

**Metro**

Metropolitan Transportation Authority

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metro.net**REGULAR BOARD MEETING
MARCH 26, 2009**

**SUBJECT: AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
AND FEDERAL FUNDING FOR LOS ANGELES COUNTY
TRANSPORTATION CAPITAL PROJECTS**

**ACTION: APPROVE TECHNICAL ADVISORY COMMITTEE PROCESS TO
IMPLEMENT 75-DAY DEADLINE FOR REGIONAL SURFACE
TRANSPORTATION PROGRAM FUNDS PROVIDED TO CITIES AND
COUNTY OF LOS ANGELES**

RECOMMENDATION

Approve the Technical Advisory Committee (TAC) process in Attachment A to implement the 75-day Los Angeles County deadline for up to \$215 million (or up to \$315 million with proposed state legislation) of flexible federal Regional Surface Transportation Program (RSTP) funds from the American Recovery and Reinvestment Act of 2009 (ARRA) to Cities and the County of Los Angeles for eligible transportation capital projects (such process establishes an interim deadline of April 17, 2009 for the Cities and the County of Los Angeles to submit required grant paperwork to Caltrans District 7, after which any funding not requested shall be reallocated to those Cities or the County of Los Angeles that had submitted grant requests).

ISSUE

On February 17, 2009, the President signed economic stimulus legislation known as the American Recovery and Reinvestment Act of 2009. Consistent with the President's intent to spur the national economy as soon as possible, this federal economic stimulus legislation includes "use-it-or-lose-it" provisions with extremely tight deadlines for project delivery. To succeed in securing the maximum amount of federal funding possible, public agency sponsors of eligible Los Angeles County transportation capital projects must be ready to meet the tight delivery deadlines that Congress and the State of California will be enforcing. Priorities and policies need to be established to allocate and program federal ARRA funds provided to Los Angeles County in a manner consistent with the national policy goal of preserving and creating jobs, while building critical transportation infrastructure.

POLICY IMPLICATIONS

The ARRA is a jobs preservation and creation bill meant to address the nation's economic crisis by accelerating the construction of needed transportation infrastructure. As such, the ARRA funding to be provided is accompanied by tiered deadlines meant to ensure

maximum use of the funds as early as possible on construction projects that preserve and create jobs. To succeed in securing ARRA funds, public agency sponsors of transportation capital projects must meet all applicable federal provisions (including, but not limited to, those pertaining to environmental clearance, reports, audits, labor protection, planning, Buy America, disadvantaged business enterprises, local preference prohibition, etc.), while concurrently expediting project delivery.

If any state fails to obligate its projects on time, other states or the U.S. Secretary of Transportation will have the opportunity to take the underutilized ARRA funds for other projects. Similarly, the State of California may allow regions and counties to take funds from other regions and counties that fail to deliver their projects. We believe that our best strategy to obtain any additional or bonus funding is to obligate our entire amount in a short time frame.

We have met with the Technical Advisory Committee several times to develop a methodology, described in Attachment A, for implementing the 75-day deadline established by the Board of Directors on February 26, 2009. Key aspects of this methodology are as follows (*with an italicized bullet below that we have added for further clarity*):

1. First Tier:

- Project must be in the Program.Metro.Net database as of February 6, 2009;
- For each project, project sponsor must submit “Request to Proceed with Construction Package” (RPC) to Caltrans District 7 by April 17, 2009;
- Caltrans District 7 approves the RPC and transmits to Caltrans Headquarters;
- Caltrans Headquarters approves the RPC by issuing an E-76 approval number by May 18, 2009;
- Project sponsors who did not submit RPC(s) to Caltrans District 7 by April 17, 2009 are not eligible for second tier funds that may be made available;
- Project sponsors who submit an RPC by April 17, but need to amend the RPC, may do so such that Caltrans Headquarters approves the amended RPC by May 18; and;
- *If for any reason, Caltrans does not approve an RPC submitted in good faith for such approval, only the funds in that RPC are put at risk; the agency remains eligible for other Tier 1 and Tier 2 obligations represented by other RPC(s).*

2. Second Tier:

- Unused ARRA funds from Cities who did not submit RPCs by the April 17 deadline are to be aggregated to determine the size of the second tier;
- Project(s) must be in the Program.Metro.Net database as of February 6, 2009;
- Project sponsor must submit RPC to Caltrans District 7 by May 18, 2009;
- Caltrans District 7 approves the RPC and transmits to Caltrans Headquarters;
- Caltrans Headquarters approves the RPC by issuing an E-76 approval number by June 1, 2009; and
- Project sponsors who submit an RPC by May 18, but need to amend the RPC, may do so such that Caltrans Headquarters approves the amended RPC by June 1.

OPTIONS

The use-it-or-lose-it nature of the ARRA dictates that Los Angeles County act fast to secure its share of ARRA funds for its eligible transportation capital projects. Along with the Technical Advisory Committee, we considered a purely first-come-first-served approach to re-distributing unencumbered ARRA funds. We and the TAC concluded jointly that a purely first-come-first-served option would be insufficient to provide the Cities and County of Los Angeles to obligate all their funds before potential redistribution to other successful grantees.

FINANCIAL IMPACT

We believe that the TAC recommendation will best position Cities and the County of Los Angeles to successfully secure the funds programmed for them by the Board of Directors on February 26, 2009. The recommendation also will position Los Angeles County for the redistribution of ARRA funds within and among regions and states.

BACKGROUND

The ARRA defines an important role for urban regional transportation agencies, such as us, in the job preservation/creation and transportation infrastructure efforts. One of the responsibilities of that role is to ensure that projects using ARRA funds are included and identified in the Transportation Improvement Program (TIP). Federal (Title 23 U.S.C. 134 (g) & (h)) and state (P.U.C. 130303) statutes require us to prepare a 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) and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU).

We accomplish our TIP mandates, in part, by programming revenues consistent with our 2001 Long Range Transportation Plan for Los Angeles County and consistent with our Measure R expenditure plan. By correspondence dated January 26, 2009, we proceeded to address TIP requirements by requesting that public agency sponsors countywide submit their project nominations for ARRA funding, which entails providing information required for our TIP database found online at Program.Metro.Net.

For the Cities and County of Los Angeles, the Board of Directors has approved our recommendation to reserve and then distribute by population the \$215 million (or \$315 million under proposed legislation) in RSTP funds from the ARRA (with a minimum of \$500,000 allocated to each jurisdiction). We have asked each public agency sponsor to identify their priority project(s), and we have included the highest priority projects in the required TIP amendment. We also are working with the Southern California Association of Governments (SCAG) to allow us to include additional projects as necessary. Once the ARRA money is released, public agency sponsors would obligate their target shares on eligible projects on a first-come-first-served basis using the TAC process shown in Attachment A.

NEXT STEPS

The ARRA has several local, regional, state, and federal deadlines that must be met over the next 18 months. Together with TAC members, we will meet with Caltrans District 7 Local Assistance staff to implement the TAC process in Attachment A.

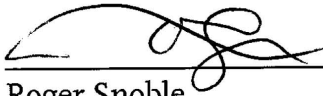
ATTACHMENTS

Attachment A – Summary of TAC Local, State, and Federal Deadlines

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ATTACHMENT A

March 2, 2009

To: Technical Advisory Committee

From: Jano Baghdanian, TAC member

Subject: Report from Subcommittee for American Recovery and Reinvestment Act (ARRA) Process

At the last TAC meeting, a subcommittee of TAC was formed to meet with Caltrans District 7 Local Assistance staff to discuss and recommend a “first-come, first-served” process for the submittal of projects that are eligible to receive funding under the ARRA.

On February 25, 2009 the TAC subcommittee (consisting of TAC members and staff from a number of cities, and the Los Angeles County Metropolitan Transportation Authority (Metro)) met with Caltrans Local Assistance staff at Caltrans District 7 and developed the following Los Angeles County ARRA process and deadlines for TAC’s consideration:

Eligibility to receive ARRA funds:

Metro has submitted a list of projects for each city and the County of Los Angeles that met the February 6, 2009 Program.Metro.Net deadline. The list submitted to the Caltrans Local Assistance staff for their use is based on an up to \$315 million level of funding that is pending State proposed legislation. Without the state legislation, the list will have to instead be reduced to an amount up to \$215 million countywide.

- 1) All project sponsors (cities and County of Los Angeles) that submitted projects by February 6, 2009 into the Program.Metro.Net database for inclusion in the Regional Transportation Improvement Program (TIP) remain eligible to receive ARRA funding. Actual receipt of the funds is contingent upon delivering a federally eligible project (as interpreted by Caltrans) by the Metro deadlines discussed below.
- 2) Cities wishing to exchange their ARRA funds on a dollar-for-dollar basis with other cities can do so through March 13, 2009 by submitting the necessary changes into the Program.Metro.Net database. A simple letter signed by both parties to the exchange will be required prior to changing the Program.Metro.Net data.
- 3) No project additions to the Program.Metro.Net database are allowed, except for a limited number of cities that did not submit sufficient projects on February 6, 2009 due to a lack of knowledge about the ultimate funding level for the ARRA program or for cities seeking to execute the exchange described above.
- 4) Project priorities established by cities and the County of Los Angeles in the database by February 6, 2009 can be changed through March 6, 2009 to reflect policy body actions. Contact Program.Metro.Net staff to change any previously submitted project priorities.

Metro, Caltrans, and SCAG will make every possible effort to amend the Program.Metro.Net database, the Regional TIP, and the Federal State TIP, in time to enable cities and the County of Los Angeles to meet their project approval deadlines. Failure to submit the required data necessary for Regional and Federal State TIP approval by March 13, 2009 will make it impossible for Metro, SCAG, and Caltrans to accomplish the necessary amendments.

Caltrans Process

Based on a “first-come-first-served” approach adopted by the Metro Board on February 26, 2009, there will be a two tier deadline for processing of “Request to Proceed with Construction Package” (RPC) by Caltrans District 7 Local Assistance staff:

First Tier Deadline (March 6-April 17, 2009)

Project sponsors that are on the Metro list submitted to Caltrans District 7 will have between today and Friday, April 17, 2009 to submit their RPCs to Caltrans for review and approval. Project sponsors should only submit RPCs for

the project that are on the February 6, 2009 Program.Metro.Net list for first tier processing by Caltrans. If a submitted project is not on the list, Caltrans will hold it for possible future processing.

- 1) Each RPC approved by the Caltrans District 7 Local Assistance Program staff will be transmitted to Caltrans Headquarters and, as required, to the FHWA. The project sponsor has met the first tier deadline to receive their allocation of ARRA funds if and when Caltrans HQ approves the RPC by issuing an E-76 approval number by Monday, May 18, 2009.
- 2) Project sponsors that miss the April 17, 2009 first tier RPC deadline will be presumed to be unable to receive ARRA funds for those projects that were not submitted on time. A second tier of funding to be made available to other agencies will be created based upon the number and amount of the projects that were not submitted by the April 17, 2009 deadline.

Second Tier Deadline (April 17 –May 18)

- 1) Project sponsors who do not meet the April 17, 2009 first tier RPC deadline are ineligible for any second tier funds that might be made available.
- 2) Caltrans and Metro will do an assessment of the total dollar amount of projects not submitted in the first tier shortly after April 17, 2009. Unused ARRA funds (cities that did not use their minimum allocation and failed to meet the April 17, 2009 first tier RPC deadline) will be aggregated to determine the minimum size of a second tier program.
- 3) Projects sponsors that submitted complete RPCs in the first tier will be eligible to compete for funds in the second tier.
- 4) Any available second tier funds will be distributed based on the ratio of the population of second tier eligible cities or the County of Los Angeles to the total population of all second tier eligible cities and the unincorporated area of Los Angeles County.
- 5) Eligible tier two Project sponsors that are on the Metro February 6, 2009 Program.Metro.Net will have between April 17 to May 18 to submit their second tier RPCs to Caltrans for review, consistent with their population share of tier two funds.
- 6) The project sponsor has met the second tier deadline to receive their allocation of ARRA funds if and when Caltrans HQ approves the RPC by issuing an E-76 approval number by Monday, June 1, 2009.

All PES forms submitted to Caltrans by the cities and the County will be reviewed and processed upon receipt. This will enable the rapid processing of RPC's by Caltrans upon 2nd tier reallocation of unused funds.

The TAC Subcommittee is recommending that the above process and deadlines be considered for the processing of projects for ARRA funding.