



TRANSMITTED ELECTRONICALLY

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Megan Kirkeby, Deputy Director Division of Housing Policy Development
Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
Reap2021@hcd.ca.gov

RE: Comments on 2022 Draft Guidelines for MPO Applicants – Regional Early Action Planning Grant Program (REAP 2.0)

Dear Ms. Kirkeby,

Thank you for the opportunity to comment on the Draft Guidelines for the REAP 2.0 Program. 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. Funding Type Not Well Aligned with AB 140

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. 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. 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. We note that the Draft Guidelines now include a new objective of “Coronavirus Economic Recovery” that is not part of AB 140 or the earlier REAP 2.0 Framework Paper published by HCD. This is a direct result of the SLFRF funding which now not only limits the types of activities that can be funded but also raises the already ambitious bar even higher in terms of what MPOs are expected to achieve with these limited funds.

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 and the Department’s support for this.

D. Acknowledging HCD Efforts

We value the partnership we have established with HCD in REAP 1 and feel that program has been very successful as a result. 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.

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.

E. Early Coordination and Review of Standard Agreement

The Standard Agreement for REAP 2.0 is likely going to be more substantial than the Standard Agreement used in REAP 1 due to the introduction of federal funds. We suggest that the department share a draft of this with MPOs now so that there is ample time for legal review and coordination on both sides well in advance of funding. This is a lesson learned from REAP 1 and will help avoid any slow down of the process later. Additionally, MPOs have a lot of experience with federal funds and many with SLFRF funding in particular. They have existing agreements and templates that can be shared with the Department as needed to help with this process.

F. Detailed Questions and Suggestions

Below are more specific questions and suggestions that we would like the final guidelines to address. This clarity will assist MPOs in their planning and suballocation processes.

- Projects must be in support of the regional SCS. That should be enough to consider projects aligned with the state’s 2030 climate target, 2050 climate goals, and 2017 Scoping Plan. No further discussion should be required on how projects align with these state goals and plans. If further discussion is needed, provide clear direction or definition for what it means to “align” with these goals and plans.
- Provide more descriptions and/or examples for how applicants should “demonstrate for each proposed use a significant beneficial impact”.
- Define “impacted household” and provide data and examples for how to determine “impacted” and “disproportionately impacted” according to the final rule.
- The draft guidelines read like new outreach must be done and documented and must target specific communities or households. However, previously HCD and OPR staff have said previous community engagement that meets these requirements would be allowed to meet this requirement. Please clarify whether previous engagement efforts can be used to meet the outreach and engagement requirements outlined in the draft guidelines.
- Is the five percent administrative costs maximum for the full award amount or per agency? For example, can MPO’s receive the five percent of their region’s full award for administrative costs and also allow any subrecipients to receive up to five percent of their award(s) for administrative costs?
- Provide more clarity on any restrictions to the eligible activity of “planning and/or investing in infrastructure (water, sewer, bike, ped) to support housing”. Such as, does it have to be in support of an actual affordable housing project or known housing development (versus infrastructure investment that is used more generally to support future zoned for housing on a corridor)? Does it have to be an area that meets the definition of ‘impacted’ or ‘disproportionately impacted’ community?
- Will separate ledgers/accounting/reports be required for the funds coming from the general fund versus SLFRF funds?
- For the required quarterly reporting, provide a template and instructions by the first quarter that this is required. Additionally, please spell out the reporting timeline and requirements clearly versus saying “in accordance with the final rule”.
- The oversight on suballocations outlined in the draft guidelines, including that the state approves any methodology beforehand, is cumbersome. Consider providing guidelines or parameters but leaving the discretion to the MPOs as was the example that has worked well in REAP 1.
- The draft guidelines state, “Applicants who received advance funds shall expend all such funds or show substantial progress **prior to a full application** by submitting an updated project timeline and budget for their eligible projects from the application and any supporting documentation.” Consider changing this to “**prior to requesting additional advanced funding**” rather than prior to submitting a full application. Because the full application must be submitted no later than December of this year, there is no way that MPOs can expend the early funds completely before submitting their full application.

- Many of the goals and requirements for REAP 2.0 is in AB 140 and the funding is dedicated in the state budget. As a result, we don't think the Department has, "the right, at their sole discretion, to suspend, amend, or modify the provisions of these Guidelines at any time, including, without limitation, the amount of funds available hereunder."
- Provide clarification on using the funds for housing development soft costs, such as predevelopment costs. The draft guidelines imply that funds can be used for these soft costs only if the housing project begins construction before the expenditure deadline. Please clarify if that is a correct interpretation. If the Department has discretion on this, consider loosening this requirement. Additionally, clarify if this is limited to affordable housing projects or any housing project qualifies for this type of predevelopment work.
- Clarify whether or not environmental clearance and any eligible infrastructure planning also has the same requirement of development commencing before the expenditure deadline.

G. Conclusion

In closing, we would like to reiterate our support and need for a program like REAP 2.0 but feel strongly that MPOs 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
Executive Director