

Project Tracking Policies for PSRC's Federal Funds (Revised October 2015)

Background & Purpose

The Puget Sound Regional Council's (PSRC) project tracking program was first implemented in 2000 to monitor delivery of projects awarded PSRC's federal funds. In 2010, the program's project tracking policies were revised to reinforce provisions that address projects with delayed funds. While PSRC's project tracking program has helped improve the region's record of transportation investment delivery, delivery of federal funds by local agencies statewide has lagged historically. In addition, with the passage of a new federal transportation act in 2012, Moving Ahead for Progress in the 21st Century (MAP-21), a greater emphasis has been placed on project delivery and performance management for federal funds.

In late 2012, the Washington State Department of Transportation (WSDOT)—in coordination with regions across the state—developed policies and procedures to ensure that federal delivery expectations under MAP-21 are met, and that the portion of the state's Federal Highway Administration (FHWA) funds distributed to local agencies is effectively utilized year to year. In short, the new statewide delivery strategy sets annual targets for the obligation of FHWA funds for each region of the state, as well as consequences for not meeting those targets. Under this statewide strategy, PSRC must deliver its target for its FHWA funds by August 1st of each year or a portion of the funds may be lost through redistribution to other regions. "Delivery" is defined as complete and accurate obligation packages submitted to WSDOT by August 1st, to allow processing time for obligation by the end of the federal fiscal year, September 30th.

The purpose of PSRC's project tracking policies is to ensure the timely and predictable use of all regionally managed federal funds. Doing so will assist the central Puget Sound region to:

- Reduce project delays that lead to increased costs;
- Ensure the traveling public benefits from investments at the earliest point possible;
- Create or sustain jobs needed to stimulate the regional economy;
- Meet federal funding delivery expectations;
- Preserve PSRC funds and ensure they are kept locally and not redistributed to other regions; and
- Position the region to receive unused FHWA obligation authority from other states by demonstrating the ability to deliver projects.

Overview of PSRC Funding and Processes

PSRC is responsible for managing funds from programs under both the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA).

The FHWA funding programs for which PSRC has responsibility for project selection and distribution through MAP-21 include:

- Federal Highway Administration Programs
 - Surface Transportation Program (STP)
 - Congestion Mitigation and Air Quality Improvement Program (CMAQ)
 - Transportation Alternatives Program (TAP)

A shared regional and countywide process is conducted to recommend and select projects for PSRC's FHWA funds. The total available FHWA funding is split between the regional and countywide forums based on a regionally adopted funding split. Funding recommendations for PSRC's FHWA funds are forwarded to the PSRC Transportation Policy Board by the Regional Project Evaluation Committee (RPEC) and the policy forums within each county, and are based on the requirements of MAP-21 and guidance provided by adopted regional and local plans and a policy framework adopted prior to PSRC's project selection processes. A separate regional process is conducted for the selection of projects for PSRC's TAP funds, recommended by a citizen advisory committee appointed by the PSRC Transportation Policy Board. The Transportation Policy Board recommends the distribution of funds of all PSRC FHWA funds with final approval by the Executive Board.

The FTA funding programs for which PSRC has primary responsibility for project selection and distribution through MAP-21 include:

- Federal Transit Administration (FTA) Programs¹
 - Urbanized Area Formula (Section 5307)
 - State of Good Repair - High Intensity Fixed Guideway (Section 5337)
 - State of Good Repair - High Intensity Motor Bus (Section 5337)
 - Bus and Bus Facilities (Section 5339)

Projects that receive PSRC's FTA funds are selected through a process coordinated with FTA and the public transit agencies in the region. The process splits the available FTA funds between an earned share process and a regional competition. The earned share funding amounts are based on the service and operating characteristics of the agencies in the region's three urbanized area (Bremerton, Marysville, and Seattle-Tacoma-Everett) and are distributed to each public transit agency based on their earnings. The remaining FTA funds come to the region based on regional attributes such as population density and are used for a regional competition for transit-related projects.

Funding recommendations for PSRC's FTA funds are forwarded to the PSRC Transportation Policy Board by PSRC's Transportation Operators Committee (TOC) and are based on the requirements of MAP-21 and guidance provided by adopted regional and local plans and a policy framework adopted prior to PSRC's project selection processes. The Transportation Policy Board recommends the distribution of funds with final approval by the Executive Board.

PSRC Project Tracking Policies

A. FHWA Funds

1. Obligation Dates and Deadlines

a. Projects Awarded PSRC Funds Prior to 2014

Project sponsors are required to designate the year that each phase awarded PSRC's FHWA funds will obligate. The deadline for all funding awards is December 31st of the program year selected. Projects with funds awarded to planning and/or preliminary engineering/design phases must obligate the funds within the designated

¹ PSRC also is responsible for distributing FTA Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310). The selection of projects to receive these funds is separate from those described here and is not subject to PSRC's project tracking policies. More information on PSRC's special needs funds may be found on PSRC's website at <http://www.psrc.org/transportation/special-needs>.

year selected and are NOT eligible for a grace period. Projects awarded funds to right of way or construction phases are allowed a one-year grace period beyond the designated year to obligate the funds.

b. Projects Awarded PSRC Funds in 2014 and Beyond

Project sponsors are required to designate the year that each phase awarded PSRC's FHWA funds will obligate. The deadline for all funding awards, regardless of project phase, is June 1st of the program year designated. For example, if 2015 is selected as the program year, the deadline for obligating the funds is June 1st, 2015. No grace period is allowed for any phase.

2. Obligation Deadline Extensions

a. Projects Awarded PSRC Funds Prior to 2014

No time extensions beyond the obligation deadline (or one-year grace period for right of way or construction phases) will be allowed unless the cause of delay, as determined by the appropriate project evaluation committee, is deemed to be clearly beyond the control of the sponsor (e.g., lawsuits). Examples of delays that are not to be considered beyond the control of a sponsor include: staff turnover, shifting priorities, insufficient funding, clerical errors, lack of certification acceptance status, road classifications, waiting for permits, underestimating NEPA requirements, etc.

When so determined, causes of delay must be mitigated within a short time period and by a date certain. No project will be granted more than one extension and that extension will be limited to a maximum of one year regardless of the circumstances. All extension requests will be evaluated on a case-by-case basis by the appropriate project evaluation committee. In cases where determinations and resulting recommendations for an extension differ between PSRC staff and a project evaluation committee, the request will be forwarded on to PSRC's Transportation Policy Board for a final decision.

b. Projects Awarded PSRC Funds in 2014 and Beyond

Sponsors that do not anticipate meeting their June 1st obligation deadline and have PSRC funds awarded to a right of way or construction phase may apply for a six-month extension, to December 31st of the given year. Requests for extensions are due to PSRC by April 1st of the program year selected and are reviewed by PSRC staff in consultation with WSDOT and the RPEC and countywide chairs. Determinations are to be completed by PSRC staff and communicated to sponsors by mid to late April. PSRC's Regional Project Evaluation Committee (RPEC) and Transportation Policy Board will also be notified in order to respond to any impact to PSRC's delivery target for that fiscal year. See Attachment A to this document for the adopted policies regarding supplemental funding actions to meet annual delivery targets.

Regardless of the circumstances, extensions are not granted based on a consideration of the cause of delay, but are instead based exclusively on a demonstration by the project sponsor that all obligation requirements are reasonably expected to be met and funds will obligate no later than the end of the calendar year. All funds granted an extension that remain unobligated as of the December 31st deadline will be returned to the recommending forum for redistribution to projects on the adopted contingency list. No funding award to a given phase will be granted

more than one extension. Note: As outlined above, extensions are restricted to right of way and construction phases only.

Should a request for an extension be denied by PSRC staff, project sponsors may appeal directly to PSRC's Transportation Policy Board for a final decision.

3. Partial Obligations

Obligation deadlines apply to the entire amount of a PSRC award for a given phase. However, under some circumstances sponsors with funds programmed to a construction phase may only be authorized to obligate a portion of the award. In these cases, an opportunity may exist for the sponsor to utilize the remaining unobligated funds as the project progresses (e.g., to accommodate bids coming in higher than the engineer's estimate or other unanticipated costs such as unexpected environmental mitigation). In such cases, any amount that remains from a partial obligation for a construction phase may be retained in the project for 90 days after bid opening, after which the unobligated portion will be returned for redistribution. Note: this provision applies only to awards to construction phases and does not apply to any other project phases (i.e. planning, preliminary engineering/design, or right of way).

4. Scope Changes

PSRC funds are awarded to projects with the expectation they will be completed as originally described and scheduled. Funded projects were evaluated, underwent a public review and comment period, and were included in a regional air quality analysis based upon their scope of work submitted at grant application.

Requests to change a project's description must be reviewed and approved in advance by PSRC staff to ensure that the modified description is consistent with the project's original scope, purpose, intent, and/or utility. If such a request is deemed to deviate from the original scope of work, the request will be denied. Should a request for an extension be denied by PSRC staff, project sponsors may appeal directly to PSRC's Transportation Policy Board for resolution.

5. Exceptions

At times there may be issues facing a project that require an exception to the policies as described above. Requests for such an exception will be evaluated on a case-by-case basis, but any exception granted must result in circumstances consistent with the overarching goals of the project tracking program – i.e. project delays and increased costs are reduced, projects are delivered in a timely manner, and the exception is processed in a fair and equitable manner. Therefore, short-term time extensions and/or the movement of funds between phases will be considered under certain circumstances as defined below. Depending on the request, exceptions will be processed administratively or require approval by PSRC boards, as provided below.

a. Exceptions that will be Considered

1.) Administrative Exceptions:

The following circumstances will be allowed to occur without an exception needing to be approved, as long as the applicable project phases remain fully funded:

- a) The transfer of PSRC funds between phases at the time of grant closeout; and/or
- b) The transfer of PSRC funds between any phases below the threshold of \$50,000.

2.) Exceptions requiring Board Approval

Short-term time extensions and/or the movement of funds between phases above \$50,000 will be considered by the board if the following three parameters are met:

- a) The phase(s) involved in the exception request remain fully funded;
- b) The applicable phase can be implemented within six months of PSRC Board action; and
- c) There is a compelling need for the exception.
 - 1. Examples of a compelling need include a funding gap which the transfer will fill, or significance of opportunity lost if the exception is not granted (i.e. there is a risk of losing other (non-PSRC) funding if not granted or there would be a significant impact on the timing of completion and coordination with other projects).
 - 2. The transfer of funds to reduce the local match commitment provided in the competitive project selection process is not considered a compelling need.

b. Exceptions that will not be Considered

The following requests will not be considered for an exception to the project tracking policies:

- 1. Scope changes
- 2. Transfer of PSRC funds from one project to another
- 3. Time extensions for unobligated funds beyond what is already available, as the current policies already allow an opportunity for six month extension
- 4. Additional time to pursue funding for cost overruns
- 5. De-federalizing (i.e. swapping PSRC funds for local and/or state funds)

c. Review and Approval Process

PSRC staff will review all exceptions requests requiring board approval in coordination with WSDOT and the Regional Project Evaluation Committee (RPEC) and countywide chairs, and prepare a recommendation to PSRC's Boards. Sponsors applying for an exception will be made aware of when their request will be reviewed and will have an opportunity to answer any questions the group may have. In the event a consensus cannot be reached among this group, exception requests will be reviewed by RPEC for a final recommendation. All exception requests will be provided to PSRC's Boards for final action.

6. Project Progress Reports

All project sponsors must submit status reports to PSRC that identify actual and/or expected progress for the project. These progress reports are to be completed by sponsors twice a year at the request of PSRC staff, and will be used to track the progress of individual projects as well as monitor the region's overall progress and towards achieving its annual delivery expectations. Requests will coincide with the timing associated with PSRC's annual delivery deadlines.

7. Administrative Procedures for the Return of PSRC Funds

PSRC funds may be returned through the project tracking policies identified above, through cost savings at time of grant completion, or on a voluntary basis by sponsors due to project cancellations, the obtaining of other grant funding such that PSRC funds are no longer required, or other circumstances. The following guidelines are identified for sponsors wishing to return PSRC funds:

- i. Sponsors voluntarily returning funds should provide PSRC with a letter or a memorandum signed by a responsible official (mayor, council member, commissioner, department director, etc.) requesting the return. The letter should identify the project from which the funds are being returned, the funding source and amount being returned, and a summary of the reason for the return.
- ii. For projects that are at risk of failing to meet the obligation deadline per PSRC's project tracking policies, the sponsoring agency's responsible official (mayor, council member, commissioner, department director, etc.) will be notified approximately three months in advance of the deadline that the removal of any remaining unobligated funds may be forthcoming. After the obligation deadline has passed, sponsors will be notified that the unobligated funds are no longer available and will be returned for redistribution. All projects that return funds may compete for funding during the next or subsequent project selection processes.

8. Distribution of New and Returned Funds

The Transportation Policy Board approves contingency lists of prioritized projects in case additional funds become available prior to the next project selection process. New funds, defined as additional funds to the region from higher than estimated allocations or other sources, and returned funds, defined in the section above, will be distributed to either the adopted contingency list in effect at the time, or applied to the next project selection process.

9. Expenditure Monitoring

There are no current PSRC policies for monitoring the expenditures of PSRC's FHWA funds. However, FHWA requires WSDOT to conduct a quarterly review of local agency projects with federal funds for which no expenditures have been charged during the past 12 months, referred to as "inactive" projects. In the last several years, these requirements have been more rigorously enforced, and sponsors of inactive projects risk losing their federal funding. Sponsors are expected to submit bills for reimbursement on a monthly basis, and WSDOT is proactively reaching out to sponsors of projects with no billing activity within 9 months, to encourage billing progress and the avoidance of being

deemed inactive. Inactive projects are required to submit detailed documentation and justification to FHWA or risk the project being closed and federal funds repaid.

PSRC will assist with this monitoring through the twice-yearly Project Progress Report form, and ongoing communication and education to project sponsors. Sponsors should be aware of billing procedures and expectations for projects with obligated federal funds, as well as the circumstances that lead to projects being deemed inactive by FHWA. For more information, see Chapter 23 of the Washington State Local Agency Guideline (LAG) Manual at: <http://www.wsdot.wa.gov/LocalPrograms/LAG/>.

10. PSRC Reporting

It is expected that performance reports for PSRC's FHWA funds will be provided to PSRC's Transportation Policy and Executive Boards on a quarterly basis. These reports will summarize the region's progress towards achieving its annual delivery target, and provide information on project awards that did not meet their obligation deadline and were returned for redistribution. In addition, for projects awarded funds in 2014 and beyond, the Board will be informed of obligation extension requests submitted by the April 1st deadline each year, any subsequent impacts to meeting the delivery target for that year, and the process for a supplemental funding action if required.

In addition to the communication to sponsoring agencies described above in Section 6b, PSRC will provide additional outreach on upcoming obligation deadlines and consequences for non-delivery.

- Notification of each project's obligation deadline will be included in every sponsoring agency's PSRC award letter.
- Additional notification will be provided at the beginning of each year to inform sponsors of their projects with a June 1st obligation deadline that year.
- Project Progress Reports will be monitored in the first quarter of each year to evaluate if projects appear to be at risk of missing their obligation deadline; PSRC will proactively reach out to those project sponsors to determine if they plan on requesting an extension by April 1st, if they plan to return the funds, or if they have a solid plan for meeting the obligation deadline.

5. FTA Funds

1. Obligation Dates and Deadlines

Sponsors of projects are required to designate the year that each project phase with PSRC's FTA funds will obligate. Each phase of a project is allowed a one-year grace period beyond the estimated obligation date. If unobligated by the end of this grace period, funds are at risk of being removed from the project.

PSRC staff will provide regular reports to the TOC of those projects with PSRC FTA funds that are approaching this milestone. These reports will include information on the age of the funds, the phases programmed, and the length of time passed beyond the estimated obligation date (i.e., months "past due").

When any PSRC FTA funds are nine months past the estimated obligation date (before the one-year grace period expires), PSRC staff will contact the project sponsor and initiate an evaluation process. Staff will meet with the sponsor and gather information on

the reasons for the delay. For the regional FTA competition in the Seattle-Tacoma-Everett UZA, a recommendation will be prepared on whether or not an obligation date extension is warranted. PSRC's recommendation will be presented to the Regional FTA Caucus for their review and recommendation to the TOC. The length of any obligation date extension will be determined on a case-by-case basis and may be allowed for any date within the four-year time span of the current Regional Transportation Improvement Program (TIP). For projects awarded through the FTA earned share process, regular monitoring of these funds will occur and reports provided to the Regional FTA Caucus and the TOC to ensure the funds do not become at risk of lapsing.

2. Scope Changes

PSRC funds are awarded to projects with the expectation they will be completed as originally described and scheduled. Funded projects were evaluated, underwent a public review and comment period, and were included in a regional air quality analysis based upon their scope of work submitted at grant application.

Requests to change a project's description must be reviewed and approved in advance by PSRC staff to ensure that the modified description is consistent with the project's original scope, purpose, intent, and/or utility. For funds awarded through the regional FTA competition, if such a request is deemed to deviate from the original scope of work, the request will be denied. Should a request be denied by PSRC staff, project sponsors may appeal directly to PSRC's Transportation Policy Board for resolution. For funds awarded through the FTA earned share process, the sponsoring agency will make a request to the Transportation Operators Committee who will review and make a recommendation to the Transportation Policy Board for revision of the project's description in the Regional and State TIPs.

3. Distribution of New and Returned Funds

For the regional competition within the Seattle-Tacoma-Everett urbanized area, the Transportation Policy Board approves contingency lists of prioritized projects in case additional funds become available prior to the next project selection process. New funds, defined as additional funds to the region from higher than estimated allocations or other sources, and returned funds, defined in the section above, will be distributed to either the adopted contingency list in effect at the time, or applied to the next project selection process.

4. PSRC Reporting

It is expected that performance reports for PSRC's FTA funds will be provided to PSRC's Transportation Policy and Executive Boards on a quarterly basis. These reports will summarize the region's progress at delivering transit projects, and provide information on competitive project awards that did not meet their obligation deadline and were returned for redistribution.

ATTACHMENT 1
PROCEDURES FOR SUPPLEMENTAL FUNDING ACTIONS
(Revised June 2019)

The following procedures will apply when there are not enough projects able to deliver in a given year, and additional measures need to be taken in order to meet the required annual delivery target for PSRC's FHWA funds.

The overarching guiding principles are to work within the established procedures for project selection and project tracking, to the extent feasible. This means:

- Achieving delivery with a neutral impact on overall PSRC funds is preferred (i.e., no net change to funding totals in the Transportation Improvement Program [TIP]); and
- Adhering to existing policies and procedures to the extent possible, including geographic equity principles and respect for the original project selection process in terms of how awards were granted and prioritized contingency lists adopted.

Due to obligation deadline extensions, returned funds or other circumstances, if there is not enough remaining programming in a given year to achieve the delivery target, the recommended process is as follows, **in priority order**:

1. Advance projects from later years of the TIP

- Sponsors of projects with PSRC's FHWA funds in the later years of the TIP will be asked if they are willing and able to advance to the current year and obligate by the deadline. PSRC will review project milestones to confirm the feasibility of this advancement.

2. Exchange federal funds for local or state funds between phases or stages of a single project, or between projects within the same agency

- If there are not enough projects able to advance to the current year to meet the delivery target, sponsors of projects with PSRC's FHWA funds in both the current year and later years of the TIP will be asked if they are willing and able to perform an exchange between federal and local funds, with the goal of obligating more federal funds in the current year but keeping all projects whole with the exchange. PSRC will review project milestones and budgets to confirm the feasibility of this exchange, and also to ensure this is a viable option that will:
 - help with delivery
 - do no harm to either the donor or receiving project(s), and
 - remain consistent with the project scopes and schedules as originally awarded
- Projects that exchange federal funds for local funds will still be subject to PSRC's project tracking policies (i.e., progress reporting and monitoring) and will not be allowed to reapply for PSRC funding for that phase. In addition, monitoring will occur of any changes or cancellations to any de-federalized projects, for future review and discussion.

3. Fund immediately ready to go projects from the current adopted contingency lists

- If Strategies 1 and 2 above do not result in enough existing projects able to meet the annual delivery target, PSRC will survey sponsors of every project on the adopted contingency lists for the ability to obligate by mid-July of the current year, to meet the state's August 1st deadline. PSRC will review every project's milestones to confirm the feasibility of obligating by the deadline.
- As feasible, PSRC will apply geographic equity and equity by recommending forum:
 - if more projects are available to obligate than necessary to meet the delivery target, the standard 50/50 split among forums will be applied, and projects will be selected in rank order
 - if all available, immediately ready to go projects are needed to meet the delivery target, then geographic equity will simply be incorporated into the standard analysis over time

4. Increase the federal share of awarded projects

- If there remains a gap to meeting the delivery target after Strategies 1 through 3 have been implemented, then all projects that are able to deliver in the current year will be eligible for an increase to the existing federal award amount. The amount will be determined based on the remaining delivery gap, by funding source.
 - A consistent percentage increase will be applied to all eligible projects, to reach a pre-determined amount based on the need. The amount will be no less than \$100,000 for any project, and no more than the maximum federal share allowable for any project. If this does not yield enough to meet the delivery gap, projects from the previous years will be reviewed.
 - The recommendation includes a provision that projects participating in Strategy 2 that achieve the maximum federal share due to the exchange may select a project from the previous year to apply the increase, in the amount that would otherwise have been eligible.

5. Award new funds to new projects, outside of the standard PSRC project selection process

- If the implementation of Strategies 1 through 4 above are still not enough to meet the current year's delivery target, PSRC will solicit new projects for a supplemental funding action that are able to readily accept federal funds for immediate use. The likely types of projects will be those that are ongoing in nature, such as bus purchases, transportation demand management activities, maintenance and preservation, or projects that are more operational in nature. Another category may be very large capital construction projects that have other federal funds and can easily absorb additional federal funds.
- Given the short turnaround times for this exercise, PSRC staff would identify a small number of likely candidates and reach out to potential sponsors for immediate delivery, with input from the chairs of the Regional Project Evaluation Committee and the four countywide forums.