California Association of Councils of Governments
Effective Regions Through Partnership

Tab 3

TRANSMITTED ELECTRONICALLY

April 4, 2022

Lee Ann Eager
Chair, California Transportation Commission
1120 N Street
Sacramento, CA 95814
ctc@catc.ca.gov

RE: Comments on Project Eligibility on Item Agenda #3 (REAP Program)

Dear Chair Eager,

We wanted to take this opportunity comment on a recent change to the Regional Early Action Plan Program of 2021 (REAP) program that effects project eligibility. The California Association of Councils of Governments (CALCOG) is made up of regional governments across the state, including all eighteen Metropolitan Planning Organizations (MPOs) that are the primary entities responsible for executing the largest share ($510 million) of the $600 million REAP program.

A. Many Transportation Projects Are Now Not Eligible for Funding

The REAP grants were to provide the first discretionary funds to MPOs specifically in support of SB 375 implementation. AB 140 listed a multitude of eligible project types that increased infill housing and reduced vehicle miles travelled. The idea was to give each region funding to implement a flexible program that met the needs of that region. The AB 285 Report (to be discussed in Agenda Item 2 of the joint meeting) cited this program as an example of the type of programs needed to improve outcomes related to SB 375.

But that is not the way it's working out.

The problem is in the type of funds that the state is now using for the program. The $600 million program is funded by $100 million from the state general fund and $500 million in funding from the specifically the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) from the American Rescue Plan Act (ARPA). As AB 140 was being drafted, the indication was that the $500 million in ARPA funds would come the "revenue lost" portion, which was the only "pot" of SLFRF funds that was flexible enough to fund transportation projects like transit, pricing, and most VMT reduction projects.

Instead, the $500 million is now coming from the "pandemic economic impacts" source of SLFRF funding. These funds are much more limited to specific types of housing projects and related project infrastructure. *See* Sections E and F of this letter below. As a result, there is a significant mismatch between AB 140's goals of supporting infill housing and VMT reduction and the more limited uses allowed by "pandemic economic impacts" funding program.

Although the REAP program still retains a $100 million of more flexible general fund revenues, it will not be enough to bridge to the objectives of the program. (We have heard estimates that MPOs will receive between $30 and $50 million of these funds). *See* table below for eligible uses; *see also*, HCD draft program guidelines, Table VI.

	SLFRF Eligibility	
Eligible Uses in AB 140	**Pandemic Economic Impact**	**Revenue Lost**
Accelerating infill housing production near jobs, transit, and resources (includes planning).	Eligible.	Eligible*
Completing environmental clearance to eliminate project specific review in infill areas.	Eligible.	Eligible*
Affordable housing catalyst fund, trust fund, or revolving fund for location efficient projects.	Eligible. But funds must be spent (from the trust fund) by expenditure deadline.	Eligible*
Infrastructure plans and upgrades, including sewers, water.	Eligible. But expect some caveats such as potentially for limited locations and/or in connection with affordable housing only.	Eligible*
Vision-zero policy and program, safety plan, and slow streets programs.	Possibly. But expect some caveats such as potentially for limited locations and/or in connection with affordable housing only.	Eligible*
Bicycle and pedestrian infrastructure plans or other multimodal plans.	Possibly. But expect some caveats such as potentially for limited locations and/or in connection with affordable housing only.	Eligible*
Infrastructure and programs for ATP and implement bicycle and pedestrian plans.	Possibly. But expect some caveats such as potentially for limited locations and/or in connection with affordable housing only.	Eligible*
Rezoning and encouraging development by updating planning documents, ordinances, general plans, community plans, specific plans, SCSs, local coastal programs.	Yes & no. Limited to specific infill communities to increase housing; General regional and local planning and zoning not eligible	Eligible*
Revamping local planning processes to accelerate infill housing or infill development.	Not eligible.	Eligible*
Producing multimodal corridor studies, plans and implementation actions.	Not eligible.	Eligible*
Studying and implementing road pricing.	Not eligible.	Eligible*
Establishing a local VMT impact fee or regional VMT mitigation bank.	Not eligible.	Eligible*
Parking and TDM programs.	Not eligible.	Eligible*
Seamless regional transit systems between and across communities.	Not eligible.	Eligible*
Multimodal access plans to and from transit.	Not eligible.	Eligible*

**Assumes these are a "government service" as the term is used in federal regs.*

C. Potential Solutions

We are investigating whether sufficient SLFRF funds from the "revenue lost" source remain. We are also investigating the extent to which the SLFRF funds—or a significant portion thereof—could be swapped as part of the budget with general fund dollars designated for a program that more closely aligns with the more limited eligibility of these funds. For example, a general fund allocation toward an affordable housing program may provide a better alignment of purpose than the REAP program. We would appreciate any ideas.

D. Acknowledging HCD Efforts

We want to recognize the good work of HCD staff to do the best they could with this funding in their recently published draft guidelines. They have done well to expand the eligibility as much as the federal guidelines allow. Though we appreciate these efforts very much, it does not relieve the fact that the program will be a shadow of its expected vision.

E. More Background: Outline of SLFRF Funding Sources

The final rule for these Coronavirus State and Local Fiscal Recovery Funds (SLFRF) was published January 27, 2022. These funds come to the state in four categories:

1. Responding to public health and negative economic impacts of the pandemic.
2. Providing premium pay to essential workers.
3. Providing government services to the extent of revenue lost due to the pandemic.
4. Making necessary investments in water, sewer, and broadband infrastructure.

The "revenue lost" category is the broadest and most flexible type of SLFRF (since it was refunding lost revenues from the pandemic, it could be used for many general government purposes). The "pandemic economic impacts" category, on the other hand, is focused specifically on responding to public health and negative economic impacts of the pandemic.

F. Detail on Public Health and Negative Economic Impacts Funding Category

This summary represents our understanding of the federal rule for funds in the public health and negative impacts category. However, we are not experts in interpreting federal rule. The state will ultimately be responsible for interpreting the rule and determine eligible activities.

From our read, these funds are largely intended for responding to the public health emergency and immediate economic impacts. Eligible uses include a wide range of COVID mitigation and prevention programs such as medical facilities and services, medical expenses, behavioral and mental health services, etc. Also eligible are programs that assist households, such as food banks, emergency housing assistance, childcare, and loan programs for small businesses and non-profits.

Transportation related uses are listed as ineligible, and the housing related uses seem narrower than what REAP 2.0 intends. Funding for affordable housing and the infrastructure to support affordable housing is the closed nexus we see to REAP 2.0.

The federal rule also requires that the funds must be used for populations that experienced a public health and economic impact from COVID and for those populations that experienced a disproportionate impact. (The final rule presumes that certain populations were "impacted" and "disproportionately impacted" by the pandemic). There is a wide range of criteria, but as it relates to REAP 2.0, this funding will be constrained to specifically for low- or- moderate income households or communities.

Certain uses of the funding are eligible for both/either low- or moderate-income households while certain uses are specific to low-income households. The final rule defines these income categories. Supporting housing for lower-income households is a critical state need and an important use of these funds. But this requirement further narrows how REAP 2.0 funds can be used and makes the case that these funds are better suited for programs that already have affordable housing a goal or requirement. We concur that these are worthy goals, but the objectives for AB 140 were much broader.

G. Conclusion

In closing, we would like to reiterate our support and need for a program like REAP 2.0 but feel strongly that we are not being set up for success with the current type of money. AB 140 set very ambitious goals, requiring project to achieve multiple housing, equity, and VMT reduction goals. The expectation that MPOs can now achieve these goals with this category of SLFRF and eligible uses is worrisome.

This program could be a critical turning point in MPO's abilities to implement their SCS's and for the state to achieve its climate, housing, and equity goals. However, without a change to the funding source, MPO's ability to meet the expectations outlined in AB 140 will be severely constrained.

Thank you for your consideration. We look forward to continuing our partnership.

Sincerely,

Bill Higgins

Bill Higgins
Executive Director

CC: Liane Randolph; Chair, California Air Resources Board
Gustavo Velasquez, Director, Department of Housing & Community Development