
2007 MEASURE R POLICIES AND PROCEDURES

APRIL 16, 2007
REVISED MAY 19, 2008
REVISED JUNE 21, 2010

*2007 ½ CENT
TRANSPORTATION SALES TAX
POLICIES AND PROCEDURES*

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Introduction

On November 7, 2006, the voters of Tulare County approved Measure R imposing a ½ cent sales tax for transportation. The Expenditure Plan contained “Implementing Guidelines” (Appendix B). The purpose of the Policies and Procedures is to provide direction for the administration of Measure R program. The Policies and Procedures do not replace or change the Expenditure. The Policies and Procedures provide further detail of how to accomplish the goals of Measure R.

It should be understood that over \$1 billion in projects are listed in the Measure R Expenditure Plan. In today’s dollars, the sales tax is estimated to generate approximately \$420 million for regional projects and \$135 million for local agency projects over the next 30 years. In order to construct all of the projects listed in the Expenditure Plan, outside funding from Federal and State Highway funds, including STIP, CMAQ, TEA, local funding and other revenue sources will need to be used.

Cooperative Agreements

A project sponsor can receive funding from Measure R money for a regional project and/or a bike/transit/pedestrian project if the project is listed in the Measure R Expenditure Plan, and a cooperative agreement is signed by the Authority and the project sponsor. The funds available for regional and bike/transit/pedestrian projects are those listed in the Expenditure Plan and authorized in the Strategic Work Plan.

- If a signed agreement for a standard Measure R Cooperative agreement is submitted by the end of a month, the agreement will be considered for approval at the next month’s Authority meeting.
- The Cooperative Agreement will include, but not be limited to, the following: project sponsor, project description, project schedule, funding amount, funding source(s), deadlines for expenditure, expenditures covered/not covered by the agreement, and a signage requirement.
- Cooperative agreements that deviate from the standard cooperative agreement will require approval of the Authority’s legal counsel, which may delay approval of the final agreement up to three months.
- The following items are not eligible for Measure R reimbursement:
 - o Activities related to obtaining matching funds for a project
 - o Activities related to another project not covered in a cooperative agreement, even if it is a measure R project.
 - o Activities conducted prior to executing a Measure R agreement (unless agree to by the Authority). Project Advancement procedures are found in a separate section of the procedures.

Local agencies will also receive Local Program funding. These funds can be used at the local agency’s discretion for any transportation related project as allowed by the Measure R Expenditure Plan. Local Program funding is formula based and will be distributed as outlined in Local Programs section as long as the minimum requirements are met.

Adjustment Policies

Measure R allocations to Regional and bike/transit/pedestrian projects will be adjusted annually based on the following policies:

- The base Measure R allocation for a project is the amount shown in the Measure R Expenditure Plan.
- Measure R allocations will be adjusted for Regional and bike/transit/pedestrian projects and programs. The adjustment rate for projects shall be based on the current Engineering News Record average of Los Angeles and San Francisco. Should there be an extraordinary circumstance which causes one of these indicators to fluctuate unreasonably, the Authority Board will have the option of using the national rate instead of the prescribed average.
- The adjustment rate will be reviewed annually and adjustments will be implemented at the beginning of each new fiscal year.

Local Program

The Measure R Expenditure Plan allocated 35% of revenues to Local Programs. The Local Program is formula based. Since the distribution of Local Program funding is formula applied to actual revenues, adjustment factors do not apply. The following are additional items related to the Local Program:

- Distribution of funding is based on the following formula:
 - o 50% Population
 - o 25% Maintained Miles
 - o 25% Daily Vehicle Miles traveled (1,000) (Represents the calculated Average Daily Vehicle miles of travel that occurs within a jurisdiction) Staff to research/provide a summary of how this is calculated.
- Population is based on the California Department of Finance Annual estimates.
- Maintained Miles and daily vehicle miles of travel (1,000) are obtained from the most recent California Public Road Data book published by Caltrans
- The formula distribution will be updated annually in June for the next fiscal year.
- Quarterly reports will be required to be submitted by the following dates:
 - o October 15th for the period: July – September
 - o January 15th for the period: October – December
 - o April 15th for the period: January – March
 - o July 15th for the period: April – June
- The quarterly report will include but not be limited to agency name, project name, project list, amount expended, and percentage of completion. Appendix __ contains an example report form.
- Distribution of Local Program funding will be within two weeks of receipt from the State of California.
- In order to receive the local funding, the following minimum requirements must be met.:
 - o Regular submittal of Quarterly reports
 - o Posting of Measure R signs when Measure R funding is used on a project
 - o Participate in Annual Audit and provide corrective actions plans when identified

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- Satisfy the maintenance of effort requirements.

Transit/Bike/Environmental Program

The air quality improvement efforts will be addressed in the Measure R Expenditure Plan through the Transit/Bike/Environmental Program which includes funding for transit, bike & pedestrian, environmental projects.

Priority will be given to Annual Transit Service Expansion projects listed on the Expenditure Plan (page 10). Transit service expansion will be distributed monthly, in accordance with the annual amounts noted in the Expenditure Plan, adjusted annually pursuant to these policies, providing the minimum requirements are met, which will include the following:

- The program or project is listed as part of the Bi-annual Strategic Work Plan.
- A plan to expand transit service is adopted by the local agency and presented to the Authority. Implementation of the plan is subject to audit to insure the service and/or the project is being provided in accordance with the plan.
- Funding for transit expansion is limited to the amount listed in the Expenditure Plan (with the annual adjustment factor applied), and the demand demonstrated in the plan adopted by the local agency.
- For Bicycle/Pedestrian projects, priority will be given to projects that obtain outside funding, including funding from STIP, CMAQ, TEA, local and other sources. Providing funding is available and the appropriate environmental approvals are in place, the Authority may approve Right of Way (ROW) acquisition funding in advance of the project year in order to enable an agency to accumulate the ROW when to do so would result in a reasonable, orderly, cost effective accumulation of property. These projects will also require cooperative agreements.
- For Bicycle/Pedestrian projects, priority will also be given to projects identified in the Regional Bicycle Transportation Plan as regionally significant.
- For Environmental projects, an implementation plan will be developed through the guidance of the Environmental Advisory Committee.
- The Eminent Domain Process may not be used for expenditure of Measure R Regional Mitigation Banking Program and Woodlake Area Mitigation Banking Program Funds. (page 10 of the Measure R Expenditure Plan)

Regional Projects Program

The Measure R Expenditure Plan created a Regional Projects Program that includes specific funding for regional widening, interchange improvements, regional signals, regional bridge, regional railroad crossings, and signal synchronization projects. The following are additional items related to the Regional Road Program:

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- Project eligibility is limited to the regional projects listed in the current or amended Expenditure Plan.
 - Regional projects will not be funded prior to the year of need (IE Unacceptable Level of Service “E” or “F”) unless all regional projects with current need are fully funded. An agency may appeal to the Authority Board the application of the criteria to a project if there is other overriding considerations.
 - For Railroad crossing or grade separated projects where traditional LOS calculations may not be applicable, the Caltrans Safety Index (SI) may be applied. A threshold of or minimum scoring of 100 will be used. Given the various needs that may generate the need for bridge replacement or grade separations, the projects will be considered on a case by case basis where traditional LOS and safety calculations do not apply.
 - A safety component of a Regional Project may be eligible for advancement based on meeting the minimum Safety Index threshold of 100. An example would be the advancement of a signal prior to the widening of a corridor.
 - In cases where a component is advanced, the project should be designed and built to the ultimate alignment. The cost of any temporary improvements will be the responsibility of the agency. If there are reasons why some, or all of the advanced component cannot be incorporated into the long range project, the Authority must approve the construction of the proposed temporary facilities if reimbursement is requested.
 - Providing funding is available and the appropriate environmental approvals are in place, the Authority may approve Right of Way (ROW) acquisition funding in advance of the project year in order to enable an agency to accumulate the ROW when to do so would result in a reasonable, orderly, cost effective accumulation of property.
 - The current Regional Transportation Plan will be used to prioritize funding for Regional Projects.
 - Consideration for potential other funding such as a new state bond or local contributions will be part of the consideration for prioritizing regional projects.
 - Careful coordination of Measure R regional projects and the State Transportation Improvement Program (STIP) funding is necessary to maximize the use of federal and state funding.

Changes in Project scope, Allocation and Schedule

Over the life of Measure R, there exists the potential for changes to projects identified in the Bi-annual Strategic Work Plan. Updates to the Work Plan will reflect changes in project scope, cost, and schedule. However, the following items will require an amendment to be approved by the Authority Board:

- Adding a new Measure R project
- Deleting a Measure R Project
- Segmenting a project (not identified as segmenting in the Expenditure Plan)
- Changing the basic scope of a project, as defined in the Expenditure plan or bi-annual work plan
- Changing the scheduled year of a project
- Changing the amount of Measure R funds that may be allocated to a project

Project Delays

It is the intent of the Authority to spend Measure R funds in a timely manner. Projects that are not making reasonable progress may be reprioritized in order to facilitate the completion of other projects that are making better progress. Projects that are ready to proceed ahead of schedule may be advanced if Measure R funding is available. Delaying of project will still require Authority approval. Reasonable progress is defined as having a signed contract for each type of project component within the prescribed number of months as programmed in the Current Strategic Work Plan:

- Environmental Studies (PA&ED) 6 months to have executed a consultant contract or initiate work if completed by the agency.
- Design (PS&E) 6 months to have executed a consultant contract or initiate work if completed by the agency.
- ROW Acquisition 6 months to have executed a consultant contract or initiate work if completed by the agency and 2 years to complete Acquisition
- Construction 6 months to have executed a consultant contract and 2 years to complete construction

Project Advancement

The Adopted Expenditure Plan states the following on Page 5:

“Phase 2 projects are considered for advancement if additional funding is available and the projects are amended in to the current Regional Transportation Plan.”

All Phase 2 projects will be included in the 2007 Regional Transportation Plan (RTP) update. This requirement will be satisfied (once FHWA/Caltrans approval is received in the summer of 2007) for all regionally significant projects identified in the Expenditure Plan. The remaining requirement is for financial determination. There are four principle ways to identify additional funding beyond the need for Phase 1 projects:

1. The amount of funding required for a phase 1 project is reduced. Example: Project “A” costs are reduced from \$10 million to \$5 million. The agencies involved with the project can recommend to the authority that the savings be used to fund another specific project in the same urban area in the Expenditure Plan. Caution: costs savings will likely be off-set by cost increases.
2. A Phase 1 project is voluntarily delayed. Example: Agency A delays a project in Phase 1 to allow a Phase 2 project to be advanced. Capacity would then be created. Caution: An agency must have agreement with other agencies that will have a direct impact of delaying a regional facility. The voluntary delay and advancement will require Authority approval.
3. Additional revenue (beyond anticipated) is received. If significant additional revenue is received either from sales tax revenues that exceed the adjustment factor, an additional state bond that

increases STIP funding or some other source, the additional funding should be used to advance projects or fund new projects amended in to the Expenditure Plan.

4. The use of bonding. Careful planning will be required to determine the amount and year of need for bonding. The bond assessment will occur as part of the development of the bi-annual Strategic Action Plan. Individual agencies are not precluded by anything in the Measure from issuing bonds secured by the revenues from the Local Program funding. However, the Authority is not required provide any assurances that such bonding is available.

Project advancement requires the approval of the Authority Board prior to agency expenditures. The following other criteria apply:

1. The agreement between an agency and the Authority will specify the year of reimbursement. Reimbursement will be subject to the availability of funds. In the year of reimbursement, project advancements will be the priority for funding for the Regional Project Program. Reimbursement for advancement will be adjusted annually based on the lower of the following:
 - a. The adjustment factor described in “Adjustment Section”
 - b. Actual annual revenue percentage increase. In a year when the revenues do not increase when compared to the prior year, then the escalation will be zero.
2. Projects will not be advanced prior to the year of need (IE Unacceptable Level of Service “E” or “F”) unless all regional projects with current need are fully funded.

Bonding

It is the intent of the Authority to bond for projects that are ready for ROW acquisition and construction. The principle tool that will allow for project advancement and planning is the use of bonding. Due to complexity of the decision to bond, a financial committee will be created. The committee will be composed of: The TCAG Chair, TCAG Staff, The Citizen’s Oversight Committee Financial Representative, and three citizens with financial expertise. Upon direction from the TCAG Chair, staff will post an application on the TCAG website and provide to all agencies. Interested individuals will submit a completed application by the deadline indicated on the posting. The Technical Advisory Committee will provide a recommendation to the Authority for approval. The term of the three citizens will be for two years or as designated by the Authority Board.

The purpose of the committee is to review and make recommendations for: bonding, financial consultant selection, and other financial funding issues that develop. The purpose of the committee is not project selection. It is to provide recommendations on how best to finance projects already selected or proposed by the Authority Board.

As identified above, the selection of projects for bonding will be part of the Strategic Work Plan effort.

Additional Financial Policies

- The Authority shall establish hardship borrowing policies that would allow a local agency to borrow a total maximum of \$1 million from the Authority providing the funding is available. The funding could only be used to advance an approved transportation project that the local

agency does not have the financial resources to complete. The loan must be paid back and the local agency must be willing to pledge their local program funding to the loan repayment. The agreement will provide the timeline and the interest requirements.

- The Authority shall also establish policies by which a local agency could use their local program money to “loan” another local agency Local Program capacity.

Measure R Reallocation

Over the life of Measure R, there exists the potential for changes to projects identified in the Expenditure Plan, and the potential to re-allocate funds based on a change in need. Some projects may no longer be viable, other projects may be scaled down, projects may receive adequate funding from another source, and other situations. The four situations where reallocation may occur are:

- Removal: an allocation is no longer needed
- Reduction: there may be a reduction of scope or new additional source of funding
- Increase: Need to increase the project due to scope change or higher cost estimates
- New project: A new project is added (see new project section)

In all cases, an amendment is likely required to the Expenditure plan and approval by the Authority Board. For cost increases, an agency should use local program funding to fund the shortfall, or savings from another project that is constructed for less than the amount noted in the Expenditure Plan, adjusted by the adjustment factor. If excess revenues (compared to the Strategic Work Plan projections) are available, the funding could be used to fund cost increases, to advance projects or to fund a new project(s) in the same urban area, based on agency recommendation and Authority approval.

Maintenance of Effort

At the beginning of each fiscal year, agencies will be asked to demonstrate compliance with the maintenance of effort requirements for both the local programs and Transit expansion projects. The maintenance of effort requirements are subject to independent audit. The local jurisdiction can choose to use the fiscal year of Measure R approval (2006-2007) or the prior three years fiscal average (2006-2007, 2005-2006, 2004-2005) as a baseline. All jurisdictions must comply to these requirements.

Adding new Measure R Projects

There may be very limited circumstances in which to add a new project to the Measure R program. Adding a new Regional or Air Quality project will require an amendment to the Measure R Expenditure Plan. Amendment to Expenditure Plan may only be conducted once a year. Prior to a recommendation to add a new project, revenue projections should clearly demonstrate all other Regional projects can be funded over the life of the Measure, or it must be demonstrated that adequate funding is available, either through cost savings, reduced project scale or project deletion, or significantly increased revenues, to fund the new project. In itself, a proposed project deletion does not necessarily create additional capacity. A review of revenue projections will still be required along with an Expenditure plan amendment.

Strategic Work Plan

As outlined in the Expenditure Plan, a bi-annual Strategic Work Plan will be prepared. The Bi-annual work plan outlines five-year expenditures for the Regional and Air Quality Programs. The timing of preparing the Strategic Work Plan is to coincide with the preparation of the Regional Transportation Improvement Program (RTIP). The following are additional items:

- Priority for Regional projects will be given to projects (Tier 1) ready for construction
- The Plan can fund construction, Project Approval and Environmental Documentation (PA&ED), right of way, and Plans, Specification, and Estimate (PS&E) to have projects ready for construction and capture the STIP construction money in the year in which it is programmed.
- Regardless of Tier, all interchange projects require a Caltrans approved Project Study Report (PSR) prior to the programming and authorization of funding. Also, a Project Report is required for any project that is fully or partially located within Caltrans Right-Of-Way.
- The selection of projects will also be done to maximize expenditure of state and federal funds first. From time to time State/Federal programs become available that may result in the need to select regional projects that best qualify and are not necessarily the current priority.
- As part of preparing the Strategic Work Plan, the plan will include a summary of potential projects that could be funded if bonding was to occur over the next five year period.
- Proposed bonding would be limited to ROW acquisition and Construction only.
- Actual revenue received in excess of the five year projections could be used to fund cost increases. Excess revenue could also be used to create a reserve for future cost increases.

Local Preference

The following language will be required to be included on the first full page of **any RFP/RFQ** using Measure R funding:

“Measure R was approved by Tulare County voters in November 2006. Measure R was supported locally and the transportation projects are for the benefit of the residents of Tulare County. Tulare County citizens will benefit from the contributions that local firms can make to Measure R projects. Such benefits include strong local knowledge, established relationships with the community and close proximity to the project locations. All prospective firms submitting for this RFP/RFQ are strongly encouraged to include local firms as part of the consultant team. For local consultants, the proposal should indicate the location of the office where the work will actually be performed on the specific project.”

The decision making body that approves a consultant selection using Measure R funds is required to receive a summary of local participation including the local firm names(s) and office locations where

the work will be performed. When submitting a supplemental agreement to TCTA, the supplemental is also required to list local firms participating in the request, if any, as noted above.

When the supplemental is presented to the TCTA board for approval or affirmation, the agenda item must list the local firms participating in the contract, including the extent of their planned participation and the office location where the work will be performed.

TCAG Staff will continue to review local participation requirements for professional services with other agencies and will provide additional recommendations later this summer. The proposed language as set out above will communicate to any prospective firms that plan to work in Tulare County that inclusion of local firms is desired and encouraged as a part of the selection of consultants for Measure R projects.

Disagreement Resolution

The Authority Board will have the final approval regarding all decisions within the jurisdiction of the Authority. An agency may appeal a decision, recommendation, or action by Authority staff by providing your appeal in writing. Appeals are required to be received three weeks prior to a meeting.

For Further Information:

Contact the Tulare County Association of Governments/Tulare County Transportation Authority to inquire about the Measure process, discuss the candidate projects and programs contained in this Plan, or to inquire about the next steps in the Measure process.

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Visit the TCAG website at <http://www.tularecog.org/> for more information, to sign up for our email list, and to receive updates on Measure R activities.