

Action Transmittal

Transportation Advisory Board



Committee Meeting Date: May 18, 2023

Date: May 5, 2023

Action Transmittal: 2022-32

Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) funding allocation options for FY 2025-2027

To: TAC Funding and Programming Committee

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Requested Action

Distribute available regional Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) funding for fiscal years (FY) 2025 through 2027.

Recommended Motion

That the Funding and Programming Committee recommend distribution of PROTECT funding for fiscal years 2025 through 2027 using one of the options below with the technical committee comments described below.

Background and Purpose

The 2021 Infrastructure Investment and Jobs Act (IIJA) established the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) funding program to help make surface transportation more resilient to natural hazards, including climate change, flooding, and extreme weather events through support of resilience improvements. MnDOT provided 30 percent of formula PROTECT funds for regional distribution, including the funds to the Met Council and TAB shown in Table 1. MnDOT anticipates that this funding program will continue beyond the end of IIJA with funding levels for 2028 and beyond being similar to 2027 levels (approximately \$3.5M per year).

Table 1: PROTECT Funding Allocations to the Metropolitan Council and TAB

Year	PROTECT Funding
2024	\$6,278,400
2025	\$6,278,400
2026	\$4,708,800
2027	\$3,531,600
2028-2029	2024 Regional Solicitation Cycle
2023-2031	2026 Regional Solicitation Cycle

Unlike the other federal funding programs that are used in the Regional Solicitation, PROTECT typically funds specific elements within a larger project instead of the entire project. PROTECT has strict and narrow eligibility that includes, but is not limited to, storm sewer, ponding, erosion control, retaining walls, and lifting/realigning transportation infrastructure out of floodplains.

Due to the short deadlines and narrow eligibility, the 2024 allocation was applied to eligible elements within existing projects selected in past Regional Solicitation cycles. This action focuses on the \$14,518,800 of PROTECT funds available for 2025-2027.

For 2028 and 2029 PROTECT funds, additional language has been added to the draft 2024 Regional Solicitation application materials for project sponsors to identify PROTECT-eligible items. The 2028 and 2029 PROTECT funding years will line up with the years for the other federal programs making PROTECT funds easier to utilize.

As part of the Regional Solicitation Evaluation, the selected consultant will identify the best and most appropriate way to use the PROTECT funds, including changes to the 2026 Regional Solicitation cycle (program years 2030 and 2031). Potential changes may include the creation of a separate application category for projects that address resiliency, for example. The Regional Solicitation Evaluation, which begins in August, will be the best opportunity to focus on what the region wants to do with the new funding source.

Relationship to Regional Policy

The Transportation Advisory Board manages the annual program of projects programmed by the Regional Solicitation.

Staff Analysis

PROTECT is a new federal funding program created by IJJA. MnDOT is providing a portion of the state’s formula PROTECT funds to the Metropolitan Council for distribution. With PROTECT’s strict and narrow eligibility, there are challenges with spending the money in the near-term, especially in the first four years (2024-2027). For the 2024 funding allocation, funding was applied to eligible elements within already programmed projects and inserted into the draft 2024-2027 TIP.

Based on PROTECT program constraints, Council staff have developed options for the Funding and Programming committee to consider and provide recommendations to TAC and TAB. The total PROTECT funds available for 2025-2027 is \$14,518,800.

Option 1: Use on existing projects/reduce overprogramming

Similar to the approach for 2024, use the PROTECT funding on eligible project elements within recently selected Regional Solicitation projects.

Table 2: Option 1: Use on Existing Projects/Reduce Overprogramming

	2025	2026*	2027*
Overall Regional Solicitation Starting Balance by Year	(\$11,077,234)	(\$15,233,627)	(\$19,442,095)
PROTECT Funding by Year: Total of \$14,518,800 Total over Three Years	\$6,278,400	\$4,708,800	\$3,531,600
Use PROTECT on Eligible 2022 Project Elements Reduces Overprogramming: End Regional Solicitation Balance by Year:	(\$4,798,834)	(\$10,524,827)	(\$15,920,495)

*There is also \$8M of Carbon Reduction Program funds in 2026 and \$6.5M in 2027 that have not been programmed.



If both program year shifts (i.e., 2023-30 and 2023-31) are approved, then Option 1 is less viable. The impact of the program year shifts would create additional funding available in both 2025 and 2026, so there would be no overprogramming to pay down. Available funding of \$2.2M in 2025 and \$8.4M in 2026 would result with Option 1. If the program year shifts are approved, then new projects/spending is needed in 2025 and 2026.

Option 2: Use on a mix of existing projects and new projects

At the March 16, 2023, meeting, the TAC Funding and Programming Committee requested options that could utilize the 2025 through 2027 PROTECT funds by selecting unfunded projects from the last Regional Solicitation. Council staff identified that the next unfunded project from three of the 12 application categories in the 2022 Regional Solicitation had eligible PROTECT elements. These next three unfunded projects are shown in Table 3.

Table 3: 2022 Regional Solicitation Next Unfunded Projects List from Each of the Three Application Categories with Eligible Project Elements

Application Category	Project	Eligible Elements	PROTECT Eligible Costs	Total Federal Request
Spot Mobility and Safety	Hennepin County Rockford Road Project	Storm sewer	\$200,000	\$1,624,000
Strategic Capacity	Carver County Highway 5 Lake Minnewashta and Arboretum Access and Mobility Project	Raising roadway out of the floodplain & reconnecting aquatic habitats	\$10,000,000	\$10,000,000
Roadway Reconstruction	Washington County CR 19A/100 th Street Realignment	Storm sewer	\$7,000,000	\$7,000,000
Totals				\$18,624,000

2A: If the two program year shifts are not approved, then \$14.5M is available for one or more of the projects in Table 3. There would not be other federal funds to combine with the PROTECT funds in 2025 through 2027, thereby only providing the Hennepin County a portion of their total funding request. Carver County’s entire \$10M project request and Washington County’s \$7,000,000 request can both be funded with PROTECT given their eligibility. However, only \$14,500,000 is available for \$17,000,000 of requests for these two projects.

2B: If the two program year shifts are approved, this creates a surplus of \$3,669,013 in 2026 after shifting out the Highway 252 projects and paying down overprogramming (see Table 4). These remaining funds would be considered “Future Program Year Funds” in TAB’s Federal Funds Reallocation Policy (see attached). Options include:

- Selecting 2026 program year projects in the 2024 Regional Solicitation cycle (i.e., the 2024 Regional Solicitation cycle, which will not be finalized until the 2025 program year, so some projects will not be able to deliver a 2026 project given this limited timeframe),
- Moving already selected projects forward from 2027 to 2026 (to date, no project sponsors were interested in moving up from 2027 to 2026 when recently asked), or
- Selecting an unfunded project from the most recent Regional Solicitation (i.e., the 2022 Regional Solicitation) that could be delivered within the required timeframe. One advantage of reallocating the funds now to unfunded projects from the 2022 cycle is that it provides project sponsors enough time to develop a new project in the federal process.



When combining the \$14,518,800 of PROTECT with the \$3,669,013 of surplus funding in 2026, then there is up to \$18,187,813 available. There is enough funding available to fund the requests for either one, two, or all three of the projects in Table 3 (i.e., Hennepin County, Carver County, and Washington County), which requested a total of \$18,624,000. The addition of one to three new roadway projects would slightly shift the modal balance of the 2022 funding cycle upwards for roadways by about one to two percent from 53 percent to 54 or 55 percent with a proportionate percentage decrease for the other modes.

If the committee would like to push the \$3,669,013 funds to the next solicitation, it would leave up to \$14,518,000 of PROTECT that could be distributed to one or more of the projects in Table 3 depending on their PROTECT eligibility. This would be similar to option 2A.

Table 4: Option 2 Mix of existing and new projects

	2025	2026	2027
Overall Regional Solicitation Starting Balance by Year	(\$11,077,234)	(\$15,233,627)	(\$19,442,095)
Impact of Program Year Shifts, if they are both Approved	+\$7,000,000	\$(7,000,000) +\$25,902,640	No Changes
Overall Regional Solicitation Starting Balance After Program Year Shifts	(4,077,234)	\$3,669,013	\$(19,442,095)
PROTECT Funding by Year: Total of \$14,518,800 Available	\$6,278,400	\$4,708,800	\$3,531,600
Use PROTECT on New Projects: End Regional Solicitation Balance by Year	(4,077,234)	2A:\$3,669,013 or 2B: \$0 if use surplus on new projects	\$(19,442,095)

*There is also \$8M of Carbon Reduction Program funds in 2026 and \$6.5M in 2027 that have not been programmed.

Routing

To	Action Requested	Date Scheduled/ Completed
TAC Funding & Programming Committee	Review & Recommend	May 18, 2023
Technical Advisory Committee	Review & Recommend	June 7, 2023
Transportation Advisory Board	Review & Approve	June 21, 2023
Transportation Committee	Review & Recommend	July 17, 2023
Met Council	Review & Concur	July 26, 2023



Projects awarded federal funds by the Transportation Advisory Board (TAB) as part of the Regional Solicitation or Highway Safety Improvement Program (HSIP) can be advanced or deferred based on TAB policy, project deliverability and funding availability, provided fiscal balance is maintained. The process assumes some projects will be deferred, withdrawn, or advanced. This process establishes policy and priority in assigning alternative uses for federal transportation funds when TAB-selected projects in the Transportation Improvement Program (TIP) are deferred, withdrawn, or advanced. This process also addresses the distribution of the limited amount of federal funds available to the region at the end of the fiscal year, known as "August Redistribution." This process does not address how to distribute new federal dollars available through larger, specific programs. TAB will make separate decisions specific to those kinds of programs and timing.

Current Program Year Funds

For funding that is available due to project deferrals or withdrawals, the funds shall be reallocated as shown in the below priority order. When there is insufficient time to go through the TAB committee process, TAB authorizes staff (Minnesota Department of Transportation (MnDOT) Metro District State Aid or Metropolitan Council Grants Department, as appropriate), working with the TAB Coordinator, to reallocate funds to projects that have been selected through the regional solicitation per the below priorities on TAB's behalf.

Reallocation priorities¹ for available funding programmed for the current fiscal year:

1. Regionally selected projects in the same mode slated for advanced construction/advanced construction authority (AC/ACA)² payback that have already advanced because sponsors were able to complete them sooner. If more than one project is slated for AC/ACA payback, the projects using the smallest amount of federal funding will be funded first. Partial AC/ACA payback can be paid on a project up to available levels of funds.
2. Projects in the same mode slated for AC/ACA payback that have been moved due to previous deferrals. If more than one project is slated for AC/ACA payback, the projects using the smallest amount of federal funding will be funded first. Partial AC/ACA payback can be paid on a project up to available levels of funds.
3. Regionally selected projects in the same mode that are able to be advanced.
4. Regionally-selected project(s) from another mode to pay back or advance using steps 1-3 above. Should this action be used, TAB shall consider the amount when addressing modal distribution in programming the next regional solicitation.
5. Regionally-selected projects programmed in the current program year in the same mode up to the federally allowed maximum. If more than one project can accept additional federal funds, the project needing the smallest amount of funds to achieve full federal participation³ based on the latest engineer's estimate will be funded first

¹ Regional Solicitation and HSIP funds should be considered separately for purposes of this policy.

² Note: Advanced construction (AC) is used for Federal Highway Administration-funded projects. Federal Transit Administration-funded projects use advanced construction authority (ACA).

³ Up to 80% of eligible project costs paid for with the federal funds, except in the case of HSIP, which funds up to 90% of eligible costs with federal funds.

up to the federal maximum, followed by the project needing the second smallest amount of federal funds, and so on.

Future Program Year Funds

While history shows that most deferrals and withdrawals will be in the current program year, even current year withdrawals can affect future year funding by advancing a project from a future year into the current year. For future-year funds, the TAB Coordinator will work with MnDOT Metro State Aid and/or Metro Transit Grants staff, Metropolitan Council staff and project sponsors to provide a set of options to be considered by the Technical Advisory Committee (TAC) Funding & Programming Committee, TAC, and TAB.

The first priority for use of future-year funds will be to include the funds in a future TAB solicitation process if at all possible. When not possible, TAB should first consider items 1-3 and 5 from the above list. It can also consider other options such as selecting an unfunded project from the most recent solicitation⁴ that could be delivered within the required timeframe. Other options could include setting up a special solicitation, depending on the amount of funds and time available, or other measures as TAB deems appropriate to address unique opportunities. TAB will consider the established “Guiding Principles” in making its decisions.

⁴ Note that projects must be selected prior to December 1 of the program year.



Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Funding



Information Item

May 2023

Approach to PROTECT Funds

- New Federal Program to Improve the Resiliency of the Transportation System
- MnDOT providing 30% of its statewide share to the Area Transportation Partnerships (ATPs) including the Met Council
- 2025–2027: Recommendation Today
- Incorporate language into the 2024 solicitation application to identify new projects for 2028 and 2029
- Explore additional opportunities during the Reg. Solicitation Evaluation for the 2026 solicitation cycle and beyond (2030+)



PROTECT Funding by Year

	2024	2025	2026	2027	2028	2029	2030	2031
PROTECT Funding	\$6,278,400	\$6,278,400	\$4,708,800	\$3,531,600	2024 Regional Solicitation Cycle		2026 Regional Solicitation Cycle	
Approach	Existing Projects	\$14,518,800 for Existing or New Projects			New Projects		New Projects	

- PROTECT funds in 2024 were inserted into the draft TIP and will be used on existing Regional Solicitation projects given the TIP timelines/rules.
- TAC F&P requested 2025-2027 PROTECT options that could explore unfunded projects from the last Regional Solicitation given that the years line up with the last solicitation.

Eligible Elements



Elements Identified in Current Regional Solicitation Projects

- Storm sewer
- Ponding
- Erosion and landscaping
- Retaining walls
- Bridges over floodplains
- Road realignments out of floodplains

2025-2027: Option 1

Use on Projects/Reduce Overprogramming

Similar to the approach for 2024 funds, use the PROTECT funding on eligible project elements within recently selected Regional Solicitation projects.

	2025	2026	2027
Regional Solicitation Starting Balance by Year	\$(11,077,234)	\$(15,233,627)	\$(19,442,095)
PROTECT Funding by Year: Total of \$14,518,800 Available	\$6,278,400	\$4,708,800	\$3,531,600
Use PROTECT on Eligible 2022 Projects Elements Results in Reduced Overprogramming:	\$(4,798,834)	\$(10,524,827)	\$(15,910,495)
End Regional Solicitation Balance:			

There is also \$8M of Carbon Reduction Program funds in 2026 and \$6.5M in 2027 that have not been programmed.

Impact of Program Year Shifts

- Option 1 is less viable of an option if both program year shifts are recommended for approval.
- In 2025 and 2026, investment in new projects is needed as there is no longer overprogramming to pay down.
- In 2027, overprogramming remains.

2025-2027: Option 1

Use on Projects/Reduce Overprogramming

	2025	2026	2027
Regional Solicitation Starting Balance by Year	\$(11,077,234)	\$(15,233,627)	\$(19,442,095)
Impact of Program Year Shifts, if they are both Approved	+\$7,000,000	\$(7,0000) +\$25,902,640	No Changes
Regional Solicitation Balance After Program Year Shifts	(4,077,234)	\$3,669,013	\$(19,442,095)
PROTECT Funding by Year: Total of \$14,518,800 Available	\$6,278,400	\$4,708,800	\$3,531,600
Use PROTECT on Eligible 2022 Projects Elements Creates a Surplus in 2025 and 2026 End Balance:	\$2,201,166	\$8,377,813	\$(15,910,495)

There is also \$8M of Carbon Reduction Program funds in 2026 and \$6.5M in 2027 that have not been programmed.

2025-2027: Option 2

Use on a Mix of Existing Projects/Reduce Overprogramming and New Projects

The next unfunded project from 3 of the 12 application categories in the 2022 Regional Solicitation had eligible PROTECT elements as follows:

Application Category	Project	Eligible Elements	Eligible Costs	Total Project Request
Spot Mobility and Safety	Hennepin Co Rockford Rd Project	Storm sewer	\$200,000	\$1,624,000
Strategic Capacity	Carver Co Highway 5 Lake Minnewashta and Arboretum Access and Mobility Project	Raising roadway out of the floodplain & reconnecting aquatic habitats	\$10,000,000	\$10,000,000
Roadway Reconstruction	Washington Co CR 19A/100 th St Realignment	Storm sewer	\$7,000,000	\$7,000,000
Total				\$18,624,000

2025-2027: Option 2

Use on a Mix of Existing Projects/Reduce Overprogramming and New Projects

- There is \$14,518,800 of PROTECT Funds available for 2025-2027.
- 2A: If the program year shifts are not approved, then use up to \$14.5M on eligible elements within the 3 identified unfunded projects with PROTECT elements.
- 2B: If both program year extensions are approved, then this creates a surplus of \$3,669,013 in 2026, so a total of up to \$18,187,813 is available. This surplus could be used to help fund projects now or be shifted into the next funding cycle.
- The total funding requests for the three unfunded projects is \$18,624,000, so one, two, or all three projects (i.e., Hennepin County, Carver County, and Washington County) could be funded with available funds.
- Using the PROTECT funding on roadways projects will impact the modal balance in favor of roadways by one to two percent, depending on the number of new projects added.



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