

Background

The regional project delivery policy ([MTC Resolution 3606](#)) establishes certain deadlines and requirements for agencies accepting Federal Highway Administration (FHWA) funding and including these funds in the federal Transportation Improvement Program (TIP). 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, Bay Area County Transportation Agencies (BACTAs), 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.

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

One of the most important features of the delivery policy, and a key to the success of on-time delivery, is the obligation deadline. Regional discretionary funding, as well as other FHWA funds in the TIP, must meet the Obligation/E-76/Authorization deadline established in the Policy. This ensures federal funds are being used in a timely manner, and funds are not lost to the region.

FY 2015-16 STP/CMAQ Delivery Status

In 2014, the regional obligation deadline was changed from March 31 to January 31 for projects listed in the FY 2015-16 annual obligation plan. Although FY 2015-16 was a transition year (meaning unobligated funds will not be redirected to other projects until after March 31) it was still expected that project sponsors would meet the new obligation deadline. However, the delivery rate was not as good as hoped. As of January 31 less than 30% of the targeted STP/CMAQ OA had been obligated. In examining the low delivery rate, MTC staff noticed many projects were not ready to proceed when placed in the FY 2015-16 Annual Obligation Plan, and therefore many project sponsors were unable to meet the November 1 Request for Authorization (RFA) deadline, even though the annual obligation plan was made final only a month earlier.

FY 2016-17 STP/CMAQ Delivery Status

The delivery rate for FY 2016-17 improved over FY 2015-16. As of January 31, 2017 45% of the targeted STP/CMAQ OA had been obligated, compared with 30% in 2016. By March 31, 2017 115% of the STP/CMAQ OA had been delivered. However, the goal is still to have 100% OA delivery by January 31, so that projects may capture favorable bids and proceed to construction over the summer construction season.

FY 2017-18 STP/CMAQ Delivery Status

The delivery rate for FY 2017-18 improved over FY 2015-16 and FY 2016-17. As of January 31, 2018, 75% of the targeted STP/CMAQ OA had been obligated, compared with 30% in 2016 and 45% in 2017. By March 31, 2018 112% of the STP/CMAQ OA had been delivered. However, the goal is still to have 100% OA delivery by January 31 so that projects may capture favorable bids and proceed to construction over the summer construction season.

FY 2018-19 STP/CMAQ Delivery Status

The delivery rate for FY 2018-19 slipped a little from FY 2017-18. As of January 31, 2019, 63% of the targeted STP/CMAQ OA had been obligated, compared with 30% in 2016, 45% in 2017 and 75% in 2018. By March 31, 2019, 74% of the STP/CMAQ OA had been delivered. The goal is still to have 100% OA delivery by January 31 so that projects may capture favorable bids and proceed to construction over the summer construction season.

Increased Importance of Annual Obligation Plan

In recent years other regions and the state-managed local programs have improved upon their own annual delivery rate, and the region is once again hitting apportionment limits prior to the end of the fiscal year. These factors are reducing the flexibility the region has in advancing funds and allowing projects to move forward when ready. As a result, the annual obligation plan is becoming increasingly important to prioritize the funding available for projects to be delivered in a given year. It is anticipated that moving forward, the obligation plan will become a more vital tool in managing the delivery of FHWA-funded projects each year

Proposed Annual Obligation Plan Conditions and Requirements

To address the issues of projects being included in the annual obligation plan that are not yet ready to proceed, and to better manage the availability of funds (primarily STP/CMAQ) for projects that are ready for delivery, and to facilitate timely project delivery within the region, MTC staff is proposing certain conditions and requirements for projects to be included the Annual Obligation Plan as outlined in Attachment 1. The obligation plan will serve to prioritize delivery of FHWA-funded projects, and assist Caltrans Local Assistance in managing its workload for the federal fiscal year.

FY 2019-20 Annual Obligation Plan Schedule

The schedule for development and implementation of the FY 2019-20 Annual Obligation Plan is as follows:

May/June 2019	Projects with known delivery deadlines in next fiscal year released for review
June/July 2019	Draft Plan reviewed by partnership working groups
June/July/Aug 2019	SPOCs submit requests to include STP/CMAQ projects in Obligation Plan
September 2019	Proposed Final Plan reviewed by partnership working groups
October 1, 2019	Obligation Plan finalized and submitted to Caltrans
November 1, 2019	Request for Authorization (RFA) submitted to Caltrans
January 31, 2020	Obligation deadline for funds in Annual Obligation Plan
<u>January 31, 2020</u>	<u>CTC Allocation request deadline</u>
February 1, 2020	Unused Obligation Authority available first-come first-served
<u>March 31, 2020</u>	<u>CTC Allocation deadline for CTC-administered state and federally-funded projects</u>

Annual Obligation Plan Conditions and Requirements

To facilitate timely project delivery within the region, the following proposed conditions and requirements must be met for projects to be included in the Annual Obligation. The obligation plan will serve to prioritize delivery of FHWA-funded projects for the federal fiscal year.

- **Projects automatically included in Obligation Plan**
To the extent known, projects with required federal funding delivery deadlines within the fiscal year will be added to the annual **obligation** plan. These include but are not limited to STIP, ATP, HSIP and Local Bridge Seismic Retrofit Program (LBSRP) projects. **In addition to the annual obligation plan, a "CTC Allocation Plan" will be developed specifically for CTC-allocated state and federally-funded projects.** It is the responsibility of the Single Point of Contact (SPOC) to ensure the Plans include all projects from their agency that have delivery deadlines within the applicable fiscal year.
- **SPOC Involvement**
Requests for OBAG STP/CMAQ projects to be included in the annual obligation plan must come from the Single Point of Contact (SPOC) for that agency. This ensures the SPOC is aware of the federal-aid projects to be delivered that year, and to be available to assist the Project Manager(s) through the federal-aid delivery process. In addition, subsequent communication to MTC or applicable BACTA regarding potential delays or missed deadlines of any project in the annual obligation plan must include the SPOC. To add a project to the plan, email the request to the applicable Bay Area County Transportation Agency staff and to John Saelee of MTC at jsaelee@bayareametro.gov
- **Missed Past Delivery Deadlines**
For project sponsors that have missed delivery deadlines within the past year, **including CTC-administered program deadlines,** the agency must prepare and submit a delivery [status report](#) on major delivery milestones for all federally active projects with FHWA-administered funds, and all projects with FHWA-administered funds programmed in the current TIP, before their OBAG 2 project(s) are added to the annual obligation plan. Furthermore, once projects for such agencies are accepted in the final obligation Plan, the Single Point of Contact (SPOC) for the agency must report monthly to the applicable BACTA and MTC staff on the status of all agency project(s) in the annual obligation plan,

until the funds are obligated/authorized. The [FHWA-Funded Projects Status](#) report template is located at:

http://mtc.ca.gov/sites/default/files/Template_FHWA_Funded_Projects_Status.xlsx

- **Field Review**

For the PE phase of a **STP/CMAQ** project to be included in the draft plan, a field review must be scheduled to occur by June 30. To remain in the final plan the field review and related/required documentation, including the Preliminary Environmental Study (PES) if applicable, must be completed and accepted/signed off by Caltrans by September 30.

For the Right Of Way or Construction phase of a project to be included in the draft Annual Obligation Plan, the project must have undergone a field review with Caltrans AND all field review related/required documentation, including the Preliminary Environmental Study (PES) if applicable, submitted, signed and accepted by Caltrans by June 30.

This does not apply to projects for which Caltrans does not conduct a field review, such as FTA transfers, planning activities and most non-infrastructure projects.

- **HSIP Delivery Requirements**

Because of the importance of timely delivery of safety projects, the following applies to agencies with Highway Safety Improvement Program (HSIP) projects programmed in the federal TIP.

For project sponsors with HSIP funds in the PE phase of a project: A complete and accurate Request for Authorization (RFA) must be submitted to Caltrans for the PE phase of all of the agency's HSIP project(s) prior to any OBAG 2 STP/CMAQ project being added to the Annual Obligation Plan for that agency. The Caltrans-managed HSIP program has an obligation deadline for the PE phase of September 30. To meet this deadline, sponsors must have a field review (with all required documentation including the Preliminary Environmental Study (PES) if applicable, accepted by Caltrans) and submit the RFA for PE by June 30.

For project sponsors with HSIP funds in the CON phase of a project: A complete and accurate Request for Authorization (RFA) must be submitted to Caltrans for the CON phase of all of the agency's HSIP project(s) subject to the delivery deadlines noted below, prior to any OBAG 2 STP/CMAQ project for that agency being included in the Annual Obligation Plan.

HSIP Deadlines for purposes of the Annual Obligation plan are outlined below:

Unless a later date is identified in the Caltrans [HSIP Project Listing](#) at the following link: http://www.dot.ca.gov/hq/LocalPrograms/HSIP/delivery_status.htm)

Cycle 7 HSIP program:

PE Authorization: All PE phases have been submitted and authorized

CON Authorization: June 30, 2019 (RFA due April 30, 2019)

Cycle 8 HSIP program:

PE Authorization: All PE phases have been submitted and authorized

CON Authorization: December 31, 2019 (RFA due November 1, 2019)

Cycle 9 HSIP program:

PE Authorization: September 30, 2019 (RFA due May 31, 2019)

CON Authorization: December 31, 2021 (RFA due October 31, 2021)

Waiver request for unforeseen project delays:

A jurisdiction that has been proceeding with a project in good faith and has encountered unforeseen delays may request special consideration. A sponsor may be allowed to add projects into the annual obligation plan even if it has an outstanding project delay if Caltrans Local Assistance, MTC and the applicable BACTA reach consensus that the delay was unforeseen, beyond the control of the project sponsor, and not a repeated occurrence for the agency.

NOTE: Poor project management is not considered an unforeseen delay.

OBAG 2 Requirements

Projects funded in the One Bay Area Grant 2 Program (OBAG 2) will not be included in the annual obligation plan until the project sponsor has met applicable OBAG 2 requirements, such as submittal of the annual housing element reports to HCD by April 1 of each year or fully participating in the statewide local streets and roads needs assessment survey or providing updated information to the Highway Performance Monitoring System (HPMS).

Request for Authorization Review Period

For purposes of delivery of projects within the annual obligation plan, it is expected that sponsors schedule at least sixty to ninety days for Caltrans/FHWA review and approval of the Request for Authorization (RFA). This is to ensure delivery schedules adequately account for federal-aid process review.

SPOC Checklist

Starting in 2017, jurisdictions must have the SPOC checklist filled out and on file prior to projects being included in the annual obligation plan. A new checklist must be filled out whenever a new SPOC is assigned for that agency.

Inactive Obligations

FHWA has expressed significant concern regarding inactive project obligations. At no time are more than 2% of obligated funds to be inactive. The state, and bay area, are consistently over this maximum threshold. Under federal regulations, FHWA-administered projects must receive an invoice and reimbursement against federal funds at least once every 12 months following obligation. 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.

Caltrans requires project sponsors to submit invoices at least once every 6 months from the time of obligation (E-76 authorization) to ensure the invoice may be processed and the funds reimbursed in time to meet the federal deadline.

To ensure funds are not lost in the region, regional deadlines have been established in advance of state and federal deadlines. Under the regional project-funding delivery Policy (MTC Resolution 3606) 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.

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 agency can demonstrate the ability to meet regional, state and federal requirements.

Specifically, project sponsors with continued history of missing the Caltrans and regional 6-month invoice submittal deadline and the region's 9-month reimbursement deadline are subject to OBAG projects being removed from the Annual Obligation plan and reprogrammed to a later year in the federal TIP, and will have low-priority for including their OBAG 2 projects in the next Annual Obligation plan. OBAG 2 funds will only be included if capacity is available after all other requests have been considered, and the agency has demonstrated the ability to meet regional and state delivery deadlines.

Caltrans updates the inactive project obligation status reports weekly on the Local Assistance Inactive Project Information web page.

- **FAST Act Rescission**

There is a nationwide rescission of \$7.6 billion based on unobligated apportionment balances at the end of the FFY 2018-19. To ensure funds are not rescinded within the region, MTC will seek to advance projects from future years to capture any unused apportionment after the January 31 obligation deadline. Sponsors with projects scheduled for delivery in FY 2018-19 should note that unused funds after January 31 may be used up more quickly than prior years. Also, sponsors that commit to delivery in FFY 2018-19, but have not received an obligation, may possibly see their funds rescinded if other projects cannot be advanced to obligate all the remaining apportionment.

- **CTC-allocated state and federal funds**

In response to CTC concerns regarding delivery of CTC-administered projects, starting in 2018 many of the regional delivery requirements for federal funds will also apply to CTC allocated state and federally-funded projects.

- **CTC Allocation Plan**
Expanding on the success of the development and implementation of the regional annual obligation plan, MTC, working with the County Transportation Authorities (CTA's) and project sponsors, will develop and maintain a regional "CTC Allocation Plan" identifying the CTC-administered programs and projects, such as STIP, ATP and RRRRA (SB1) with CTC-allocation deadlines within the state fiscal year. It is the responsibility of the Single Point of Contact (SPOC) to ensure the Plan includes all projects from their agency that have applicable delivery deadlines within the fiscal year.
- **ATP and SB1 Reporting and Accountability**
Agencies receiving RRRRA (SB1) and ATP funds are required to report on the status of the projects on a regular basis. To ensure agencies meet the deadline, MTC expects reports to be submitted at least 15 days in advance of the CTC deadline. This helps ensure any errors or omissions can be corrected before the reports are due to the CTC/Caltrans. Agencies that miss the reporting/accountability deadline(s) will have OBAG funds subject to re-programming.
- **CTC Allocations**
Projects with funds requiring a CTC allocation, including STIP, ATP and RRRRA (SB1) must ~~receive~~ **submit** the CTC allocation request by January 31 **and receive the CTC allocation by March 31** of the year programmed unless there is a special circumstance (such as coordinating the delivery timeline with other fund sources or project schedules) agreed to by the respective Bay Area County Transportation Agency and MTC staff. Sponsors missing the regional CTC allocation deadline are subject to OBAG projects being removed from the Annual Obligation plan and reprogrammed to a later year in the federal TIP, and will have low-priority for including their OBAG 2 projects in the following annual obligation plan, until the sponsor can demonstrate the ability to meet regional and state delivery deadlines.
- **CTC Extensions**
Sponsors with projects requiring a CTC extension are subject to OBAG projects being removed from the Annual Obligation plan and reprogrammed to a later year in the federal TIP, and will have low-priority for including their OBAG 2 projects in the following annual obligation plan, until the sponsor can demonstrate the ability to meet regional and state delivery deadlines.
- **Local Bridge Seismic Retrofit Program (LBSRP) Delivery Requirements**
The Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 (Prop 1B) includes \$125 million of state matching funds to complete LBSRP. These funds provide the required local match for right of way and construction phases of the remaining seismic retrofit work on local bridges. Several projects within the program have not yet proceeded to construction – 12 years after voters approved

funding for the program and 24 years after the Northridge Earthquake and 29 years after the Loma Prieta Earthquake.

Each project in the LBSRP is monitored by Caltrans at the component level for potential scope, cost, and schedule changes to ensure timely delivery of the full scope as approved and adopted. Projects are “locked” by Caltrans for delivery at the beginning of each federal fiscal year (FFY) and **Project delivery milestones are determined by agreement between Caltrans and the local agency.** Local agencies are not allowed to change the schedules **once the agreements are signed.** Projects programmed in the current FFY, for which federal funds are not obligated by the end of the FFY, may be removed from the fundable element of the TIP at the discretion of the Caltrans.

Because of the interest of the California Transportation Commission (CTC) with delivery of the remaining projects in the Local Bridge Seismic Retrofit Program, project sponsors with remaining seismic bridge projects will need to provide MTC and the respective Bay Area County Transportation Agency with updated status reports at least twice a year.

Sponsors with seismic retrofit bridge projects in the current FFY that do not deliver by the ~~end of the FFY~~ **agreement date**, will have low-priority for including their OBAG 2 projects in the next Annual Obligation plan. OBAG 2 funds will only be included if capacity is available after all other requests have been considered, and the agency has demonstrated the ability to meet regional and state delivery deadlines.

NOTE: Per CTC proposed guidelines, project sponsors of LBSRP projects that miss the milestone delivery deadline identified in the LBRP bridge agreement are ineligible to receive future Highway Bridge Program (HBP) and RRRRA (SB1) competitive program funding from the CTC until the offending delivery milestone is met.