



Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

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**PLANNING AND PROGRAMMING COMMITTEE
MARCH 18, 2015**

SUBJECT: TRANSIT ORIENTED DEVELOPMENT PLANNING GRANT PROGRAM

ACTION: APPROVE REVISED LAPSING POLICY AND PROGRAM GUIDELINES

RECOMMENDATION

- A. Approve the revised Transit Oriented Development (TOD) Planning Grant Program Guidelines (Attachment B); and
- B. Approve the revised Lapsing Policy (Attachment C).

ISSUE

On February 27, 2014 the Board approved Round 4 of the Transit Oriented Development Planning Grant Program ("Program). In July 2014, staff received 17 applications requesting a total of \$8,716,446 in funds. On January 29, 2015, the Board awarded \$6,325,000 in funding to 14 projects. The Board also directed staff to develop an appeal process that would provide unsuccessful applicants an opportunity to appeal funding decisions (see Attachment A - Board Motion) and develop a deobligation process for non-performing projects. Staff has developed both processes and has incorporated them into the Program Guidelines and Lapsing Policy. Staff requests Board approval of the revised Guidelines and Lapsing Policy.

DISCUSSION

Background

The Program spurs the adoption of local land use regulations that create a regulatory environment supportive of TOD around station areas and adjacent transit corridors. TODs increase accessibility and utilization of public transportation. Eligible activities for funding include, but are not limited to: new or amended specific plans, ordinances, overlay zones or general plans; transit village development districts, and environmental studies required for the new or amended regulatory documents. Since 2011, the Board has released four funding rounds and awarded \$21.5 million to 36 projects.

Funding Appeal Process

Consistent with Metro's Call for Projects, the Technical Advisory Committee (TAC) will hear and discuss funding appeals for the Program. On February 4, 2015, staff presented to the TAC a draft of both the Program's Appeals Process Protocol and Guidelines on Funding Appeals. The TAC voted and approved both documents. Language regarding the appeals process has been incorporated by staff into the Program Guidelines.

Deobligation Process

In order to avoid deobligation, grantees must demonstrate timely use of funds and implementation of the approved statement of work as described in both the revised Guidelines and Lapsing Policy. In the event that timely use of funds is not demonstrated, staff will provide notice of deobligation of funds to non-compliant grantees. Grantees recommended for deobligation will have an opportunity to appeal to Metro's Technical Advisory Committee through the annual budget recertification of funds/TOD Planning Grant Program Deobligation process using the above mentioned Guidelines and protocol. Deobligated funds may be reprogrammed to another project by the Board. Language regarding the deobligation process has been incorporated into the Guidelines and Lapsing Policy.

DETERMINATION OF SAFETY IMPACT

There is no negative impact to safety of our employees and/or patrons.

FINANCIAL IMPACT

The FY15 budget includes \$200,000 in the Subsidies to Other Budget, Cost Center 0441 Project 465561, Transit Oriented Development Grant Program Round 4. Since this is a multi-year project, the Cost Center Manager and Chief Planning Officer, Countywide Planning and Development will be accountable for budgeting the cost in future years, including any option exercised.

Impact to Budget

The Short Range Transportation Plan (SRTP) identified \$24,600,000 in funds for the Program from FY13 through FY19. The program is funded by a combination of Measure R 2% (Metro Rail Capital – System Improvements, Rail Yards, and Rail Cars) and Measure R 3% (Metrolink Capital Improvement Projects within Los Angeles County - Operations, Maintenance, and Expansion). Other sources of funds were considered. However, these projects meet the criteria for these types of funds. Should other eligible funding sources become available, they may be used in place of the identified funds.

To date, the Board has awarded \$21,574,997. At the February 24, 2014 meeting, the Board approved a funding cap of \$5,000,000 per round and biennial Program cycle. For the release of Round 5 (FY16), a total of \$3,025,003 remains in funds. There are no

funds available in the SRTP for Round 6 (FY18) assuming the balance of \$3,025,003 is awarded in Round 5. Therefore, programming funds beyond 2016 would have to be considered in the next iteration of the SRTP and/or would require a reduction in funds for another SRTP-budgeted project.

Should TAC recommend unsuccessful applicants for award and Board approve TAC funding recommendations, it will reduce the availability of funds for a 5th round. If the Board increases Round 4 funding for these new awards and still desires to offer \$5,000,000 in Round 5 and 6, funding would have to be identified from other programmed SRTP projects.

ALTERNATIVES CONSIDERED

The Board may choose not to approve the revised Program Guidelines and Lapsing Policy. We do not recommend this alternative as it will conflict with the Board's directive that all Metro competitive grant programs institutionalize an appeals process. Furthermore, the Board also directed staff to implement a deobligation of fund process for non-compliant grantees.

NEXT STEPS


With Board approval, staff will include the revised Lapsing Policy in all Grant Agreements (Rounds 1-4). If necessary, staff will provide notice of deobligation of funds to non-compliant grantees. Grantees will have an opportunity to appeal staff's recommendation for deobligation of funds to the TAC as part of the annual budget recertification of funds/TOD Planning Grant Program Deobligation process.

Following the Board of Directors' consideration, staff will initiate the appeals process for the Round 4 unsuccessful applicants and anticipates that the appeals would be considered by the TAC on April 1st, 2015. If the TAC recommends a project for funding, staff will return to the Board in May to seek funding approval of the TAC's recommendations.

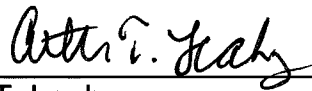
ATTACHMENTS

- A. Board Motion 23.2 from January 29, 2015
- B. Transit Oriented Development Planning Grant Program Guidelines
- C. Transit Oriented Development Planning Grant Program Lapsing Policy

Prepared by: Rufina Juárez, Transportation Planning Manager, (213) 922-7405
Jenna Hornstock, Deputy Executive Officer, (213) 922-7437
Calvin Hollis, Managing Executive Officer, (213) 922-7319



Martha Welborne, FAIA
Chief Planning Officer



Arthur T. Leahy
Chief Executive Officer

23.2

MOTION BY DIRECTORS NAJARIAN AND ANTONOVICH

January 29, 2015

Regular Board Meeting

TOD Planning Grant Program Round 4 - Item 23

MTA staff completed the solicitation, evaluation and proposed award of transportation oriented development (TOD) round 4 grants, but did not incorporate, consistent with virtually all other LACMTA call funding opportunities, a process whereby cities can appeal applications not recommended for funding.

Appeal opportunities are crucial to ensure; that grant processes are evenly administered with equal outreach, staff assistance and guidance available to all jurisdictions including the County of Los Angeles; that grant processes are entirely transparent and objective with no perception of uneven scoring or bias and; that the limited funding available is directed to those city/County projects promising the greatest transportation benefit, with completion by the proposed schedule and within the proposed project budget.

LACMTA's legislatively-mandated technical advisory committee (TAC), with membership representing the entire county, has long served as the group to which cities and LACMTA staff have trusted to hear and make recommendations on the relative merit of funding appeals. This long standing county-inclusive process is generally accepted as the best and fairest method to vet disagreements in application scoring and funding recommendations.

WE THEREFORE MOVE THAT, the CEO direct MTA staff to coordinate with and schedule an appeal process with TAC for this and all future TOD grant rounds; and

WE FURTHER MOVE that, MTA staff report back to the planning and programming committee in February March 2015 on the appeal process for board approval.

Los Angeles County Metropolitan Transportation Authority

METRO

**Transit Oriented Development
Planning Grant Program Guidelines**

Round 4

0103/1526/20145

I. INTRODUCTION AND PURPOSE

Through the Transit Oriented Development Planning Grant Program (“Program”), the Los Angeles County Metropolitan Transportation Authority (“LACMTAMetro”) provides funds to local governments to encourage the development and adoption of land use regulations that promote sustainable, transit-oriented design principles. Calls for applications will typically be held biennially in even-numbered years.

Transit Oriented Development (TOD) projects take advantage of proximity and access to public transit through appropriate density, reduced reliance upon private automobiles, and enhanced walkability. Such development may increase the accessibility and utilization of public transportation. This program will provide funds to local governments to adapt their existing general plans, specific plans, zoning, and other ordinances to encourage such sustainable development forms.

II. PROGRAM OBJECTIVES

The primary objectives of the Program are to provide funding to:

- Increase access to transit by assisting local governments to accelerate the adoption of TOD regulatory frameworks;
- Improve the transit network and increase utilization of public transit by reducing the number of modes of transportation necessary to access regional and local transit lines;
- Further the reduction in greenhouse gases through encouraging in-fill development along transit corridors and transit use; and
- Support and implement sustainable development principles.

III. ELIGIBLE APPLICANTS

Cities and the County of Los Angeles with land use regulatory jurisdiction:

- Within ½ mile of Metrolink Stations in Los Angeles County and/or adjacent and relevant transit corridors
- Within ½ mile of the existing, planned, or proposed Metro rail or bus rapid transit stations and/or adjacent and relevant transit corridors

Applicants seeking funds along transit corridors **MUST** demonstrate the corridor’s relevancy to the development of TOD around the station area. The corridor may, for example, connect the station area to significant activity centers, carry significant pedestrian traffic to and from the station area, and/or connect the station area to other areas with significant transit service.

IV. ELIGIBLE ACTIVITIES

Funding is for proposals that will result in the elimination of regulatory constraints to TOD projects and the development of specific regulatory documents that promote TOD and can be adopted by governing bodies, such as:

- New or amended specific plans;
- New or amended ordinances;
- New or amended overlay zones;
- New or amended general plans;
- Transit Village Development Districts; and
- Environmental studies required to support the new or amended regulatory documents.

Such regulatory changes will encourage development near transit stations, provide for appropriate density given the immediate access to transit, reduce dependency on the private automobile and provide for strong pedestrian and bicycle connections between development sites and transit.

V. EVALUATION CRITERIA

Proposal will be evaluated according to the following criteria and associated scores.

Section 1– Project Scope (up to 55 points)

- a. *Project Area/Targeted Communities (Up to 5 points):*
 - Concise and clear description of the project area, targeted communities, and specific transit stations and/or corridors the project will impact.
 - The station and/or corridor significance to the local community and larger region including importance for the transit network and ridership.
- b. *Regulatory Constraints (Up to 15 points):*
 - Clear description of the specific regulatory constraints and/or general land use challenges/ barriers in the project area.
 - Degree to which constraints and barriers are those which the Program was created to address (i.e. outdated parking requirements, height or density restrictions, lack of bicycle and pedestrian access and utilization incentives, etc.).
- c. *Proposed Regulatory Documents (Up to 20 points):*
 - Clear description of the regulatory documents that will require revision and/or new regulatory documents. Documents may include

- a community's general plan, zoning ordinances, parking codes, specific plans, Transit Village District documents, etc.
 - Extent to which regulatory documents promote Program objectives.
- d. *Impact of Proposed Regulatory Changes (Up to 15 points):*
- Thoroughness in explaining how the regulatory changes directly mitigate the constraints previously identified.

Section 2 – Public Participation (up to 10 points)

- a. *Outreach Plan (Up to 5 points):*
- Clear identification of all impacted communities and stakeholders affected by the proposed regulatory changes.
 - Demonstration of a well thought out public participation and outreach program necessary to bring the regulatory changes forward.
- b. *Community and Policy Maker Support (Up to 5 points):*
- Demonstration that community stakeholder and policy maker support for the types of regulatory changes being proposed exist. This could be evidenced by prior actions implementing similar changes elsewhere in the community, specific direction by elected officials, letters of support, etc.

Section 3 – Future Implementation (up to 10 points)

- a. *Opportunity Sites (Up to 5 points):*
- Ability to link regulatory changes with the near term potential for implementing TOD through the availability of suitable opportunity sites, particularly if controlled by the applicant.
- b. *Next Steps (Up to 5 points):*
- Demonstration of a well thought out long term plan for building a successful TOD area once grant funded regulatory changes are adopted.

Section 4 - Project Implementation Plan (up to 25 points)

- a. *Project Schedule, Tasks, and Budget (Up to 20 points):*
- Schedule demonstrates the overall approach for project completion and that the project can be completed in 36 months.
 - Principle tasks that will be undertaken to complete the project are identified, reasonable, and realistic.
 - Overall expenditures (local and grant) as well as expenditures per task are both realistic and highly cost efficient, maximizing the impact of the funds requested.
- b. *Project Management (Up to 5 points):*
- Clear description of team composition, including the roles and responsibilities of city/county staff and/or consultants.

A panel of LACMTA staff will evaluate all applications. Applicants who do not receive awards will have an opportunity to appeal to LACMTA's Technical Advisory Committee following Board of Directors' action on staff recommendations for award. After LACMTA Board of Directors' action, unsuccessful applicants will have an opportunity to appeal to LACMTA's Technical Advisory Committee. Unsuccessful applicants will receive an email by LACMTA notifying them of the opportunity to appeal. Unsuccessful applicants interested in presenting their appeal must reply to LACMTA's project manager.

VI. ELIGIBLE COSTS

- a. Applicants will develop and submit a budget as part of the application. Funds awarded will not exceed the budget submitted and may be less if the key objectives can be achieved at lower costs. Any cost overruns shall be the responsibility of the applicant.
- b. Both third party consulting costs and internal staff costs for staff directly providing services with respect to the project will be eligible for funding. Such eligible costs shall not include overtime costs.
- c. Costs associated with community outreach and meeting CEQA requirements are eligible costs.

VII. NON-ELIGIBLE COSTS

- a. Costs such as equipment, furniture, vehicles, office leases or space cost allocations, food or similar costs.
- b. Applicant staff overtime costs, mileage reimbursements, and use of pool cars.

VIII. GENERAL AND ADMINISTRATIVE CONDITIONS

- a. **Duration of Grant Projects.** Projects' schedules must demonstrate that the projects can be completed, including related actions by the governing body (if any), within 36 months of award.
- b. **Governing Body Authorization.** Completed TOD Planning Grant Program applications must include authorization and approval of the grant submittal and acceptance of award by the governing body, if required, within three months of notification of award.
- c. **Grant Agreement.** Each awarded applicant must execute a Grant Agreement with LACMTAMetrol. The Agreement will include the statement of work, including planning objectives to be achieved, the financial plan

reflecting grant amount and any local match, if applicable, as well as a schedule and deliverables. The schedule must demonstrate that the project will be completed within 36 months from the date of execution.

- d. **Funding Disbursements.** Funding will be disbursed on a quarterly basis subject to satisfactory compliance with the expenditure plan and schedule as demonstrated in a quarterly progress/expense report supported by a detailed invoice demonstrating the staff and hours charged to the project, any consultant hours, etc. An amount equal to 5% of each invoice will be retained until final completion of the project and audits. In addition, final scheduled payment will be withheld until the project is complete and approved by LACMTA and all audit requirements have been satisfied. All quarterly reports will be due on the last day of the months of October, January, April, and July.
- e. **Audits.** All grant program funding is subject to LACMTA audit. The findings of the audit are final.

IX. Deobligation of Funds. Grantee must demonstrate timely use of the Funds and effective implementation of project scope of work by:

- i. Executing the Agreement within sixty (60) days of receiving formal transmittal of the Agreement from LACMTA.
- ii. Meeting the Project milestone and deliverable due dates as stated in the Project Schedule and Budget (Attachment A), Scope of Work (Attachment B), and Project Milestones Schedule (Attachment D2).
- iii. Timely submitting of the Quarterly Progress/Expense Reports (Attachment D1) as defined in Part II, Section 2 of the Agreement and the Reporting and Expenditure Guidelines (Attachment C); and
- iv. Expending funds granted within thirty-six (36) months from the date the Grant Agreement is fully executed.
- v. Procuring contract/consultant to complete grant Scope of Work (Attachment B) within six (6) months of agreement execution with LACMTA.
- vi. Notifying LACMTA as soon as grantee is aware of any changes and circumstances which alter the eligibility of the Board approved project.

In the event that timely use of funds and effective implementation of the project scope of work is not demonstrated, the Project will be reevaluated by LACMTA as part of its annual budget recertification of funds/TOD Planning Grant Program Deobligation process and the Funds may be deobligated and reprogrammed to another project by the LACMTA Board of Directors. Prior to LACMTA Board of Directors' action to deobligate funds, Grantees

recommended for deobligation will have an opportunity to appeal to LACMTA's Technical Advisory Committee. Grantees will receive a letter by LACMTA notifying them of the opportunity to appeal. Grantees interested in presenting their appeal must reply to LACMTA's project manager.

Los Angeles County Metropolitan Transportation Authority
Transit Oriented Development Planning Grant Program

REVISED LAPSING POLICY
3/26/2015

GRANT AGREEMENT LAPSING POLICY

Grantee must demonstrate timely use of the Funds and effective implementation of project scope of work by:

- (i) Executing a Grant Agreement within sixty (60) days of receiving formal transmittal of the Grant Agreement by LACMTA.
- (ii) Meeting the Project milestone and deliverable due dates as stated in the Project Schedule and Budget (Attachment A), Scope of Work (Attachment B), and Project Milestones Schedule (Attachment D2).
- (iii) Timely submitting of the Quarterly Progress/Expense Reports (Attachment D1) as defined in Part II, Section 2 of this Agreement and the Reporting and Expenditure Guidelines (Attachment C); and
- (iv) Expending funds granted within thirty-six (36) months from the date the Grant Agreement is fully executed.
- (v) Procuring contract/consultant to complete grant Scope of Work (Attachment B) within six (6) months of agreement execution with LACMTA.
- (vi) Notifying LACMTA as soon as grantee is aware of any changes and circumstances which alter the eligibility of the Board approved project.

In the event that the timely use of the Funds and effective implementation of project scope of work is not demonstrated the Project will be considered lapsed and reevaluated by LACMTA as part of its annual budget recertification of funds and TOD Planning Grant Program deobligation process. ~~and the~~ Funds may be deobligated and reprogrammed to another project by the LACMTA Board of Directors. **Expenses that are not invoiced within sixty (60) days after the lapsing date are not eligible for reimbursement.**

Administrative extensions may be granted under the following conditions:

- (i) Project delay due to an unforeseen and extraordinary circumstance beyond the control of the project sponsor (legal challenge, act of God, etc). ~~Inadequate staffing shall not be considered a basis for administrative extensions.~~
- (ii) Project delay due to an action that results in a change in scope of work or project schedule that is mutually agreed upon by LACMTA and the project sponsor prior to the extension request.
- (iii) Project fails to meet completion milestone, however public action on the proposed regulatory change(s) has been scheduled and noticed to occur within 60 days of the scheduled completion milestone.

Upon full execution of agreement, Grantee has committed to having the staffing necessary to fulfill the scope of the project. Therefore, inadequate staffing shall not be considered a basis for administrative extensions or appeal of deobligation of funds.

If Grantee does not complete an element of the Project, as described in the Scope of Work (Attachment B), due to all or a portion of the Funds lapsing, the entire Project may be subject to deobligation at LACMTA's sole discretion. In the event that all the Funds are reprogrammed, the Project shall automatically terminate.