

FINAL DRAFT

DIVISION OF LOCAL ASSISTANCE Guidelines for Managing Local Assistance American Recovery and Reinvestment Act (Recovery Act) Funding July 7, 2009

BACKGROUND

On February 17, 2009, President Obama signed The American Recovery and Reinvestment Act of 2009 (the Recovery Act). Among its many provisions, the Recovery 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 Recovery Act specifies a sub-allocation of 30 percent 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 percent 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 percent 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 percent of the 70 percent.

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 (Programming) released “final” Recovery Act fund apportionment levels for the local Regions. This includes the Recovery Act funds sub-allocated “based on population” and the additional ABx3 20 “any area” funds.

As of May 2009, the June 30, 2009 minimum requirement has been met for California.

Description of Recovery Act Apportionments:

The specific Recovery Act 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 percent, at the discretion of the recipients/regions receiving the funding.

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DEADLINES (also, please see DLA Timelines for Recovery Act Funding dated July 1, 2009)

The following dates apply to the Regions based on the specific Recovery Act Highway Infrastructure Investment fund types:

- **June 30, 2009** – The 120th day from March 2, 2009, the apportionment date of the Recovery Act 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.
 - **As of May 2009, the June 30, 2009 minimum requirement has been met for California.**
 - As a result, requirements for meeting the June 30, 2009 deadline have been removed from these Guidelines. However, language is provided for Redistribution of June 30, 2009 funds from other States should any redistribution become available for Local Assistance.
- **March 2, 2010** – All remaining funding in Recovery Act apportionments “based on population” and the “any area” funds must be obligated by the Regions and the State. **Recovery Act funds not obligated by this deadline will be lost by California and distributed to other states that are able to obligate all of their Recovery Act funds.**
- **September 30, 2010** – Recovery Act funds not obligated by this date will lapse.
 - **Recovery Act funds can not be obligated after September 30, 2010.**
 - This date applies to Recovery Act funds that are redistributed, as well as Recovery Act funds deobligated from projects.
- **September 30, 2015** – Final Recovery Act fund deadline. **Recovery Act funds not expended by this time will expire.**

RESPONSIBILITIES:

Department:

1. Distribution of Recovery Act apportionments to the Regions.
2. Oversee and monitor the use of local Recovery Act funds. The Department will provide online delivery and monthly activity reports for District Local Assistance Engineers (DLAEs) and the Regions.
3. Work closely with Regions and Local Agencies in the obligation of their Recovery Act funds.

Regions (MPOs/RTPAs):

1. Ensure that projects using Recovery Act funds are programmed in the FTIP – including back-up projects and/or projects that may use Redistributed Recovery Act funds, if any.
2. Ensure that any Recovery Act funding programmed is obligated in accordance with the deadlines of the Recovery Act.
3. To expedite obligation of the Recovery Act 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 Act funds.

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Local Agencies:

1. Submit any Requests for Authorization (RFA) for projects using Recovery Act funds in a timely manner and in accordance with the Local Assistance Procedures Manual (LAPM).
2. Ensure that all Federal and State requirements as set forth in the LAPM are being adhered to when submitting an RFA. *[This includes, but is not limited, to the new federal Disadvantaged Business Enterprise (DBE) requirements.]*

GUIDELINES

Obligating Recovery Act Funding:

1. As of May 2009, the Department and Regions have collectively obligated more than the required \$900 million of the “any area” Recovery Act funds, approximately 60 days prior to the June 30, 2009 deadline.
2. The remaining Recovery Act funding will need to be obligated by March 2, 2010.
3. Each Region is strongly encouraged to obligate their share of the Recovery Act funding as expeditiously as possible.
4. Any Region that will be unable to use their share of the Recovery Act funding received in a timely manner may transfer their share to another Region. In such case, the Caltrans Division of Local Assistance (DLA) Headquarters (HQs) will need to receive a letter, co-signed by both Regions, agreeing to transfer of the Recovery Act 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 this transfer of Recovery Act funding, will be outside the scope of oversight and responsibility of the Department as it relates to the Recovery Act funds.
5. ABx3 20 requires that Regions report to the Department for any Recovery Act funds that will not be obligated within the “one-year to obligate” deadline.
6. 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 of Recovery Act funds.
7. The least flexible Recovery Act funds within each Region should be obligated first (such as C230 and C250). The most flexible Recovery Act funds (C240) should be obligated last. Therefore, if a Region is not able to use 100 percent of their Recovery Act funds, by any of the applicable deadlines, then the necessary redistribution of funds will be of the most flexible Recovery Act funds.
8. In order to avoid lost Recovery Act funds from later project savings, it is recommended that Regions use mixed federal funding for the projects that are using Recovery Act funds. Therefore, any project savings can be applied to the non-Recovery Act funding, so as to keep the Recovery Act fund usage at 100 percent (particularly after the September 30, 2010 deadline).

Receipt of Additional Recovery Funding:

1. July 2009 - Any “June 30, 2009” Recovery Act funds redistributed to DLA will be distributed to the Regions based on the ratio of recovery funds received from Programming.

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2. January 1, 2010 – Based on obligations as of January 1, 2010 and “Final” RFAs submitted to the DLAEs by December 15, 2009, ANY Recovery Act funds that will not be obligated prior to specified deadlines may be redistributed. As possible, these funds would be redistributed within Local Assistance to the Regions that have obligated 100 percent of their pre-March 2, 2010 Recovery Act funds (including 12/15/2009 “Final” RFAs with DLAEs or DLA HQs). These eligible Regions will receive any redistributed Recovery Act funds, if sufficient, per the ratio of the eligible Regions obligated funds to the total obligated Recovery Act funds for all eligible Regions.
3. March 2010 - Any “March 2, 2010” Recovery Act funds redistributed to DLA will be distributed to the Regions that have obligated 100 percent of their pre-March 2, 2010 Recovery Act funds. These eligible Regions will receive any redistributed Recovery Act funds per the ratio of the eligible Regions obligated funds to the total obligated Recovery Act funds for all eligible Regions.
4. If any of the Redistributed March 2, 2010 Recovery Act funds are unobligated by July 2010 those funds may be redistributed to another Region(s), Program(s), and/or the State. This redistribution would be necessary to ensure the full delivery of the Recovery Act funds prior to the final September 30, 2010 lapsing date. A complete RFA that would use these Recovery Act funds - with the DLAEs or DLA HQs by July 1, 2010 - would be taken into consideration to avoid the redistribution.

These guidelines will be implemented effective March 2, 2009.