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DIVISION OF LOCAL ASSISTANCE Guidelines for Managing Local Assistance American Recovery and Reinvestment Act (ARRA) Funding April 14, 2009

BACKGROUND

On February 17, 2009, President Obama signed The American Recovery and Reinvestment Act of 2009 (the Act). Among its many provisions, the Act provides states with federal economic stimulus/recovery funding. California is set to receive approximately \$2.57 billion in federal apportionments for its Highway Infrastructure Investment Program.

The Act specifies a sub-allocation of 30% of these funds to the Regions through the Surface Transportation Program (STP) process which is “based on population”, and does not require sub-allocation of the remaining 70% designated to the State. The State of California (State) has 120 days from the date of apportionment by Federal Highway Administration (FHWA) to obligate half of the 70% of the stimulus funds that are not sub-allocated. Any funds not obligated within the first 120 days are to be redistributed to states that are able to meet the deadline. California has approximately \$900 million subject to the federal 120-day requirement that must be obligated by June 30, 2009 to prevent the loss of funds to other States; this is the State’s 50% of the 70%.

On March 27, 2009, Governor Schwarzenegger signed Assembly Bill x3 20 (ABx3 20). This new law established the distribution formula of federal economic stimulus funds, 62.5% to the regions and 37.5% to the state. This additional influx of “any area” funding to the regions will be subject to the federal 120-day deadline (June 30, 2009). On April 3, 2009, the Department’s Division of Transportation Programming released “final” recovery fund apportionment levels for the local Regions. This includes the recovery funds sub-allocated “based on population” and the additional ABx3 20 “any area” funds.

Description of Recovery Apportionments:

The specific recovery fund types that may be received by the Regions are:

“Based on Population”

- C200 – Areas with Population equal to or less than 200,000
- C230 – Urbanized Areas over 200,000 Population
- C250 – Rural Areas with Population under 5,000

“Any Area”

- C220 – Transportation Enhancements
- C240 – Available for Use in Any Area (flexible)

The federal reimbursement rate for projects using recovery funds can be up to 100%, at the discretion of the recipients/regions receiving the funding.

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DEADLINES

The following dates apply to the Regions based on the specific American Recovery and Reinvestment Act Highway Infrastructure Investment fund types (recovery fund):

- **June 30, 2009** – The 120th day from March 2, 2009, the apportionment date of the recovery funding by FHWA. A minimum and aggregate total of 50% of apportionments in “any area” must be obligated by the Regions and the State by this date.
Funds not obligated by this deadline will be lost by California and redistributed to other states that are able to obligate their 50% of the “any area” funds.
- **March 2, 2010** – All remaining funding in apportionments “based on population” and the “any area” funds must be obligated by the Regions and the State.
Funds not obligated by this deadline will be lost by California and distributed to other states that are able to obligate all their funds.
- **September 30, 2010** – Funds not obligated by this date will lapse.
This date applies to funds that are redistributed, as well as funds deobligated from projects.
- **September 30, 2015** – Final recovery fund deadline.
Funds not expended by this time will expire.

RESPONSIBILITIES:

Department:

1. It is the responsibility of the Department to oversee and monitor the use of local recovery funds. The Department will provide online reports for District Local Assistance Engineers (DLAEs) and the Regions (MPOs/RTPAs.)

Regions (MPOs/RTPAs):

1. It is the responsibility of each Region (MPO/RTPA) to ensure that projects using recovery funds are programmed in the FTIP.
2. It is the responsibility of each Region (MPO/RTPA) to ensure that any recovery funding programmed is obligated in accordance with the deadlines of the Act.
3. To expedite obligation of the recovery funds, Regions may consider swapping the recovery funds on projects that are already programmed in the FTIP through FTIP Administrative Modifications. Projects programmed in any of the four years of the FTIP may be advanced for delivery using the recovery funds.

Local Agencies:

1. It is the responsibility of each local agency to submit any Request for Authorization for projects using recovery funds in a timely manner and in accordance with the Local Assistance Procedures Manual (LAPM).
2. It is also the responsibility of each local agency to ensure that all Federal and State requirements as set forth in the LAPM are being adhered to when submitting a Request for Authorization. *(This includes, but is not limited, to the new federal Disadvantaged Business Enterprise (DBE) requirements.)*

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GUIDELINES

Obligating Recovery Funding:

1. Each Region (MPO/RTPA) is strongly encouraged to obligate at least 50% of their share of the “any area’ recovery funding prior to the June 30, 2009 deadline.
2. The Department and Regions (MPOs/RTPAs) need to collectively obligate approximately \$900 million of the “any area” recovery funds prior to June 30, 2009. Therefore, if this threshold of obligation is not met, the State will lose its remaining share of recovery funds to other states. The lost funds will be taken from those Regions (MPOs/RTPAs) that were unable to obligate its share of the “any area” funds and will be proportionate to their under-delivery.
3. Where appropriate and as may be needed, the Department will obligate the “any area” funds before obligating the funds based on population in order to successfully meet the 50% requirement, 120-day deadline.
4. All remaining recovery funding will need to be obligated by March 2, 2010.
5. Any Region (MPO/RTPA) that will be unable to use their share of the recovery funding received in a timely manner may transfer their share to another Region (MPO/RTPA). In such case, the Department will need to receive a letter, co-signed by both Regions (MPO/RTPA), agreeing to transfer of the recovery funds. It will be the responsibility of the donating and receiving agencies of the transfer, to adjust the programming amounts appropriately in the FTIP; the donating agency will have a decrease in programming capacity and the receiving agency will have an increase in programming capacity. Any replacement funding, as a result of the one-time transfer of additional recovery funding, will be outside the scope of oversight and responsibility of the Department.
6. ABx3 20 requires that, by June 1, 2009, Regions (MPOs/RTPAs) are required to relay to the Department the projected amount of recovery funds it intends to obligate/use towards the 120-day obligation deadline.
7. ABx3 20 also requires that, by February 1, 2010, Regions (MPOs/RTPAs) report to the Department for any recovery funds that will not be obligated within the “one-year to obligate” deadline.
8. ABx3 20 also authorizes the Department to redistribute the funds to other projects to ensure that California will continue to compete for additional funds through federal redistribution.
9. In addition to the use and obligation of recovery funding, Regions (MPOs/RTPAs) must ensure the usage of the regular current year federal-aid funds, during the duration of the Act. Current federal fiscal year (FFY) 2008-09 federal-aid formula funds, not used prior to September 30, 2009, will be lost to the State, as well as result in an inability to participate in the August Redistribution process.

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Receipt of Additional Recovery Funding:

1. Regions that obligate their entire share of the recovery funding may participate in redistribution of any recovery funding that the State could receive, from FHWA, from other states that were not able to use their share of the recovery funding within the Act.
2. When a Region has obligated 100% of its share of recovery funding and would like to submit additional request for authorization, the projects will be placed on a “first-come, first-served list”.
3. The Division of Local Assistance will use any additional recovery funding redistributed by FHWA on a “first-come, first-served basis”

This policy will be implemented effective March 2, 2009.