

# FRESNO COUNCIL OF GOVERNMENTS

## PROJECT DELIVERY POLICY & PROCEDURES

**DRAFT – JUNE 2022**

### **BACKGROUND:**

The Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”) provides \$550 billion of new federal investment in infrastructure – including: roads, bridges, and mass transit; water infrastructure; climate resilience; and broadband – over fiscal years 2022 through 2026. The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) administer the IIJA’s policies and programs.

The IIJA expands and continues the Surface Transportation Block Grant Program (STBG) and Congestion Mitigation and Air Quality Improvement Program (CMAQ). The federal Transportation Alternatives Program (TAP) is included in the state’s Active Transportation Program (ATP). Federal project delivery requirements for STBG, CMAQ, and FTA funds (among other programs) must be obligated within four years of apportionment. Funds not obligated are lost to the state.

FHWA delegated authority to Caltrans for distributing and approving federal apportionments. Caltrans is also responsible for managing project delivery of federal funds to ensure apportionments are not lost to the state. Enacted in October 1999, the “Use It or Lose It” provisions contained in Assembly Bill (AB) 1012, require regions to obligate federal funds within three years of receiving apportionments. To use these apportionments, federal obligation authority (OA) is provided on an annual basis and must be used in the federal fiscal year (FFY) it is provided.

AB 1012 also allows regions to carry over apportionments for up to three years. By allowing regions to borrow the OA from each other, it is Caltrans’ intent to manage the OA at a statewide level and make the OA available for up to three years, whenever possible. Caltrans maintains an OA target and the region is expected to meet the target through project delivery each year. Caltrans requires the region to develop an obligation plan to demonstrate how the region will accomplish this project delivery. OA apportionment will be guaranteed to the region until May 1<sup>st</sup> of each year. This is subject to change depending on OA usage at the state and according to Caltrans policy and procedures for managing local assistance obligation authority. OA funds not obligated are lost to the region.

The STBG, CMAQ, and ATP programs, as well as other state and federal funds, are subject to regional project delivery policies. These policies and procedures are critical to ensure that the region can use its state and federally apportioned transportation funding in a timely manner. By meeting delivery targets, the region can maximize its use of all funding on transportation projects. If the region is successful in meeting state mandated delivery deadlines, it may be rewarded with supplemental transportation dollars through August redistribution. Projects in each federal-aid program are awarded based on individual program guidelines and scoring criteria including project merit, eligibility, and deliverability within the established deadlines.

**POLICY:**

1. FCOG will oversee the use of regional OA, including remaining apportionment, to ensure the region uses its state and federally apportioned transportation funding in a timely manner and meets annual OA targets and regional needs.
2. Local agencies awarded federal-aid program funding shall meet obligation commitments and must comply with federal, state, and regional requirements.
3. Projects that do not meet obligation deadlines are subject to reprogramming based on apportionment availability.
4. Funding from project cost savings, de-obligations, or project cancellations will go back to the regional apportionment.
5. Project Delivery Advisory Committee (PDAC) shall meet regularly to review the status of project delivery, advise on issues, and ensure regional project delivery targets are met or exceeded.

**PROCEDURES:**

1. FCOG staff shall maintain a listing of federal-aid eligible projects by phase and fiscal year of delivery.
2. FCOG will monitor OA usage and provide quarterly online reports for local agencies and discussion at PDAC meetings.
3. Each year, FCOG will submit an obligation plan to Caltrans District Local Assistance Engineer on or before March 15<sup>th</sup>, so it is received by Caltrans HQ DLA on or before April 1<sup>st</sup>.
4. Obligation plans shall include an accurate listing of projects to aid with the regional OA management process.
5. Obligation requests, known as request for authorizations or E-76's, shall be submitted to Caltrans Local Assistance by February 1 of the year the funds are programmed in the Federal Transportation Improvement Program (FTIP) to meet regional deadline requirements.
6. Programmed projects shall be obligated by March 31 of the year programmed in the FTIP.
7. On April 15<sup>th</sup>, FCOG can approve Expedited Project Selection Procedures (EPSP) requests and post-programming adjustment requests on a first-come, first-served basis, the region's project delivery status, and the availability of surplus Obligation Authority (OA) to ensure we meet or exceed our annual OA target.
8. FCOG may consider approving EPSP's earlier than April 15<sup>th</sup> to facilitate delivery to the extent carry-over apportionment and obligation authority is available.
9. A project sponsor may submit E-76's anytime in the year prior to the end of the FFY however, FCOG strongly recommends submitting no later than May 1<sup>st</sup>, because apportionment is not guaranteed after May 1<sup>st</sup>.
10. Remaining apportionment for STBG/CMAQ can be expended at FCOG's discretion and may be used on projects on the current contingency list, post-programming adjustment requests, EPSP, Pavement Management System updates, or retain the funding for future programming cycles.
11. At any time in the programmed year, the project sponsor may determine that circumstances may justify changes to project programming as reflected in the FTIP and will submit project amendment requests to FCOG programming staff.
12. Amendment requests must be consistent with the funding program guidelines and the Regional Transportation Plan (RTP), must not affect the conformity finding in the FTIP, and must not negatively impact the deliverability of other projects in the regional program.

13. Post programming adjustment requests may not exceed may be requested for up to 15% of the programmed federal cost per phase but may not exceed \$250,000.
14. All federal and state funded projects must meet invoicing and reporting requirements of the respective funding programs.

FFY October 1 to September 30	Description of Action Required
October 1 to January 31	Project sponsor submits Request for Authorization to Caltrans Local Assistance
February 1 to March 31	Project sponsor to receive authorization to proceed (E-76) from Caltrans Local Assistance
March 1 to March 15	FCOG prepares obligation plan to submit to Caltrans Local Assistance
March 15 to April 15	FCOG reviews requests for available obligation authority surplus to ensure we meet or exceed annual OA target
April 15 to June 30	FCOG project delivery team to follow up on delivery commitments and continues to approve requests for available obligation authority surplus