

**POLICY FOR THE TIMELY USE OF
REGIONAL SURFACE TRANSPORTATION PROGRAM (RSTP), CONGESTION MITIGATION AND
AIR QUALITY (CMAQ) AND TRANSPORTATION ENHANCEMENT ACTIVITIES (TEA)
PROGRAM FUNDS**

I. SUMMARY

This policy covers specified federal transportation funds and establishes that:

- The California Transportation Commission (CTC), per AB 1012, will take funds away and reprogram them if SACOG does not use the dollars apportioned to the region in a timely manner,
- Project sponsors in the SACOG region are responsible for obligating their funds by September 30th in the year programmed,
- Sponsors may request schedule changes, project substitutions or fund exchanges if the region is still able to use the funds and is not at risk of having them reprogrammed by the CTC,
- SACOG's priority will be to work with project sponsors toward the delivery of all programmed projects before considering the reprogramming of any funds,
- Project cost increases are allowed under specified conditions,
- SACOG staff will monitor project obligations, review requests for changes, substitutions and exchanges. As soon as possible, but not later than the second SACOG Board meeting after the September 30th obligation deadline, staff will recommend to the Board any reprogramming or exchanges needed to insure that the region does not lose funds to other regions during the current federal fiscal year (FFY),
- In general SACOG will seek to maintain programming equal to at least twice the amount of funds that Caltrans indicates the region needs to obligate in the both the current and the following FFYs,
- If the region is unlikely to meet its "Use It Lose It" quota by the state-mandated deadline for the current FFY, SACOG may and probably will take funds from project sponsors who did not meet the deadline for obligating funds in the prior FFY (or request acceptable changes, substitutions or exchanges) and
- As a last resort and in order to keep the region from losing funds, SACOG will reprogram or exchange funds to projects that can obligate funds in a timely manner. Priority for reprogrammed or exchanged funds will be given to Regional Priority Projects, projects that can obligate the funds quickly, and projects from sponsors that have shown a history of timely delivery of RSTP, CMAQ, TEA or other funds programmed by the Board.

II. GENERAL POLICY

Section 182.6 of the Streets and Highways Code as amended by Assembly Bill 1012 (Torlakson), requires the SACOG region to annually obligate an amount of funds specified by Caltrans under the RSTP, CMAQ and TEA programs. The annual deadline is normally September 30th, the end of the FFY. In order to meet these annual obligation requirements and not lose funds as specified in the law, SACOG, by adopting this policy, establishes its own policy on the process, schedule and mechanisms to be used in delivering projects on a timely basis.

This policy establishes responsibility for timely obligation of these funds by project sponsors, the process for proposing and processing project changes, substitute projects and the exchange of funds. It also specifies the authority of the SACOG Board to redirect funds to other projects when necessary to keep the region from losing funds to reprogramming by the California Transportation Commission (CTC), or as a last resort to exchange the funds with Caltrans for non-federal funds at a discount per *CTC Guidelines for Traffic Congestion Relief Act Exchange Program*.

Changes, substitutions, extensions and exchanges requiring SACOG Board approval are not routine. Projects that do not obligate their funds by September 30th are at risk of losing their RSTP, CMAQ or TEA funding.

The SACOG Board, SACOG staff and the sponsors of projects approved for RSTP, CMAQ and TEA funding by the Board must work together to implement these important projects as scheduled, or to use these funds in other ways that will preserve the funds for use in the region on important transportation projects.

SACOG staff will actively monitor the progress of project sponsors in obligating funds, and report project status to the SACOG Board and project sponsors regularly, as appropriate.

III. RESPONSIBILITIES

A. SACOG

SACOG is responsible for selecting projects for RSTP, CMAQ and TEA funding, programming those projects in the SACOG Metropolitan Transportation Improvement Program (MTIP), approving changes to project schedules, costs and scope, approving requests for substitute projects, exchanging funds with Caltrans when deemed appropriate, and taking whatever actions may be necessary to insure that all funds available to the region are used in the region.

B. County Agencies

The Sacramento Transportation Authority (STA), Yolo County Transportation District (YCTD), Placer County Transportation Planning Agency (PCTPA) and El Dorado County Transportation Commission (EDCTC) are responsible for:

1. providing SACOG with a recommendation on how RSTP, CMAQ and TEA funds can best be used in their counties;
2. assisting project sponsors in identifying and evaluating alternatives to project changes, substitutions or exchanges when projects are unable to obligate funds as programmed;
3. recommending whether the SACOG Board should approve or disapprove requests for project changes, substitutions or exchanges;
4. and recommending the preferred use of project cost savings.

County agencies encourage and monitor the development of standby or “shelf” projects as substitute projects. County agencies do not exist in Sutter and Yuba counties, and SACOG will

handle requests from project sponsors in these counties directly.

C. Project Sponsors

Project sponsors are responsible for obligating funds on the schedule established in the approved MTIP, and proposing changes, substitutions or exchanges when necessary to obligate RSTP, CMAQ and TEA funds in a timely manner. Project sponsors are encouraged to develop standby or “shelf” projects as substitute projects.

D. Caltrans

Caltrans is responsible for providing an annual estimate to SACOG of the amount of funds that must be obligated in each federal fiscal year for the RSTP, CMAQ and TEA programs, providing an accurate and timely accounting of the funds obligated on a monthly basis, and processing requests from project sponsors to authorize the expenditure of these funds on a timely basis.

E. California Transportation Commission

The CTC has authority to reprogram any funds not obligated in a timely manner by SACOG to any eligible project, anywhere in the state, and has established guidelines on how it will implement the provisions of Section 182.6 of the Streets and Highways Code. Once reprogrammed, these funds are lost to the region. **This loss is permanent, unlike the CTC State Transportation Improvement Program (STIP) “Use It or Lose It” policy for allocation, where reprogrammed funds are returned to the region in the next programming cycle.**

IV. SPECIFIC POLICIES

A. Cost Increase Policy (Incorporates and replaces existing SACOG Policy on Cost Increases, Resolution No. 20 –1993)

Project sponsors must notify SACOG staff, in a timely manner, when they determine that a project cannot be delivered for the amount of RSTP, CMAQ or TEA funds programmed in the MTIP.

SACOG staff is authorized to approve cost increases resulting from the engineer’s final estimate that do not exceed 120 percent of the programmed RSTP, CMAQ or TEA funds up to a maximum of \$500,000. In approving such cost increases staff will determine that the cost increase is reasonable and needed to deliver the project as originally programmed.

SACOG staff is also authorized to approve cost increases resulting from bids received as long as they do not exceed 120 percent of the engineer’s final cost estimate of the amount of RSTP, CMAQ or TEA funds needed up to a maximum of \$500,000. In approving such cost increases staff will determine that the cost increase is reasonable and needed to deliver the project as originally programmed.

Staff will provide written approval of all cost increases approved to project sponsors and

Caltrans, amend cost increases into the MTIP administratively, and periodically report to the SACOG Board on cost increases approved under this authority.

Cost increases in excess of 120 percent or \$500,000 authority granted to staff require SACOG Board approval as outlined in this policy.

All cost increases are dependent on a determination by Caltrans that sufficient obligational authority (OA) is available at the time authorization for the additional funds is requested.

B. Deadline for Obligation of Currently Programmed Projects

RSTP, CMAQ and TEA projects funded by ISTEA, and Phases I and II of TEA 21 will be required to obligate funds as scheduled in the 2000-01 MTIP as amended at the time this policy is adopted. Changes for these projects may be proposed and processed as outlined in this policy. The deadline for project sponsors to obligate funds is September 30th in the year programmed.

C. Deadline for Obligation of Future Programming of Projects

The programming of new RSTP, CMAQ or TEA funds in the MTIP establishes the deadline for obligating those funds. As a general rule, new funds programmed by SACOG will be programmed for obligation in either the first or second full FFY following the selection of projects.

The two-FFY programming time frame is established to encourage RSTP, CMAQ and TEA funds to be used on projects that can provide their benefits quickly and help the region meet state obligation requirements. Projects that may take longer than two years to obligate funds should be phased or reserved for other funding sources such as the State Transportation Improvement Program which provides a longer programming and obligation period. Grants for program operations such as new transit service or rideshare programs may be programmed for more than two years at the discretion of the SACOG Board.

When programming new funds, SACOG will seek to maintain programming equal to at least twice the amount of funds that Caltrans indicates the region needs to obligate in both the current and subsequent FFYs.

Once newly programmed projects are added to the MTIP, their schedule, scope and cost may not be changed except as outlined in this policy.

D. Minor Changes to a Project

Changes to projects that do not significantly change the use of funds as programmed in the MTIP, increase the amount of RSTP, CMAQ or TEA funds requested except as allowed by the cost increase authority granted staff in this policy, or revise the scope, schedule or definition of the project in such a way as to require a new air quality conformity determination by the SACOG Board, will be processed under the administrative amendment procedures established in the MTIP. Requests for minor changes to the project cost and scope should be for the purpose of delivering the programmed funds within the FFY programmed if at all possible.

E. Processing Requests for Minor Project Changes

Requests for minor project changes must be submitted in writing to SACOG. A copy of the request should be provided to STA, YCTD, PCTPA or EDCTC, as appropriate, for information purposes. In Sutter and Yuba Counties where a county transportation agency does not exist, the request need only be submitted to SACOG.

Staff will review and generally approve requests if they determine that the region will maintain programming equal to at least twice the amount of funds that Caltrans indicates the region needs to obligate in both the current and the following FFYs. If SACOG staff determines that the region will not maintain twice the amount of programming needed or that for other reasons the change might result in a loss of funds to the region, as a last resort and in order to keep the region from potentially losing funds, staff will recommend to the SACOG Board that the funds be reprogrammed or exchanged for use on another project that will keep the funds in the region.

F. Major Changes to a Project

Sponsors of projects (1) needing a cost increase in excess of the cost increase authority granted SACOG staff by this policy, (2) seeking a significant change in the use of funds as programmed in the MTIP, or (3) needing to change the scope, schedule or definition of the project in such a way as to require a new air quality conformity determination by the SACOG Board, may propose a major change in the project schedule, scope or cost as provided in this policy. Major changes are above and beyond those allowed to be processed administratively as minor changes to projects as outlined in section IV-D above.

Requests for major changes to the project cost and scope should be for the purpose of delivering the programmed funds within the FFY programmed if at all possible. Requests for major changes to a project will generally only be considered favorably by the SACOG Board if SACOG staff determines that such an action would maintain programming equal to at least twice the amount of funds Caltrans has indicated the region needs to obligate in both the current and the following FFYs, and is not be likely to otherwise result in a loss of funds to the region. If staff determines that the region will not maintain twice the level of programming needed or may otherwise lose funds, as a last resort and in order to keep the region from potentially losing funds, they will recommend that the SACOG Board reprogram or exchange the funds for use on another project that will keep the funds in the region.

G. Substitute Projects

Sponsors of projects that are unable to deliver their project by the obligation deadline may also propose substitute projects. These may be from within the sponsoring agency or jurisdiction, another agency or jurisdiction within the same county, or another county within the region eligible to receive and use the type of funds proposed.

Substitute projects may include advancing the obligation of funds on another project already programmed to use RSTP, CMAQ or TEA funds with a later obligation deadline. Project sponsors are encouraged to develop standby or “shelf” projects that could serve as substitute projects if the need arises.

Requests for substitutions should be for the purpose of obligating the programmed funds by the established deadline. Sponsors may request a one FFY extension of their deadline in their substitution request. Substitution requests will only be considered by the SACOG Board if SACOG staff determines that such a substitution would not be likely to result in a loss of funds to the region.

Project sponsors are encouraged to work with their county transportation agencies and seek substitute projects within their own counties before asking SACOG staff for assistance in identifying substitute projects.

H. Exchange of Funds

State law and the *CTC Guidelines for Traffic Congestion Relief Act Exchange Program* allows Caltrans to exchange limited amounts of “state-only” funds from the State Highway Account for federal RSTP, CMAQ and TEA program funds available to region in the state. The exchanges are made at a discount of \$0.90 “state-only” funds for each \$1.00 of RSTP, CMAQ or TEA obligational authority (OA). The federal OA rate varies annually and by program in the 10% to 13% range. This results in a net discount rate, or loss of funds to the region, of 19% to 22%.

The SACOG Board may execute such an exchange by agreement with Caltrans when necessary to keep the region from losing funds due to insufficient obligation of RSTP, CMAQ or TEA funds. SACOG may also execute such an exchange at the request of a project sponsor when the exchange would result in the timely and cost-effective delivery of the original or a substitute project.

The CTC Guidelines for the Traffic Congestion Relief Act Exchange Program requires SACOG to submit any requests for exchanges annually not later than March 15th. Based on this deadline, project sponsors must submit requests for exchanges to SACOG not later than January 31st.

I. Cost Savings and Project Cancellations

When project sponsors determine that their project can be completed for less than the amount of RSTP, CMAQ or TEA funds programmed in the MTIP or decide that they no longer intend to deliver the project as programmed, they should notify SACOG staff, and Sacramento Transportation Authority (STA), Yolo County Transportation District (YCTD), Placer County Transportation Planning Agency (PCTPA) or El Dorado County Transportation Commission (EDCTC) as appropriate, and in a timely manner. The project sponsor may propose a substitute project as outlined in Section IV-G above.

Within six weeks of such a notification, STA, YCTD, PCTPA or EDCTC may provide a recommendation to the SACOG Board on how such project savings should be used. In the absence of any other recommendation, SACOG staff will provide the Board with a recommendation on how such project cost savings could be used. Recommendations may include adding the funds to already programmed projects or new projects. Recommendations should seek to obligate the funds within the original deadline if at all possible.

J. Processing Requests for Major Changes, Substitutions, and Exchanges

Requests for major changes to a project, substitute projects or the exchange of funds must be submitted in writing by the project sponsor to SACOG, and STA, YCTD, PCTPA or EDCTC as appropriate. These county transportation agencies will have six weeks to provide comments or a recommendation for approval or disapproval to SACOG. After six weeks, the SACOG Board may act with or without a recommendation from the county agency. In Sutter and Yuba Counties where a county transportation agency does not exist, the request should be submitted by the project sponsor directly to SACOG.

Requests for substitutions and changes may be submitted at anytime, but not later than June 30th in the year programmed. Requests for an exchange of funds, due to Caltrans and CTC deadlines, must be received by January 31st in the year in which the funds are programmed to be obligated in the MTIP. These submittal deadlines allow SACOG adequate time to process requests, develop alternatives if necessary, execute exchanges through Caltrans and the CTC, and amend the MTIP if needed.

All requests must include a statement explaining the project delay or other reason for the program change, project substitution or fund exchange, and an MTIP Amendment Request form reflecting the change(s). Requests for substitute projects not currently programmed in the MTIP as using state or federal funds must also provide a new RSTP, CMAQ or TEA project application (including the required emissions-reduction calculation for CMAQ-funded projects). Requests for changes, substitutions or exchanges should still strive to obligate the funds within the original deadline if at all possible. Sample request letters, application forms and MTIP amendment forms are available from SACOG staff on request.

SACOG staff will review the request, prepare a recommendation to the SACOG Board on the requested action, and schedule the request for consideration by the SACOG Board at the next possible Board meeting. The staff review of the request must determine that the proposed change, substitution or exchange will either obligate the funds within the deadline, or if a delay is requested beyond the original deadline, will not result in a loss of funds to the region. In general SACOG will seek to maintain programming equal to at least twice the amount of funds that Caltrans indicates the region needs to obligate in the current federal fiscal year. In addition staff must find that approval of the request will not affect the air quality conformity finding on the MTIP, will not adversely affect the implementation of required Transportation Control Measures, and will not impact the implementation of other transportation projects in the region.

Project sponsors are encouraged to contact SACOG staff as soon as delivery problems or delays become apparent. SACOG staff will assist project sponsors in trying to identify acceptable program changes or substitute projects.

Changes, substitutions, extensions and exchanges requiring SACOG Board approval are not routine. Projects that can not meet their obligation deadline are at risk of losing their RSTP, CMAQ or TEA funding.

K. Reprogramming and Exchange of Funds by SACOG

In general, SACOG will seek to maintain programming equal to at least twice the amount of funds that Caltrans indicates the region needs to obligate in the both the current and the following FFYs.

SACOG's priority will be to work towards the delivery of all programmed projects before considering the reprogramming of any funds. However, as a last resort and in order to keep the region from losing funds, all projects programmed in the prior FFY that did not obligate their funds as programmed are subject to losing those funds.

As soon as possible, but not later than the second board meeting after September 30th of each year, SACOG staff will report to the SACOG Board on the status of all projects scheduled for delivery in the past and current FFY. This report will include an evaluation of existing projects in the pipeline: whether or not they are meeting internal schedules, the possibility of unanticipated delays due to environmental or right-of-way considerations, agency track record for on time delivery, etc.

SACOG staff will provide the Board with a risk assessment of the likelihood the region will meet the "Use It or Lose It" requirement established by Caltrans. If staff determines the region is at significant risk, it will provide the Board with recommendations, after having consulted with county agencies, on the reprogramming or exchange of funds needed to insure that SACOG funds are not lost to other regions. The purpose of such recommendations will be to direct funds to projects that can obligate funds within the state-mandated deadline.

Priority for reprogrammed or exchanged funds will be given to Regional Priority Projects, projects that can obligate the funds quickly, and projects from sponsors that have shown a history of timely delivery of RSTP, CMAQ, TEA or other funds programmed by the Board.