

Chapter 18 Optional Federal Exchange and State Match Programs

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Chapter 18 Optional Federal Exchange and State Match Programs

18.1 Introduction

Senate Bill (SB) 1435 (Chapter 1177 of the 1992 Statutes), effective September 29, 1992, amended Section 182.6 of the Streets and Highways Code (S&HC) to redefine the Optional Federal Exchange program under the Intermodal Surface Transportation Efficiency Act (ISTEA).

Section 182.6 of the S&H Code defines the process through which the department (Caltrans) apportions Regional Surface Transportation Program (RSTP)/Regional Surface Transportation Block Grant Program (RSTBGP) funds to metropolitan planning organizations, transportation planning agencies, and county transportation commissions. In particular, subsection (d)(1) states that these agencies are to apportion these RSTP/RSTBGP funds for projects implemented by cities, counties, and other transportation agencies on a fair and equitable basis based upon an annually updated five-year average of allocations. It goes on to say that these projects shall be nominated by cities, counties, transit operators, and other public transportation agencies through a process that directly involves local government representatives.

Subdivision 182.6(g) of the S&HC permits a Regional Transportation Planning Agency (RTPA) not designated as, nor represented by, a Metropolitan Planning Organization (MPO) with an urbanized area of greater than 200,000 population, to exchange its annual apportionment of RSTP/RSTBGP funds on a dollar-for-dollar basis for nonfederal State Highway Account funds, which shall be apportioned in accordance with subdivision (d). If an eligible RTPA elects not to exchange, subsection 182.6(h)(1) permits an eligible county represented by that RTPA to exchange its entire annual sub-apportionment, pursuant to subsection 182.6(d)(2) (110 percent 1990/91 Federal-aid Secondary minimum), for nonfederal State Highway Account funds.

In addition, subsection 182.6(h)(2) of the S&HC permits an eligible county, located within an MPO boundary, to exchange its entire apportionment of subsection 182.6(d)(2) funds, if it receives less than one percent of the total statewide apportionment under subsection 182.6(d)(2) or that portion, if any, received in excess of 3.5 percent of the total statewide apportionment.

Section 182.9 of the S&H Code, as redefined by SB 1435, addresses the topic of State Match funds. The California Transportation Commission (CTC) must allocate to each county an amount equal to 50 percent of the funds allocated pursuant to subsection 182.6(d)(2) with a maximum limit of \$100,000 dollars per county per fiscal year. State match funds are used to match Federal funds allocated pursuant to section 182.6(d)(2) of the S&HC, or, if excess, may be used for any transportation purpose pursuant to Article XIX of the State Constitution.

Optional Federal Exchange and State Match dollars are paid as a lump sum cash amount following the annual apportionment of RSTP/RSTBGP funds.

18.2 Eligible Uses for Exchange and Match Funds

RTPA Exchange Funds

Pursuant to Section 182.6 of the S&H Code, subdivision (g), RTPA exchange funds shall be apportioned in accordance with subdivision (d) of the same Section. Subdivision (d) requires these funds be apportioned to projects. S&H Code section 182.6 subdivision (d) is stated here:

(d) The applicable metropolitan planning organization, county transportation commission, or transportation planning agency shall annually apportion the regional surface transportation program funds for projects in each county, as follows:

(1) An amount equal to the amount apportioned under the federal-aid urban program in federal fiscal year 1990-91 adjusted for population. The adjustment for population shall be based on the population determined in the 1990 federal census except that no county shall be apportioned less than 110 percent of the apportionment received in the 1990-91 fiscal year. These funds shall be apportioned for projects implemented by cities, counties, and other transportation agencies on a fair and equitable basis based upon an annually updated five-year average of allocations. Projects shall be nominated by cities, counties, transit operators, and other public transportation agencies through a process that directly involves local government representatives.

(2) An amount not less than 110 percent of the amount that the county was apportioned under the federal-aid secondary program in federal fiscal year 1990-91, for use by that county.

This subdivision is silent on the types of projects to be nominated. As such, and since these federal funds are exchanged for state funds coming from the State Highway Account (SHA), agencies can use these funds on a variety of projects pursuant to the eligibility stated in Article XIX of the State Constitution. Exchanged funds may be used for projects that are programmed in a region's Regional Transportation Improvement Program (RTIP), as nominated according to 182.6(d)(1) and implemented by cities, counties and other transportation agencies. These transportation agencies must be public and do not include, for example, private entities, non-profit agencies, and tribes.

Regarding project selection, 182.6(e) states:

(e) The metropolitan planning organization and transportation planning agency, in cooperation with the department, congestion management agencies, cities, counties, and affected transit operators, shall select and program projects in conformance with federal law.

It is important to note here that subdivision (e) states that projects must be selected and programmed in conformance with federal law. This section most certainly applies to those projects that will be funded with federal RSTP/RSTBGP funds. However, if the project is being funded with exchanged funds from the SHA, then the federal requirements do not apply to how the projects are to be selected. RTPAs will select projects in accordance with their project selection process.

Retroactive reimbursement (using funds for projects built in the past) is not permitted. A project is nominated first as one on which exchange funds will be spent. The RTPA then allocates funds for that project. The agency can then use exchanged funds on that project.

County Exchange Funds

County exchange funds, pursuant to Sections 182.6(h)(1) and (h)(2) of the S&HC, may be used for any transportation purpose authorized by Article XIX of the State Constitution.

County Match Funds

County match funds must be used to match Federal funds allocated pursuant to Section 182.6(d)(2) or, if in excess, may be used for any transportation purpose authorized by Article XIX of the State Constitution.

18.3 Payment of Exchange and Match Funds

All requests for exchange and match funds are treated as grants with up-front lump sum payments. The RTPA's share of exchange is paid directly to the RTPA. Match funds and optional county exchange funds are paid directly to each eligible county.

Each year there is the possibility that initial payments for exchange and match may be lower than the total amount requested by an eligible agency due to a budgetary shortfall within Caltrans. Payment will be based on:

- the local agency's balance of remaining unobligated eligible Federal apportionments.
- the total statewide exchange and match payment requested from RTPAs and counties.
- available State budget capacity.

If the requests exceed the current fiscal year's budget capacity, and if a budget change proposal is not approved for that fiscal year to cover all requests, then the remaining balances of requested exchange and match funds are to be funded from the next fiscal year's State budget.

18.4 Steps for Implementing Exchange and Match Provisions

Establishing Unobligated Apportionment Balance Available for Exchange

The HQ Division of Local Assistance (DLA) develops the balances of S&HC Section 182.6(g) RTPA apportionments and the 182.6(d)(2) county apportionments eligible for exchange. To establish the balances of unobligated apportionments available for exchange, the HQ DLA reviews the apportionment balances and project transactions monthly to determine the amount of eligible Federal apportionments to be exchanged for State cash.

Once the eligible exchange amount is established, the HQ DLA prepares the agreements and provides the appropriate support documentation to Local Programs Accounting (LPA) to allow the funds to be encumbered onto the funds transfer agreements.

An RTPA or county may not request that payment of exchange funds be carried over into future fiscal years. The full amount of the fiscal year's apportionment will be paid subject to State budget constraints.

Exchange Funds

RTPAs

RTPAs must address the exchange of RSTP/RSTBGP funds per Section 182.6(g) of the S&HC. The exchange amount shown in the RTPA agreement is equal to the total of that fiscal year's RSTP/RSTBGP apportionment, less the minimum RSTP/RSTBGP apportionment to be exchanged directly between the county and the State, less that portion of that fiscal year's RSTP/RSTBGP apportionment already obligated and/or to be retained for future obligation. The exchange amount shown in the RTPA agreement shall not exceed the maximum allowable exchange funds for the fiscal year.

Along with their executed agreement, the RTPA must also submit an annual report showing a list of those local public transportation agencies to which the RTPA has allocated the prior year's exchange funds. This report allows the RTPA to demonstrate that it is not accumulating large sums of exchanged funds from one year to the next and that the funds are being used in a timely fashion. If an RTPA expects to accumulate exchanged funds from multiple years to fund a larger project, this should be indicated on the annual report. This report must be received by the HQ DLA before the State fund exchange agreement can be executed.

Counties

The RSTP/RSTBGP fund amount eligible for exchange by a non-MPO county is equal to that county's fiscal year apportionment pursuant to Section 182.6(d)(2) of the S&HC, less that portion already obligated and/or retained for future obligation for projects chargeable to that county's apportionment.

State-Fund Exchange Agreement

After the determination of exchange amounts for the RTPAs and Counties is completed, the HQ DLA prepares and processes all the State fund exchange agreements, reflecting the RSTP/RSTBGP exchange and State Match fund amounts, and submits to LPA for encumbrance of funds. LPA returns the encumbered agreements to HQ DLA who then mails them out to the respective agencies.

An eligible county or RTPA must enter into a State-fund exchange agreement for payment of match and/or exchange funds. Upon receipt of the agreements, the agency either signs the agreement indicating they wish to participate in that year's exchange of funds, or, if the agency chooses not to exchange that year's funds, returns the unsigned agreement indicating that they are choosing not to exchange that year's RSTP/RSTBGP funds. Following execution of the agreement, the local agency must return both copies of the agreement to the HQ DLA for final execution and processing. A copy of the final executed agreement will be returned to the local agency.

RTPA-State Agreement

The RTPA-State fund exchange agreement requires that the RTPA agree to apportion exchange funds to projects pursuant to subdivision 182.6(d).

County-State Agreement

The county-State fund exchange/match agreement requires that the county agree:

- To use exchange funds for transportation purposes authorized under Article XIX of the State Constitution
- To use match funds to match the Federal funds apportioned pursuant to Section 182.6(d)(2), or if in excess, for any transportation purpose authorized by Article XIX

Invoice for Payment of Funds

Prior to payment of exchange or match funds, the eligible RTPA or county must submit an invoice (original and two copies) to the State for payment. The invoice will formally evidence the county's intent to assign an eligible portion of its annual minimum RSTP/RSTBGP apportionment to the State. The invoice should be sent directly to the DLAE. The initial invoice may accompany the above-referenced executed agreement. A sample invoice for use with the Exchange and Match programs is included at the end of this chapter (see [LAPG Exhibit 18-F: Sample Invoice for Exchange /Match Program](#)).

Financial Controls

RTPAs

Non-city/county agencies receiving funds for projects from RTPAs are audited on a selective basis following the completion of projects. Eligible RTPAs are to provide the State with a list of local entities allocated exchange funds and the amount allocated to each agency, before receiving next year's allocation.

RTPAs must agree to require non-city/county project sponsors to establish a separate account to deposit exchange fund payments. Furthermore, the RTPA must establish a separate account to deposit payments. The use of separate and special accounts facilitates the audit process and provides a mechanism to identify the use of funds and remaining balances.

In the event of an adverse audit finding, a local project sponsor receiving exchange funds from an RTPA may be required to return the State cash to the RTPA for allocation to other eligible projects. The RTPA will be required to notify the State when the necessary corrective action has been taken.

If an adverse audit finding is not corrected, a hold will be placed on future exchange payments to the RTPA until the adverse findings are corrected to the State's satisfaction.

Cities and Counties

City and county expenditures of exchange and match funds are subject to financial and compliance audits by State of California auditors. City and county agencies must establish a separate account within their Special Gas Tax Street Improvement Fund or County Road Fund to deposit and account for State exchange and match payments received directly from the State and/or allocated by a RTPA. Using separate and special accounts facilitates the audit process and provides a mechanism to identify the use of funds and remaining balances. In the event of an adverse audit finding, a county receiving exchange/match funds directly from the State is

required to replace the State dollars with local funds and credit their exchange/match balance for use of funds on other eligible purposes.

In the event of an adverse audit finding, a city or county project sponsor receiving exchange funds from a RTPA may be required to return the State cash to the RTPA for allocation to other eligible projects (these other eligible projects could reside within the same jurisdiction). If an adverse audit finding is not corrected, a hold will be placed on future exchange and match payments to the RTPA or county until the adverse findings are corrected to the State's satisfaction.

18.5 References

Article XIX of the State Constitution

https://ballotpedia.org/Article_XIX,_California_Constitution

FAST Act of 2015

<https://www.fhwa.dot.gov/fastact/summary.cfm>

Intermodal Surface Transportation Efficiency Act of 1991

<https://www.afdc.energy.gov/pdfs/2457.pdf>

Optional Federal Exchange and State Match Guidelines – Caltrans

http://www.dot.ca.gov/hq/LocalPrograms/lam/prog_g/g18xchnq.pdf

Sections 182.6(d)(1), (d)(2), (g), (h)(1), (h)(2) and 182.9 of the Streets and Highways Code

<http://codes.findlaw.com/ca/streets-and-highways-code/shc-sect-182-6.html>

Senate Bill 1435, Chapter 1177 of the 1992 Statutes Relating to the California Department of Transportation

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB1435