

Los Angeles County Metropolitan Transportation Authority (Metro)

2009 Transportation Improvement Program
Call for Projects

APPENDIX C

METRO, STATE AND FEDERAL LAPSING POLICIES

TIMELY USE OF FUNDS / REPROGRAMMING OF FUNDS

MOU LAPSING POLICY:

Grantee must demonstrate timely use of the Funds by:

- (i) executing an MOU within ninety (90) days of receiving formal transmittal of the MOU boilerplate from Metro, or by December 31 of the first Fiscal Year in which the Funds are programmed, whichever date is later;
- (ii) meeting the Project milestones due dates as agreed upon by Metro and the Grantee in the Scope of Work. 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 Metro 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;
- (iii) submitting the Quarterly Progress/Expenditure Reports; and,
- (iv) expending the Funds granted within 36 months from July 1 of the Fiscal Year in which the Funds are programmed.

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

In the event that the timely use of the Funds is not demonstrated, the Project will be reevaluated by Metro as part of its annual Call for Projects Recertification/Deobligation process and the Funds may be deobligated and reprogrammed to another project by the Metro Board. If Grantee does not complete an element of the Project, as described in the TIP Sheet, due to all or a portion of the Funds lapsing, the entire Project may be subject to deobligation at Metro's sole discretion. In the event that all the Funds are reprogrammed, the Project shall automatically terminate.

STIP LOA LAPSING POLICY:

The following is Metro's understanding of the State requirements for timely use of funds; the terms of this section are subject to change by Caltrans and/or the CTC.

- Programmed Funds are available for a project-specific allocation vote by the CTC only until the end of the Fiscal Year (FY) for which they are programmed. The Project Sponsor may request a one-time extension to the allocation deadline, however there is no guarantee it will be approved. The Project Sponsor must present Caltrans District 7 with either a completed Project-specific allocation request or a completed request for extension at least 60 days in advance of any CTC meeting in the fiscal year in which the Funds are programmed. Otherwise, the Funds may be rescinded by the CTC and Metro will not be responsible for replacing them. An allocation request and/or a request for extension will not be considered complete by Caltrans unless it includes Metro concurrence.
- After the Funds are allocated by a specific vote of the CTC for construction or capital purchase, the Project Sponsor has six (6) months to award a contract; or request a one-time extension from the CTC. However, the CTC is under no obligation to grant this extension. Otherwise, the Funds may be rescinded by the CTC and Metro will not be responsible for replacing them.
- After award of a contract, the Project Sponsor has up to thirty-six (36) months to complete such contract and expend and receive reimbursement of the expenditures.
- Funds allocated by the CTC for Project development or right-of-way costs must be expended by the end of the second Fiscal Year following the year in which the Funds were allocated.

The deadline for the Project-specific allocation vote can be extended by the CTC, but only if the CTC's action occurs by June of the Fiscal Year in which the Funds are programmed. The possible CTC extensions are one time and for up to 20 months, at the discretion of the CTC, but only if the CTC finds that an unforeseen and extraordinary circumstance beyond the control of the Project Sponsor has occurred that justifies the extension.

Following the allocation, at the end of the period allowed for expenditure and reimbursement of expenditures, subject to the requirements and regulations of Caltrans and the CTC, and to the extent allowed by Caltrans and the CTC, Project Sponsor shall relinquish any Funds not reimbursed to the State Highway Account for future programming at the CTC's discretion.

Prior to the programmed year, a STIP amendment reprogramming funds to a later year will postpone the application of the lapsing provision. A STIP amendment request must be made 90 days prior to the last CTC meeting or no later than March of the program year of the Fiscal Year prior to the Fiscal Year in which the Funds are programmed. A STIP amendment request will not be considered complete by Caltrans unless it includes Metro's concurrence. The CTC will not amend the STIP to change the program year of the funding after the beginning of the fiscal year for which the Project is programmed.

If Project Sponsor fails to meet any of the above conditions, the Project shall be considered lapsed by the CTC and will be removed from Metro's program of projects.

In addition, the Project Sponsor must execute an LOA within 90 days of receiving formal transmittal of the LOA boilerplate from Metro, or by December 31st of the first fiscal year in which the Funds are programmed, whichever is later, and demonstrate evidence of timely allocation of Funds programmed for the Project. Evidence of timely allocation includes an executed allocation request document, an approved Grant Application document with the Agency and Fund Allocation Request that the Project Sponsor submits to the CTC.

In the event an LOA is not executed and/or evidence of timely allocation of the Funds is not provided, the Project will be reevaluated by Metro as part of the annual Call for Projects Recertification/Deobligation process and the Funds may be deobligated and reprogrammed to another project by the Metro Board of Directors. If Project Sponsor does not complete an element of the Project, as described in the TIP Sheet, due to all or a portion of the Funds lapsing, the entire Project may be subject to deobligation at Metro's sole discretion. In the event the Funds are deobligated or reprogrammed, the Project shall automatically terminate without further action by either party.

LOA (FEDERAL FUNDS) LAPSING POLICY:

Project Sponsor must demonstrate timely use of the Funds by:

- (i) executing an LOA within ninety (90) days of receiving formal transmittal of the LOA boilerplate from Metro, or by December 31st of the first Fiscal Year in which the Funds are programmed, whichever date is later;
- (ii) meeting the Project milestones due dates as agreed upon by Metro and the Project Sponsor in the Scope of Work. Project preliminary engineering must begin within six (6) months from the identified milestone start date. Funds programmed by Metro for Project preliminary engineering or right-of-way costs must be expended by the end of the second fiscal year following the fiscal year the Funds were first programmed. Contracts for construction or capital purchase shall be executed within nine (9) months from the date of completion of design;
- (iii) submitting the Quarterly Progress/Expenditure Reports; and,
- (iv) obligating the Funds programmed within 36 months from July 1 of the first Fiscal Year in which the Funds are programmed.

Project Sponsor must demonstrate evidence of timely use or obligation of Funds. Evidence of timely obligation will be either an executed "Authorization To Proceed" document (Caltrans Version E-76) or an approved Grant Application document with the Agency.

In the event an LOA is not executed and/or evidence of timely obligation of Funds is not provided, the Project will be reevaluated by Metro as part of the annual Call for Projects Recertification/Deobligation process and the Funds may be deobligated and reprogrammed to another project by the Metro Board. If Project Sponsor does not complete an element of the Project, as described in the TIP Sheet, due to all or a portion of the Funds lapsing, the entire Project may be subject to deobligation at Metro's sole discretion. In the event the Funds are reprogrammed, the Project shall automatically terminate without further action by either party.