

## CMAQ Active Program Management Policy Recommendations

Due to the persistent unobligated balance, CMAP staff, at the direction of CMAP committees, has developed revised active program management policies to encourage accomplishment of CMAQ [projects](#). Increased accomplishment of CMAQ projects not only assists in implementing GO TO 2040 and improving air quality and mitigating congestion in the CMAP region, it also helps keep limited federal resources in our region.

**Comment [DF1]:** Suggestion to add "from a programming standpoint." The emphasis of these recommendations is on program management, not programming.

The staff recommendations are:

- Make phase I engineering the sponsor's responsibility
- Fund phases that are programmed at 100% federal share
- Enforce an accomplishment sunset
- Create an annual obligation<sup>1</sup> goal
- Implement contingency projects if the obligation goal is not achieved

This report is an explanation of these recommendations, [how they will affect future and currently programmed projects and how they will be implemented](#).

**Make phase I engineering the sponsor's responsibility; fund other phases at a 100% federal share.**

Phase I engineering (also known as preliminary engineering) will be the responsibility of the project sponsor to complete without CMAQ funding. Once phase I has been undertaken, projects applying for CMAQ funding will have improved scopes of work with more [accurate realistic estimates of](#) costs. During phase I engineering specific project needs are laid out, alignments are identified, environmental concerns are addressed and right-of-way needs are determined. Funding the remaining phases of work at 100% CMAQ funding will offset the financial requirement that project sponsors fund phase I engineering. The sponsor will receive more federal funding under this policy than if the entire project was funded at the traditional 80/20 split.

Sponsors will be required to demonstrate that phase I engineering has been initiated prior to the programming of CMAQ funding to a proposal, [however if a sponsor applies without having phase I engineering completed the project will not be considered for funding, but may be placed on the B list](#). The Project Selection Committee will use one of the following options for demonstration of phase I initiation:

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<sup>1</sup> An obligation is the Federal government's promise to pay a State for the Federal share of a project's eligible cost. This also called federal authorization. It typically occurs after a project agreement is executed.

1. The project has received design approval by the time programming recommendations occur; or
2. The PDR document has been submitted to IDOT for approval by the time programming recommendations occur.

Not all projects require phase I engineering. To be evenhanded, these projects will be eligible for a federal funding percentage of 90 under the CMAQ program. Projects in this grouping include but are not limited to:

- Bicycle Parking and Encouragement
- Non Construction Bicycle Facility Treatments
- Sidewalks (without ROW acquisition)
- [Signal Interconnects](#)
- Transit Service and Marketing
- Transit Vehicles Procurement
- Diesel Retrofits
- Most "Other" category projects such as marketing and implementation programs
- Any project using a Categorical Exclusion 1(CE1)

[Even though signal interconnect projects do not require phase I engineering, they are required to complete PESA documentation as part of phase II engineering. This can add significant time requirements to the length of phase II engineering. Because of this, phase II engineering for signal interconnects would need to be completed by the sponsor; the rest of the project phases would receive 100% CMAQ funding.](#)

For transit projects that involve engineering and construction activities, there is not a clear division between phase I engineering (preliminary) and phase II engineering (design) activities. To establish a more level playing field, transit engineering activities will be partially funded. For transit projects involving engineering, 50% of the engineering costs will be eligible for CMAQ funding with the remaining phases eligible at 100% funding. This proposal was derived from a review of IDOT's approximate distribution of project costs on federal-aid highway projects. For such projects, phase I accounts for 8% of a project's cost and phase II accounts for 7% of a project's costs. Based on these estimated percentages of engineering costs on a highway project, 47% of transit engineering cost would be equivalent to what highway projects receive for phase II engineering. For simplicity's sake, a figure of 50% will be used. Construction engineering is included with construction costs.

The match will remain 65/35 for projects that involve private companies.

At the point of application, project sponsors can request exemption from the requirement that they fund phase I engineering based on extenuating circumstances. When the Project Selection Committee recommends approval of the proposed program, their action will include the limited exemptions, but only phase I engineering will be initially programmed. Projects receiving CMAQ funding for phase I engineering will be programmed at the 80% federal level for all phases receiving CMAQ funding. Funding for subsequent phases will not be programmed until the same accomplishment criteria is met as required of sponsors who do not request an exemption. Considerations that may constitute a hardship extenuating circumstances include:

- Financial Hardships
- Directly Programmed Projects from a Focus Group (projects that have been identified as filling a critical gap in the region’s network, but not a priority for the project sponsor)

**Comment [HO2]:** Comments received have recommended different funding percentages. One suggestion that we fund phase I at 50% and then the remaining phases at 100%. Another that we fund phase I at 80% and the remaining phases at 100%

**Comment [HO3]:** The intent is to discourage sponsors from seeking CMAQ funding for phase I.

**Accomplishment Sunset – Newly Programmed Projects (2012-2016 and Future Programs)**

An accomplishment sunset allows a specified time for a project phase to be accomplished. ~~The recent experience with the ARRA demonstrates the effectiveness of strict deadlines.~~ The table below defines “accomplished” for the individual phases for projects administered by FHWA and FTA:

<u>Phase</u>	<u>FHWA</u>	<u>FTA</u>
Phase I Engineering	Design Approval	FTA Grant Approval
Phase II Engineering	Pre-Final Plans to IDOT Dist. 1	FTA Grant Approval
ROW	ROW Certified by IDOT Dist. 1	FTA Grant Approval
Construction	Letting	FTA Grant Approval
Implementation	Federal Authorization	FTA Grant Approval

~~Each project proposals~~ provides a realistic schedule for phase accomplishment when the project application is submitted. Each phase must be accomplished in the federal fiscal year (for the purpose of this document, “year” will refer to federal fiscal year)<sup>2</sup>; it is programmed plus two years (~~±X+2~~ years). A project phase can be moved only into the next consecutive year, i.e. if the phase is programmed in 2012 and is delayed, it will have the year programmed and two additional years to accomplish the active phase (2012->2013->2014), ~~can only be moved to 2013, not 2014 or a year further out~~. If the sponsor indicates that the phase will instead be

<sup>2</sup> Federal fiscal years (FFY) run from the October 1<sup>st</sup> through September 30<sup>th</sup>. FFY 2012 starts October 1, 2011 and ends September 30, 2012. This differs from state fiscal year which runs from July 1<sup>st</sup> through June 30<sup>th</sup>. This document only refers to federal fiscal years.

accomplished in later years (~~from 2012 to either 2015 or 2016, etc~~), the project funding will be removed and the project will be considered a “deferred” project. Funding will be removed but can be moved back into the program when progress is demonstrated and funding is available.

Biannual status updates will be required in May and October for each phase in the current year. The status will be confirmed with IDOT or FTA and reviewed by the CMAQ Project Selection Committee. If the phase is not accomplished ~~after its scheduled 1+2 years in the year it is programmed plus two years~~, all ~~unobligated-remaining~~ funding for the project will be removed from the guaranteed program and the project will be considered a deferred project. This allows for other projects to move forward with the funding thus freed up.

The accomplishment sunset will take effect when the project’s phase is ~~programmed~~ in the current year. For example, if phase II engineering is programmed in 2015, then phase II must be completed in 2015 and ~~+plus 2 years (2016+2017)~~. If the phase is not accomplished by the end of 2017 the remaining project funding is removed and the project becomes a deferred project.

#### **Set an annual obligation goal**

While adjusting the federal share of project phases will help ensure sponsors will complete a project, and establishing sunset provisions will remove languishing projects, the Project Selection Committee will still need to monitor the actual amount obligated. Setting an annual obligation goal will focus the region on spending its apportionment in a timely manner, realizing the air quality benefits and avoiding the loss of funds due to inaction.

The goal will be aimed at accomplishing two ends: first, keeping up with current apportionment going forward. The region has been apportioned approximately \$90 million per year in CMAQ funds.

Second, the goal should help reduce the unobligated balance in a systematic, measured way. Although recent large obligations have reduced the unobligated balance to approximately \$190 million, such a dramatic reduction cannot be expected to continue into the future without monitoring and action by the Project Selection Committee. A five-year period in which to spend down the balance will be used. Given the current unobligated balance, this would be approximately \$40 million annually, yielding an obligation goal of approximately \$130 million per year for the next five years.

Ideally, the unobligated balance will decline steadily as obligation goals are met. However, the actual amount obligated in a given year is likely to be either higher or lower than the goal, not exactly on target. In addition, the actual apportionment is likely to be either higher or lower than the anticipated amount. There may also be rescissions, which reduce the unobligated

balance, or deobligations of funds from closed projects, which increase the unobligated balance. An active rebalancing of the goal will be done each year so that the zero balance is achieved in exactly five years.

To make best use of the goal, it should be set in the summer, three months prior to the start of the federal fiscal year. The goal will primarily be based on anticipated apportionment for the coming ~~fiscal~~ year and the anticipated unobligated balance.

While it is not a direct concern for reducing the unobligated balance, the federal obligating authority and state appropriation needed to obligate projects must also be managed. CMAP and IDOT staff need to, and will work to ensure that adequate federal obligating authority and state appropriations are available.

#### **Implement contingency projects if the obligation goal is not met**

If the obligation goal cannot be met through implementation of projects incorporated in the CMAQ program through the regular selection process, then other projects must be identified to accomplish the goal. Although implementation of the CMAQ projects selected by the MPO Policy Committee and CMAP Board is highly preferable, some form of contingency projects must be available for obligation within a very short time frame. To avoid overcommitting staff and committee resources, a threshold of \$5 million will be used – if the actual obligation amount is expected to be within \$5 million of the goal, then no action to consider contingency projects will be taken in that ~~fiscal~~ year.

Contingency projects can be identified through several avenues discussed below. Projects in a group mentioned first will take precedence over projects in a group mentioned later.

“Out year” projects – those currently in a future year of the multi-year CMAQ program – can be advanced if they are ready to obligate. These projects will already be included in the TIP as they are included in the CMAQ Program.

“Deferred” projects – those that had their funding removed for failure to meet an accomplishment sunset deadline – can be considered if the barriers to their progress have been removed and they now are ready to obligate. CMAP staff and Planning Liaisons should review these types of projects on a continuing basis to reduce the chance of further delays once they are ready to proceed. These projects can be considered for having their funding reinstated when progress is demonstrated and funding is available. These projects will be in the MYB of the TIP as their CMAQ funding has been deferred. Once the project has demonstrated progress, a TIP amendment will be required to move the project back into the TIP. In particular, such projects could be brought into the program in the fall if other projects have had funding removed or

**Comment [HO4]:** Comment that deferred projects should not have priority over b list because they had their chance to move forward. Another that this should be called the CMAQ A list.

**Comment [RP5]:** CMAP’s goal is to accomplish programmed projects – deferred projects were in the program and demand a higher prioritization than other contingency projects.

phases moved as part of the October status review. Deferred projects can also be brought back into the CMAQ program when a review indicates the obligation goal is not going to be met, or considered at other times if they are ready for obligation. Bringing deferred projects back into the active program can be accomplished quickly if the sponsor promptly notifies CMAP staff of a project's readiness. In particular, since CMAP Transportation Committee meetings are scheduled to meeting letting deadlines, projects brought to a committee meeting will be able to meet the next letting.

If funds are available, contingency projects can move the next consecutive phase (Phase ~~HI~~ → Phase ~~HII~~ & ROW → Construction) into the program once the prior phase is accomplished. If the phase seeking to move into the program is the initial CMAQ funded phase, progress must be demonstrated by:

	Local Projects	CDOT	Transit	IDOT
<u>Phase <del>HI</del> Engineering</u>	Locally Executed Local Agency Agreement sent to IDOT Central Office for Execution	Locally Executed IPA sent to IDOT Central Office for Execution	Inclusion in the RTA Program	n/a
<u>PHH Phase II Engineering</u>	Locally Executed Local Agency Agreement sent to IDOT Central Office for Execution	Locally Executed IPA sent to IDOT Central Office for Execution	Inclusion in the RTA Program	n/a
<u>ROW Acquisition</u>	Locally Executed Local Agency Agreement sent to IDOT Central Office for Execution	Locally Executed IPA sent to IDOT Central Office for Execution	Inclusion in the RTA Program	When ROW is included in the IDOT program
<u>Construction</u>	Pre-final Plans at IDOT BLRS for Review	Locally Executed IPA sent to IDOT Central Office for Execution	Inclusion in the RTA Program	When Design Approval is achieved or when Construction is included in IDOT program.
<u>Implementation</u>	Case by case basis, in general – locally executed agreement	Case by case basis, in general - Locally Executed IPA sent to IDOT Central Office for Execution	Inclusion in the RTA Program	n/a

All declarations of progress will be confirmed with IDOT, RTA, FHWA, or FTA.

"Vetted" projects – those that have been analyzed as part of the CMAQ selection process and shown to have air quality benefits – that are ready to obligate could be identified. These could include "B" list projects, assuming they meet the other criteria for advancing, such as making significant progress toward implementation.

Another source of vetted projects for contingency funding can be projects for which CMAQ is only part of the funding. In this case CMAQ funds are likely to be substituted for other funds. Most other federal fund sources can be applied to a wider range of projects, however, so they

**Comment [HO6]:** This should be the B list

**Comment [PB7]:** Vetted includes what is now called the B list, projects with funding other than CMAQ, and projects that were evaluated, showed benefits, but were not programmed. The commonality is that they were evaluated for CMAQ benefits.

are unlikely to be lost to the region. These projects should already be in the TIP as they are close to implementation. If this is the case, an administrative modification can occur automatically in the TIP to change the funding to CMAQ once the determination is made that it should be funded with CMAQ.

Projects which applied for CMAQ funding and showed benefits but were simply not programmed could also be funded as vetted projects. In these cases, the project should be proceeding with other funds as an indication that it can obligate the CMAQ funds without delay. Again, this would substitute CMAQ funds for other funds, freeing up those funds for other uses in the region. These projects will not be added into the TIP until progress is demonstrated and funding is available.

Last, CMAQ funds could be programmed to other “extraordinary” projects that are CMAQ-eligible, but which have not applied for funding. In some cases, this may involve a CMAQ-eligible portion of a larger project. It is hoped that this type of project would be used rarely, if at all. These projects should already be in the TIP as they are close to implementation. If this is the case, an administrative modification can occur automatically in the TIP to change the funding to CMAQ once the determination is made that it should be funded with CMAQ. If CMAQ is providing additional funds, in most cases a TIP amendment will be required to add the CMAQ funds.

The TIP amendment schedule is based on the IDOT letting schedule and no project should be delayed due to its status in the TIP if appropriate monitoring by the Planning Liaisons and project sponsors is occurring. The current CMAQ A list is managed in similar circumstances.

The CMAQ PSC will make the determination of which vetted and extraordinary projects ~~above~~ will be added to the CMAQ program and therefore changed in ~~ing~~ the TIP.

In any case, the projects selected for contingency funding *must* be ready to obligate within the ~~fiscal~~-year; otherwise there is no point to the exercise. To ensure this, a review process will occur in which IDOT (both District 1 and the Central Office), RTA, FHWA/FTA and the sponsor (with project engineers if any) agree that obligation is feasible, and that any potential obstacles are addressed.

Vetted and extraordinary projects should use enough funds to make it worth the additional staff and committee time and the deviation from implementing programmed projects. Staff and committee time will not be well spent identifying numerous small projects in hopes of making up a shortfall. For example, funding phase I engineering even on a hardship basis, is a poor

choice for contingency treatment – the dollar amounts involved are generally small and phase I activity generally does not lead to spending additional funds in the near term.

~~For vetted and extraordinary projects being considered for contingency funding, if phase II engineering or right-of-way acquisition is to funded, it must be over \$1 million to ensure that there will be real progress toward the obligation goal. For construction, projects the amount must be \$5 million or higher to warrant action. A combination bid is also possible as long as the combination bid is over \$5 million. These limits do not apply to the out years of programmed projects or the deferred projects.~~

Construction is the preferred phase for contingency funding, given the generally larger amounts obligated. Again, the review process will be used to ensure that the project will be obligated within the fiscal year.

The contingency review process will begin in early spring. By that time there will be enough information to have a sense of whether the obligation goal is likely to be met or not, and there is also enough time to get projects obligated and begun within the construction season. Beginning the review in early to mid-summer would mean that much better information would be available, but there will be little or no time to get projects obligated.

A list of projects that could be used will be maintained. For out year, deferred or vetted projects on the MYB list, the expectation will be that those project sponsors will be motivated to contact their Planning Liaison or CMAP staff when their projects are ready to proceed.

### Projects Programmed in 2011 or before

These revised active program management policies will apply to new projects, including those programmed in October 2011 as part of the 2012 – 2016 five year program. However, the unobligated balance results almost entirely from projects programmed in prior years that have not progressed. This section describes how the revised policies will address these projects.

CMAQ project sponsors have been submitting status updates since 2009; project phases have been collecting “moves” since then. ~~The discussion regarding whether the reason for the move is within or beyond the sponsor’s control has not been fruitful. A review is underway of the vagaries of the processing of federally funded projects.~~ Regardless of the reason for the numbers of “moves” for each project phase, the CMAQ Project Selection Committee, without a strong staff recommendation, has been hesitant to remove delayed projects from the program unless the ~~projects~~ sponsors ~~has~~ has indicated they will no longer be pursuing the projects. This has led to project phases that have been delayed 1, 2, 3, and 4 years. The accomplishment sunset

**Comment [PB8]:** The intent is to minimize the number of projects being considered, so they can be carefully reviewed to insure they will be obligated. Groups of projects may defeat the intent. Additionally there is concern that a combination bid may be delayed due to one project within the combination

(1+2 years to accomplish the phases as outlined above) applies to these projects; in no case will the sunset rule be waived.

**Comment [DF9]:** Comment on the applicability of 1+2 provisions to 2011 and before projects. – should it apply?

The attached table shows project phases programmed in fiscal years through 2012, with the year in which they must accomplish the phase. If the sunset deadline is not met, the funding will be deferred and the project moved to the contingency deferred list. For projects that were part of the October 2011 status update, the year of accomplishment was determined by the following rules:

**Delayed 4 or more Years:**

The project will be deferred and its funding removed.

**Delayed 3 Years:**

These project phases must be accomplished in the year indicated.

**Delayed 2 Years:**

These project phases have the year they are currently programmed in plus one additional year.

**Delayed 1 Year:**

These project phases have the year they are currently programmed in plus two additional years.

In some cases, sponsors requested to move a project more than one year into the future in their October 2011 status update. Under the revised policy, these will be moved into 2012, with their accomplishment year determined by the number of moves thus far as described above.

For projects that requested moves in 2009 or 2010 to a future year, e.g. 2013 rather than 2010 (from 2009) or 2011 (from 2010), that move is counted as 1 year's delay and the project phase will have 2 years to accomplish the phase after the year it was moved to, (in the example, the phase will need to be accomplished by 2015). The attached list includes these projects. Sponsors can request that a project be placed on the contingency list if they are confident the project will not be accomplished in the timeframe required.

Active projects will be eligible to receive 100% federal funding for phase II engineering, ROW acquisition, construction and/or implementation if a request is made and the following conditions are met:

- ~~1. A special request is made to the Project Selection Committee with an updated project schedule detailing when phases of the project will be completed.~~

**Comment [HO10]:** Suggestion to fund all current projects at 100% to spend down the unobligated balance ASAP.

2.1 No CMAQ funds have been expended on phase I engineering and all federal authorizations for phase I engineering are deobligated.

Projects that do not involve phase I engineering would be eligible for 90% federal funding as prescribed in the first section. Transit infrastructure projects would [be eligible for 100% funding for ROW acquisition and construction, but would](#) be limited to 50% federal funding for engineering work.

These policies revisions will be reviewed on an ongoing basis for their effectiveness, and updated with any improvements that are identified.

**Comment [RP11]:** Recommend a formal review within a year after applying to the 2012 program.

**Comment [RP12]:** Comment on the need to improve project agreement and design review processes. This is being addressed through other channels.

DRAFT