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- LOTT Clean Water Alliance
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ASSOCIATE MEMBERS:

- Lacey Fire District #3
- Puget Sound Regional Council
- The Evergreen State College
- Thurston Conservation District
- Thurston Economic Development Council
- Timberland Regional Library

MEMORANDUM

TO: Technical Advisory Committee

FROM: Katrina Van Every, Transportation Manager

DATE: September 14, 2023

SUBJECT: Obligation Authority Policy Updates

PURPOSE

The purpose of this agenda item is to discuss updates to TRPC's Obligation Authority (OA) policy.

Summary:

- TRPC's OA Policy has been in place since July 10, 2020.
- The policy needs to be updated to account for changes in WSDOT's timelines for obligating funds and being eligible for redistributed funds.
- Staff proposes adding RTIP Appendix A projects to the contingency list to provide the region greater flexibility in meeting its OA target and utilizing redistributed funds when they become available.
- A process for including Appendix A projects on the Contingency list will need to be established, and the OA policy is a logical place for this to live.
- Memorializing how the Contingency List is developed/maintained in the OA policy will also ensure transparency in the process..
- The TPB will make a recommendation at their October meeting, and Council will consider adoption of the updates at their December meeting.

REQUESTED ACTION

Provide final feedback on the draft updates to the OA policy.

Attachment



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Thurston Regional Planning Council

OBLIGATION AUTHORITY POLICY AND PROCEDURES

Adopted ~~July 10, 2020~~ December 1, 2023

OBJECTIVES

Thurston Regional Planning Council (TRPC) will implement the Obligation Authority policy outlined in this document to achieve the following objectives:

1. To comply with the Washington State Department of Transportation Local Agency Federal Obligation Authority Policy
2. To establish a clear and consistent framework for all local agency federal transportation grant recipients within Thurston County
3. To position the region to fund additional projects with redistributed sanctioned funds
4. To mitigate the adverse impact of sanctions on projects programmed and ready to obligate in the respective federal fiscal year (FFY)

BACKGROUND

Each FFY, Washington State Department of Transportation (WSDOT) sub-allocates Federal Highway Administration (FHWA) grant program funds to Metropolitan Planning Organizations (MPOs) or to non-MPO counties. That year's funding level (plus a region's previous year carry-forward amount) comprise a region's Obligation Authority (OA), hereafter referred to as the region's obligation target.

FHWA has a strong interest in ensuring that obligation authority (funding) is committed (obligated) by the end of the FFY it is made available. Thus, each state's annual obligation target is equal to its amount of OA that year. If states fall short of their obligation target, the un-obligated OA is rescinded by FHWA for redistribution to states that can use it that year.

WSDOT is responsible for ensuring the total statewide local OA is delivered annually. In turn, the MPO or lead county agency is responsible for delivering its regional obligation target. WSDOT Local Agency Federal OA Policy outlines how funds will be sanctioned if an MPO or non-MPO county fails to deliver its obligation target.

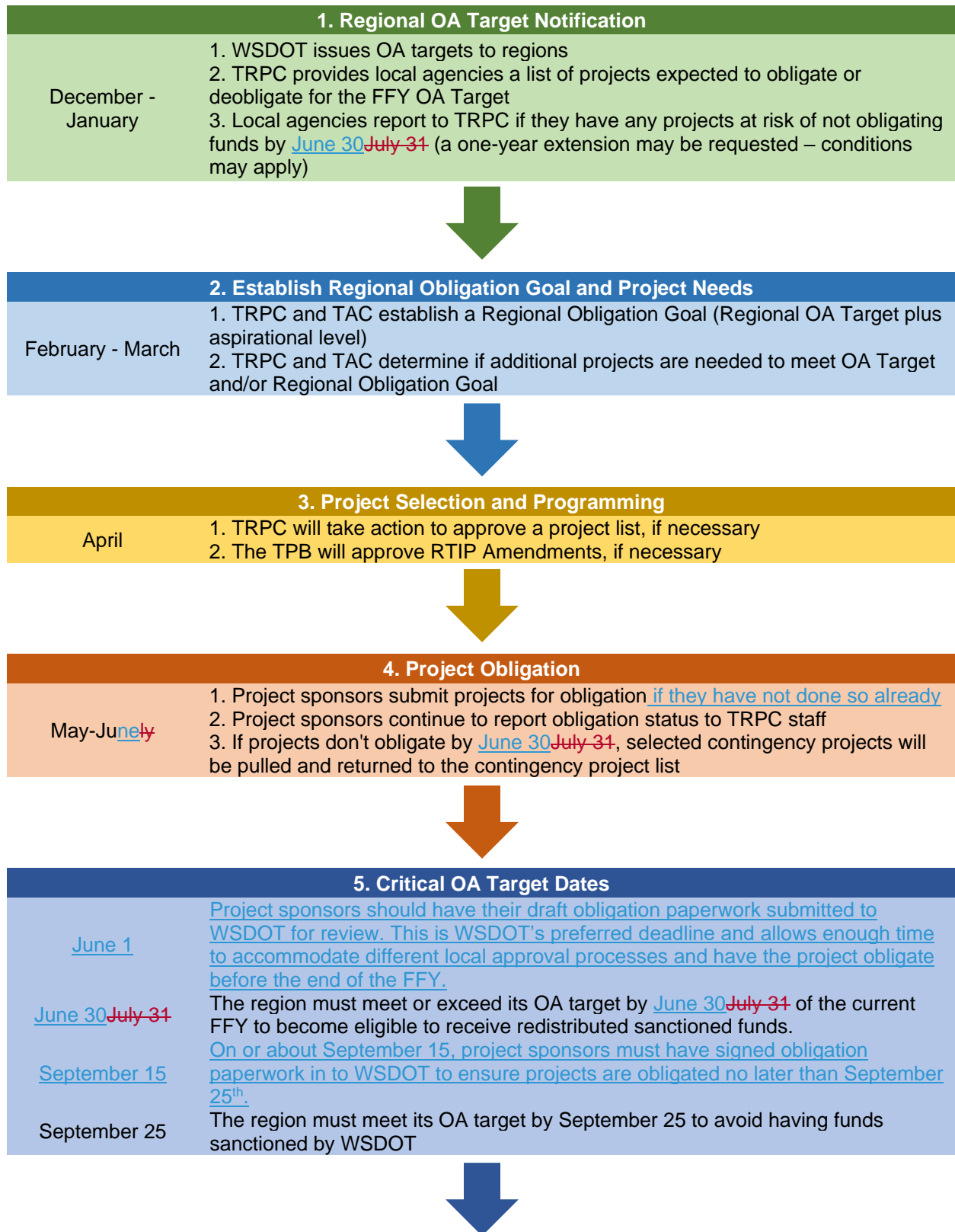
IMPLEMENTATION

~~FFY 2020 is year one of the WSDOT Local Agency Federal OA policy. TRPC's 2020 OA target is subject to the state's policy. However, TRPC's procedures will be implemented starting in FFY 2021.~~ Refer to Figure 1 for an overview of the TRPC OA Policy and Procedures timeline and activities. This policy can be amended by TRPC to streamline the region's needs and to reflect changes in the state's OA policy.

1. Critical Dates

- A. WSDOT's OA policy specifies that the region must obligate its OA target by FHWA's September closing date (usually around the 25th).
- B. For the region to be considered by WSDOT to receive redistributed funds, the region must meet or exceed its OA target by ~~July 31~~ June 30 of the current FFY. **For a project to be counted in the June 30th ~~July 31st~~ delivery, a complete funding package must be authorized by FHWA or in FHWA's queue awaiting authorization.**

Figure 1: TRPC Obligation Authority Policy and Procedures Timeline



6. Sanctions

September-
December

If TRPC is sanctioned by WSDOT for not achieving the required OA target, the responsible project-sponsor will have a corresponding amount of funding sanctioned by TRPC.

2. Regional OA Target Notifications

In December:

- A. WSDOT provides annual regional grant program allocations for Surface Transportation Block Grant (STBG), Congestion Mitigation and Air Quality (CMAQ) Improvement, and Transportation Alternatives (TA) grant programs to the MPOs and non-MPO counties.
- B. TRPC will provide local agencies a list of the projects expected to obligate or de-obligate for the corresponding FFY OA target. This list will be based on TRPC's grant award letters and the most current project delivery status report provided by WSDOT Local Programs.

In January:

- A. Local agencies (usually Technical Advisory Committee members) will report to TRPC if they have any:
 - i. Current FFY projects at risk of not obligating funds by ~~June 30~~July 31; and/or
 - ii. Projects likely to de-obligate funds in the current FFY not previously reported to TRPC

Options for At-Risk Projects

- A. For any projects at risk of not obligating by ~~June 30~~July 31, a local agency may request a one-year obligation extension (from year stated in the award letter) without losing secure funding. However, project timing may be subject to funding availability.
- B. Projects delayed by more than one year must validate project feasibility to the Regional Council to maintain its secure funding status in the Regional Transportation Improvement Program (RTIP).

Note: The obligation date specified in the award letter is not always the same as the year the project is programmed in the RTIP.

3. Establish FFY Regional Obligation Goal and Project Needs

In February:

- A. TRPC staff will coordinate with the TAC to establish a **Regional Obligation Goal** for remainder of the FFY. This goal is comprised of the region's OA target plus an aspirational level to exceed the target by ~~July 31~~June 30.
- B. TRPC staff and the TAC will determine if additional projects are needed to meet the Regional Obligation Goal by ~~July 31~~June 30 and/or the region's OA target by September 25.

If Additional Projects are Needed:

In March:

- A. By the third Thursday in March, local agencies will inform TRPC if a funding secure project that is programmed for a future year or a contingency project from the contingency list can submit complete paperwork and achieve FHWA obligation authorization by ~~June 30~~July 31.

Note: All contingency projects are drawn from the contingency project list. Contingency projects originate as pre-approved but unsecured funded projects during a Call for Projects Process.

4. Project Selection and Programming

In April:

- A. The Regional Council will review and take action in one meeting to select candidate projects to meet the baseline OA target and/or the Regional Obligation Goal.
- B. The priority order for the selection of additional projects to obligation in the current FFY is as follows:
 - i. Funding secure projects that can obligate earlier than programmed will move forward to meet the current FFY OA target
 - ii. Contingency project funding level – the amount necessary to overcome the OA target shortfall
 - iii. Contingency project readiness as confirmed by project sponsor and WSDOT Local Programs
 - iv. Other TRPC Council priorities
 - v. A contingency project grant recipient not selected in the last two years (TRPC's intent to geographically distribute funding across the county)

Note: TRPC will abide by all agency policies and procedures for all RTIP Amendments and Administrative Modifications. Intercity Transit projects may require an Administrative Modification to the State Transportation Improvement Program (STIP) prior to obligation.

Regional Transportation Improvement Program Amendments and Administrative Modifications

- A. One or more contingency projects will be amended to the four-year project list in the STIP to enable them to obligate, as needed (TRPC staff will coordinate with project sponsors to process amendments).
 - i. If Formal STIP Amendments are required to respond to the Regional Council's project selection, the TPB will act during their April meeting.
 - ii. TRPC will issue updated award letters to grant recipients for projects with revised obligation timelines.
 - iii. TRPC staff will notify project sponsors when Administrative Modifications or Amendments are approved (expected by the third Friday in May).

5. Contingency Project Obligation

- A. Contingency project sponsors are encouraged to prepare WSDOT Local Agency Agreement documentation prior to STIP amendment approval. However contingency projects will stand by until receiving approval from TRPC to obligate.
- B. All project sponsors with current FFY obligation deadlines, including contingency projects, will continue communicating project status with TRPC staff.
- C. If by ~~July 31~~ ~~June 30~~, there is any uncertainty to achieve the Region's OA Goal, the contingency project(s) that did not obligate by ~~July 31~~ ~~June 30~~ will be returned to the unfunded contingency project list to be reconsidered for future years.

6. Sanction Process

- A. If TRPC is sanctioned by WSDOT for not achieving the required OA target, the responsible project-sponsor agencies will be subject to the following corrective actions,

under the direction of the Executive Director, to minimize impacts to other funding secure projects:

- iii. TRPC will rescind the corresponding project's funding secure status through a formal letter.
 - iv. If the sanction is caused by an unexpected de-obligation, the agency responsible will move a comparable funded project onto the contingency list.
 - v. If a project has already obligated (but after the deadline), TRPC will issue a formal letter to the project sponsor requiring them to de-obligate the project funds.
- B. TRPC will initiate a RTIP amendment. The amendment will move the project from the four-year project list to Appendix A as a contingency project. Upon approval by TRPC, the project may be amended back into the four-year project list if funding becomes available.

CONTINGENCY PROJECT LIST DEVELOPMENT & SOURCES

The contingency project list identifies projects that can use federal funding that has not yet been programmed or secured. Projects added to the contingency list remain on the contingency list until they receive the requested funding or when a project sponsor determines the funding is no longer needed. From time to time, the funding request for projects on the contingency list may be updated to account for inflation and other changes in cost not related to a change in scope.

Projects on the contingency list come from two sources: the federal Call for Projects and the Regional Transportation Improvement Plan.

1. Federal Call for Projects.

- A. **Eligible Projects.** Project eligibility will be determined by the Call for Projects process.
- B. **Performance Based Assessment.** Each project added to the contingency list from the federal Call for Projects process will be evaluated based on the criteria established for the Call. If criteria change from call to call, a contingency project's score may be re-evaluated based on the latest Call for Projects criteria.
- C. **Process for Adding to the Contingency Project List.** During a Call for Projects, project sponsors can request eligible projects be placed on the Contingency Project List. Eligible projects seeking funding during the Call that are not awarded funding will also be placed on the contingency project list.
- D. **Public Comment Period.** The public comment period for the Call for Projects process will serve as the public comment period for the Call's projects proposed to be added to the contingency list.
- E. **Priority.** Projects added to the contingency list from the Call for Projects process are a priority for funding, even when Appendix A projects have a higher evaluation score.

2. Regional Transportation Improvement Plan (RTIP) Appendix A.

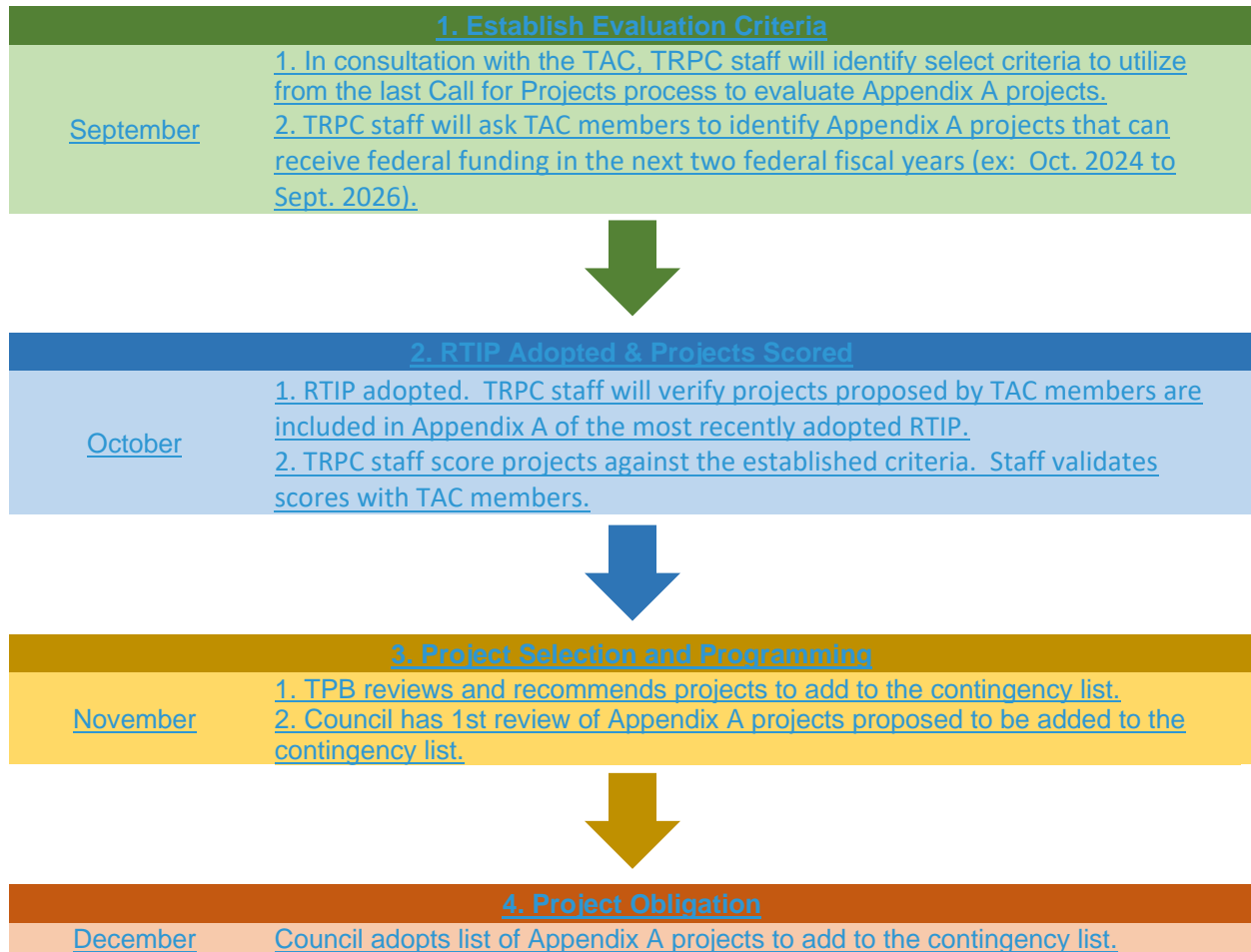
The RTIP's Appendix A contains all projects identified in the adopted Transportation Improvement Programs for the jurisdictions and agencies within Thurston County during a six-year period, except for those included in Table 2 of the RTIP.

- A. **Eligible Projects.** Each Appendix A project proposed to be included in the Contingency Project List must be able to obligate federal funding in the next two federal fiscal years. For example, if a request is made in September 2024 for a project to be added to the

contingency list, the project must be able to obligate federal funding in FFY 2025 or 2026 (October 2024 through September 2026).

- B. **Performance-Based Assessment.** Each Appendix A project proposed to be included in the Contingency Project List will be evaluated based on selected criteria from the last Call for Projects process. Potential criteria include, but are not limited to, equity, greenhouse gas emissions, efficient use of federal funds, safety, etc.
- C. **Process for adding to the Contingency Project List.** Refer to Figure 2 for an overview of how eligible projects from the RTIP’s Appendix A may be added to the contingency project list.
- D. **Public Comment Period.** The public comment period for the RTIP will serve as the public comment period for Appendix A projects proposed to be added to the contingency list.

Figure 2: Process for Adding Appendix A Projects to the Contingency List



DEFINITIONS

Obligation authority (OA): FHWA funding is only transferred to recipients as reimbursement for eligible project costs. So, rather than the money itself, states or other recipients are said to receive obligation authority -- authority (expressed as a dollar amount) to proceed with submitting projects to FHWA for final approval and obligation.

Obligation: The federal government's action to legally commit (promise) to pay or reimburse states or other entities for the federal share of projects' eligible costs. Following obligation by FHWA, the amount of FHWA funding associated with that project is said to be obligated.

State obligation target: FHWA has a strong interest in ensuring that obligation authority (funding) is used (obligated) by the end of the FFY it is made available. Thus, each state's annual obligation target is equal to the amount of OA it has that year. If states fall short of their obligation target, the un-obligated OA is taken back by FHWA for redistribution to states that can use it that year.

Statewide local obligation target: In this policy-document, the statewide local obligation target refers to the target dollar amount equal to the portion of annual OA managed through the WSDOT Local Programs Office. OA managed by Local Programs can be split into two broad categories: 1) funding sub-allocated to MPOs and non-MPO counties for allocation to projects (STBG, TA, CMAQ funds) and 2) funding awarded to project sponsors by the Local Programs Office (National Highway Performance Program, Bridge, Highway Safety Improvement Program, Interstate Maintenance, etc.).

Regional obligation target: By law, a portion of states' annual FHWA obligation authority for certain programs (STBG, TA, and CMAQ) is sub-allocated to areas of the state based on population. These sub-allocated amounts fund projects that are selected by metropolitan planning organizations (MPOs) or counties (in regions not required to have an MPO). The total amount of annual OA that is sub-allocated to each MPO or non-MPO county is considered to be that MPO or non-MPO county's regional obligation target (plus any carry-forward from the previous FFY).

Nationally Redistributed OA: In years when one or more states fall short of their state obligation target, the unused OA is taken back by FHWA and redistributed to states that can use it that FFY.

Sanction: In this document, a sanction is a dollar amount of OA reduction applied to a region's future OA sub-allocation as a result of failing to meet its regional obligation target as outlined in this policy document. OA that a region currently has and is still seeking to obligate to its projects is not taken away by a sanction. Rather, the next FFY's sub-allocation of new OA is reduced.

Sanctioned OA / Redistributed sanctions: In this document, sanctioned OA is the dollar equivalent of sanctions applied to regions resulting from the policies outlined in this document. Sanctioned OA will be made available for redistribution to other regions pursuant to the policies explained by this document.