

Draft Proposal for Flexible Cancellation of Project Allocations to Reapply and Pre-Award Authority

Issue: Considering the extraordinary inflationary impacts currently being experienced, local jurisdictions have requested that the Orange County Transportation Authority (OCTA) consider the flexibility for local jurisdictions to apply for Comprehensive Transportation Funding Programs (CTFP) funds in the upcoming call for projects (call) for the same project that was approved in a prior grant cycle. This would allow the local jurisdictions to cancel the prior grant if successful in the new grant cycle or retain the prior grant if not successful in the new grant cycle. Further, local jurisdictions requested that OCTA consider pre-award authority.

Background: Currently, if a local jurisdiction wishes to cancel a project phase that has been allocated funds through the CTFP call for Project O Regional Capacity Program (RCP) and Project P Regional Traffic Signal Synchronization Program (RTSSP), and reapply for that phase in a future call, then the agency would typically cancel that project before applications are due in October. This would typically take place as part of the preceding September semi-annual review.

Draft Proposal: Under this proposal, OCTA will accept project applications from local jurisdictions that were previously approved in a prior call. The following conditions would apply:

- As part of the new application, the local jurisdiction must agree to a condition that if the project has an existing allocation and submits a new application for funding that is approved by the Board of Directors (Board), the original allocation will be cancelled in its entirety.
- OCTA staff would require that the funds that derive from the cancelled project phase will roll into the 2023 call.
- The application for 2023 call must be a complete application for the full funding request under the terms of the 2023 call guidelines.
- The scope in the application must be generally the same as the original project. In most cases, any expansion of project limits from the original application is not acceptable.
- A project is only eligible to be considered under a new application if the contract has not been awarded for construction phase for RCP projects, a notice to proceed issued for RTSSP projects, or offer letters issued for right-of-way phase. Basically, work cannot be started for the phase that is submitted for consideration of funding in the 2023 call.
- OCTA will allow pre-award authority for projects approved by the Board (typically May) and before the start of the next fiscal year (July). OCTA will not reimburse costs or count toward match secondary contract or internal staff costs that occur prior to Board approval.

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- The estimated timeline would be:
 - August/September 2022– OCTA issues call, subject to Board approval.
 - October 2022 – Applications due, must include the condition statement, must also request pre-award authority (and advancement to award contract) prior to July 1, 2023.
 - February 2023 – Request to cancel project is submitted as part of the March semi-annual review.
 - March 2023 – Technical Steering Committee and Technical Advisory Committee meetings with allocation recommendations, funding target would be increased to incorporate funds from existing projects that will be cancelled.
 - May 2023 – Planned Board action to approve 2023 call allocations. If pre-award authority and advancement are requested, jurisdiction may award a contract immediately following Board approval.
 - May/June 2023 – Staff sends notification to allocated applicants who reapplied for projects through this process that the original project allocation has been cancelled.
- If agreed to, changes will be recommended for the project application form to include the condition statement to cancel existing allocation and a check box for requesting pre-award authority.

Please contact Charvalen Alacar, M2 Local Programs Section Manager, for any questions at calacar@octa.net or (714) 560-5401.

Draft Proposal to Apply Escalation to Project O Regional Capacity Program and Project P Regional Traffic Signal Synchronization Program Prior Allocation

Issue: Considering the extraordinary inflationary impacts currently being experienced, local jurisdictions have requested that the Orange County Transportation Authority (OCTA) consider adjusting Measure M2 (M2) Project O Regional Capacity Program (RCP) and Project P Regional Traffic Signal Synchronization Program (RTSSP) project allocations for inflation based on the actual Engineering News Record (ENR) Construction Cost Index (CCI) as these projects approach the start of right-of-way (ROW) and construction phase work.

Background: Escalation is normally applied using the ENR CCI based on the 20-city average at funding allocation to RCP projects that are allocated funds for ROW and construction phase and are programmed in years two and three, consistent with precept 12 and the project cost escalation as described on page 2-4 of Chapter 2 – Project Programming in the Comprehensive Transportation Funding Programs (CTFP) guidelines. This practice of applying escalation at allocation will not change.

Draft Proposal: OCTA staff will apply an updated ENR CCI based on the actual 20-city average rate to the original RCP or RTSSP funding allocation from the 2018, 2019, 2020, and 2021 calls for projects (call) for implementation, ROW, and construction, for fiscal years (FY) 2020-21, 2021-22 and an estimate for FY 2022-23 as applicable, subject to the following requirements:

- The request to adjust the allocation for escalation must be made by the local jurisdiction before an initial offer(s) has been made for property for ROW phase or before the local jurisdiction has awarded the construction contract for the RCP or issued a purchase order for RTSSP implementation. This request is expected to be presented to the Board of Directors (Board) in December 2022, in concert with the September 2022 semi-annual review.
- Requests for escalation must be submitted no later than October 14, 2022, with resolutions due no later than November 9, 2022.
- An escalation request can only be made for projects that were allocated RCP and RTSSP funds for implementation, ROW, or construction through the 2018, 2019, 2020, and 2021 CTFP calls.
- The request must include a resolution from the city council or Board of Supervisors that the jurisdiction is:
 - Authorized to request OCTA to apply an escalation adjustment to the original allocation,
 - Has justification due to local jurisdiction-specific reasons,
 - Committing to meeting its original match rate and identifies the additional jurisdictional funding that will be added to the project to ensure the match requirement is met,
 - Notes the original allocation amount and year funds are programmed for ROW and construction, and
 - For ROW, identifies how much of the M2 funding has been committed based on offer letters and how much remains to be escalated.

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- OCTA will provide the escalation rate that will be applied for the FY noted above and will be based on the ENR CCI 20-city average as of June for FY 2020-21 and FY 2021-22, and as of September for FY 2021-22 and FY 2022-23.
- OCTA will provide local jurisdictions with a document that identifies the escalation rate that was applied for each call cycle by programming year.
- In order to calculate the escalation rate for project allocations that were already escalated for FY 2020-21, FY 2021-22, and FY 2022-23, OCTA will strip out the escalation for those allocations for those years and then apply the adjusted escalation rate.
- For a ROW phase that is underway, the local jurisdiction must provide how much of the grant funding remains based on parcels for which the local jurisdiction has not already issued an offer letter.
- The match rate will not change, and eligible project costs will be reimbursed consistent with CTFP guidelines and the original match rate. This would require the local jurisdiction to increase local funding at a minimum, proportionate to the updated allocation amount.
- The escalation adjustment will be considered for approval by the Board either as part of the semi-annual review process or concurrent with the September 2022 semi-annual review.
- Once the request for an escalation adjustment has been acknowledged as received by OCTA through an OCTA acknowledgement letter, the local jurisdiction could proceed to contract award or offer letter, or issuance of purchase order, under its own risk that the requested allocation adjustment may not be approved by the Board and the local jurisdiction would be responsible for the cost.
- The initial payment cannot be made to the local jurisdiction until the Board approves the escalation adjustment to the allocation.
- For a ROW phase that has already received an initial payment, the additional funding provided through escalation will be provided in the final payment, if applicable.
- The local jurisdiction can only request an escalation adjustment once per project phase and allocation.
- Escalation adjustments will only be considered if there is sufficient Project O or Project P funding to support the adjustment. It should be noted that the escalation adjustments will reduce the amount of funding that is available for future calls.

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