STAFF REPORT

MEETING DATE:	**April 24, 2018**
SUBJECT:	**Amendment to Regional Surface Transportation Program (RSTP) Policies**
AGENDA ITEM:	**5-7**
STAFF CONTACT:	**Kathy Urlie, Senior Transportation Planner**

SUMMARY:

An amendment to SRTA's policies for the administration of Regional Surface Transportation Program (RSTP) funds is needed to address recent Caltrans Audits and Investigations (A&I) findings. Whereas last year's RSTP distributions where held up by the audit, two years of funding are now available for projects nominated by local agencies.

STAFF RECOMMENDATIONS:

It is recommended that the SRTA Board of Directors:

1) Approve the attached amended RSTP policies; and
2) Authorize the executive director to solicit project nominations for FY 2017/18 and 2018/19 RSTP funding.

DISCUSSION:

Background – The federal Surface Transportation Program (STP) provides flexible funding for a variety of highway, bridge, transit, and pedestrian and bicycle infrastructure projects. It is SRTA's longstanding practice to exchange STP funds for Regional Surface Transportation Program (RSTP) funds to reduce administrative burdens and allow funds to be used for local streets and roads. SRTA receives around $2.3 million annually, which is distributed to the county and three cities based on population.

During the Caltrans A&I review of SRTA, it was found that several projects had not undergone a project nomination process as is required by Section 182.6 of the California Streets and Highways Code. Furthermore, RSTP funds cannot be used to fund projects after the fact; they must be nominated and selected in advance of RSTP allocations. Although Caltrans is not requiring repayment of funds for projects that were not formally nominated, SRTA's policies need to be revised and future RSTP-funded projects must adhere to the nomination process.

RSTP Policy Amendment – The attached RSTP policy amends the October 22, 2013, policy to include a clear project nomination process. In addition, to give the board of directors greater flexibility, the fair and equitable distribution of RSTP funds will be based on a five-year average. For example, the board of directors may choose to award a jurisdiction a higher than normal share in a given year in order to leverage a grant opportunity – so long as there is an equitable population-based distribution among all jurisdictions over the five-year period.

Project Nominations – Whereas SRTA currently retains FY 2017/18 RSTP funds and will soon be provided FY 2018/19 RSTP funding, it is recommended that the board of directors authorize soliciting projects for both fiscal years. SRTA's estimated FY 2017/18 allocation is $2,350,511 and FY 2018/19 is expected to be comparable, for a total of approximately $4.7 million. Project nominations and staff recommendations will be presented at the June 19, 2018, SRTA Board of Directors meeting for approval.

An annual sub-recipient cooperative agreement with SRTA will be required for local agencies to be reimbursed. In addition to various other requirements included in the SCA, project reimbursement in the event of adverse audit findings will be covered.

ALTERNATIVES:

The board of directors may revise the proposed RSTP policies and/or solicit project nominations for only FY 2017/18 RSTP funds. The board of directors may also defer action until June; however, this action would push RSTP project selection to October.

OTHER AGENCY INVOLVEMENT:

///The Technical Advisory Committee (TAC) concurs with the staff recommendations.///

FISCAL IMPACT:

There is no direct fiscal impact to SRTA; however, local agency projects would no longer be eligible for RSTP funding without the proposed policies and adherence thereto.

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Daniel S. Little, AICP, Executive Director

Attachment:

Amended SRTA RSTP Policies

5.00.030. **Administration of Regional Surface Transportation Program (RSTP)**

A. Background

The Regional Surface Transportation Program (RSTP) was established by California State Statute utilizing Surface Transportation Block Grant Funds that are identified in Section 133 of Title 23 of the United States Code. The program provides flexible funding that may be used by States and eligible entities for projects to preserve and improve the conditions and performance on any Federal-aid highway, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital and intercity passenger projects.

RSTP originates from the federal excise tax on gasoline. The State of California distributes the funds to regional agencies and counties based on population.

As a rural Metropolitan Planning Organization (MPO), the Shasta Regional Transportation Agency (SRTA) is allowed to participate in an exchange of these federal funds to nonfederal State Highway Account funds. Prior to an annual distribution of funds based on availability and qualified invoicing, an Exchange Agreement is executed between SRTA and the State Department of Transportation (Caltrans), exchanging federal funds for state funds. This exchange provides for fewer administrative burdens than a federalized project and opens the funds for uses beyond federal statute. In addition to RSTP funds allocated to the region, the County of Shasta receives a guaranteed RSTP apportionment, which SRTA typically allows the county to exchange directly as a part of the annual exchange process with Caltrans. SRTA distributes the regional funding, once it has been exchanged for state funds, to local public transportation agencies, as defined in the California Streets and Highways Code, as a responsibility of its Regional Transportation Planning Agency (RTPA)/MPO designation.

Alternatively, SRTA may retain the RSTP without exchanging for state funds. If this option is selected, then the list of eligible recipients expands, the scope of eligible projects narrows, and SRTA would be required to develop a competitive process to allow eligible entities to submit projects for funding that achieve RSTP objectives.

B. Project Eligibility

1. State Exchange Funds

In using state exchange funds, SRTA agrees to allocate all funds within the RSTP agreement to projects either defined under Title 23 – Section 133 of the Federal Aid for Highways, and/or projects allowed under Section 182.6 of the California Streets and Highways Code. These are transportation projects as defined by Article 19 of the California Constitution. The following are eligible:

a. The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for non-motorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

b. The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.

For RSTP exchange funds, SRTA defines a project as one being used for a transportation purpose, eligible under Article XIX of the California State Constitution, and having undergone a public nomination process that directly involves local government representatives.

2. Federal Funds

If the federal funds are not exchanged for state funds, then sub-recipients must ensure that projects are ones as defined under Section 133(b) of Title 23 and have undergone a competitive project selection process.

C. Financial Oversight

RSTP funds will be subject to financial and compliance audits, as well as execution of an annual sub-recipient cooperative agreement (SCA) between SRTA and each sub-recipient of RSTP funds outlining fund use, timing, reporting, and compliance parameters.

In the event of an adverse audit finding, a sub-recipient must return the payments to SRTA for allocation to other eligible projects. If an adverse finding is not corrected, a hold will be placed on future RSTP and other SRTA payments to the sub-recipient until such time as the adverse findings are corrected to the satisfaction of SRTA.

Any federal monies received by the sub-recipient from SRTA must be audited under Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

Among the items that are likely to be included in the SCA between the sub-recipient and SRTA are:

1. Compliance with Davis-Bacon Act: The Davis-Bacon Act requires that all laborers and mechanics employed by consultants or sub-consultants to work on construction

contracts in excess of $2,000 financed by federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the Department of Labor (40 USC 276 to 276a-7).

2. The jurisdictions are required to submit an annual document stating that RSTP exchange funds have been used for eligible transportation projects, and that the jurisdictions are in compliance with the Davis-Bacon Act. Jurisdictions must submit documentation prior to distribution of current year exchange funds.

3. Compliance with Title 2, CFR part 225, *Cost Principles for State, Local, and Indian Tribal Governments.*

4. Compliance with Title 2, CFR part 200, Uniform Guidance.

5. Agree that Contract Cost Principles and Procedures, Part 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 shall be used to determine the allowability of individual project costs items.

6. A special fund for the purpose of depositing exchange funds has been established within a jurisdiction's special gas tax street improvement fund or county road fund.

D. Eligible Entities

RSTP funds exchanged for state funds may be disbursed to eligible entities per Section 186.2 of the California Streets and Highways Code to public transportation agencies. This may include: cities and counties; an RTPA/MPO, such as SRTA; and a public transit operator.

If the funds are not exchanged, the number of eligible entities expands to eight categories, as defined under 23 USC Section 133(g)(4)(B).

E. Project Selection

State statute calls for the nomination of projects by cities, counties, public transit operators, and other public transportation agencies through a process that directly involves local government representatives. SRTA will annually submit a call for projects to eligible entities for project selection consideration at its annual April meeting. Eligible agencies will submit a prioritized list of nominated projects. Upon project selection by the SRTA Board of Directors, the projects will constitute those that are approved for reimbursement from that year's RSTP allocation. SRTA staff will prepare sub-recipient cooperative agreements (SCAs) for each responsible project entity for review and execution. Reimbursement eligibility will be based from the time the annual SCA is fully executed. No reimbursements in arrears will be authorized.

If funds are not exchanged, MPOs obligating RSTP funds are required to develop a competitive process to allow eligible entities to submit projects for funding.

F. Calendar

TIMING	PROCEDURES
December	Notification from Caltrans for federal fiscal year allocation
January-February	SRTA provides to Caltrans Federal Apportionment Exchange Buyout Program Annual Report, as applicable
January	SRTA staff develops an annual update to the soft target RSTP five-year allocations
January	SRTA staff solicits projects with focus/strategy areas for the year's allocation
April	SRTA selects projects
May	SRTA completes RSTP agreement with Caltrans
May	SRTA completes RSTP Sub-Recipient Cooperative Agreement (SCA) with project sponsors and submits to sponsors for review/execution
June	Caltrans returns fully executed agreement
June	SRTA receives and files fully executed SCAs from project sponsors
June-July	SRTA invoices Caltrans for funds
July-August	SRTA receives and deposits funds from Caltrans
July/August to subsequent June 30	Project sponsors invoice SRTA, SRTA verifies project invoices, and releases funds

G. Funding Distributions

Annual RSTP funds are allocated to SRTA from Caltrans based on their statewide distribution calculations.

State statute notes that regional exchange funds "shall be apportioned for projects implemented by cities, counties, and other transportation agencies on a fair and equitable basis based upon annually updated five-year average of allocations." In the past, SRTA Resolution 5-93 stated that funds are to be divided among the jurisdictions in the same manner as they are allocated to SRTA. It went on to note that the funds shall be shared among the jurisdictions based on the ratio of the jurisdiction's latest population estimate to that of the total county's population.

In attempting to achieve the objectives of SRTA's Sustainable Communities Strategies, and also provide SRTA the flexibility to annually alter and adapt its approach to RSTP project selection, SRTA will establish an average five-year allocation to the cities, county and transportation agencies that will meet the intent of state statute and also provide SRTA the opportunity to better respond to adjusting to meet SRTA's Sustainable Communities Strategies and greenhouse gas emissions reductions. Annually, SRTA will provide an update to the soft target average five-year allocation and subsequently select projects and distribute program funding matching the annually updated soft target goals.

Using federal funds requires SRTA development of a "competitive process to allow eligible entities to submit projects for funding…". If SRTA elects to not exchange federal funds for state funds, a competitive project selection process will be needed.