Deadline Extensions

The Commission may extend a deadline for allocation and award upon the request of the implementing agency. The extension will not exceed 12 months.

The extension will only be granted if it is for an extraordinary circumstance beyond the control of the implementing agency.

Upon request of the implementing agency, the Commission may extend the deadline for expenditure and for project completion. The extension cannot exceed more than 20 months for project completion and 12 months for expenditure. The extension will only be granted if it is for an extraordinary circumstance.

All requests for project delivery deadline extensions shall be submitted directly to Caltrans for processing prior to the expiration date. The extension request should describe the specific circumstance that justifies the extension and identify the delay directly attributable to the circumstance. Caltrans will review and prepare a written

analysis of the proposed extension request and forward the written analysis and recommendation to the Commission for action.

18. Project Cost Savings

Savings at contract award may be used to expand the scope of the project only if the expanded scope provides additional quantifiable benefits. The expanded scope must be approved by Commission staff prior to contract award. **All other contract award and project completion savings must be returned proportionally and will be diverted to the Trade Corridor Enhancement Program.**

19. Quarterly Delivery Reports

The Commission will require the implementing agency to submit quarterly reports on the activities and progress made toward implementation of the project, including those project development activities taking place prior to a funding allocation and including the commitment status of supplemental funding identified in the project programming request.

Additional direction regarding quarterly reporting requirements is currently under development.

20. Completion Report

Within six months of the project becoming operable, the implementing agency will provide a final delivery report to the Commission on the scope of the completed project, its final costs as compared to the approved project budget, its duration as compared to the project schedule in the project programming request, and performance outcomes derived from the project as compared to those described in the project application.

The implementing agency will also provide a final delivery report at the completion of the project to reflect final project expenditures at the conclusion of all project activities. For the purpose of this section, a project becomes operable at the end of the construction phase when the construction contract is accepted. Project completion occurs at the conclusion of all remaining project activities, after acceptance of the construction contract.

21. Project Auditing

The Transportation Inspector General as Director of the Independent Office of Audits and Investigations role is to ensure the Department, and external entities that receive state and federal transportation funds from the Department, are spending those funds efficiently, effectively, economically, and in compliance with applicable state and federal requirements.

The Commission expects that audits will be conducted on a representative sample of Short-Line Railroad Improvement Program projects and provide a finding on the following:

- Whether project costs incurred and reimbursed comply with the executed project agreements or approved amendments thereof; state and federal laws and regulations; contract provisions, and Commission guidelines.
- Whether project deliverables (outputs) and outcomes are reasonable in comparison with the project cost, scope, schedule and benefits described in executed project agreements or approved amendments thereof.

Additional audits, if deemed necessary, may be requested by the Commission during the implementation phases of the project. In addition to any final audit performed, it may be beneficial to provide semi-final audits when a project is substantially completed. It is expected that the findings from these audits will be included in the Inspector General's reports to the Commission.