

## STAFF REPORT

**SUBJECT:** Federal Local Assistance Funding - CMAQ\STP Exchange with the Sacramento Area Council of Governments

**MEETING DATE:** July 20, 2006

**AGENDA ITEM:** 11A

**STAFF CONTACT:** Steve VanDenburgh

### RECOMMENDATION:

Authorize the Executive Director to execute a memorandum of understanding with the Sacramento Area Council of Governments to exchange \$5.9 million in unobligated CMAQ apportionment for \$2.95 million in STP apportionment and obligational authority in the 07/08 and 08/09 fiscal years.

### SUMMARY:

SBCAG has been apportioned \$5.9 million in federal CMAQ apportionments available from prior years that are essentially unusable to us since we lack the federal authority to obligate the funds. This situation is a result of Congress historically providing less annual obligation authority than needed to spend 100% of CMAQ apportionments and difficulties encountered by project sponsors in delivering some CMAQ projects. The apportionments will lapse soon, so staff has offered them for use by another regional agency that has sufficient obligational authority. The Sacramento Area Council of Governments has agreed to provide \$2.95 million in federal STP funds along with the needed obligational authority in exchange for SBCAG's lapsing CMAQ funds. This creates nearly \$3.0 million in new funding for the region that could be programmed for local agency projects that qualify for federal STP funding. Staff is seeking board authority to execute an MOU to effect this funding exchange and will work with TTAC to identify eligible projects and programming recommendations for approval by the board at a future meeting.

### DISCUSSION:

**Background.** SBCAG has an opportunity to exchange \$5.9 million in CMAQ apportionment sitting on its books without corresponding "obligational authority" for \$2.95 million in federal STP apportionment and obligational authority with the Sacramento Area Council of Governments (SACOG), a six county region in the Central Valley with air quality problems.

The CMAQ apportionments that SBCAG has to exchange are left over from past funding cycles but are no longer useable in our region due to limitations on obligational authority provided by Congress each year. The funds were not "obligated" before the CMAQ program ended for SBCAG and therefore have no value to SBCAG unless SBCAG borrows obligational authority

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from the STP program or another regional agency. Even then, there is a requirement that SBCAG must in a future year pay back the obligational authority borrowed from another agency, potentially limiting future obligations of STP apportionment.

Per California law (AB 1012), the \$5.9 million in apportionment will “lapse” if not obligated within three years of being apportioned to SBCAG. Since SBCAG has no obligational authority for the funds, at the end of federal fiscal year 2005/06, ending September 30, 2006, \$3.4 million in STP is scheduled to lapse. The remaining \$2.5 million is scheduled to lapse at the end of federal fiscal year 2006/07, ending September 30, 2007. Funds that lapse are redistributed by the California Transportation Commission to other regional agencies that have demonstrated a need for the apportionments and the ability to deliver projects expeditiously. AB 1012 is a safeguard enacted to ensure that federal funds apportioned to agencies within California are used in a timely manner and don't lapse back to the federal government.

SACOG wants to fund air quality beneficial projects with whatever CMAQ funds it can accumulate, and it is willing to provide OA from other programs it administers like STP or borrow OA from other agencies. SBCAG staff has been advertising that it is interested in making a deal for the apportionment it has on the books before the funds lapse, and that it would be willing to accept a lesser amount of STP apportionment back if it also got OA to go with it. The proposed exchange agreement with SACOG presents a unique opportunity to bring \$3 million in new funds into the region that are useable because they will come with OA.

**Use of Funds.** It is SBCAG staff's recommendation that the STP funds gained from this exchange be made available for programming to local agencies for local purposes, to augment local street repair programs or for other uses proposed by local agencies. Funds could be distributed to local agencies by formula (treated like LSTP), through a competitive process (like RSTP) or part of the funding could be distributed by formula and the rest through a competitive process so that agencies like MTD can be assured of a chance to compete for funding. The decision of how to program STP funds would be left to a future date and is not a part of the recommendation in this staff report. Staff will be working with TTAC to develop recommendations on programming the funds.

**Qualifiers.** Because the SACOG region had an urbanized area with a population of greater than 200,000 in the 1990 census, it doesn't qualify for the state exchange STP program, whereby Caltrans keeps federal STP apportionments for a region and gives the regional agency state cash. Therefore, the STP funds SBCAG would receive from this exchange would be federal STP funds. This means that these funds must be used for federally eligible STP projects and the project sponsors would be required to follow federal procedures working through Caltrans local assistance office. SBCAG and local agency staffs should investigate whether the STP funds could be programmed to a project that is using federal funds and Measure D funds. A corresponding amount of Measure D regional funds could be backed out of the project and made available for programming to local projects, thus avoiding the need to federalize many small local projects. This would also keep the administrative costs for local projects as low as possible.

No matter whether a competitive or a formula approach is taken to program the funds, SBCAG staff and local agency staffs must be mindful that the STP apportionment received for FY 2007/08 must be fully obligated in that fiscal year. The same with the apportionment for 2008/09. Obligational authority doesn't carry over! That means programming would need to be done to projects that are ready to obligate funds in those years. Otherwise, the STP apportionments gained from the exchange with SACOG would be of as little value as the CMAQ apportionments we have now that are going to lapse.

Finally, SACOG has indicated they may be able to repay all \$2.95 million in apportionment and obligational authority in federal fiscal year 2007/08. They will know better next summer if they can accomplish that. The attached MOU gives them that option through an amendment that could signed by the executive directors.

**Recommendation.**

SBCAG staff recommends that the SBCAG Board authorize the Executive Director to negotiate and execute an MOU with the Sacramento Area Council of Governments to exchange \$5.9 million in CMAQ for \$2.95 million in STP and obligational authority.

**COMMITTEE REVIEW:**

TTAC reviewed the fund exchange proposal at its July 6 meeting is voted to support the recommendation. Staff will be working with TTAC in the coming months to develop programming recommendations and identify eligible projects that could be funded with federal STP funds and can be obligated within the deadlines.

**Attachments:** Draft MOU

# MEMORANDUM OF UNDERSTANDING

**between the  
Sacramento Area Council of Government  
and the  
Santa Barbara County Association of Governments**

This memorandum of understanding between the Sacramento Area Council of Governments (SACOG) and the Santa Barbara County Association of Governments (SBCAG) is entered into with the authorization of the Boards of Directors of the respective agencies.

The parties do agree as follows:

1. SBCAG shall loan \$5.9 million in Congestion Mitigation Air Quality (CMAQ) apportionment from its unobligated balance that is subject to reprogramming under AB 1012 "Use it or Lose it Policy" to SACOG in federal fiscal year 2005/06
2. SACOG shall repay the loan by providing SBCAG with \$1.475 million in "any area" Surface Transportation Program (STP) apportionment and obligational authority in federal fiscal year 2007/08 and \$1.475 million in "any area" STP apportionment and obligational authority in 2008/09.
3. Apportionment and obligational authority adjustments will be made by the California Department of Transportation's Programming Branch and Local Programs Branch respectively to SACOG's and SBCAG's apportionment balance and target obligational authority level to reflect the loan and repayment of apportionment and obligational authority in the associated fiscal years that are the subject of this agreement.
4. The loan and repayment of apportionment may also be subject to programming adjustments by each region that is reflective of current policy for programming projects in the Federal Transportation Improvement Program (FTIP).
5. It is responsibility of SACOG and SBCAG to communicate to the Department of Transportation in a timely manner, via a letter, the request of the adjustments to record the loan and repayment of the loan.
6. Amendments to this memorandum of understanding may be entered into by the Executive Directors of SACOG and SBCAG if SACOG wishes to accelerate repayment of the loan. Such amendments shall be binding on the parties if signed by the Executive Directors of both agencies and shall be effective as of the date shown in the amendment unless other wise indicated.

Made and entered into on this 20<sup>th</sup> day of July, 2006.

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Mr. Mike McKeever  
Executive Director  
Sacramento Area Council of Governments

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Mr. Jim Kemp  
Executive Director  
Santa Barbara County Association of Governments

## STAFF REPORT

**SUBJECT:** Federal Local Assistance Funding - Congestion Mitigation Air Quality Phase-out

**MEETING DATE:** July 20, 2006

**AGENDA ITEM:** 11B

**STAFF CONTACT:** Steve VanDenburgh

### RECOMMENDATION:

Adopt a position of support for SB 1587 (Lowenthal) which provides for a two year phase out of federal Congestion Mitigation Air Quality program funding.

### SUMMARY:

Because Santa Barbara County is now designated as an attainment area under federal air quality standards, SBCAG is no longer provided with federal CMAQ apportionments for transportation projects that reduce vehicular emissions. CMAQ funding has been one of the primary sources of funding for the SBCAG Traffic Solutions demand reduction programs as these programs have proven to be cost effective. Staff recognized the need for “bridge” funding to continue the Traffic Solutions programs during the next 3-4 years until funding from the renewal of Measure D presumably becomes available in 2010. Continuing and increasing demand reduction programs is particularly important during this period when major construction on 101 will be taking place in Santa Barbara and Santa Maria and to implement “early action” elements of the 101 in Motion plan. Working with the Monterey Bay region, staff obtained agreement from other regional agencies around the state to implement a 2-year CMAQ phase-out program that will provide about \$1.9 million in new funding in 06/07 and 07/08.

At this time, staff is seeking formal board support for the legislation that is required to implement the CMAQ phase-out program. Staff will work with TTAC to identify potential projects and develop programming recommendations for future consideration by the board.

### DISCUSSION:

SBCAG staff has drafted legislation to create a two year Congestion Mitigation Air Quality (CMAQ) “phase-out” program that would allow SBCAG and the Monterey Bay region (Santa Cruz, Monterey, and San Benito counties) to receive SAFETEA-LU CMAQ funds even though they are now air quality maintenance areas. This legislation has been folded into Senate Bill 1587 which would change the requirement that 30 Regional Transportation Plans be adopted every three years to every four years.

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SB 1587 has received support from other MPO's and regional agencies in the State and it is making its way through the legislature. It likely will make it to the Governor after the legislature comes back in session in August.

CMAQ phase-out apportionments will be available to the Monterey Bay area and SBCAG for fiscal years 2006/07 and 2007/08. SBCAG's estimated share of phase-out funding is \$1.270 million in 06/07 and \$635,000 in 07/08. Legislation that passes in the current session would be effective January 1, 2007 and obligation of funds can occur after that time. All \$1.270 million in CMAQ funds for FY 06/07 must be obligated between January 1 and June 30, 2007. The \$635,000 in FY 07/08 funds must be obligated between July 1, 2007 and June 30, 2008. The obligational authority for the funds in these fiscal years does not carry over to the next fiscal year. It lapses and is wiped off the books. So these funds will have to be programmed to a project that we are 100% sure can obligate the funds by these deadlines.

#### Programming of Funds

SBCAG staff's intent in taking a leadership role in drafting phase-out legislation was to provide a secure source of "bridge funding" for the Traffic Solutions program for Fiscal Years 2007/08 through 2009/10, when Measure D renewal funding would become available. Traffic Solutions has historically relied on CMAQ funds for its ongoing traffic congestion relief and demand reduction programs. The elimination of CMAQ funding for our region due to our attainment status means a significant loss of funding for projects that reduce vehicular emissions. Traffic Solutions has proven to be one of the most cost effective emission reduction programs and has always ranked as one of the highest priority projects in prior CMAQ calls for projects. The need for ongoing funding to carry out the Traffic Solutions programs is particularly important in the near term as we seek to implement "early action" projects from 101 in Motion and to mitigate congestion that will occur during the construction of the 101 Santa Maria six lane project and the 101 operational improvements project over the next few years. Most, if not all, of the \$1.9 million in CMAQ phase-out funding would be needed to keep the program operating through 2009/10 and Traffic Solutions can obligate all of the funding according to the deadlines stated above. The only other funding options for Traffic Solutions for the 07/08 through 09/10 fiscal years is to compete for STP funding, perhaps utilizing funding that would come from SACOG, or Traffic Solutions could wait until 2008 and go back into the STIP program in the 2008 STIP cycle. The major downsides to these options are that SBCAG staff recommends that 100% of the STP funds from the SACOG exchange be used by local agencies for street and road purposes or for transit support. As for STIP funding, programs like Traffic Solutions have been the lowest priority in the CTC's recent allocation plans and if there are any capacity problems in the STIP, the program won't receive an allocation. The Board would also have to divert STIP capacity from closing shortfalls on high priority regional highway projects to Traffic Solutions, which seems unlikely to occur. Finally, the 2008 STIP will be adopted at the end of the 2007/08 fiscal year, so Traffic Solutions could receive funding for FY 08/09 and 09/10, but not 07/08. Neither the STP nor the STIP option seems like a good choice to SBCAG staff.

The other option is that CMAQ phase-out funds could be programmed through a call for projects. SBCAG staff is currently soliciting projects concepts from local agencies to determine general interest in the funds and the strength of potential project applications. This will help SBCAG staff and TTAC form a recommendation for the Board in August about whether a call for projects is worthwhile or whether the funds should be programmed directly to Traffic Solutions. If a call for projects is recommended, staff could initiate a call for projects in August, projects screened and ranked in September and a funding recommendation made in October. Because only low-risk projects (projects that could meet the strict obligation deadlines) would be competitive, the pool of applicants would probably be small and Traffic Solutions would apply for funding.

**Recommendation**

SBCAG staff recommends that the Board adopt a position of support for SB 1587 which would provide a total of \$1.9 million in CMAQ funding to SBCAG in FY 2006/07 and 2007/08.

A recommendation about how to program the funds would be made in August in consultation with TTAC after project ideas are solicited from local agencies. This will allow SBCAG staff and TTAC to determine if any agencies other than Traffic Solutions are interested in the funds and whether a call for projects would be worthwhile.

**COMMITTEE REVIEW:**

TTAC generally supported bringing additional CMAQ funds into the county but were not asked to provide a legislative recommendation on SB 1587.

## STAFF REPORT

**SUBJECT:** Federal Local Assistance Funding - TE/SAFE Call Box Funds Exchange with the San Luis Obispo Council of Governments

**MEETING DATE:** July 20, 2006

**AGENDA ITEM:** 11C

**STAFF CONTACT:** Steve VanDenburgh

### RECOMMENDATION:

Authorize the Executive Director to execute a memorandum of understanding with the San Luis Obispo Council of Governments to exchange \$75,000 in unobligated Regional Transportation Enhancement apportionment for \$75,000 in SAFE call box funds.

### SUMMARY:

SBCAG has an opportunity to exchange \$75,000 in Regional Transportation Enhancement (TE) funds with the San Luis Obispo Council of Governments for \$75,000 in SAFE revenues. The TE funds are essentially unusable to SBCAG and are scheduled to lapse because the agency lacks the authority to obligate the funds. As with the CMAQ funding covered in Agenda Item 11A, this situation is a result of Congress historically providing less annual obligation authority than needed to spend 100% of TE apportionments and difficulties encountered by project sponsors in delivering some TE projects. The exchange would allow SLOCOG to complete a traffic calming project using the TE funds and provide SBCAG with non-federal matching funds to expand the scope of the call box upgrade project to include boxes on Highway 166. Any residual funds for the call box upgrade may be used by SBCAG for other motorist assist purposes in Santa Barbara County. This agreement is defined in a draft MOU between the agencies and attached to the staff report. SBCAG staff is recommending that the Executive Director be authorized to negotiate and execute the MOU.

### DISCUSSION:

SBCAG has an opportunity to exchange \$75,000 in Regional TE apportionment sitting on its books without corresponding "obligational authority" for \$75,000 in Service Authority for Freeway Emergency (SAFE) call box funds with the San Luis Obispo Council of Governments (SLOCOG).

The TE apportionments that SBCAG has to exchange are left over from past funding cycles but are no longer useable in our region due to limitations on obligational authority provided by Congress each year. In addition, project sponsors encountered difficulties in delivering some of the Regional TE projects approved by SBCAG and were not able to obligate the funds on a timely basis. A total of \$527,178 was not "obligated" before the Regional TE program ended

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and therefore has no value to SBCAG unless SBCAG borrows obligational authority from the STP program or another regional agency. Even then, there is a requirement that SBCAG must in a future year pay back the obligational authority borrowed from another agency, potentially limiting future obligations of STP apportionment.

Per California law (AB 1012), the TE apportionment will “lapse” if not obligated within three years of being apportioned to SBCAG. Since SBCAG has no obligational authority for the funds, at the end of federal fiscal year 2005/06 ending September 30, 2006, 100% of the TE funds are scheduled to lapse. Funds that lapse are redistributed by the California Transportation Commission to other regional agencies that have demonstrated a need for the apportionments and the ability to deliver projects expeditiously. AB 1012 is a safeguard enacted to ensure that federal funds apportioned to agencies within California are used in a timely manner and don't lapse back to the federal government.

SLOCOG wants to use the funds to close a shortfall on a traffic calming project that they are ready to start construction on. They contacted SBCAG staff to see if they could borrow TE apportionment to close the shortfall. SBCAG staff has proposed that they provide \$75,000 in SAFE call box funds in exchange in Fiscal Year 2006-07. By statute, a \$1 fee is charged when a motor vehicle is registered in California. Fees collected are sent to the Service Authority for Freeway Emergencies (SAFE) in each county for motorist assist purposes; the fees are not subject to the obligational authority limitations that Congress places on federal funds. Both SLOCOG and SBCAG serve as the SAFEs in their respective counties. Both agencies use the funds to operate a call box system; SBCAG also uses the funds to operate a freeway service patrol. SBCAG is currently completing an upgrade of its call box system to be ADA compliant and digital-based using federal demonstration funds (an earmark) secured by Congresswoman Lois Capps. Digital technology allows the boxes to be fit with a teletype keyboard to make them usable by the hearing impaired. Boxes on Highway 166 between Highway 101 and the Kern County line were not scheduled to be included in SBCAG's upgrade project but could be added with the funds received from SLOCOG. This section of highway through the Cuyama Valley and Los Padres National Forest crosses back and forth between San Luis Obispo and Santa Barbara counties. SBCAG's 14 highway call boxes in this corridor are managed by SLOCOG which owns the remaining 12 boxes in the corridor. SBCAG's boxes were going to be incorporated in a future SLOCOG upgrade project. However, SBCAG staff estimates that it will have enough federal demonstration funding left over from its own upgrade project to be able to upgrade all boxes in the corridor, including SLOCOG's, if SLOCOG makes the 11% non-federal match on all of the boxes. The \$75,000 in call box revenues that SLOCOG would provide in exchange for SBCAG's TE funds would be used for this purpose as a first priority. Any residual funding could be used, per the attached MOU, for motorist assist purposes elsewhere in Santa Barbara County.

**Recommendation.**

SBCAG staff recommends that the SBCAG Board authorize the Executive Director to execute an MOU with the San Luis Obispo Council of Governments to exchange \$75,000 in Regional TE apportionment for \$75,000 in SAFE call box revenue.

**COMMITTEE REVIEW:**

This recommendation was not reviewed by TTAC. This proposal from SLOCOG was made after the July 6 TTAC meeting.

**Attachments:** Draft MOU

# MEMORANDUM OF UNDERSTANDING

**between the  
San Luis Obispo Council of Governments  
and the  
Santa Barbara County Association of Governments**

This memorandum of understanding between the San Luis Obispo Council of Governments (SLOCOG) and the Santa Barbara County Association of Governments (SBCAG) is entered into with the authorization of the Boards of Directors of the respective agencies.

The parties do agree as follows:

1. SBCAG shall loan \$75,000 in Regional Transportation Enhancement apportionment from its unobligated balance that is subject to reprogramming under AB 1012 "Use it or Lose it Policy" to SLOCOG in federal fiscal year 2005/06. SLOCOG shall provide the obligational authority to use the apportionment.
2. SLOCOG shall repay the loan by providing SBCAG with \$75,000 in Service Authority for Freeway Emergency (SAFE) revenues in fiscal year 2006/07. The first priority use of the funds by SBCAG shall be to make the non-federal match on demonstration funds provided by SBCAG for upgrades of SLOCOG owned and SBCAG owned call boxes on Highway 166. Any residual funds may be used by SBCAG for other motorist assist purposes in Santa Barbara County.
3. Apportionment adjustments will be made by the California Department of Transportation's Programming Branch and Local Programs Branch to SLOCOG's and SBCAG's apportionment balance to reflect the loan of apportionment in the associated fiscal year that is the subject of this agreement.
4. The loan and repayment may also be subject to programming adjustments by each region that is reflective of current policy for programming projects in the Federal Transportation Improvement Program (FTIP).
5. It is responsibility of SLOCOG and SBCAG to communicate to the Department of Transportation in a timely manner, via a letter, the request of the adjustments to record the loan and repayment of the loan.
6. Amendments to this memorandum of understanding may be entered into by the Executive Directors of SLOCOG and SBCAG. Such amendments shall be binding on the parties if signed by the Executive Directors of both agencies and shall be effective as of the date shown in the amendment unless other wise indicated.

Made and entered into on this 20<sup>th</sup> day of July, 2006.

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Mr. Ron De Carli  
Executive Director  
San Luis Obispo Council of Governments

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Mr. Jim Kemp  
Executive Director  
Santa Barbara County Association of Governments