

Transportation Committee

For the Metropolitan Council meeting of September 25, 2019

Subject: Anoka County Defederalization Request

Proposed Action

That the Metropolitan Council approve an action to move federal funds from Anoka County's County State Aid Road (CSAH) 22 bridge project and its Minnesota Highway 47/CSAH 116 intersection improvement to its CSAH 11 railroad grade separation project with the following stipulations:

- All projects will be delivered in their current program year and subject to the Council's Program Year Policy.
- All projects will be completed as proposed in their original applications and subject to the Council's Scope Change Policy.
- Should either or both of the defederalized projects not be completed, Anoka County will reimburse the region the amount of federal funding assigned to the project(s) at the time of defederalization.
- The county will work with MnDOT and the Metropolitan Council to satisfy the vacated Disadvantaged Business Enterprise (DBE) requirements.
- The county will complete a resolution agreeing to the above.

Summary of Committee Discussion/Questions

Metropolitan Transportation Services Director Nick Thompson presented this item. Chamblis asked how the tribal requirement by the Governor affects projects. Thompson responded that the Council completes ongoing consultations for projects and that the Council recently adopted a tribal policy for its own internal projects. Barber added that a lot of good conversations took place between the Council and MnDOT and Anoka County and that Anoka County has proceeded in good faith to find a solution for the lost DBE requirement. Barber continued that discussions led to needing to build framework for requirements for any future defederalization requests. Chamblis asked what the potential advantages of defederalization exist for small businesses. Thompson answered that smaller projects and contractors benefit from not having federal money attached as federal funds complicate the process but that if a project is not federal some requirements, such as DBE, can be lost. Cummings asked for clarification TAB's role in defederalization of these projects. Thompson responded that since TAB awarded the federal funds, the county can't go through the defederalization process without getting TAB/Council approval.

Motion by Zeran, seconded by Fredson. Motion carried.

Transportation Committee

Meeting date: August 26, 2019

For the Metropolitan Council meeting of September 25, 2019

Subject: Anoka County Defederalization Request

District(s), Member(s): 9 – Zeran

Policy/Legal Reference: TAB Action

Staff Prepared/Presented: Amy Vennewitz, Deputy Director, Finance & Planning (651-602-1508)
Steve Peterson, Manager of Highway Planning and TAB/TAC Process (651-602-1819)
Joe Barbeau, Senior Planner (651-602-1705)

Division/Department: Transportation / Metropolitan Transportation Services (MTS)

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Background

Anoka County received Regional Solicitation funding for the following three projects in the 2016 and 2018 funding cycles:

1. CSAH 11 railroad grade separation. 2016 Regional Solicitation. Program Year 2021. Federal funding: \$7,000,000.
2. Minnesota 47/CSAH 116 intersection improvement. 2018 Regional Solicitation. Program Year 2022. Federal funding: \$1,868,000.
3. CSAH 22 bridge widening over Rum River. 2018 Regional Solicitation. Program Year 2023. Federal funding: \$1,436,296.

Anoka County proposes to move the federal funds from projects 2 and 3 (totaling \$3,304,296) to project 1. This would bring the total federal amount for project 1 to \$10,304,296, while eliminating federal funding from the other projects. Project 1 is shown in the draft 2020 to 2023 TIP with a project total of \$19,915,120. Removing the federal funds from project 2 will allow it to be delivered more quickly. This is important since this route is a reliever to Highway 10, which will have a major project in 2022 and 2023. Anoka County will complete project 2 prior the Highway 10 project, thereby mitigating traffic impacts.

In 2015, TAB approved defederalization requests, also referred to as federal funding exchange requests, from Hennepin County and Scott County. Discussion

on these two requests led to the formation of a work group to establish a federal funding exchange policy. Federal funds exchanges are common in Greater Minnesota and in other states because of potential time and cost savings of forgoing the federal process. This policy was never completed, primarily because of concerns with the loss of DBE requirements when federal funds are removed from a project. During the course of discussion related to the policy, concerns were raised regarding the ability to assure that the defederalized projects are done as approved in the original application, as well as on time. The first three stipulations listed under “Proposed Action” will assure this and MnDOT Metro District’s State Aid Office has agreed to continue to administer these projects.

Anoka County, MnDOT, MnDOT’s Advancing Equity Department, State-Aid, and Metropolitan Council staff have met to discuss the best path forward to meet TAC’s approved motion of satisfying the DBE requirements. It was determined that the best option was MnDOT’s ADA Small Business Opportunity Pilot Program (see attachment). Key points regarding the program include:

- MnDOT’s Office of Civil Rights will review Anoka County’s two proposed defederalized projects and set a DBE goal similar to if federal funds were used on the projects.
- Anoka County will add in this DBE amount (estimated at about \$350,000) into MnDOT’s ADA Small Business Opportunity Pilot program. MnDOT will select the contractor to be used on \$350,000 of Anoka County projects (i.e., not on MnDOT’s system).
 - The MnDOT program hires small businesses from a targeted list to construct and/or inspect ADA improvements on projects.
 - The pool of firms is from the Twin Cities area.
 - The focus on the program is DBE, Targeted Group Businesses (TGB), and Veterans. There is no requirement that the firms are DBE, but 100% of the firms in the first year of the program were DBE or DBE eligible.
 - The goal of the program is to build capacity of firms to hopefully be a DBE on bigger projects or be the prime contractor on larger projects.
 - MnDOT’s inspector trains the selected firms onsite.
 - The program was awarded Rosa Parks Diversity Award by WTS.
- DBE results will be communicated back to TAB and the Council via MnDOT State Aid.

Federal funding carries several responsibilities along with DBE. Table 1 shows Anoka County’s plan to mitigate some of the federal requirements that are removed via defederalization.

Table 1: Mitigation Techniques

Requirements Removed	Planned Mitigation	Notes
DBE Goal	Small Business ADA Pilot Program investment	Office of Civil Rights Endorsed
OJT Goal	Add applicable language from Federal Special Provision 1273	Office of Civil Rights Endorsed
Labor/Prevailing Wage	The US Department of Labor has adopted most of Minnesota’s “Highway and Heavy” prevailing wage rates. In most instances, the state prevailing wage rates are equal to or higher than the federal prevailing wage rates. For Anoka County, all current state prevailing wage rates are equal to or higher than the federal prevailing wage rates.	Source: MnDOT Labor Compliance Unit
Buy America	Anoka County will include domestic iron and steel requirements in the project special provisions.	Similar provisions have been used on State bond-funded (non-federal) projects in recent years

National Environmental Policy Act (NEPA)	Minnesota Environmental Policy Act (MEPA)	MN Environmental Regulations are very strong and Anoka County will follow all applicable rules and regulations.
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Rationale

The Transportation Advisory Board and the Metropolitan Council approve a program of projects through the Regional Solicitation. Consolidation of federal funds to fewer (usually larger) projects is common practice in Greater Minnesota and nationwide. These projects are consistent with the Transportation Policy Plan (TPP) and meet fiscal constraint because the federal and local funds are sufficient to fully fund the projects

Thrive Lens Analysis

This action promotes stewardship by enabling Anoka County to complete two of its projects more cost-effectively.

Funding

The projects are fully funded with local and federal funds.

Known Support / Opposition

There were two dissenting votes for this action item at the August TAB meeting.