

Call for Projects Lapsing of Funds

Summary of Policy

The Los Angeles County Metropolitan Transportation Authority (the agency) is required by federal (Title 23 U.S.C. 134 (g) & (h)) and state (P.U.C. 130303) statutes to prepare a Transportation Improvement Program (TIP) for Los Angeles County. The TIP allocates revenues across all transportation modes based on the planning requirements of the Transportation Equity Act of the 21st Century (TEA-21). The agency accomplishes this mandate, in part, by programming revenues through the Call for Projects. The Call for Projects programs funds over several years.

Before awarding funds, staff organizes the applications by mode, ranks them, and submits their selections to the Board for its approval.

Project sponsors must obligate funds in the year requested or risk reprogramming or de-obligation of funds. Therefore, if one year of project funding is lapsed, funding for subsequent years will also be lapsed, effectively de-obligating the entire project. The intent is to provide resources for projects that can use them. If funds are reprogrammed, funds must still be expended (Proposition C) or obligated (state and federal funds) within three years of the first day of the fiscal year in which funds were originally requested.

Historical Perspective

In June 1993 the Board directed staff to draft a lapsing policy that required project sponsors to obligate funds in the year requested or have those funds reprogrammed to a later time. The Board wanted to strongly encourage the timely use of bond revenues, one of the principal funding sources for projects in the “Call,” to avoid arbitrage penalties, interest

charges, and state and federal lapsing policies.

In October 1993 the Board established annual re-certification process for FY 1993-94 Multi-year Call for Projects and it adopted the lapsing policy subject to review by the Finance, Budget, and Efficiency Committee.

In July 2000, the Board revised its Lapsing Policy and applied to all locally financed project funding agreements signed after September 1, 2000. The revisions require grantees to demonstrate timely use of funds by executing a Memorandum of Understanding (MOU) with 90 days of receiving formal transmittal of the MOU from the agency, or by December 31 of the first fiscal year in which the funds are programmed, whichever date is later.

The revisions also require grantees to meet the project milestones identified in their scope of works. Contracts for construction or capital purposes must be executed within nine months from the date of completion of design. Project design must begin within six months from the milestone that grantees have identified. Funds programmed for project development or right-of-way costs must be expended by the second fiscal year following the year the funds were first programmed.

At the February 2004 Board meeting, several projects that were originally programmed with State Transportation Improvement Program (STIP) funds were re-programmed with Proposition C 10% and Proposition C 25% funds.

Consequently, their lapsing dates changed to accommodate this new arrangement. For example, projects that were funded in FY 2002, and prior were given 60 months from July 1st instead of 42 months to expend their funds. Due to State funding shortfalls, these projects were not allocated

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funds in a timely manner and lost a minimum of one year. This one-time change to the lapsing policy, for these projects, is commensurate with the time lost at the CTC. Projects with funds in FY 2003-04 and beyond will have no changes to the current Board-adopted Proposition C lapsing policy, as they were not delayed in their implementation.

In July 2004, the Board revised the existing lapsing policy for all locally funded agreements signed after July 1 2004. The current policy allows for the expenditure of the funds within 42 months from July 1 of the Fiscal Year in which the Funds are programmed. The change amends the current MOU lapsing policy Timely Use of Funds from 42 months to 36 months to expend funds. If projects are not progressing, funds could be reprogrammed to deferred projects that are "ready-to-go."

Last Board Action

July 27, 2004 – Call for Projects Lapsing of Funds

The Board approved 2004 Transportation Improvement Program Call for Projects Re-certification including the following:

- A. Re-certifying \$61.6 million in existing FY 2004-05 commitments from previous Countywide Call for Projects; authorizing the expenditure of funds to meet these commitments; receiving and filing \$74.3 million worth of time extensions for Los Angeles County projects with the staff recommended conditions identified;
- B. de-obligating \$4.3 million of previously approved Call for Projects and Regional Transit Alternatives Analysis (RTAA) Program funding;
- C. authorizing staff to de-obligate prior Call for Projects funding commitments during the annual Re-

certification and De-obligation cycle, if projects are not proceeding according to the existing lapsing policy;

- D. revising the agency's lapsing policy effective July 1, 2004, for all locally funded Call for Projects agreements;
- E. authorizing acceleration of a total of \$42.2 million in Regional Surface Transportation Program (RSTP) funds, of which \$32.4 million in RSTP and \$4.2 million in Proposition C 25% matching funds is for the Route 14 Carpool Lane from Pearblossom to P-8, and \$10.0 million in RSTP is for the Interstate 405 Carpool Lane from Route 90 to Interstate 10 pursuant to the State of California's offer;

Attachment

Lapsing Policy Justification

Timely Use of Funds/Reprogramming of Funds (from the MTA Memorandum of Understanding)

See Related

Public Utilities Code § 130303

Lapsing Policy Justification

The lapsing policy should seek to insure the timely use of funds. This is necessary in the capital program for three primary reasons, as follows:

- For Local funds, many Call for Projects projects will be funded with bond revenues. The MTA must be assured that the use of bond revenues will be timely in order to avoid arbitrage penalties and unnecessary interest charges in the form of higher than necessary bond issues;
- For State funds, the MTA must be assured that funds are used in a timely manner to avoid state lapsing policies and, in the case of the bond revenues, to support the state in efforts to avoid arbitrage penalties. In addition, many state grants are reimbursement grants which do not earn interest while they remain unused. This factor causes the efficacy of these funds to erode over time as the grants remain unused.
- For Federal funds, the MTA must insure the timely use of funds in order to avoid the erosion of their efficacy due to the fact that they also do not earn interest. Federal lapsing policies are often superseded by stricter state lapsing policies which seek to retain funds within the state. For this reason, local lapsing policies must be stricter still to avoid lapsing funds to other parts of the state.

[1993 CALL b\lapsing]

8. **TIMELY USE OF FUNDS / REPROGRAMMING OF FUNDS.**

8. Grantee must demonstrate timely use of the Funds by:

- (i) executing this MOU within ninety (90) days of receiving formal transmittal of the MOU from MTA, or by December 31 of the first Fiscal Year in which the Funds are programmed, whichever date is later; and
meeting the Project milestones due dates as agreed upon by the MTA and Grantee in Attachment C (Scope of Work) of this MOU. Contracts for construction or capital purchase shall be executed within nine (9) months from the date of completion of design. Project design (preliminary engineering) must begin within six (6) months from the identified milestone start date. Funds programmed by the MTA for Project development or right-of-way costs must be expended by the end of the second fiscal year following the year the Funds were first programmed; and
submitting the Quarterly Progress/Expenditure Report as described in Part II, Section 5.1 of this MOU; and
expending the Funds granted under this MOU for allowable costs within 42 months from July 1 of the Fiscal Year in which the Funds are programmed, unless otherwise stated in this MOU. All Funds programmed for (See W: Drive Lapsing Table for Lapsing Deadline date)

If the Grantee fails to meet any of the above conditions, the Project shall be considered lapsed and will be submitted to the MTA Board for deobligation. **Expenses that are not invoiced within 60 days after the lapsing date are not eligible for reimbursement.**

8.2 In the event that the timely use of the Funds is not demonstrated as described in Part II, Section 8.1 of this MOU, the Project will be reevaluated by the MTA as part of its annual Call for Projects Recertification/Deobligation process and the Funds may be deobligated and reprogrammed to another project by the MTA Board. In the event that all the Funds are reprogrammed, this MOU shall automatically terminate.