

Temporary Policy to Apply Escalation to Project O Regional Capacity Program and Project P Regional Traffic Signal Synchronization Program Prior Allocation – Proposed Revisions

Issue: Considering the unusual inflationary impacts currently being experienced, jurisdictions have requested that the Orange County Transportation Authority (OCTA) consider adjusting Project O Regional Capacity Program (RCP) and Project P Regional Traffic Signal Synchronization Program (RTSSP) project allocations for inflation based on the actual Engineering News Record (ENR) Construction Cost Index (CCI) as these projects approach the start of right-of-way (ROW) and construction phase work.

Background: Escalation is normally applied based on the ENR CCI based on the 20 city average at funding allocation to RCP projects that are allocated funds for ROW and construction phase and are programmed in years two and three, consistent with precept 12 and the project cost escalation as described on page 2-4 of Chapter 2 – Project Programming in the Comprehensive Transportation Funding Programs (CTFP) guidelines. This practice of applying escalation at allocation will not change.

Board-Approved Proposal: OCTA staff will apply an updated ENR CCI based on the actual 20 city average rate to the original Measure M2 (M2) RCP or RTSSP funding allocation from the 2018, 2019, 2020, and 2021 calls for projects (calls) for implementation, ROW, and construction, for fiscal years (FY) 2021, 2022 and an estimate for FY 2023 as applicable, subject to the following requirements:

- The request to adjust the allocation for escalation must be made by the jurisdiction before ~~an initial offer(s) has been made~~ a purchase agreement has been fully executed for property for ROW phase or before the jurisdiction has awarded the construction contract for the RCP or issued a purchase order for RTSSP implementation. This request is expected to be presented to the Board of Directors (Board) in December 2022, in concert with the September 2022 semi-annual review.
- Requests for escalation must be submitted no later than October 14, 2022, with resolutions due no later than November 9, 2022.
- An escalation request can only be made for projects that were allocated RCP and RTSSP funds for implementation, ROW or construction through the 2018, 2019, 2020, and 2021 CTFP calls.
- The request must include a resolution from the city council or Board of Supervisors that the jurisdiction is:
 - Authorized to request OCTA to apply an escalation adjustment to the original allocation,
 - Has justification due to jurisdiction-specific reasons,
 - Committing to meeting its original match rate and identifies the additional jurisdictional funding that will be added to the project to ensure the match requirement is met,
 - Notes the original allocation amount and year funds are programmed for ROW and construction, and

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- For ROW, identifies how much of the M2 funding has been committed based on offer letters and how much remains to be escalated.
- OCTA will provide the escalation rate that will be applied for the FY noted above and will be based on the ENR CCI 20 city average as of June for FY 2021 and FY 2022, and as of September for FY 2022 and FY 2023.
- OCTA will provide agencies with a document that identifies the escalation rate that was applied for each call cycle by programming year.
- In order to calculate the escalation rate for project allocations that were already escalated for FY 2021, FY 2022, and FY 2023, OCTA will strip out the escalation for those allocations for those years and then apply the adjusted escalation rate.
- For ROW phase that is underway, the jurisdiction must provide how much of the grant funding remains based on parcels for which the jurisdiction has not already ~~issued an offer letter~~ executed a purchase agreement.
- The match rate will not change, and eligible project costs will be reimbursed consistent with CTFP guidelines and the original match rate. This would require the jurisdiction to increase local funding at a minimum, proportionate to the updated allocation amount.
- The escalation adjustment will be considered for approval by the Board either as part of the semi-annual review process or concurrent with the September 2022 semi-annual review.
- Once the request for an escalation adjustment has been acknowledged as received by OCTA through an OCTA acknowledgement letter, the jurisdiction could proceed to contract award or offer letter or issuance of purchase order under its own risk that the requested allocation adjustment may not be approved by the OCTA Board and the jurisdiction would be responsible for the cost.
- The initial payment cannot be made to the jurisdiction until the Board approves the escalation adjustment to the allocation.
- For ROW phase that has already received an initial payment, the additional funding provided through escalation will be provided in the final payment, if applicable.
- The jurisdiction can only request an escalation adjustment once per project phase and allocation.
- Escalation adjustments will only be considered if there is sufficient Project O or Project P funding to support the adjustment. It should be noted that the escalation adjustments will reduce the amount of funding that is available for future calls.