




August 1, 2022

To: Regional Planning and Highways Committee

From: Darrell E. Johnson, Chief Executive Officer 

Subject: Temporary Policy Change to Address Extraordinary Inflation for Prior Regional Capacity Program and Regional Traffic Signal Synchronization Program Allocations

Overview

The Regional Capacity Program and Regional Traffic Signal Synchronization Programs allocate funds for roadway and signal projects through a competitive process, consistent with the Measure M2 Expenditure Plan. Due to recent extraordinary inflationary pressures, local jurisdictions have requested that the Orange County Transportation Authority provide assistance with advancing project commitments in light of the extraordinary cost escalation environment. Two recommendations to aid the local jurisdictions are presented for the Board of Directors' consideration.

Recommendations

- A. Authorize staff to accept local jurisdictions' reapplication of previously approved (2018, 2019, 2020, 2021) Regional Capacity Program and Regional Traffic Signal Synchronization Program grants for the 2023 call for projects, subject to the limitations described in this report.
- B. Authorize staff to apply one-time right-of-way and construction escalation adjustments to previously approved (2018, 2019, 2020, 2021) Regional Capacity Program and Regional Traffic Signal Synchronization Program projects, subject to the limitations described in this report.

Background

Measure M2 (M2) includes two competitive streets and roads programs known as the Regional Capacity Program (RCP) and the Regional Traffic Signal Synchronization Program (RTSSP). These programs allocate funds through a competitive process and target projects that improve mobility by considering factors such as degree of congestion relief, cost-effectiveness, and project

readiness. The Orange County Transportation Authority (OCTA) annually issues a call for projects (call) for both programs. The call is typically released in August, with grant applications due from local jurisdictions in October. Between November and May of the following year, OCTA staff and the Technical Advisory Committee (TAC) review, evaluate, score, and recommend funding allocations. Once awarded, a project cannot receive additional allocations of M2 funds due to the competitive nature of these programs. As such, M2 funding that is allocated through Comprehensive Transportation Funding Programs (CTFP) calls requires that local jurisdictions commit to covering any project cost overruns that may occur after a project is awarded.

Concurrent with the annual call, OCTA also works with local jurisdictions to consider changes to previously-awarded projects. M2 guidelines allow agencies to change implementation dates, extend completion dates, cancel projects, or shift cost savings between phases to accommodate project delivery challenges. However, the guidelines require local jurisdictions to adhere to their commitment to delivering the projects at the allocated grant amount and providing additional local match funding as needed for project cost increases.

At the May 2022 TAC meeting, the committee requested that OCTA consider ways to help local jurisdictions accommodate considerable cost increases for projects entering right-of-way (ROW) and construction phases. The issue involves projects which had been allocated RCP and RTSSP funding in recent years and have not started due to the coronavirus (COVID-19) pandemic or other factors. Local jurisdictions indicated that they are experiencing extraordinary cost increases in projects due to increases in the cost of materials and labor due to shortages, supply chain issues, and extraordinary inflation.

Currently, the primary option available for a local jurisdiction to address such issues is to cancel the RCP or RTSSP grant awarded to the project and to reapply in the next funding cycle using updated project cost estimates. With respect to inflationary adjustments, OCTA applies escalation adjustments to RCP grants for construction and ROW phases after a project is selected for an allocation. The escalation for years two and three of the call funding cycle is applied based on the Engineering News Record (ENR) Construction Cost Index (CCI) 20-city average rate that is available when the Board of Directors (Board) awards the grants.

Discussion

Staff presented potential options for discussion at the June 2022 Technical Steering Committee (TSC) and TAC meetings. After discussing the issues and M2 requirements, a general agreement was reached on two draft proposals that local jurisdictions can select from to address project challenges and receive the assistance requested.

The first proposal for Board consideration includes potential accommodations for the reapplication process for existing allocations in the 2023 call. The main elements include:

- Submittal of a new grant application reflecting updated project costs*.
- If the project is selected for funding by the Board:
 - Submittal of a cancellation request for the previously approved grant;
 - Transfer of funds from the canceled allocations to augment the 2023 call cycle funding level;
 - Allowance for the local jurisdiction to proceed with the project immediately following Board approval under specific terms; and
- If the project is not selected for funding, the local jurisdiction retains the previously approved grant.

*To be eligible for reapplication, the local jurisdiction must not have awarded a contract for construction for RCP projects, issued a notice to proceed for RTSSP implementation, or issued offer letters for ROW for RCP projects. This condition ensures OCTA is adhering to the requirement to augment local funds.

This proposal is consistent with the M2 Ordinance No. 3, requiring allocation of M2 funds to occur based on a countywide competitive process, but requires Board approval for a one-time policy change.

If approved by the Board, OCTA would accept project reapplications in the 2023 call for M2 allocations from the 2018, 2019, 2020, and 2021 calls exclusively. Both the TSC and TAC were supportive of this proposal. More detailed information on the eligibility criteria, timing, and the process are provided in Attachment A.

The second proposal for Board consideration is a process to allow OCTA to adjust the escalation rate applied to existing allocations. This process required more discussion, and comments received at the TSC meeting regarding escalation were incorporated into the draft proposal to apply escalation, which included:

- Require council or Board of Supervisor's approval of a resolution authorizing the local jurisdiction to request an escalation adjustment for construction or ROW phases because escalation adjustments also affect the required local match;
- Allow escalation adjustments in the ROW phase for future acquisitions that have not been issued an offer letter and construction phases that are not under a contract;
- Apply adjustments to allocations programmed through the 2018, 2019, 2020, and 2021 CTFP call cycles;
- Revise escalation adjustments to fiscal year (FY) 2020-21, FY 2021-22, and FY 2022-23 as these years were affected by COVID-19; and
- Use ENR CCI published 20-city average rates.

With Board approval, OCTA would accept requests, accompanied by a council or Board of Supervisors resolution, to adjust construction and limited ROW allocations for escalation. More detailed information on the eligibility criteria, timing, and process is provided in Attachment B. Attachment C provides historical information on the ENR CCI escalation factors for FY 2017-18 to FY 2021-22. The FY 2023 rate of escalation will be based on the published ENR CCI that will be provided as of September 2022.

Staff will return to the Board in December 2022 for consideration of the actual escalation to existing allocations based on requests from local jurisdictions. If local jurisdictions submit escalation requests for all eligible projects, the impact to the RCP and RTSSP could be in the \$5 million to \$9 million range, depending on the number of requests and the September 2022 ENR CCI.

Project cancellations for projects which may receive an allocation as part of the 2023 call would be considered as part of the staff report for RCP and RTSSP projects, which will occur in May/June 2023.

Summary

In response to requests from local jurisdictions for assistance with delivering projects during this period of extraordinary cost increases and inflation, staff is requesting Board approval to deviate from existing policy in order to provide a flexible reapplication process and escalation rate adjustments for existing RCP and RTSSP allocations that are yet to get underway.

Attachments

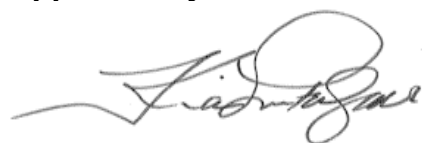
- A. Draft Proposal for Flexible Cancellation of Project Allocations to Reapply and Pre-Award Authority
- B. Draft Proposal to Apply Escalation to Project O Regional Capacity Program and Project P Regional Traffic Signal Synchronization Program Prior Allocation
- C. Construction Cost Index Escalation Factors, Fiscal Years 2017-18 to 2021-22 (As of June 15, 2022)

Prepared by:



Adriann Cardoso
Manager,
Capital Programming
(714) 560-5915

Approved by:



Kia Mortazavi
Executive Director, Planning
(714) 560-5741