

MEMORANDUM

DIVISION OF ACCOUNTING AND FINANCE



Office of Financial Management and Budget

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Denver, Colorado 80222
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DATE: December 19, 2013

TO: Transportation Commission

FROM: Scott Richrath, Chief Financial Officer

SUBJECT: FY2013 Federal Programs Reconciliation

Action

Staff recommends that the Transportation Commission maintain FY2013 local funding programs at budgeted levels by transferring the amount of the programs' collective FY2013 revenue shortfall of \$6,716,637 from Transportation Commission Contingency Reserve.

Background

MAP-21, the Moving Ahead for Progress in the 21st Century Act, was signed into law by President Obama on July 6, 2012. MAP-21 was enacted for Federal Fiscal Year (FFY) 2013 and FFY2014. When the legislation was signed into law, CDOT's FY2013 budget was already in place and approved by the Governor of Colorado. MAP-21 changed funding levels, created new federal programs, and inactivated others. The MAP-21 Safety Program (HSIP) funding would be higher than its counterpart in SAFETEA-LU. The MAP-21 Transportation Alternatives Program (TAP), CMAQ, and STP-Metro funding would be lower than their counterparts in SAFETEA-LU. The MAP-21 TAP program combined SAFETEA-LU's Enhancement (ENH), Scenic Byways (SBW), and Safe Routes to Schools (SRS) programs.

Issue

There was concern by the Transportation Management Areas (TMAs) that they had already selected projects for these three programs through their local competitive process for FY2013. A memo was submitted by then Budget Director Laurie Freedle to the Transportation Commission in September 2012 suggesting that HSIP funding, with projected surplus revenues over FY2013 budget levels, could be used to "make whole" the local federal programs. STAC recommended to the TC that HSIP funding be used to make whole these programs whole. Staff is now recommending that Transportation Commission Contingency rather than HSIP funding make those local programs whole, given the emphasis that both MAP-21 and CDOT place on Safety enhancement to the national and state highway systems.

At its September 2012 meeting, the Transportation Commission took no official action on providing HSIP funding to TAP, CMAQ, and STP-Metro; the Commission received staff and Statewide Transportation Advisory Committee input and asked that staff keep the Commission apprised as actual 2013 funding amounts were received. Those amounts are now reconciled.

The table below illustrates the differences in the FY2013 budget versus actuals in these programs after a September 2013 FY13 budget to actuals analysis. State Planning & Research shortfall of \$471.164 has been omitted as the Division of Transportation Development will absorb that amount within its Research program. A surplus of \$580,015 for Metropolitan Planning has been omitted because that program is not flexible.

Budget versus Actuals FY2013			
Program	Actual	Budget	Difference
STP-Metro	\$ 48,320,585	\$ 50,501,875	\$ (2,181,290)
Congestion Mitigation/Air Quality	\$ 46,759,874	\$ 47,229,533	\$ (469,659)
Transportation Alternatives	\$ 13,535,423	\$ 17,601,111	\$ (4,065,688)
Aggregate of three programs	\$ 106,615,882	\$ 115,332,519	\$ (6,716,637)
Highway Safety Improvement Program (HSIP)	\$ 30,077,589	\$ 20,149,488	\$ 9,928,101
Balance	\$ 138,693,471	\$ 135,482,007	\$ 3,211,464

Subsequent MAP-21 Guidance

In guidance from FHWA that occurred subsequent to September 2012, CDOT learned that per MAP-21 legislation, projects could be selected within the federally allotted portion of TAP based on population. All STP-Metro funding is suballocated to the TMAs, and for TAP, any other projects in the TMA areas must be selected by CDOT using a competitive state process from the flexible portion of the allotted funds.

"MAP-21 does not authorize the State to sub allocate the small urban area funds, nonurban area funds, or any area funds to individual MPOs, counties, cities, or other local government entities. MAP-21 requires the State to be responsible for the competitive process for these funds. However, the State's competitive process may include selection criteria to ensure a distribution of projects among small MPOs, other small urban areas, and nonurban areas across the State. The State may consult with MPOs to ensure that MPO priorities are considered." *Transportation Alternatives Program (TAP) Questions & Answers posted on the FHWA MAP-21 website (posted 6/10/2013)*

Thus, rather than transfer funding directly to the TAP or STP-Metro programs for selected projects, federal funding can be transferred to the federal STP flexible program for CDOT regions' use in the flexible portion of the TAP program and to fund CMAQ and STP-Metro projects already selected by the TMAs (See Attachment 1). The MAP-21 process for transfer of funds is:

"To request a transfer between apportioned programs, the State should submit a completed FHWA transfer request form to the FHWA Division Office indicating the type and amount of funds to be transferred. The Division Office must determine if the requested transfer is within the allowable limits as described in this guidance, indicate concurrence with the State's request, and submit the request to the Office of Budget (HCF-10) for coordination of action." *Transportation Alternatives Program (TAP) Questions & Answers posted on the FHWA MAP-21 website (posted 6/10/2013)*

Decisions

The Transportation Commission is being asked to make a decision about the use of FY2013 HSIP funding in excess of the amount in the CDOT FY2013 budget. Options are as follows:

1. **Staff Recommendation:** Transfer \$6,716,637 Transportation Contingency Funds to the CDOT STP flexible program to fund selected projects in TAP, CMAQ, and STP-Metro as a one-time FY2013 supplemental action.
2. Reconcile TAP FY2013 budget to actuals by reducing the TAP, CMAQ, and STP-Metro programs, reducing those programs for FY2013 and eliminating local projects.
3. Reduce FY2013 HSIP funding by \$6,716,637 and apply with FHWA to flex that funding into the flexible local programs as a one-time FY2013 supplemental action.

CDOT staff's recommendation is Option 1.

Attachment 1 to Transferability of Apportioned Funds Between Programs Questions & Answers

Transferability of Apportioned Program Funding Under Section 126 of Title 23, United States Code, as Amended by Section 1509 of the Moving Ahead for Progress in the 21st Century Act (MAP-21)

Apportioned Program	Eligible for Transfers Between Apportioned Programs?
National Highway Performance Program (NHPP) (M001)	Yes
NHPP Exempt from Obligation Limitation (M002)	No
Surface Transportation Program (STP) Flexible (M240)	Yes
STP – Urbanized Areas with Population Over 200K (M230)	No
STP – Areas with Population Over 5K to 200K (M231)	No
STP – Areas with Population 5K and Under (M232)	No
STP Off-System Bridge Set-aside (M233)	No
Highway Safety Improvement Program (HSIP) (MS30)	Yes
Railway-Highway Crossings – Hazard Elimination (MS40)	No
Railway-Highway Crossings – Protective Devices (MS50)	No
Congestion Mitigation & Air Quality Improvement (CMAQ) (M400)	Yes
CMAQ Set-aside for Particulate Matter (PM) 2.5 Projects (M003)	No
Metropolitan Planning Program (M450)	No
Transportation Alternatives Program (TAP) Flexible (M300)	Yes
TAP – Urbanized Areas with Population Over 200K (M301)	No
TAP – Areas with Population Over 5K to 200K (M302)	No
TAP – Areas with Population 5K and Under (M303)	No
Recreational Trails Program (RTP) (M940)	No
Required 1% of RTP Returned to FHWA for Administration (M941)	No
State Planning and Research (SRP) (M550)	No
SPR Set-aside for Research, Development, & Tech. (RD&T) (M560)	No
Various Penalty Set-aside Provisions (such as the High Risk Rural Roads Penalty Set-aside Provision)	No