

## CHAPTER 9

### DEFICIENCY PLANS

#### Key Topics:

- **Legislative Requirements**
- **Legislative Intent and Application to San Francisco**
- **Deficiency Planning Process**
- **Special Issues**
- **Work Program Items - Key Milestones**

#### 1. Legislative Requirements

The Authority, as CMA, is required by state law to ascertain the City's conformance with the CMP, including Deficiency Plans prepared by City departments. If the LOS of roadways on the CMP network fall below the established standard, state CMP legislation requires that the local jurisdiction develop a Deficiency Plan to improve operating conditions on the segment.<sup>1</sup>

Deficiency Plans must contain the following components:

- An analysis of the causes of the deficiency;
- A list of improvements that would have to be made to remedy the deficiency, including cost estimates;
- A list of proposed improvements; and
- An implementation plan including a schedule.<sup>2</sup>

<sup>1</sup> California Government Code section 65089.4(a) states "*A local jurisdiction shall prepare a Deficiency Plan when highway or roadway level of service standards are not maintained on segments or intersections of the designated system. The Deficiency Plan shall be adopted by the city or county at a noticed public hearing.*"

<sup>2</sup> 65089.4(c)

The Deficiency Plan must "measurably improve" the overall LOS on the designated CMP roadway network, and "contribute to significant improvements in air quality." Proposed improvements must be drawn from an inventory of acceptable actions compiled by the air quality management district. The statutes also require that the city or county forward the Deficiency Plan to the Congestion Management Agency, which must hold a public hearing within 60 days of receipt of the Deficiency Plan, and either accept or reject it, but not modify it. Rejection of a Deficiency Plan by the Congestion Management Agency will result in a finding of non-conformance with the CMP.

Unfortunately, the statutes make no provisions for funding City departments' deficiency plans, and similarly, CMAs do not receive state funding for their activities. In the absence of dedicated funding, the deficiency planning process has been designed to use existing data and coordinate with the City's budgetary process.

#### 2. Legislative Intent and Application to San Francisco

This section provides background information on Deficiency Plans and their applicability to San Francisco.

##### 2.1. About Deficiency Plans

In 1990, the California voters approved Proposition 111, increasing the gasoline tax by nine cents per gallon of gasoline sold in the state. The year prior to Proposition 111's approval, the State Legislature approved AB 471 (Katz), the original CMP legislation.<sup>3</sup> AB 471 required all local jurisdictions to maintain the adopted LOS standard on all CMP roadways or risk losing their Proposition 111 gas tax revenues. The Legislature then revised the original legislation (through AB 1791 - Katz) to allow jurisdictions to continue to receive their share of Proposition 111 gas tax moneys when the level of service (LOS) on a CMP road segment or intersection falls below LOS "E" provided local

<sup>3</sup> The 1989 CMP legislation was part of the AB 471 legislation known as the Katz-Kopp-Baker-Campbell Transportation Blueprint for the 21st Century. Voter approval of Proposition 111 on June 5, 1990 effectively enacted the CMP legislation into law.

jurisdictions prepared Deficiency Plans for those segments.

The intent of Deficiency Plans, therefore, is to allow development to continue as long as resulting traffic congestion is “offset.” Deficiency Plans are *reactive* solutions applied after the impacts to LOS are actually measured.

The Deficiency Plan legislation offers local jurisdictions two alternatives:

- 1) Eliminate the problem (correct the deficiency where it manifests itself). This is known as *direct remediation*, or
- 2) Implement other actions that improve the overall performance of the CMP network, even if the actions do not directly improve the original deficiency. These are known as *offsetting actions*.

A Deficiency Plan may include both remediation and offsetting actions. Direct mitigation involves removing the deficiency such that the LOS is improved above LOS F. Direct mitigations of LOS impacts may have prohibitive costs, regulatory obstacles, or overwhelming environmental consequences. Offsetting actions provide alternative compensations that may leave the facility no less deficient, but provide improvements in other part of the system. Offsetting actions, as opposed to direct remediation, include capital improvements, transportation programs, services, or other activities that improve the average countywide level of service.

One major legislative change to the deficiency plan process: SB 1636, Figueroa: Exemption from Level of Service Requirements, signed by the Governor in 9/02. This bill defines “infill opportunity zones,” areas designated by a local jurisdiction as targets for new compact residential, retail or commercial development. Network segments within these zones would be exempt from auto LOS deficiencies. As San Francisco is a transit-rich, built-out City, the designation of “in-fill opportunity zone” may be applicable to many neighborhoods within the County boundaries.

## 2.2 Deficiency Plans and Environmental Review

Deficiency Plans are distinct from City processes for review of development projects pursuant to the California Environmental Act (CEQA) and do not replace local Transportation Impact Analyses (TIAs). The San Francisco Planning Department requires project sponsors to prepare TIAs for projects that may have significant negative impacts on transportation conditions. The City’s TIA guidelines include some analyses that may be relevant for preparing CMP deficiency plans. However, while environmental analysis conducted pursuant to CEQA may provide information useful in the preparation of Deficiency Plans, these Plans serve a separate and distinct purpose. The Deficiency Plan process should avoid duplicating past CEQA analyses; these guidelines should not create additional review processes for individual development or public construction projects.

One fundamental difference between a TIA and the CMP is that a TIA *forecasts* the severity of a project’s expected impacts on facilities, while a Deficiency Plan *implements* actions to mitigate – or offset – problems already detected (i.e., deficiencies *actually measured* on a facility). A TIA or EIR is prepared prior to project implementation, in an attempt to predict a project’s future negative impacts.

A TIA or EIR considers the cumulative impacts on a transportation facility of a proposed project in combination with other foreseeable similar projects. The Deficiency Plan, because its focus is on a *facility* rather than an individual project, considers multiple causes of the existing deficiency.

## 3. Deficiency Planning Process

This overview accompanies the flow charts in Figures 1,2, and 3. These three figures represent the Deficiency Plan process from detection through Authority Board approval of the Plan.

### 3.1. Deficiency Detection and City Notification

See Figure 1. The Authority monitors the CMP roadway network and reports a potential deficiency when the level of service (LOS) on any non-exempted segment of the CMP roadway network measures LOS F. LOS F is defined by travel speeds below a threshold set by the 1985 HCM for any of three specified arterial types.

The Authority determines whether a reported deficiency may have been caused by external, exempt, or temporary causes. State legislation requiring Deficiency Plans has specifically exempted the trips generated by specific activities [Government Code § 65089.4. (f)]. Exempt activities are:

- Inter-regional travel (i.e., pass through trips which have neither origin or destination in San Francisco);
- Construction, rehabilitation, or maintenance of facilities that impact the CMP roadway network;
- Impact of freeway ramp metering;
- Traffic signal coordination by the state or multi-jurisdictional agencies;
- Traffic generated by low- and very low-income housing;
- Traffic generated by high-density residential or mixed-use development located within a quarter mile of a fixed passenger rail station<sup>4</sup>; and
- Roadway segments located within infill opportunity zones.

<sup>4</sup> “High density residential development” means a minimum of 24 dwelling units per acre and equal to 120 percent of the maximum density allowed under the local general plan and zoning ordinance, or a minimum density of 75 dwelling units per acre. “Mixed use development” must have more than one half the land area or floor area used for high-density housing.

A detected deficiency may be corrected when a roadway improvement already programmed in the CIP increases the capacity of the deficient roadway. If the lead department determines that the effects of any CIP improvement scheduled to begin within the seven year time horizon of the CIP will remove the deficiency, the Authority – after review – can make a Finding of No Deficiency. The lead department, however, must demonstrate this CIP improvements will be completed and functioning within ten years of the current CIP.

If any trips are exempt and if the deficiency still exists after removing the exempt trips from the deficient roadway segment, a Deficiency Plan must be prepared. The Authority will consult with MTC to determine whether external or pass through trips may have caused the deficiency. It will also review all relevant CEQA traffic analysis and/or TIAs of recently completed projects. It will then use the San Francisco Travel Demand Forecasting Model, GIS analysis, sketch planning techniques, and other means to isolate and examine the cause(s) in more detail. If modeling suggests that a deficiency is not caused by any of the above, then the Authority Board must adopt a finding of “Deficiency” and notify the City (Mayor’s Office) of the nature and cause of the deficiency.

The Mayor’s Office assigns a city department to act as the lead department for the preparation of a Deficiency Plan. The timelines in Figure 1 assume that LOS is monitored in September and October, and that all follow up verification monitoring is completed by the following April. This schedule allows City Departments to incorporate funding requests for Deficiency Plan activities into the City’s budget process in April and May.

### 3.2. Deficiency Analysis and Remediation Plan Preparation

Once the cause(s) of the deficiency have been determined, State law [Government Code § 65089.4 (c) (2)] requires that the lead department identify:

*“A list of improvements necessary for the deficient segment or intersection to maintain the minimum level of service otherwise required and the estimated costs of the improvements.”*

The lead department will use sketch-planning methods consistent with both MTC and Authority practices and data to estimate the effects of capacity improvements on the level of service and whether the improvements provide capacity at an order-of-magnitude commensurate with the deficiency.

State law requires that a Deficiency Plan first seek direct action to correct a roadway LOS deficiency by preparing a Remediation Plan. The lead department prepares a Remediation Plan that includes: a) a description of the causes of the deficiency; b) a list of all improvements necessary to fully remediate the problem on the deficient roadway itself; and c) an estimate of the cost and available funding for those improvements. The lead department includes a statement as to the feasibility of the Remediation Plan (Section 4.2.1). A Remediation Plan usually involves adding sufficient capacity to the roadway to allow traffic to flow at LOS "E" or better. The Remediation Plan should include any relevant projects included in the CIP or CEQA mitigation measures included in specific EIRs as mitigation requirements. A proposed Remediation Plan may include improvements already specified and funded in an EIR, the CIP, or developer exactions or dedications found to be relevant, including scheduled implementation, project characteristics, and funding sources. This gives the City credit for any required EIR mitigation measures to remediate the deficiency.

The lead department should also prepare cost estimates for improvements to mitigate the deficiency as well as of the funding sources.

If the lead department finds that the package of remediation measures is feasible, it must prepare an Implementation Plan.

The lead department submits the Remediation Plan and an Implementation Plan to the Authority for evaluation and approval. The Authority will evaluate Deficiency Plans based on effectiveness, financial feasibility, environmental compatibility, and consistency with the City's transportation planning priorities and policies. If the lead department finds it cannot remediate the deficiency and the Authority concurs, the lead department prepares a Deficiency Plan (presented in Figure 3).

The resulting Remediation Plan must include estimates of the following:

- Extra roadway capacity needed to remove the deficiency;
- Total costs of the capacity increases; and
- Improvements already funded through the CIP or developer exactions or dedications.

The Authority evaluates the feasibility of the Remediation Plan and accepts or rejects the lead department's findings. Within 30 days of receiving the Remediation Plan from the lead department, the Authority evaluates the adequacy of the Plan conclusions according to the following three criteria:

- 1) **Effectiveness:** Are the proposed improvements adding sufficient capacity to the roadway in question to increase the LOS to level "E" or better?
- 2) **Financially Reasonable:** Are the cost estimates for the proposed improvement reasonably accurate?
- 3) **Implementability:** In environmental, regulatory, and community terms? Is the Plan consistent with the General Plan?

The Lead Department prepares an Implementation Plan, identifying responsible departments, funding sources, and regulatory authority. If the Authority accepts the Implementation Plan, the Authority modifies the CIP to conform to reflect the remediation measures. All departments called upon to implement portions of the Remediation Plan must enter into an inter-agency agreement stating each department's responsibility and funding sources. If the Authority finds that the Remediation Plan is feasible, the lead department will prepare an Implementation Plan. If the Authority finds that the Remediation Plan is not feasible, the lead department will prepare a Deficiency Plan Action List.

### 3.3. Deficiency Plan Evaluation and Approval

If the Authority determines that the Remediation Plan is infeasible, the lead department prepares a list of offsetting actions that will improve the system-wide multimodal level of service but may have only limited effect on the deficient facility itself.

The lead department prepares a Deficiency Plan Action List. The lead department may select actions that have some direct mitigating effect on the deficiency; and/or actions that will improve system-wide LOS (as measured by the multimodal performance measures). The Bay Area Air Quality Management District (BAAQMD) has prepared a list of approved Deficiency Plan actions. The CMP legislation requires that all Deficiency Plan actions come from that list.

The lead department may choose to prepare (or Authority may request) one or more alternative action plans to explore alternative approaches.

For deficiencies caused by large projects, some of the analysis required in these steps may have been completed through the projects' EIRs. While the analysis and any other relevant documentation may be used *verbatim* for the Deficiency Plan or Implementation Plan, the Final Deficiency Plan documentation must conform to the requirements outlined in the six steps above and described in more detail below.

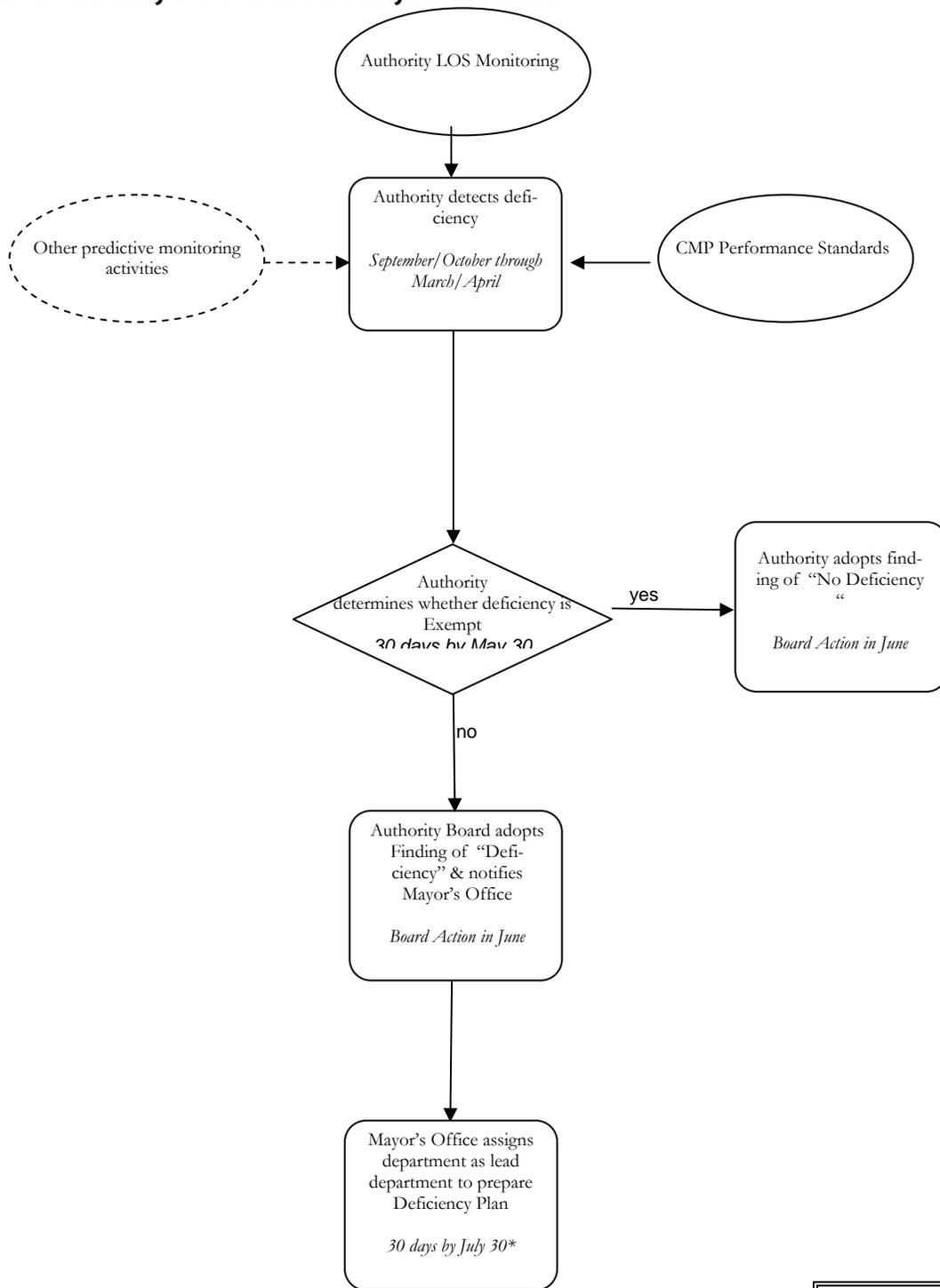
The lead department has 60 days to prepare a Preferred Action Plan List. Each action on the list must show its estimated capital (or start-up) and operating (or on-going) costs. The lead department submits this list to the Authority for its consideration.

The Authority will review this proposed list and approve or reject it. The Authority will evaluate the preferred Deficiency Plan Action List, including each action's estimated cost within 30 days of submittal by the lead department. The Authority evaluates the effectiveness of the Action Plan and confirms General Plan consistency with the Planning Department. If the Authority accepts the lead department's proposed list of Deficiency Plan

actions, the lead department prepares an Implementation Plan and submits this plan for the Authority's approval.

The Authority evaluates Implementation plans using similar adequacy criteria as for Remediation Plans (Figure 2). If the Authority accepts the Implementation Plan, the Authority Board will hold a noticed public meeting and adopt a Finding of Conformance. If the Authority and the lead department are unable to agree on an Implementation Plan, the lead department may either try again, or submit its Final Deficiency Plan (including its Implementation Plan) to the Authority Board for Board action. If the Authority Board issues a Finding of Non-Conformance, the Authority must notify the State Controller to withhold funds. The funds are held in escrow for 12 months and then turned over to the Authority (as the City's Congestion Management Agency). Deficiency Plans must be completed within one year of the CMA's official notice of a deficiency.

**Figure 1: Deficiency Detection and City Notification**



**\*Go to Figure 2**

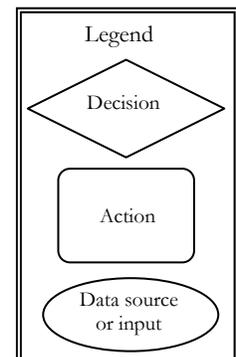
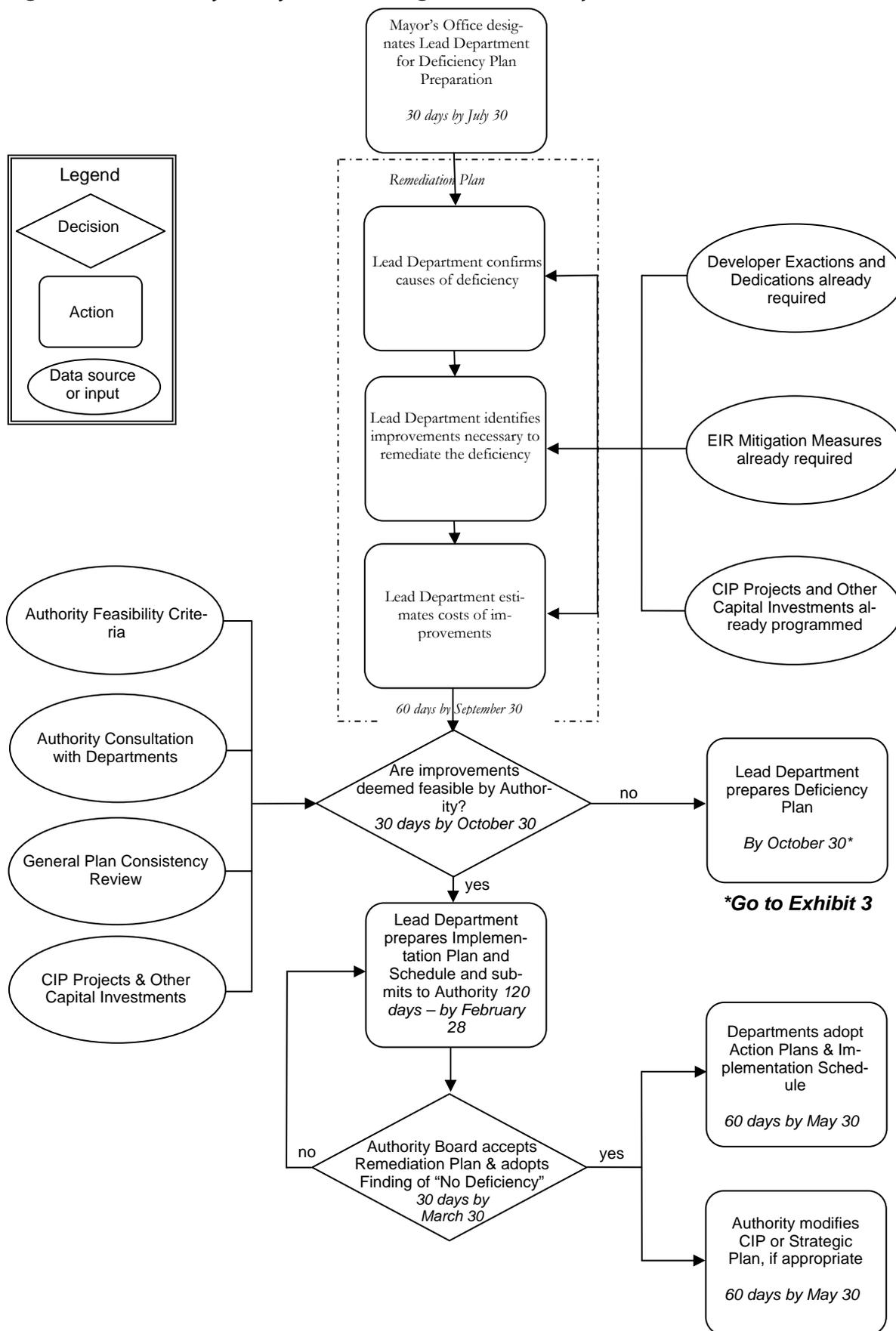
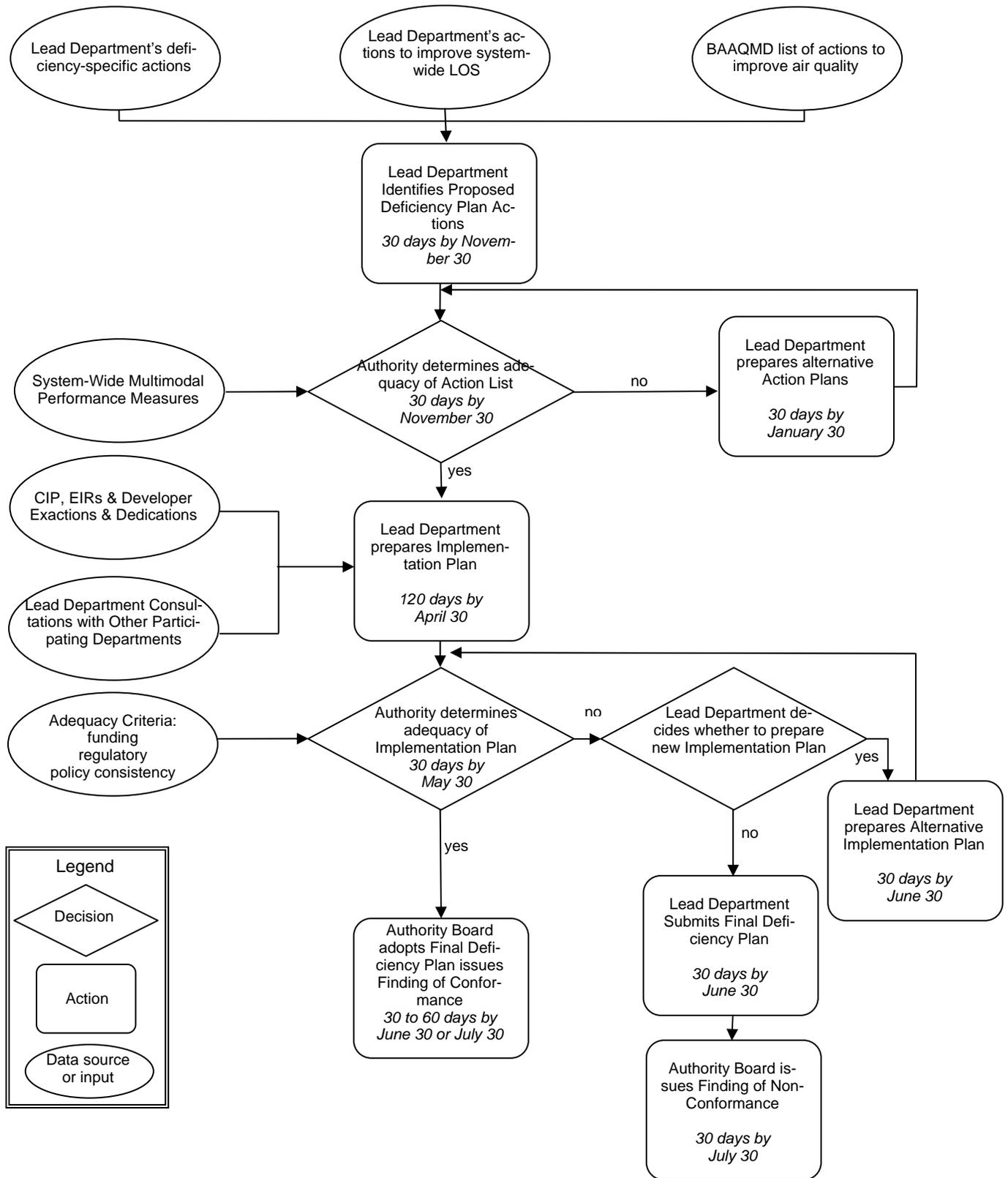


Figure 2: Deficiency Analysis and Mitigation Plan Preparation



**Figure 3: Deficiency Plan Evaluation and Approval**



### Adequacy Criteria

The CMP legislation, as amended, includes three transit performance measures (in addition to the LOS performance measure) for the evaluation of current and future system performance and the effectiveness of Deficiency Action Plans [Government Code § 65089. (b)(2)]: transit frequency, routing, and service coordination among separate operators.

As required by CMP legislation, the Authority has developed multimodal performance measures beyond the traditional roadway Level of Service (LOS) measures. Our emphasis has been on user-based measures that help explain mode choice in the City. The Authority Board adopted the first set of multimodal performance measures in August 1998 (see Chapter 5). These include bicycle and pedestrian safety (number of accidents/mile of roadway), transit reliability (% of scheduled runs that do not occur) and other measures. After these measures have been further refined and fully tested, they will then be used to evaluate the proposed list of Deficiency Plan Actions. Additional measures may be developed in the future.

## 3.4. Implementation Plan

The Authority requires the lead department to prepare an Implementation Plan within 90 days of the Authority's finding as part of the Deficiency Plan Document. The Implementation Plan identifies the responsible implementing department(s) for each action, and the sources of funding.

### 3.4.1 Implementation Plan Development

The lead department is responsible for developing the Implementation Plan. For each action in the Deficiency Plan, the lead department must specify the following:

- 1) The final cost of the actions and the sources of capital (up-front) and operating (on-going) funds. Note any correspondence with EIR mitigation measures or CIP projects.
- 2) A monitoring program that conforms to CEQA monitoring requirements.

- 3) An implementation schedule. All actions must be implemented within the seven-year time horizon for the current CIP. If a Deficiency Plan action is programmed for funding in the sixth or seventh year of the CIP, it will need to be fully implemented within three years of its initiation in order to be considered a feasible action within the Deficiency Plan's ten-year horizon.
- 4) Identification of city departments responsible for the action's funding, implementation, and on-going operations. Clear identification of all departments responsible for implementation, therefore, is essential for the Authority's approval of the Final Deficiency Plan. One way for partner agencies to demonstrate this would be through an interdepartmental agreement among all responsible implementing departments stating each department's agreement to fulfill their responsibilities for implementing Deficiency Plan actions.

### 3.4.2 Identification of Funding

The Implementation Plan must include a detailed funding plan.

### 3.4.3 Implementation Plan and Deficiency Plan Approval

Within 30 days of submittal by the lead department, the Authority will either accept or reject the Implementation Plan. The Authority will make its determination based on the required elements of the Implementation Plan discussed in 4.4.1. Implementation Plans without a funding plan will be rejected. Once the Authority has approved the Implementation Plan, the lead department will have additional 30 days to finalize and submit the Final Deficiency Plan for Authority Board approval. Upon submittal of the final Deficiency Plan by the lead department, the Authority Board will hold a noticed public meeting and either approve or reject it within 30 days. If the Authority rejects the Implementation Plan, the lead department may either propose an alternative Implementation Plan within 30 days, or choose to submit the Final Deficiency Plan with the Implementation Plan as is. In the latter case, the Authority will notify the Mayor's Office of its intent to reject the Final Deficiency Plan due to Implementation Plan inadequacy.

If the Authority Board rejects the Final Deficiency Plan and issues a finding of non-conformance, pursuant to the State law (Government Code 65089.5), the Authority must submit its findings to MTC and the State Controller for the withholding of State funds.

### 3.4.4 Deficiency Plan Document Structure

A Deficiency Plan Report must include the following sections:

#### 1.0 Introduction Identification of the Deficiency's Causes, including:

- 1.1 Description of the Deficiency (i.e., road segment;
- 1.2 Description of the adjacent facilities;
- 1.3 Analysis of the causes of the deficiency;
- 1.4 Description of the existing traffic conditions within the boundaries;
- 1.5 Projection of future transportation conditions for at least the next 10 years; and
- 1.6 A map of the area, the deficiency, and adjacent facilities and transit routes.

#### 2.0 Remediation Plan, consisting of:

- 2.1 An estimate of the extra roadway capacity needed to remove the deficiency;
- 2.2 An estimate of the total costs (operating and capital) of the capacity improvements; and
- 2.3 A description of improvements that are already programmed through individual project conditions of approval, the CIP, or developer exactions or dedications.

#### 3.0 List of Actions, broken out into:

- 3.1 Deficiency-Specific Action; and
- 3.2 Global Actions To Improve System-wide LOS.

#### 4.0 Implementation Plan, specifying the following:

- 4.1 The final cost of the actions and the sources of capital (up-front) and operating (on-going) funds;
- 4.2 A monitoring program to verify the action's implementation;
- 4.3 A schedule for implementation; and
- 4.4 Identification of city departments responsible for the action's funding, implementation, and on-going support/operation.

#### 5.0 Identification of Other Departments' Responsibilities for Implementation

#### 6.0 Identification of Funding

### 4. Special Issues

The following sections discuss special circumstances where the Deficiency Plan process, as described in Section 4.0, may have to be modified. Treatment of these issues is not intended to be exhaustive. .

#### 4.1 Multi-County Deficiency Plans

Deficiencies may occur because of the activities of other counties or they may occur on a regional facility (e.g., the Bay Bridge). Under such circumstances, the Authority will take the lead in coordinating the preparation of a Deficiency Plan, following MTC's process and mutual agreements with other agencies. More specifically, the Authority will coordinate with other congestion management agencies (CMAs) and regional agencies (e.g., MTC, BAAQMD, ABAG, etc.). The Authority may request the Mayor's Office to designate other city departments to prepare the Remediation Plan, Deficiency Plan Action List, or the Implementation Plan. Furthermore, other departments may be designated as the responsible agencies for the implementation of the Deficiency Plan.

## 4.2 Deficiency Plans Addressing Multiple Deficiencies

The Mayor's Office may request that the lead department prepare a Deficiency Plan that covers more than one deficient roadway segment.

Multiple deficiencies may be likely if an area or transportation corridor is impacted by large land use projects (e.g., Mission Bay), significant transportation infrastructure projects (e.g., demolition of the Central Freeway), or pronounced socioeconomic trends (e.g., increased commuting from the East Bay). When multiple deficiencies are within close geographical proximity, distributed along a single corridor (or parallel facility), or are functionally related, the Authority may encourage a single area-wide, or corridor Deficiency Plan.

The process would be similar to that described in Section 4.0. Nevertheless, the lead department must:

- 1) Review relevant EIRs for their assessment of impact and proposed mitigation measures;
- 2) Perform modeling of traffic within the area or corridor to determine the effectiveness of the Remediation Plan improvements;
- 3) Consider funding and/or regulatory feasibility of the proposed Implementation Plan; and
- 4) Coordinate with the CIP and other transportation programming and/or planning documents designed to address transportation planning for a subarea of the city, a specific corridor, or multiple facilities or modes.

## 4.3 Future Deficiencies

The legislation does not require that local jurisdictions address future anticipated deficiencies. Deficiency Plans are only based on actual CMP network conditions.

### 4.3.1 Future Deficiencies Caused by Changes in Transportation Infrastructure or Land Use

Future changes to the transportation infrastructure or services may cause deficiencies. There are many

potential causes of deficiencies, particularly changes to the transportation infrastructure in the City as well as land use changes.

The Planning Department is responsible for land use planning and development management. This role, stipulated in the City Charter, gives the Planning Department direct or oversight responsibility for every land use project from its initial design stages through environmental impact analysis, to final completion. The Authority expects the total amount of small-scale growth that can occur over the next twenty years to be insufficient to cause deficiencies. Large-scale projects, however, will have major impacts. Example of such projects include:

- Mission Bay;
- Rincon Point South Beach Redevelopment Area (this doesn't include Rincon Hill re-zoning);
- Re-Use of Treasure Island, and Hunter's Point Naval Shipyard;
- Revised South of Market Specific Plan; and
- Transbay Terminal Replacement.

In addition, the Planning Department oversees preparation of Transportation Impact Analyses (TIAs) and its Office of Environmental Review (OER) coordinates CEQA review and EIR preparation for development projects. All of these documents are intended to anticipate the impacts of a proposed project on the transportation system; thus, they have direct relevance to the Deficiency Plan if a project's impacts cause a deficiency.

## 5. Work Program Items - Key Milestones

- Monitor any potentially deficient segments again in Spring 2009. If "F" is registered, then deficiency plans must be prepared for those segments.