

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: March 14-15, 2007

Reference No.: 3.11
Information Item

From: CINDY McKIM
Chief Financial Officer

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Local Assistance

Subject: **REPORT ON AB 1012 "USE IT OR LOSE IT" PROVISION FOR FEDERAL FISCAL YEAR 2005 UNOBLIGATED CMAQ AND RSTP FUNDS**

SUMMARY:

Congestion Mitigation and Air Quality Improvement Program (CMAQ) and Surface Transportation Program (RSTP) funds apportioned from the federal government are available for use by local agencies for four years. Assembly Bill (AB) 1012 (Chapter 783 of the Statutes of 1999) states that CMAQ and RSTP funds that are not obligated within the first three years of federal eligibility are subject to reprogramming by the California Transportation Commission (Commission) in the fourth year in order to prevent the funds from being lost to the State. The Department of Transportation (Department) is responsible for monitoring and reporting unobligated balances. Moreover, at the beginning of the third year, the Department provides notification to the local agencies of the unobligated CMAQ and RSTP balances that have one year remaining under the AB 1012 guidelines, prior to being subject to reprogramming.

The annual notice to regional agencies under Assembly Bill (AB) 1012 "Use It or Lose It" provisions for Federal Fiscal Year (FFY) 2005 funds (October 1, 2004 through September 30, 2005) was sent out on November 20, 2006. As of September 2006, the total FFY 2005 funds subject to reprogramming under the provisions of AB 1012 were approximately \$134 million, including \$87 million of Congestion Mitigation and Air Quality funds (CMAQ) equaling 65 percent of the balance subject to reprogramming and \$47 million of Regional Surface Transportation Program (RSTP) funds equaling 35 percent of the balance subject to reprogramming. The AB 1012 balances assume that all prior year funds subject to reprogramming will be obligated, extended, or reprogrammed, and therefore not included in this report.

The November 30, 2006 balance report shows the total funds subject to reprogramming for FFY 2005 are approximately \$127 million; \$78 million in CMAQ funds and \$49 million in RSTP funds. CMAQ funds account for 61 percent of the balance subject to reprogramming and RSTP funds account for 39 percent. The number of agencies with CMAQ balances and RSTP balances subject to reprogramming remain the same, 13 with CMAQ balances and 7 with RSTP balances (please note that agencies may have more than one type of fund subject to reprogramming). The balances subject to reprogramming has decreased by \$7 million since the initial notification in November 2006. However, the balances may increase as a result of project de-obligations from the inactive project review process. Beginning in FFY 2006, several rural agencies are receiving CMAQ

apportionments and Obligational Authority (OA), and apportionments for these rural agencies are included in this AB 1012 balance report.

BACKGROUND:

The State annually receives CMAQ and RSTP funds from Federal Highway Administration. The regions receive a share of these apportionments to fund local projects.

The Intermodal Surface Transportation Efficiency Act (ISTEA) was enacted in 1991 and was in effect for six years. During that time, local agencies were able to obligate only 87 percent of their federal funding. The next Transportation Act, known as The Transportation Equity Act of the 21st Century (TEA-21), was signed into law in 1998. During the first two years of TEA-21, local agencies' obligation of federal funds dropped to a low of 41 percent. As a result, by October 1999, local agencies had accumulated a \$1.2 billion backlog in federal apportionments and \$854 million in OA.

AB 1012 was enacted October 10, 1999, with a goal of improving the delivery of transportation projects and addressing the backlog of local agencies' federal apportionments and OA. Local agencies have successfully met and exceeded this goal. Beginning in FFY 2000, and continuing through FFY 2006, local agencies have been able to obligate 100 percent of the OA made available to them.

As a condition of AB 1012, the Department is required to notify the regions, on an annual basis, of the level of apportionments received that are subject to reprogramming. In addition, the regional agencies are required to submit obligation plans for CMAQ and RSTP balances older than two years. Regional obligation plans are due May 1, 2006. These obligation plans aid the Department when working with the agencies to meet the guidelines for implementation of the timely use of funds provisions of AB 1012--a requirement of the Department to ensure sufficient OA is available to meet the needs of the regional agencies for projects contained in the submitted obligation plans.

In order to expend apportionments, local agencies require OA. The Federal Highway Administration has not yet released the total OA for FFY 2007. Instead, a Continuing Resolution has provided OA. The Department has received OA for only 138 days, based on the previous year's total OA amount. At this time, it is not known when the full amount of OA for FFY 2007 will become available. The availability of OA could limit the ability of local agencies to expend apportionments.

Attachments

**Apportionment Status Report
CMAQ and RSTP
as of November 30, 2006**

Reference No.: 3.11
Attachment 1

**AB 1012
Balances entering the 3rd Year
(from FFY 2005)*
Report Summary**

*Previously referred to as Cycle 8

Region	CMAQ Unobligated 11/30/2006 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2007 ²	RSTP Unobligated 11/30/2006 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2007 ²
Butte	535,925	-	-	-
Fresno	14,015,099	3,729,491	13,987,013	5,066,672
Kern	18,355,617	11,088,867	12,125,145	4,742,786
Kings	1,848,865	439,107	0	-
Los Angeles ³	151,160,964	23,406,877	65,698,067	-
Madera	1,508,825	134,766	-	-
Merced	1,645,420	-	0	-
Monterey	1,125,210	1,125,210	1,876,621	-
Orange	18,143,149	-	35,968,941	4,211,030
Riverside	33,217,696	9,152,940	38,771,159	21,528,378
Sacramento (SACOG) ⁴	(4,231,734)	-	8,255,848	-
San Benito	934,044	934,044	-	-
San Bernardino	46,545,007	21,848,007	23,683,869	4,610,716
San Diego	1,040,600	-	15,847,192	-
S.F. Bay Area (MTC)	25,472,476	-	16,932,176	-
San Joaquin	7,286,638	-	1,308,406	-
San Luis Obispo	-	-	1,495,741	-
Santa Barbara ⁵	(0)	-	-	-
Santa Cruz	881,760	881,760	(0)	-
Stanislaus	9,395,250	3,481,487	8,742,883	3,755,476
Tahoe	1,997,054	1,418,962	-	-
Tulare	3,307,646	-	-	-
Ventura	7,398,306	167,373	13,805,945	5,402,086
Rural Counties & SCAG	\$2,129,190	-	(\$1,799,256)	-
TOTAL	\$343,713,005	\$77,808,890	\$256,699,751	\$49,317,144

Footnotes:

(Does not include FFY 2006-07 Advanced/Estimated Apportionments)

¹ Indicates all apportionments not yet obligated.

² Totals reflect balance entering into the third year.

^{3,4,5} Includes adjustments made through MOU agreements between regions.

Balances are adjusted for projects using the State's Advance Construction process.

Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's Local Assistance accounting system. There may be a delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.

**Apportionment Status Report
CMAQ and RSTP
as of November 30, 2006**

Reference No.: 3.11
Attachment 2

**AB 1012
Balance entering the 3rd Year
(from FFY 2005)*
Rural County Summary**

*Previously referred to as Cycle 8

Region	CMAQ Unobligated 11/30/2006 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2007 ²	RSTP Unobligated 11/30/2006 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2007 ²
Rural County Information:				
Del Norte	-	-	-	-
Humboldt	-	-	-	-
Lake	-	-	-	-
Mendocino	-	-	-	-
Lassen	-	-	-	-
Modoc	-	-	-	-
Plumas	-	-	-	-
Shasta	-	-	-	-
Siskiyou	-	-	-	-
Tehama	-	-	-	-
Trinity	-	-	-	-
Colusa	-	-	-	-
El Dorado ⁴	-	-	(3,352,284)	-
Glenn	-	-	-	-
Nevada ³	804,784	-	-	-
Placer ⁴	-	-	(701,841)	-
Sierra	-	-	-	-
Inyo	-	-	130	-
Mono	-	-	-	-
Alpine	-	-	-	-
Amador ³	311,802	-	-	-
Calaveras ³	378,568	-	-	-
Mariposa ³	148,357	-	-	-
Tuolumne ³	469,405	-	-	-
Imperial (SCAG) ³	16,274	-	2,254,739	-
Rural Combined Totals:	\$2,129,190	-	(\$1,799,256)	-

Footnotes:

(Does not include FFY 2006-07 Advanced/Estimated Apportionments)

¹ Indicates all apportionments not yet obligated.

² Totals reflect balance entering into the third year.

³ Beginning in FFY 2006, these rural regions are now receiving CMAQ apportionments.

⁴ Balances for El Dorado County and Placer County are being reconciled to correct negative balances shown due to a coding error.

Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's Local Assistance accounting system. There may be a delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.