

Action Transmittal

Transportation Advisory Board



Committee Meeting Date: October 16, 2024

Date: October 9 2024

Action Transmittal: 2024-42

Review and Approve Draft Active Transportation Grant Administration Requirements

To: Transportation Advisory Board
From: Regional Solicitation Evaluation Active Transportation Working Group
Prepared By: Joe Widing, Senior Planner, Transportation Planning, 651-602-1822
Steve Peterson, Senior Manager, Transportation Planning

Requested Action

The Transportation Advisory Board Active Transportation Work Group requests that the recommended Active Transportation grant management policies described below be approved and that staff be authorized to draft and execute grant agreements with grant award recipients.

Recommended Motion

That the Transportation Advisory Board approve the following Active Transportation pilot grant management policies and authorize staff to execute grant agreements in accordance with these policies:

1. Program Year: Recipients of Active Transportation grants must prepare and release the project construction contract for bids prior to December 31st, 2026, or the grant award will be subject to review and potential cancellation by the TAB.
2. Grant Funding Disbursements: Grant recipients will be awarded 50% of the grant funds upon grant execution and the remaining 50% of funds will be reimbursed as costs are incurred above the initial 50% of costs.
3. Eligible Project Costs: The Regional Solicitation's eligible project costs policy will apply.
4. Project Plan Documentation: Grant recipients will be required to submit final construction plan sheets prior to project bidding.
5. Project Scope Change Policy: The Regional Solicitation's Scope Change Policy will apply.
6. Right-of-Way Acquisition: Right-of-way documentation to confirm ownership of property will be required, but acquisition certifications will not be required prior to release of grant funds.
7. Environmental Review: Environmental review documentation will not be required.
8. Small Disadvantaged Business Contracting Program: Projects receiving more than \$750,000 in grant funding will be required to participate in the Metropolitan Council's Underutilized Business (MCUB) program for construction contracting or a similar program adopted by the grant recipient.

Background and Purpose

In the 2024 Regional Solicitation, the TAB approved awarding \$18.7 million in new regional sales tax funding for 17 active transportation project applications. Typically, Regional Solicitation federal projects are awarded by the TAB and Council but are managed by MnDOT's State Aid office. MnDOT executes the subrecipient grants agreements for the federal funds and is responsible for overseeing both the federal and TAB's grant management policies.

The new Active Transportation Regional Sales Tax funded projects are not going to be managed by MnDOT State Aid, nor do they need to follow typical federal grant management requirements as this revenue is generated regionally. Due to this, it is necessary for the TAB to consider and establish key grant management policies for recipients of these new funds. The 2024 selected projects are a pilot opportunity for the Council to test and learn from new strategies to administer successful active transportation projects.

Through research and correspondence with current grant managers at MnDOT and other Council grant programs, staff narrowed the key policy items that require TAB input and direction.

The Active Transportation Working Group met two times to discuss and review the various grant management policy items covered below. A summary of their recommendations on how to manage the pilot grants for each of the identified policy items is provided below. As this is a pilot program, staff will bring lessons learned through this grant management process to TAB to consider for the 2026 Solicitation and beyond.

The following list will identify each management item for TAB consideration and the recommendation forwarded from the Active Transportation Work Group.

1. **Program Year:** The program year requirement details when a project must begin construction. This requirement is important for grant administrators to be able to plan budgets to ensure adequate funds are available for projects when they begin to receive funding and to ensure projects are started in a timely manner. The Program Year Policy for Regional Solicitation projects is a federal requirement. As the active transportation projects will be funded from existing revenue that is collected and held for these projects, identifying a program year is not necessary.

Recommendation: The Active Transportation Work Group recommends that grant recipients do not need to identify a specific program year for projects but must adhere to the following:

- i. Projects will be given a project number for Council tracking purposes.
 - ii. Projects will need to identify a “grant agreement period” when executing grant agreement which will cover from the time the grant agreement is executed to the expected completion of the project.
 - iii. Within this period, projects must initiate project bidding to construct the project by the end of 2026.
 - iv. Implementing agencies will need to submit project progress reports to Council staff annually.
 - v. Council staff will report the status of grant projects to the TAB at the end of 2026.
 - vi. If projects will not be able to begin by the end of 2026, the project start date may be extended beyond 2026 with TAB approval.
2. **Grant Funding Disbursements:** The grant funding disbursements policy identifies how funds are distributed to grant recipients for awarded projects. For Regional Solicitation projects and all MnDOT grant projects, applicants receive their awarded funding through a reimbursement process. This process requires the implementing agency to submit invoices and other documentation to be reviewed and approved prior to funds being disbursed. The Active Transportation funds will be locally sourced to support construction in areas which may traditionally have not had the means to do so in the past. Providing up-front grant funding will widen the pool of applicants who may consider applying for these funds in the future.



Recommendation: The Active Transportation Work Group recommends that grant funding be disbursed in a hybrid manner, with some of the funding disbursed up-front and the rest being reimbursed as the project progresses.

- i. The first 50% of the grant funding will be provided to grantees up-front when they enter into a construction contract.
- ii. The Council will receive documentation of spending for the 50% of award grant funds and the required local match.
- iii. The remainder will be reimbursed as costs are incurred up to the total grant award. Any cost overruns on the project would need to be covered by the local implementing agency.

3. **Eligible Project Costs:** Eligible costs policy covers what a grant recipient can or cannot use the awarded funds on for their projects. Typically, eligible costs for infrastructure grants only cover project expenses which go towards directly constructing the awarded facility, materials and contracted labor. The Regional Solicitation already has clear guidelines set by TAB for eligible costs for grant recipients that all applicants understand and budget for when applying for funds. Altering eligible costs would require grant recipients to recalculate expected project costs, and local match, based on new eligibility, which would be difficult at this stage of the process.

Recommendation: The Active Transportation Work Group recommends that eligible costs for the AT pilot projects remain the same as for typical Regional Solicitation projects.

4. **Project Plan Documentation and Submittals:** Documentation and submittal requirements are important to ensure that projects are built as intended when funded and meet basic design standards. This requirement sets what levels that project plans need to be reviewed and approved prior to construction to ensure that projects are built as was approved when they were funded.

As these grants are infrastructure grants, some plan check should be performed prior to grant funds being released. Ensuring that the constructed project is substantially the same as what was approved for funding, basic design standards are being met from the MnDOT Facility Design Guide or other applicable design standards and that Americans with Disabilities Act requirements are being met by local partners are the most important elements to check for before releasing funds for construction. As the Council does not have licensed engineers on staff, the final plans will be reviewed to ensure an engineer at the implementing agency has attested that they meet the minimum standards.

Recommendation: The Active Transportation Work Group recommends that grant recipients provide final plan sheets prior to project bidding so Council staff can ensure the following prior to the release of grant funds:

- i. That the final project plans meet the project description as was approved by the TAB and,
- ii. that an accredited engineer has signed off on project plans that meet the minimum design guidance from the MnDOT Facility Design Guide and Americans with Disabilities Act requirements. The local agency will be responsible for engineering sign-off of all project plan sheets prior to submission.

5. **Project Scope Change Review:** Scope change policy covers the process followed to approve a potential change to a selected project. If a project changes from when it was approved and funded, the change in scope for that project will be reviewed and approved.

The project scope change policy is project-based requirement which already has a TAB approved policy that applies to Regional Solicitation projects. The TAB scope change policy allows for minor changes to be approved administratively. However, it also includes a detailed process for larger changes to projects to allow for robust discussion and informed

approval of any major changes to ensure that any change still meets the intent of the original project application. This policy has been in place since 2011, meaning project applicants already understand it and do not need to alter expectations or processes to meet it for selected projects.

Recommendation: The Active Transportation Work Group recommends that the existing TAB Regional Solicitation Scope Change Policy remain in effect for the AT sales tax funded projects.

6. **Right-of-Way (ROW) Acquisition Process:** Documentation and certification requirements for when a project acquires land are established to ensure that needed land is in control of the implementing agency to avoid any issues for construction. For federal projects the standards of review and process certification are typically higher. As these funds are regional, following federal laws and regulations around ROW acquisition is not required. Federal ROW review and certification takes time and additional resources to document and be approved.

Recommendation: The Active Transportation Work Group recommends that the TAB AT grant funded projects do not need to have ROW acquisition certified prior to release of funds. However, documentation which shows that land rights are under control for the entire project extent and any necessary agreements are in place are required to be submitted before the release of grant funds. Grant recipients must follow all applicable state standards concerning ROW acquisition.

7. **Environmental Review:** Environmental reviews are typically required to be conducted for large scale projects which may have significant impacts to either the natural environment or surrounding community. Federally funded projects must follow a detailed process to determine if a full review is required. Most projects do not follow the full environmental review process, including nearly all pedestrian and bicycling projects.

Recommendation: The Active Transportation Work Group recommends that the program require grant recipients to comply with relevant state requirements, but submission or review of these documents by Council staff is not required.

8. **Small and Disadvantaged Business Contracting Programs:** This policy covers all programs designed to remedy discrimination in transportation contracting and encourage the use of small and underutilized women and minority owned businesses.

The Work Group discussed how these programs work with various funding sources including federal, state and Council local funding sources. The Active Transportation Sales Tax revenue is regionally generated and as such is not required to utilize federal or state programs. However, ensuring an equitable contracting process for regional projects directly works towards the Equity and Inclusion goal established in Imagine 2050, the Transportation Policy Plan and other regional and local plans.

Recommendation: The Active Transportation Work Group recommends that grant recipients receiving more than \$750,000 in AT grant funding be required to work with the Met Council's Underutilized Business (MCUB) Program to set goals for small business subcontracting. If an agency already has an established DBE or equivalent program, the local program can be utilized to meet this requirement.

Relationship to Regional Policy

The grant management recommendations support regional goals and policy set through the enabling legislation for the funds, the TPP and previously approved TAB policies. These requirements ensure that selected projects for the Active Transportation pilot meet the project descriptions as applied for, provide a simplified process to aid local partners in completing projects in a timely manner, and support advancement of non-motorized travel, within the region.

Committee Comments and Actions

At the August 29, 2024, meeting, the Active Transportation Work Group reviewed and



discussed staff recommendations for grant management policies for the pilot Active Transportation projects. The Work Group met a second time on September 26 to further discuss the small and disadvantaged business contracting recommendation. The group recommended forwarding these recommendations to the full TAB for adoption. Notes and further materials on these meetings can be found [here](#). If adopted by the full TAB, staff will draft and execute grant agreements with grant recipients that include these policies.

Routing

To	Action Requested	Date Completed
Regional Solicitation Evaluation Active Transportation Work Group	Review & Recommend	August 29, 2024, September 26, 2024
Transportation Advisory Board	Review & Adopt	October 16, 2024

