

APPENDIX A – 41

Project Delivery

Regional Project Delivery Policy Guidance



**Metropolitan Transportation Commission (MTC)
Regional Project Funding Delivery Policy Guidance for
FHWA-Administered Federal Funds
In the San Francisco Bay Area
MTC Resolution 3606
January 22, 2014**

Regional Project Funding Delivery Policy Intent

The intent of the regional funding delivery policy is to ensure implementing agencies do not lose any funds due to missing a federal or state funding deadline, while providing maximum flexibility in delivering transportation projects. It is also intended to assist the region in managing Obligation Authority (OA) and meeting federal financial constraint requirements. MTC has purposefully established regional deadlines in advance of state and federal funding deadlines to provide the opportunity for implementing agencies, Congestion Management Agencies (CMAs), Caltrans, and MTC to solve potential project delivery issues and bring projects back in-line in advance of losing funds due to a missed funding deadline. The policy is also intended to assist in project delivery, and ensure funds are used in a timely manner.

Although the policy guidance specifically addresses the Regional Discretionary Funding managed by MTC, the state and federal deadlines cited apply to all federal-aid funds administered by the state (with few exceptions such as congressionally mandated projects including Earmarks which come with their own assigned OA). Implementing agencies should pay close attention to the deadlines of other state and federal funds on their projects so as not to miss any other applicable funding deadlines, such as those imposed by the CTC on funds it administers and allocates.

This regional project delivery policy guidance was developed by the San Francisco Bay Area's Partnership, through the working groups of the Bay Area Partnership Technical Advisory Committee's (PTAC) consisting of representatives of Caltrans, county Congestion Management Agencies (CMAs), transit operators, counties, cities, interested stakeholders, and MTC staff.

General Policy Guidance

As the federally designated Metropolitan Planning Organization (MPO) and the agency serving as the Regional Transportation Planning Agency (RTPA) for the nine-counties of the San Francisco Bay Area, the Metropolitan Transportation Commission (MTC) is responsible for various funding and programming requirements, including, but not limited to: development and submittal of the Regional Transportation Improvement Program (RTIP); managing and administering the federal Transportation Improvement Program (TIP); and project selection for designated federal funds (referred collectively as 'Regional Discretionary Funding');

As a result of the responsibility to administer these funding programs, the region has established various deadlines for the delivery of regional discretionary funds including the

regional Surface Transportation Program (STP), Congestion Mitigation and Air Quality Improvement (CMAQ) Program, regional Transportation Alternatives Program (TAP) and Regional Transportation Improvement Program (RTIP) to ensure timely project delivery against state and federal funding deadlines. MTC Resolution 3606 establishes standard guidance and policy for enforcing project funding deadlines for these and other FHWA-administered federal funds during the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) the Moving Ahead for Progress in the 21st Century (MAP 21) and subsequent extensions and federal transportation acts.

Once FHWA-administered funds are transferred to FTA, non-applicable provisions of this policy guidance no longer apply. The project sponsor must then follow FTA guidance and requirements.

FHWA-administered federal funds are to be programmed in the federal Transportation Improvement Program (TIP), up to the apportionment level for that fiscal year, in the fiscal year in which the funds are to be obligated by the Federal Highway Administration (FHWA) or transferred to the Federal Transit Administration (FTA).

The regional discretionary funds such as the RTIP, STP, CMAQ and regional-TAP funds are project specific. Projects are chosen for the program based on eligibility, project merit, and deliverability within the established deadlines. The regional discretionary funds are for those projects alone, and may be used for any phase of the project, unless otherwise specified at the time of programming, in accordance with Caltrans procedures and federal regulations.

It is the responsibility of the implementing agency at the time of project application and programming to ensure the regional deadlines and provisions of the regional project funding delivery policy can be met. Agencies with difficulty in delivering existing FHWA federal-aid projects will have future programming and Obligation Authority (OA) restricted for additional projects until the troubled projects are brought back on schedule, and the agency has demonstrated it can deliver new projects within the funding deadlines and can meet all federal-aid project requirements.

MTC staff will actively monitor and report the obligation status of projects to the Working Groups of the Bay Area Partnership. The Working Groups will monitor project funding delivery issues as they arise and make recommendations to the Partnership Technical Advisory Committee (PTAC) as necessary.

The implementing agency or MTC may determine that circumstances may justify changes to the regional discretionary fund programming. These changes, or revisions to these regional programs, are not routine. Proposed changes will be reviewed by MTC staff before any formal actions on program amendments are considered by the MTC Commission. Regional discretionary funds may be shifted among any phase of the project without the concurrence or

involvement of MTC if allowed under Caltrans procedures and federal regulations. All changes must follow MTC policies on the Public Involvement Process and Federal Air Quality Procedures and Conformity Protocol. Changes must be consistent with the Regional Transportation Plan (RTP), must not adversely affect the expeditious implementation of Transportation Control Measures (TCMs), must comply with the provisions of Title VI, must not negatively impact the deliverability of other projects in the regional programs, and must not affect the conformity finding in the TIP. Additionally, any changes involving funding managed by the California Transportation Commission (CTC), such as RTIP and TAP, must also follow the CTC's processes for amendments and fund management.

Regional Discretionary Funding:

Regional Discretionary Funding is revenue assigned to MTC for programming and project selection, including but not limited to funding in the Regional Transportation Improvement Program (RTIP), Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding, regional Transportation Alternatives Program (TAP) funding and any subsequent federal funding programs at MTC's discretion. The funds are referred collectively as Regional Discretionary Funding.

Programming to Apportionment in the year of Obligation/Authorization

Federal funds are to be programmed in the TIP, up to the apportionment level available, in the fiscal year in which the funds are to be obligated by FHWA or transferred to FTA. The implementing agency is committed to obligate/transfer the funds by the required obligation deadline once the program year in the TIP becomes the current year, and the regional annual Obligation Plan has been developed for that year. This will improve the overall management of federal apportionment and Obligation Authority (OA) within the region and help ensure apportionment and OA are available for projects that are programmed in a particular year. It will also assist the region in meeting federal financial constraint requirements. At the end of the federal authorization act, MTC will reconcile any differences between final apportionments, programmed amounts, obligations and actual OA received for the funds it manages.

Advanced Project Selection Process

Obligations for funds advanced from future years of the TIP will be permitted only upon the availability of surplus OA, with Advance Construction Authorization (ACA) projects in the annual obligation plan having first priority for OA in a given year, and current programmed projects that have met the delivery deadlines having second priority for OA in a given year. Advanced obligations will be based on the availability of OA and generally will only be considered after January 31 of each fiscal year. In some years OA may not be available for advancements until after May 1, but the funds must be included in the annual obligation plan, and the obligation request for the advanced OA should be received by Caltrans prior to May 1.

Agencies requesting advanced funding should be in good standing in meeting deadlines for other FHWA federal-aid projects. Restrictions may be placed on the advancement of funds for

agencies that continue to have difficulty delivering projects within required deadlines or have current projects that are not in compliance with funding deadlines and federal-aid requirements. MTC may consult with FHWA, Caltrans and/or the appropriate Congestion Management Agency (CMA) to determine whether the advancement of funds is warranted and will not impact the delivery of other projects.

Implementing agencies wishing to advance projects may request Advance Construction Authorization from FHWA, or pre-award authority from FTA, to proceed with the project using local funds until OA becomes available. ACA does not satisfy the obligation deadline requirement.

Important Tip: Caltrans releases unused local OA by May 1 of each year. Projects that do not access their OA through obligation or transfer to FTA by that date are subject to having their funds taken by other regions. This provision also allows the advancement of projects after May 1, by using unclaimed OA from other regions.

Advance Construction Authorization (ACA)

Agencies that cannot meet the regional, state or federal deadlines subsequent to the obligation deadline (such as award and invoicing deadlines) have the option to use Advance Construction Authorization (ACA) rather than seeking an obligation of funds and risk losing the funds due to missing these subsequent deadlines. For example if the expenditure of project development funds or award of a construction contract, or project invoicing cannot easily be met within the required deadlines, the agency may consider using ACA until the project phase is underway and the agency is able to meet the deadlines. The use of ACA may also be considered by agencies that prefer to invoice once – at the end of the project, rather than invoice on the required semi-annual basis. When seeking this option, the project sponsor must program the local funds supporting the ACA in the same year of the TIP as the ACA, and program an equal amount of federal funds in the TIP in the year the ACA will be converted to a funding authorization.

ACA conversion to full obligation receives priority in the annual obligation plan. MTC will monitor the availability of OA to ensure delivery of other projects is not impacted by ACA conversions. At the end of the federal authorization Act, ACA may be the only option available should the region's OA be fully used.

Project Cost Savings/Changes in Scope/Project Failures – For FHWA-Administered Funds Managed By MTC (Regional Discretionary Funding)

Projects may be completed at a lower cost than anticipated, or have a minor change in scope resulting in a lower project cost, or may not proceed to implementation. In such circumstances, the implementing agency must inform MTC, Caltrans and the appropriate county Congestion Management Agency (CMA) within a timely manner that the funds resulting from these project funding reductions will not be used. Federal regulations require that the project proceed to

construction within ten years of initial federal authorization of any phase of the project. Furthermore, if a project is canceled, or fails to proceed to construction or right of way acquisition in ten years, FHWA will de-obligate any remaining funds, and the agency may be required to repay any reimbursed funds.

Project funding reductions accrued prior to the established obligation deadline are available for redirection within the program of origin. Savings within the CMA administered programs are available for redirection within the program by the respective CMA, subject to Commission approval. Project funding reductions within regional programs, are available for redirection by the Commission. For all programs, projects using the redirected funding reductions prior to the obligation deadline must still obligate the funds within the original deadline.

Minor adjustments in project scope may be made to accommodate final costs, in accordance with Caltrans (and if applicable, CTC) procedures and federal regulation. However, Regional Discretionary Funding managed by MTC and assigned to the project is limited to the amount approved by MTC for that specific project. Once funds are de-obligated, there is no guarantee replacement funding will be available for the project. However, in rare instances, such as when a project becomes inactive, funds de-obligated from a project may be made available for that project once again, as long as the de-obligated funds are not rescinded and are re-obligated within the same federal fiscal year.

For federal regional discretionary funds managed by MTC, any funding reductions or unused funds realized after the obligation deadline return to MTC. Any Regional Discretionary Funding such as STP/CMAQ funds that have been obligated but remain unexpended at the time of project close-out will be de-obligated and returned to the Commission for reprogramming. However, for funding administered by the CTC, such as STIP funds, any unexpended funds at the time of project close-out are returned to the state rather than the region.

In selecting projects to receive redirected funding, the Commission may use existing lists of projects that did not receive funding in past programming exercises, or direct the funds to agencies with proven on-time project delivery, or could identify other projects with merit to receive the funding, or retain the funding for future programming cycles. Final decisions regarding the reprogramming of available funds will be made by the Commission.

Important Tip: If a project is canceled and does not proceed to construction or right of way acquisition within 10 years, the agency may be required to repay all reimbursed federal funds.

Federal Rescissions

FHWA regularly rescinds unused federal funds, either annually as part of the annual federal appropriations or at the end or beginning of a federal transportation act or extension. Therefore, local public agencies must obligate the funds assigned to them within the deadlines established in this policy. Should regional discretionary funds be subject to a federal rescission,

the rescinded funding will first apply to projects with funds that have missed the regional obligation deadline and to projects with funds that have been de-obligated but not yet re-obligated, unless otherwise directed by the Commission.

Annual Obligation Plan

California Streets and Highway Code Section 182.6(f) requires the regions to notify Caltrans of the expected use of OA each year. Any local OA, and corresponding apportionment that is not used by the end of the fiscal year will be redistributed by Caltrans to other projects in a manner that ensures the state continues to receive increased obligation authority during the annual OA redistribution from other states. There is no provision in state statute that the local apportionment and OA used by the state will be returned.

MTC will prepare an annual Obligation Plan prior to each federal fiscal year based on the funding programmed in the TIP, and the apportionment and OA expected to be available in the upcoming federal fiscal year. This plan will be the basis upon which priority for OA and obligations will be made for the upcoming federal fiscal year. It is expected that the CMAs and project sponsors with funds programmed in the TIP will assist in the development of the plan by ensuring the TIP is kept up to date, and review the plan prior to submittal to Caltrans. Projects listed in the plan that do not receive an obligation by the deadline are subject to re-programming. Projects to be advanced from future years, or converted from ACA must be included in the plan to receive priority for obligations against available OA.

The project sponsor shall be considered committed to delivering the project (obligating/authorizing the funds in an E-76 or transferring to FTA) by the required funding deadline at the beginning of the federal fiscal year (October 1) for funding programmed in that year of the TIP. If a project or project phase will not be ready for obligation in the year programmed, the agency responsible for the project should request to delay the project prior to entering the federal fiscal year.

In the event that OA is severely limited, such as at the end of a federal authorization act, and there is insufficient OA to obligate all of the projects in the annual obligation plan, restrictions may be placed on funds for agencies that continue to have difficulty delivering projects within required deadlines or have current projects that are in violation of funding deadlines and federal-aid requirements.

Local Public Agency (LPA) Single Point of Contact

To further facilitate project delivery and ensure all federal funds in the region are meeting federal and state regulations, requirements and deadlines, every Local Public Agency (LPA) that receives FHWA-administered funds and includes these funds in the federal TIP will need to identify and maintain a staff position that serves as the single point of contact for the implementation of all FHWA-administered funds within that agency. The person in this position must have sufficient knowledge and expertise in the federal-aid delivery process to coordinate

issues and questions that may arise from project inception to project close-out. The local public agency is required to identify, maintain and update the contact information for this position at the time of programming changes in the federal TIP. This person will be expected to work closely with FHWA, Caltrans, MTC and the respective CMA on all issues related to federal funding for all FHWA-funded projects implemented by the recipient.

By applying for and accepting FHWA funds that must be included in the federal TIP, the project sponsor is acknowledging that it has and will maintain the expertise and staff resources necessary to deliver the federal-aid project within the funding timeframe, and meet all federal-aid project requirements.

FHWA-Administered Project Milestones Status

Project sponsors that miss delivery milestones and funding deadlines for FHWA-administered funds are required to prepare and update a delivery status report on major delivery milestones for all active projects with FHWA-administered funds and participate if requested in a consultation meeting with the county CMA, MTC and Caltrans to discuss the local agency's ability to deliver current and future federal-aid transportation projects, and efforts, practices and procedures to be implemented by the local agency to ensure delivery deadlines and requirements are met in the future. The purpose of the status report and consultation is to ensure the local public agency has the resources and technical capacity to deliver FHWA federal-aid projects, is fully aware of the required delivery deadlines, and has developed a delivery timeline that takes into consideration the requirements and lead-time of the federal-aid process within available resources. For purposes of the delivery status report, 'Active' projects are projects programmed in the current federal TIP with FHWA-administered funds (including those in grouped TIP listings), and projects with FHWA-administered funds that remain active (have received an authorization/obligation but have not been withdrawn or closed out by FHWA). The local public agency is to use the status report format provided by MTC, or use a report agreeable by the respective CMA and MTC staff.

Local Public Agency (LPA) Qualification

In an effort to facilitate project delivery and address federal-aid process requirements, Local Public Agencies (LPA) applying for and accepting FHWA administered funds must be qualified in the federal-aid process. By requesting the programming of federal funds in the federal TIP, the LPA is self-certifying they are qualified to deliver federal-funding transportation projects. This regional LPA qualification is to help confirm the jurisdiction has the appropriate knowledge and expertise to deliver the project. The regional LPA self-qualification is not a substitute for any state or federal certification requirements and is simply to acknowledge a minimum requirement by which a local agency can demonstrate to the respective CMA, MTC and Caltrans a basic level of readiness for delivering federal-aid projects. The purpose of the regional LPA qualification is to allow the LPA to program the funds in the federal TIP and has no other standing, implied or otherwise. The regional LPA qualification does not apply to transit operators that transfer all of their FHWA-administered funds to FTA.

To be 'regionally qualified' for regional discretionary funds, and for programming federal funds in the federal TIP, the LPA must comply with the following, in addition to any other state and federal requirements:

- Assign and maintain a single point of contact for all FHWA-administered projects implemented by the agency.
- Maintain a project tracking status of major delivery milestones for all programmed and active FHWA-administered projects implemented by the agency
- Have staff and/or consultant(s) on board who have delivered FHWA-administered projects within the past five years and/or attended the federal-aid process training class held by Caltrans Local Assistance within the past 5 years, and have the knowledge and expertise to deliver federal-aid projects.
- Maintain all active FHWA-administered projects in good standing with respect to regional, state and federal delivery deadlines, and federal-aid requirements
- Maintain the expertise and staff resources necessary to deliver federal-aid projects within the funding timeframe, and meet all federal-aid project requirements
- Has a financial/accounting system in place that meets state and federal invoicing and auditing requirements;
- Has demonstrated a good delivery record and delivery practices with past and current projects.

Maximizing Federal Funds on Local Projects

To facilitate project delivery and make the most efficient use of federal funds, project sponsors are encouraged to concentrate federal funds on fewer, larger projects and maximize the federal share on federalized project so as to reduce the overall number of federal-aid projects.

Sponsors may also want to consider using local funds for the Preliminary Engineering (PE) and Right of Way (ROW) phases and target the federal funds on the Construction (CON) phase, thus further reducing the number of authorizations processed by Caltrans and FHWA. Under the regional toll credit policy (MTC Resolution 4008) sponsors that demonstrate they have met or exceeded the total required non-federal project match in the earlier phases, may use toll credits in lieu of a non-federal match for the construction phase. However, sponsors must still comply with NEPA and other federal requirements for the PE and ROW phases. Such an approach can provide the sponsor with greater flexibility in delivering federal projects and avoiding invoicing requirements for the earlier phases. Sponsors pursuing this strategy should ensure that federal funds are programmed to the construction phase in the federal TIP so that Caltrans will prioritize field reviews and NEPA review and approval.

Specific Project-Level Policy Provisions

Projects selected to receive Regional Discretionary Funding must have a demonstrated ability to use the funds within the established regional, state and federal deadlines. This criterion will be used for selecting projects for funding, and for placement of funding in a particular year of

the TIP. Agencies with a continued history of being delivery-challenged and continue to miss funding delivery deadlines will have restrictions placed on future obligations and programming and are required to develop major milestone delivery schedules for each of their federal-aid projects.

It is the responsibility of the implementing agency to ensure the funds can be used within the established regional, state and federal deadlines and that the provisions of the regional funding delivery policy can be met. It is also the responsibility of the implementing agency to continuously monitor the progress of the programmed funds against regional, state and federal deadlines, and to report any potential difficulties in meeting these deadlines to MTC, Caltrans and the appropriate county CMA within a timely manner, to seek solutions to potential problems well in advance of potential delivery failure or loss of funding.

Specific project-level provisions of the Regional Project Funding-Delivery Policy are as follow:

- **Field Reviews**

Implementing agencies are to request a field review from Caltrans Local Assistance within twelve months of approval of the project in the TIP, but no less than twelve months prior to the obligation deadline of construction funds. This policy also applies to federal-aid projects in the STIP. The requirement does not apply to projects for which a field review would not be applicable, such as FTA transfers, regional operations projects and planning activities, or if a field review is otherwise not required by Caltrans. It is expected that Caltrans will conduct the review within 60 calendar days of the request.

Failure for an implementing agency to make a good-faith effort in requesting and scheduling a field review from Caltrans Local Assistance within twelve months of programming into the TIP (but no less than twelve months prior to the obligation deadline) could result in the funding being reprogrammed and restrictions on future programming and obligations. Completed field review forms (if required) must be submitted to Caltrans in accordance with Caltrans Local Assistance procedures.

- **Environmental Submittal Deadline**

Implementing agencies are required to submit a complete Preliminary Environmental Study (PES) form and attachments to Caltrans for all projects, twelve months prior to the obligation deadline for right of way or construction funds. This policy creates a more realistic time frame for projects to progress from the field review through the environmental and design process, to the right of way and construction phase. If the environmental process, as determined at the field review, will take longer than 12 months before obligation, the implementing agency is responsible for delivering the complete environmental submittal in a timely manner. Failure to comply with this provision could result in the funding being reprogrammed. The requirement does not apply to FTA transfers, regional operations projects or planning activities.

- **Obligation/Request For Authorization (RFA) Submittal Deadline**

Projects selected to receive Regional Discretionary funding must demonstrate the ability to obligate programmed funds by the established deadlines. This criterion will be used for selecting projects for funding, and for placement in a particular year of the TIP. It is the responsibility of the implementing agency to ensure the funding deadlines can be met.

In order to ensure funds are obligated or transferred to FTA in a timely manner, the implementing agency is required to deliver a complete, funding obligation / FTA Transfer Request for Authorization (RFA) package to Caltrans Local Assistance by November 1 of the fiscal year the funds are listed in the TIP. The RFA package is to include the CTC allocation request documentation for CTC administered funds such as STIP and state-TAP funded projects as applicable. Projects with complete packages delivered by November 1 of the TIP program year will have priority for available OA, after ACA conversions that are included in the Obligation Plan. If the project is delivered after November 1 of the TIP program year, the funds will not be the highest priority for obligation in the event of OA limitations, and will compete for limited OA with projects advanced from future years. Funding for which an obligation/ FTA transfer request is submitted after the November 1 deadline will lose its priority for OA, and be viewed as subject to reprogramming.

Important Tip: Once a federal fiscal year (October 1 through September 30) has begun, and the Obligation Plan for that year developed, the agency is committed to obligating/authorizing the funds by the required obligation deadline for that fiscal year. Funds that do not meet the obligation deadline are subject to re-programming by MTC.

Within the CMA administered programs, the CMAs may adjust delivery, consistent with the program eligibility requirements, up until the start of federal fiscal year in which the funds are programmed in the TIP, swapping funds to ready-to-go projects in order to utilize all of the programming capacity. The substituted project(s) must still obligate the funds within the original funding deadline.

For funds programmed through regional programs, the Commission has discretion to redirect funds from delayed or failed projects.

MTC Regional Discretionary Funding is subject to a regional obligation/ authorization/ FTA transfer deadline of January 31 of the fiscal year the funds are programmed in the TIP. Implementing agencies are required to submit the completed request for obligation/ authorization or FTA transfer to Caltrans Local Assistance by November 1 of the fiscal year the funds are programmed in the TIP, and receive an obligation/authorization/ FTA transfer of the funds by January 31 of the fiscal year programmed in the TIP. For example, projects programmed in FY 2014-15 of the TIP have a request for authorization/ obligation/ FTA transfer submittal deadline (to Caltrans Local Assistance) of November 1, 2014 and an

obligation/ authorization/FTA transfer deadline of January 31, 2015. No extensions will be granted to the obligation deadline.

In Summary:

- Request For Authorization (RFA) Submittal Deadline: November 1 of the fiscal year the funds are programmed in the federal TIP. The Implementing Agency is required to submit a complete Request for Authorization (RFA)/ obligation/transfer package to Caltrans (3 months prior to the Obligation Deadline). For projects with federal funds administered by the CTC, such as STIP and State-TAP, the required CTC allocation request documentation must also be submitted by November 1 in order to meet the January 31 obligation deadline of federal funds.
- Obligation /Authorization Deadline: January 31 of the fiscal year the funds are programmed in the TIP, including funds administered by the CTC, such as STIP and state-TAP. No extensions will be granted to the obligation deadline for regional discretionary funds.

Important Tip: If an agency must coordinate delivery with other delivery timelines and other fund sources, it should program the regional discretionary funding in a later year of the TIP and advance the funds after May 1 using the Expedited Project Selection Process (EPSP) once additional OA is made available by Caltrans. Projects with federal funds administered by the CTC, such as STIP and state-TAP, should receive a CTC allocation in sufficient time to receive the federal obligation by the obligation deadline.

November 1 - Regional Request for Authorization (RFA) submittal deadline. Complete and accurate Request for Authorization package submittals, and ACA conversion requests for projects in the annual obligation plan received by November 1 of the fiscal year the funds are programmed in the TIP receive priority for obligations against available OA. The RFA should include CTC allocation request documentation for federal STIP and state-TAP funded projects as applicable.

November 1 – January 31 – Projects programmed in the current year of the TIP and submitted during this timeframe are subject to re-programming. If OA is still available, these projects may receive OA if obligated by January 31. If OA is limited, these projects will compete for OA with projects advanced from future years on a first-come first-served basis. Projects with funds to be advanced from future years should request the advance prior to January 31, in order to secure the funds within that federal fiscal year. This rule does not apply to federal funds administered by the CTC such as STIP or state-TAP funds.

January 31 - Regional Obligation/Authorization deadline. Regional Discretionary Funding not obligated (or transferred to FTA) by January 31 of the fiscal year the funds are programmed in the TIP are subject to reprogramming by MTC. No extensions of this deadline will be granted. Projects seeking advanced obligations against funds from future years should request the advance prior to January 31 in order to secure the funds within that federal fiscal year, though a project may be advanced from a later year any time after January 31. For funding administered by the CTC, the CTC allocation should occur in sufficient time to meet the January 31 federal obligation deadline.

The obligation deadline may not be extended. The funds must be obligated by the established deadline or they are subject to de-programming from the project and redirected by the Commission to a project that can use the funds in a timely manner.

Note: Advance Construction Authorization does not satisfy the regional obligation deadline requirement.

Important Tip: In some years, OA for the region may be severely limited, such as when the state has run out of OA, or Congress has only provided a partial year's appropriation or during short-term extensions of a federal Authorization Act. When OA is limited, ACA conversions identified in the annual obligation plan and submitted before the RFA deadline of November 1 have priority, followed by other projects in the annual obligation plan submitted before the RFA Submittal deadline of November 1. Projects in the obligation plan but submitted after November 1 may have OA (and thus the obligation of funds) restricted and may have to wait until OA becomes available – either after May 1, when unused OA is released from other regions, or in the following federal fiscal year when Congress approves additional OA. RFAs submitted after the November 1 deadline have no priority for OA for that year. Agencies with projects not in good standing with regards to the deadlines of this policy or not complying with federal-aid requirements are subject to restrictions in future Regional Discretionary Funding and the programming of funds in the federal TIP.

- **Coordination with CTC allocations**

The CTC has its own delivery deadlines that must be met in addition to the regional deadlines. Regional deadlines are in advance of both state and federal deadlines to ensure all deadlines can be met and funds are not jeopardized. To further ensure that CTC deadlines are met, allocation requests to the CTC for federal funds must be accompanied with a complete and accurate E-76 Request for Authorization (RFA) package, so that the authorization/ obligation may be processed immediately following CTC action. MTC will not sign off on allocation concurrences for federal funds unless the E-76 RFA package is also submitted.

Important Tip: There may be occasions when the schedule for a project funded by the CTC is not in sync with the standard summer construction season or with the January 31 regional obligation deadline. Considering that CTC-administered construction funds must be awarded within 6 months of the CTC allocation, the project sponsor may want to delay the CTC construction allocation until later in the season in order to comply with the CTC award deadline. This is allowed on a case-by-case basis for construction funds when the project sponsor has demonstrated a special project delivery time-schedule, and programming the funds in the following state fiscal year was not an option. Regardless of the regional obligation deadline, the end-of-state-fiscal-year CTC allocation deadline still applies, and CTC-administered funds must still receive a CTC allocation by June 30 of the year the funds are programmed in the STIP. This means the construction CTC allocation request/ RFA must be submitted to Caltrans local assistance no later than March 31 of the year the funds are programmed in the STIP/TIP in order to meet the June CTC allocation deadline.

- **Program Supplement Agreement (PSA) Deadline**

The implementing agency must execute and return the Program Supplement Agreement (PSA) to Caltrans in accordance with Caltrans Local Assistance procedures. It is expected that Caltrans will initiate the PSA within 30 days of obligation. The agency should contact Caltrans if the PSA is not received from Caltrans within 30 days of the obligation. This requirement does not apply to FTA transfers.

Agencies that do not execute and return the PSA to Caltrans within the required Caltrans deadline will be unable to obtain future approvals for any projects, including obligation and payments, until all PSAs for that agency, regardless of fund source, meet the PSA execution requirement. Funds for projects that do not have an executed PSA within the required Caltrans deadline are subject to de-obligation by Caltrans.

- **Construction Advertisement / Award Deadline**

For the Construction (CON) phase, the construction/equipment purchase contract must be advertised within 3 months and awarded within 6 months of obligation / E-76 Authorization (or awarded within 6 months of allocation by the CTC for funds administered by the CTC). However, regardless of the award deadline, agencies must still meet the invoicing deadline for construction funds. Failure to advertise and award a contract in a timely manner could result in missing the subsequent invoicing and reimbursement deadline, resulting in the loss of funding.

Agencies must submit the complete award package immediately after contract award and prior to submitting the first invoice to Caltrans in accordance with Caltrans Local Assistance procedures.—Agencies with projects that do not meet these award deadlines will have future

programming and OA restricted until their projects are brought into compliance (CTC-administered construction funds lapse if not awarded within 6 months).

For FTA projects, funds must be approved/awarded in an FTA Grant within one federal fiscal year following the federal fiscal year in which the funds were transferred to FTA.

Important Tip: Agencies may want to use the flexibility provided through Advance Construction Authorization (ACA) if it will be difficult meeting the deadlines. Agencies may consider proceeding with ACA and converting to a full obligation at time of award when project costs and schedules are more defined or when the agency is ready to invoice.

- **Regional Invoicing and Reimbursement Deadlines – Inactive Projects**

Caltrans requires administering agencies to submit invoices at least once every 6 months from the time of obligation (E-76 authorization). Projects that have not received a reimbursement of federal funds in the previous 12 months are considered inactive with the remaining un-reimbursed funds subject to de-obligation by FHWA with no guarantee the funds are available to the project sponsor.

To ensure funds are not lost in the region, regional deadlines have been established in advance of federal deadlines. Project Sponsors must submit a valid invoice to Caltrans Local Assistance at least once every 6 months and receive a reimbursement at least once every 9 months, but should not submit an invoice more than quarterly.

Agencies with projects that have not been invoiced against at least once in the previous 6 months or have not received a reimbursement within the previous 9 months have missed the invoicing/reimbursement deadlines and are subject to restrictions placed on future regional discretionary funds and the programming of additional federal funds in the federal TIP until the project receives a reimbursement.

Important Tip: In accordance with Caltrans procedures, federal funds must be invoiced against at least once every six months. Funds that are not reimbursed against at least once every 12 months are subject to de-obligation by FHWA. There is no guarantee the funds will be available to the project once de-obligated. Agencies that prefer to submit one final billing rather than semi-annual progress billings, or anticipate a longer project-award process or anticipate having difficulty in meeting these deadlines can use Advance Construction Authority (ACA) to proceed with the project, then convert to a full obligation prior to project completion. ACA conversions receive priority in the annual obligation plan. Furthermore, agencies that obligate construction engineering (CE) funds may (with concurrence from Caltrans) invoice against this phase for project advertisement activities to comply with invoicing deadlines.

- **State Liquidation Deadline**

California Government Codes 16304.1 and 16304.3 places additional restrictions on the liquidation of federal funds. Generally, federal funds must be liquidated (fully expended, invoiced and reimbursed) within 4 state fiscal years following the fiscal year in which the funds were appropriated. CTC-administered funds must be expended within 2 state fiscal years following the fiscal year in which the funds were allocated. Funds that miss the state's liquidation/ reimbursement deadline will lose State Budget Authority and will be de-obligated if not re-appropriated by the State Legislature, or extended in a Cooperative Work Agreement (CWA) with the California Department of Finance. CTC-administered funds must also be extended by the CTC. This requirement does not apply to FTA transfers.

- **Project Completion /Close-Out Deadline**

Implementing Agencies must fully expend federal funds on a phase one year prior to the estimated completion date provided to Caltrans.

At the time of obligation (E-76 authorization) the implementing agency must provide Caltrans with an estimated completion date for that project phase. Any unreimbursed federal funding remaining on the phase after the estimated completion date has passed, is subject to project funding adjustments by FHWA.

Implementing agencies must submit to Caltrans the Final Report of Expenditures within six months of project completion. Projects must proceed to right of way acquisition or construction within 10 years of federal authorization of the initial phase.

Federal regulations require that federally funded projects proceed to construction or right of way acquisition within 10 years of initial federal authorization of any phase of the project. Furthermore, if a project is canceled, or fails to proceed to construction or right of way acquisition in 10 years, FHWA will de-obligate any remaining funds, and the agency may be required to repay any reimbursed funds. If a project is canceled as a result of the environmental process, the agency may not be required to repay reimbursed costs for the environmental activities. However, if a project is canceled after the environmental process is complete, or a project does not proceed to right of way acquisition or construction within 10 years, the agency is required to repay all reimbursed federal funds.

Agencies with projects that have not been closed out within 6 months of final invoice will have future programming and OA restricted until the project is closed out or brought back to good standing by providing written explanation to Caltrans Local Assistance, the applicable CMA and MTC.

Note that funds managed and allocated by the CTC may have different and more stringent funding deadlines. A CTC allocated-project must fully expend those funds within 36 months of the CTC funding allocation.

Consequences of Missed Deadlines

It is the responsibility of the implementing agency to ensure the funds can be used within the established regional, state and federal deadlines and that the provisions of the regional project-funding delivery policy, and all other state and federal requirements can be met. It is also the responsibility of the implementing agency to continuously monitor the progress of all their FHWA federal-aid projects against these regional, state and federal funding deadlines and milestones and report any potential difficulties in meeting these deadlines to MTC, Caltrans and the appropriate county CMA within a timely manner. MTC, Caltrans and the CMAs are available to assist the implementing agencies in meeting the funding deadlines, and will work with the agency to find solutions that avoid the loss of funds.

Agencies that do not meet these funding deadlines risk the loss of federal funds. To minimize such losses to the region, and encourage timely project delivery, agencies that continue to be delivery-challenged and/or have current projects that have missed the funding deadlines, or are out of compliance with federal-aid requirements and deadlines will have future obligations, programming or requests for advancement of funds restricted until their projects are brought back into good standing. Projects are selected to receive Regional Discretionary Funding based on the implementing agency's demonstrated ability to deliver the projects within the funding deadlines. An agency's proven delivery record will be used for selecting projects for funding and placement in a particular year of the TIP, and for receipt of OA.

Regional Project Delivery Principles

The following requirements apply to the management and implementation of FHWA-administered funds within the region:

- **Federal funds must comply with federal fiscal constraint requirements.** FHWA-administered federal funds are to be programmed in the federal Transportation Improvement Program (TIP), up to the apportionment level for that fiscal year, in the fiscal year in which the funds are to be obligated by FHWA or transferred to the Federal Transit Administration (FTA) or allocated by the CTC.
- **Regional discretionary funds are project specific.** Projects are chosen for the program based on eligibility, project merit, and deliverability within the established deadlines. The regional discretionary funds are for those projects alone and may be used for any phase of the project, unless otherwise specified at the time of programming, in accordance with Caltrans procedures and federal regulations.
- **Funds must be included in the annual obligation plan.** MTC staff, in consultation with regional partners, will prepare an annual obligation plan as required by California Streets and Highway Code 182.6(f) at the end of each state fiscal year based on the funding programmed in the federal TIP and the apportionment and OA expected to be available. This plan will be the basis upon which obligations will be made in the following federal fiscal year.
- **Advance Construction Conversion has priority for funding.** Conversion of Advance Construction Authorization (AC) to full authorization receives priority in the annual obligation plan. At the end of the federal authorization Act, AC may be the only option available should the region fully use its Obligation Authority.
- **Federal funds must meet timely use of funds requirements.** To comply with federal timely use of funds requirements, the Request for Authorization (RFA) and obligation (E-76 authorization/ FTA Transfer) deadlines are November 1 and January 31, respectively. These deadlines align with the natural schedule to have projects ready for the following summer construction season.
- **Projects may be advanced from future years.** Obligations for funds advanced from future years of the TIP will be permitted only upon the availability of surplus OA and generally will only be considered after the obligation submittal deadline of November 1. OA is available first-come first-served after January 31. In some years OA may not be available for project advancements until after April 30, when Caltrans releases unused OA statewide.
- **CTC allocation and FHWA authorization requests should be coordinated.** To ensure deadlines imposed by the CTC are met, allocation requests to the CTC for federal funds should be accompanied with a complete RFA package, so the authorization request for federal funds may be submitted to FHWA immediately following CTC action.
- **Funds for construction should be awarded within 6 months of obligation.** This deadline is for consistency with the CTC's 6-month award deadline following CTC allocation, and to ensure there are eligible expenditures to invoice against to meet Caltrans' 6-month invoicing requirement and FHWA's inactive obligations requirements.
- **Funds must be invoiced against at least once every 6 months.** Project sponsors must submit a valid invoice to Caltrans Local Assistance at least once every 6 months and receive a reimbursement at least once every 9 months, but should not submit an invoice more than quarterly. This ensures the sponsor complies with Caltrans requirements and the project does not become inactive under FHWA's rules.

Regional Project Delivery Policy Guidance

MTC Resolution 3606

| Milestone | Deadline | Authority | Consequence of Missed Deadline |
|--|--|---------------------------------|---|
| Programming in TIP | Agency is committed to delivering project in the year programmed in the TIP | Region | Deprogramming of funds and redirection to other projects that can use the OA (MTC) |
| Field Review (If applicable) | Within 12 months of inclusion in TIP | Region | Restrictions on future programming, obligations and OA until deadline is met (MTC) |
| MTC Obligation Plan CA S&H Code § 182.6(f) | October 1 - Beginning of each federal fiscal year | Caltrans Region | Only projects identified in MTC's annual Obligation Plan receive priority for OA. Projects not in annual plan may need to wait until after May 1 to receive an obligation (MTC) |
| Request For Authorization (RFA) Submittal | November 1 of year funds programmed in TIP | Region | Project loses priority for OA. OA may be redirected to other projects (MTC) |
| Obligation / FTA Transfer E-76 / Authorization | January 31 of year programmed in TIP | Region | Reprogramming of funds and redirection to other projects that can use the OA (MTC) |
| Release of Unused OA | May 1 | Caltrans | Unused OA becomes available for all regions to access on first-come first-served basis (Caltrans) |
| CTC-Allocation CA Gov Code § 14529.8 | June 30 of the year CTC funds are programmed | CTC | CTC-programmed funds lapse (CTC) Requires CTC approval for extension |
| Last opportunity to submit Request For Authorization (RFA) for federal fiscal year | June 30 | Caltrans | Requests submitted after June 30 may need to wait until following federal fiscal year to receive E-76 / Authorization (Caltrans) |
| End of Federal Fiscal Year - OA No Longer Available | August 30 | Caltrans Federal | Federal system shut down. Unused OA at end of federal fiscal year is taken for other projects. No provision funds taken will be returned (FHWA) |
| Program Supplement Agreement (PSA) | 60 days after receipt from Caltrans 6 months after obligation | Caltrans Region | De-obligation of funds after 6 months (so project does not become inactive) (Caltrans) Restrictions on future programming, obligations and OA until deadline is met (MTC) |
| Construction Advertisement | 3 months after obligation | Region | Potential to miss award deadline. Restrictions on future programming, obligations and OA until deadline is met (MTC) |
| Construction Award | 6 months after Allocation/ Obligation | CTC Region | CTC-allocated funds lapse. Requires CTC extension approval (CTC) Potential for project to become Inactive. Restrictions on future programming, obligations and OA until deadline is met (MTC) |
| Invoicing & Reimbursement | Submit invoice and receive reimbursement at least once every 6 months following obligation of funds. | Federal Caltrans Region | Placed on pending inactive list after 6 months. Must submit invoice status reports (Caltrans) De-obligation of funds if project does not receive reimbursement within 12 months, with no guarantee funds will be returned (FHWA) Restrictions on future funding (MTC) |
| Expenditure CA Gov Code § 14529.8 | 2 years following the year of CTC allocation of funds | CTC | CTC-allocated funds lapse (CTC) Requires CTC approval for extension |
| Liquidation CA Gov Code § 16304.1 | 2 years following the year of allocation (state funds) 4 years following the year of allocation (Federal funds) | State of California Caltrans | Loss of State budget authority and de-obligation of funds (State of California). Requires CWA with Caltrans for extension (Caltrans) |
| Project Close-Out | 6 months after final invoice | Caltrans Region | Must submit explanation in writing (Caltrans) Restrictions on future funding (MTC) |