

Provisions in SB-1 Program Guidelines for the Timely Use of Funds, Time Extensions,
and Penalties for Funding Awarded by the CTC

FY 2018-2020 Trade Corridor Enhancement Program (TCEP)¹

Major criteria for determining eligibility

Two requirements determined eligibility for FY 2018-2020 TCEP projects – the deadlines for a project to execute a Notice of Determination and a Construction Contract Award.

Notice of Determination (NOD): Capital costs will only be programmed if a NOD is filed, in accordance with CEQA, within six months of program adoption, which occurred on May 16, 2018.

Construction Contract Award: The construction contract award must be made within six months of the end of the fiscal year in which the CTC has programmed funding for construction. As the end of the fiscal year is June 30th, the award must be made by December 30th of the same calendar year. As the final fiscal year programmed in this TCEP cycle is FY 2020, a project must be able to award a construction contract by December 30th, 2020 to be eligible for programming consideration in this cycle of TCEP.

Timely Use of Funds

Allocations: Allocations must be requested in the fiscal year of project programming, and construction allocations are valid for six months from the date of allocation unless the CTC approves an extension.

Project Development or Right-of-Way: Funds allocated for project development or right-of-way costs must be expended by the end of the second fiscal year following the fiscal year in which the funds were allocated. The implementing agency must invoice Caltrans for these costs no later than 180 days after the fiscal year in which the final expenditure occurred.

¹ <http://catc.ca.gov/programs/sb1/tcep/docs/sb1-tcep-final-guidelines-v2-101817.pdf>

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Projects that receive funds for capital costs (Right-of-Way and Construction) will only be programmed if a Notice of Determination (NOD) is filed by November 16, 2018 (six months after the program adoption).

For projects that are receiving funds in fiscal year 2019, allocation requests must be made by June 2019, and if the construction component is receiving funds, a construction contract award must be made by December 2019.

For projects receiving funds in the fiscal year 2020, allocation requests must be made by June 2020, and a construction contract award must be made by December 2020.

Time extensions

Allocations: The CTC may extend the deadline only once for allocation and only if it finds that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and cannot exceed twelve months.

Contract Awards: The CTC may extend the deadline only once for contract award and only if it finds that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and cannot exceed twelve months.

Expenditures: The CTC may extend the deadlines for expenditures for project development or right-of-way, or for contract completion no more than one time, only if it finds that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and cannot exceed more than 20 months for project completion and 12 months for expenditure.

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Penalties for delays and cost overruns

If the NOD is not filed by November 16, 2018 for a project that received capital funds, the project will be deleted from the program.

If the project schedule slips to the point that programmed funds are not allocated within the fiscal year programmed or within the time allowed by an approved allocation extension, the project will be deleted from the program.

Cost Overruns

Any cost overruns are at the expense of the project sponsor.

FY 2018-2021 Solutions for Congested Corridors Program (SCCP)²

Major criteria for determining eligibility

The main criterion for determining project eligibility in the FY 2018-2021 SCCP was that a project must meet the latest possible timely use of funds deadlines for construction within this funding cycle, which require the allocation of construction funds by June 2021 and construction contract award by December 2021.

Timely Use of Funds

Funding allocations must be requested in the fiscal year of project programming, and are valid for award for six months from the date of allocation unless the CTC approves an extension.

After award of contract, the implementing agency has up to 36 months to complete (accept) the contract. At the time of fund allocation, the Commission may extend the deadline for completion of work and the liquidation of funds if necessary to accommodate the proposed expenditure plan for the project.

Penalties for delays and cost overruns

When programmed funds are not allocated within the fiscal year programmed or within the time allowed by an approved extension, the project will be deleted from the Program. Failure to meet either of the aforementioned deadlines will result in loss of SCCP funds.

To allocate construction funds by June 2021, projects must be ready-to-advertise and committed local funds must be available by April 2021. Delays in the environmental, design, and/or right-of-way phases threaten project readiness. Once funds are allocated, Metro is required to award a construction contract within six months. Cost overruns that contribute to project delay or jeopardize availability of committed funds may lead to loss of funds.

² <http://www.catc.ca.gov/programs/sb1/sccp/docs/sb1-sccp-final-adopted-guidelines-and-resolution-120617.pdf>

Time extensions

Time extensions can only be granted once for each stage of delivery if an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance.

The CTC may extend a deadline for allocation and award upon the request of the implementing agency for a period no longer than 12 months and only if the delay is attributable to an extraordinary circumstance beyond the control of the implementing agency.

The CTC may provide an extension for the deadline for expenditure and for project completion only due to an extraordinary circumstance. The time of extension cannot exceed more than 12 months for expenditure and 20 months for project completion.

Cost Overruns

Any cost overruns are at the expense of the project sponsor.

FY 2018-2020 Local Partnership Program – Competitive Program (LPP)³

Major criteria for determining eligibility

The main criterion for determining project eligibility in the 2018 LPP Competitive Program was whether a project could meet the latest possible timely use of funds deadlines for construction within this funding cycle which are to allocate construction funds by June 2020 and award a construction contract by December 2020.

Timely Use of Funds

Allocations: Allocations must be requested in the fiscal year of project programming. Construction allocations are valid for award for six months from the date of allocation unless the Commission approves an extension.

Contract Award: After award of the contract, the implementing agency has up to 36 months to complete (accept) the contract. At the time of fund allocation, the CTC may extend the deadline for completion of work and the liquidation of funds if necessary to accommodate the proposed expenditure plan for the project.

Project development or right-of-way: Funds allocated for project development or right-of-way costs must be expended by the end of the second fiscal year following the fiscal year in which the funds were allocated. The implementing agency must invoice Caltrans for these costs no later than 180 days after the fiscal year in which the final expenditure occurred.

Time extensions

Time extensions can only be granted once for each phase of the project as follows:

- **Allocation:** If the CTC determines that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed 12 months.
- **Contract Award:** If the CTC determines that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed 12 months.

³ <http://catc.ca.gov/programs/sb1/lpp/docs/sb1-lpp-revised-final-guidelines-and-resolution-120617.pdf>

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- **Expenditures for project development or right-of-way, or for contract completion:** If the CTC determines that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and cannot exceed more than 12 months for expenditure and 20 months for project completion.

Penalties for delays and cost overruns

Any funds for which a contract has not been awarded within six months or prior to the expiration of an extension to the period of allocation will be deallocated.

Failure to meet either of the aforementioned deadlines will result in loss of LPP funds. To allocate construction funds by June 2020, projects must be ready-to-advertise and committed local funds must be available by April 2020. Delays in the environmental, design, and/or right-of-way phases threaten project readiness.

Once funds are allocated, Metro is required to award a construction contract within six months. Cost overruns that contribute to project delay or jeopardize availability of committed funds may ultimately lead to the loss of funds.

Cost Overruns

Any cost overruns are at the expense of the project sponsor.