

# **Transportation Development Credit Program**

Approval Policy and Administrative Procedures

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## **Acronyms**

**CAMPO** – Capital Area Metropolitan Planning Organization

**FHWA** – Federal Highway Administration

**FTA** – Federal Transit Administration

**MPO** – Metropolitan Planning Organization

**TAC** – Texas Administrative Code

**TDC** – Transportation Development Credit

**TIP** – Transportation Improvement Program

**TPB** – Transportation Policy Board

**TTC** – Texas Transportation Commission

**TxDOT** – Texas Department of Transportation

**USC** – United States Code

## **Background**

Transportation Development Credits (TDCs) can be used to fulfill the federal matching fund requirements associated with the use of federal highway and transit reimbursements for eligible capital, operating and planning activities (23 U.S.C.§120). By fulfilling the requirement for the non-federal share of a federally funded transportation project, TDCs allow federal funding to potentially reimburse up to 100 percent of the eligible project costs.

Credits are earned when the state, a toll authority, or a private entity funds capital improvements to public highways using revenues from toll receipts and related transactions, including borrowed funds supported by these revenues. Eligible expenditures exclude debt service, returns to investors or the routine operation and maintenance of toll facilities.

The Texas Transportation Commission (TTC) through the Texas Administrative Code (TAC) has outlined the rules that govern TDCs within the state of Texas. By these rules, Metropolitan Planning Organizations (MPO) whose regional jurisdictions contain toll collecting facilities are delegated authority regarding the awarding and application of TDCs to projects within their regions. With this authority, CAMPO has developed this policy to guide the evaluation and selection of projects for TDCs as well as the administrative procedures.

## Overview

Transportation Development Credits (TDCs) are a federal financing tool that permits the non-Federal share of a project's cost to be met through a "soft match" of TDCs. This allows the TDC program to create more flexibility in state and local transportation programs by providing the ability to shift funds available for local match requirements to other transportation related expenses.

The use of federal highway and transit reimbursements for eligible activities typically require the project sponsor to match a percentage of the total project cost. Though it varies by program, the typical cost share breakdown is 80 percent federal with a 20 percent match from the project sponsor.

TDCs effectively fulfill the sponsor match requirements by providing a "soft match" for the non-federal share, meaning the TDCs do not provide additional federal funding or replace the sponsor's funds with more federal funding, the TDCs effectively only erase the requirement for the sponsor to provide a match for the project. Because TDCs remove the local match requirement, the federal share of the project funding increases to 100 percent, though the funding amount remains the same.

Furthermore, the sponsor must identify a transportation project or projects that it will be funded with the local dollars that would have otherwise been used for the federally-required local match. The transportation project or projects identified must also support program goals outlined in this policy.

## Funding Impact and Project Deliverability

Applying Transportation Development Credits (TDC) to a project alters the underlying funding cost/share structure which is originally determined by the federal funding program, type and amount. Though TDCs create greater flexibility in how sponsors spend their local funding and potentially allow access to the federal funding sooner, TDCs also reduce the total funding available for a project and impact project deliverability, factors which must be taken into account when considering the use of TDCs.

Because project sponsors requesting TDCs must be able to implement the project with only the federal funding award approved for the project, it is important for sponsors to incorporate the potential use of TDCs as early as possible in the financial planning process to fully understand the impact of TDCs on the project and ensure implementation will not be negatively affected.

Though this policy does not restrict when sponsors can apply for TDCs, project sponsors are encouraged to apply for TDCs at the time the federal funding award is being determined to ensure that the project can be implemented should TDCs be applied. If TDCs are not considered during the determination of the federal funding award, the sponsor will likely have to make certain adjustments to account for the reduced funding which could result in a variety of impacts that affect implementation of the project.

Two examples below illustrate the potential impacts of applying TDCs can result in different scenarios:

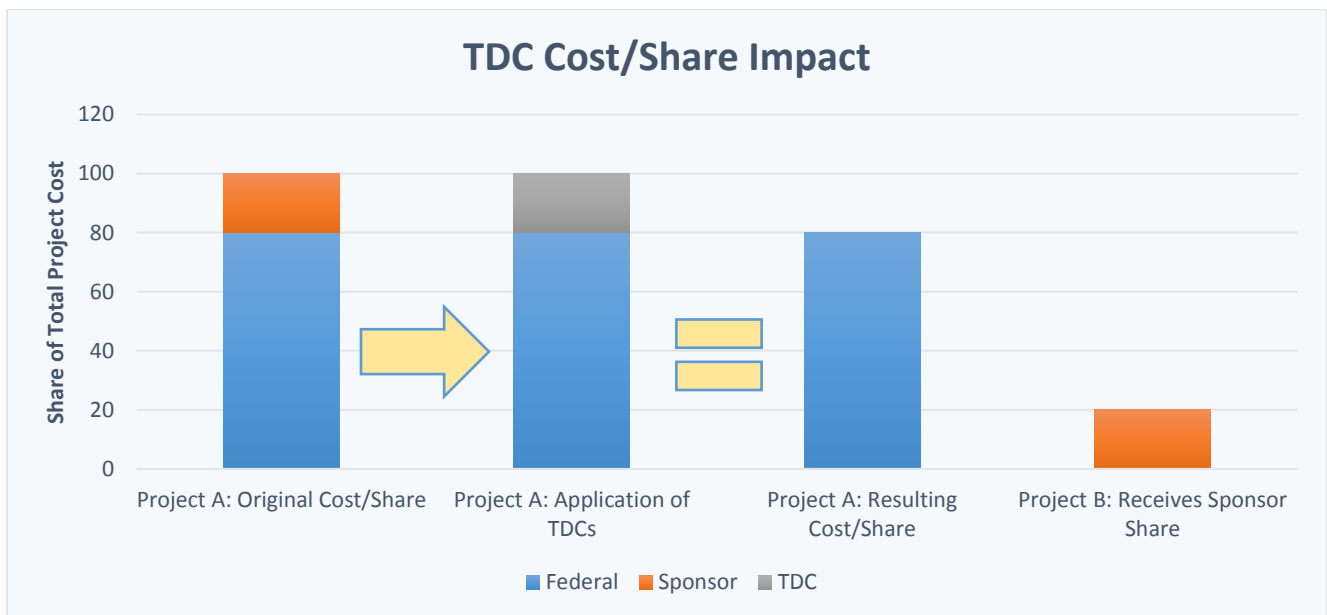
- **Example A:** *Example A* illustrates how a project is impacted by applying TDCs to the project after the federal funding has already been awarded. The scenario in *Example A* illustrates a project that is retroactively awarded TDCs and therefore must be implemented with a reduction in funding of the total project cost.
- **Example B:** *Example B* illustrates how a project is impacted by incorporating the use of TDCs early in the financial planning process before the federal funding amount has been determined and awarded. The scenario in *Example B* illustrates a project that is awarded TDCs along with the federal funding and can be implemented without reduced funding to the total project cost.

### Example A

A sponsor is awarded federal funding for *Project A* which has a total project cost of \$1,000,000.00. Because of federal requirements, the federal funding will only reimburse 80% of the total project costs, or \$800,000.00. The project sponsor must provide the remaining 20% or \$200,000.00.

The project sponsor then applies for TDCs to apply a “soft” match to fulfill the local match requirement. Should TDCs be awarded, the local match requirement of \$200,000.00 will be removed from *Project A* and moved to *Project B*, a separate transportation project that adheres to the TDC Policy.

Applying TDCs after the federal amount means *Project A* will only have \$800,000.00 in federal funding available for reimbursement. The project then effectively becomes 100% federally funded, though at only 80% of the total project cost. The project sponsor must then implement the project with the reduced funding amount.

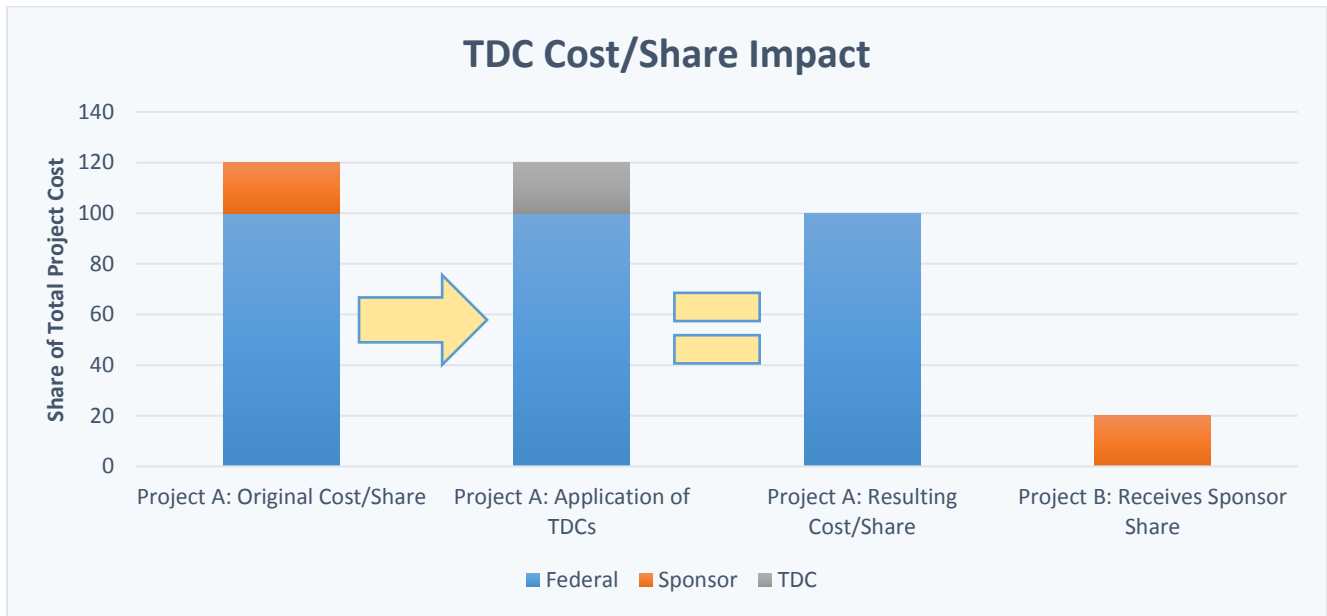


### Example B

A sponsor has a transportation project, *Project A*, which has a total project cost of \$1,000,000.00. During the planning process, the sponsor determines that the use of the TDCs would be an effective financing tool that would enable them to finance an additional transportation project, *Project B*.

To effectively implement both projects, the sponsor jointly requests \$1,000,000.00 in federal funding and 250,000 TDCs for *Project A*. Should the federal funding award and TDCs be approved for the project, the available federal funds will cover the total project cost for *Project A*. The project sponsor must then provide the \$250,000.00 in local match funds to *Project B*.

It should be noted that the 20% match in this example is \$250,000.00 and not \$200,000.00 because the \$1,000,000.00 federal funding amount, which covers the total cost of *Project A*, is considered to be only 80% of the funding by federal standards. Increasing the amount of federal funding for a project will also increase the 20% local match that must be provided to *Project B*.





## **Program Goals**

The Transportation Development Credit Program is codified in the Texas Administrative Code (TAC), Title 43, Part 1, Chapter 5, Subchapter H. These rules, developed by the Texas Transportation Commission (TTC), govern how both the state transportation department and local MPOs award and administer transportation development credits.

Rule §5.106 mandates that MPOs develop a documented process for the evaluation of projects and award of credits. This rule also requires the MPO consider how the award of credits will expand the availability of funding for transportation projects, based on the program goals specified in §5.102 which includes any goals specified by CAMPO's Transportation Policy Board.

In order to do this, CAMPO has incorporated the program goals outlined in the Texas Administrative Code in addition to developing its own unique policy goals that support CAMPO's regional transportation objectives.

### **Texas Transportation Commission Goals**

1. Maximize the use of available federal funds, particularly in situations in which federal funds otherwise would be unused because of the inability to provide the non-federal share.
2. Increase the availability of state and local funds that otherwise would be used as the non-federal share, so that:
  - a. Priority projects may be funded without federal funds.
  - b. Priority projects that are not eligible for federal funding may be supported from state or local funds.
  - c. Available federal transit funds may be used that otherwise would be unused.
3. Support public transit.
4. Further any other stated goals of the commission or the metropolitan planning organization responsible for awarding credits.

### **Capital Area MPO Goals**

1. Advance regionally significant priorities identified in the long-range transportation plan.
2. Support and enhance investment from the Texas Department of Transportation.

3. Prioritize projects on severely congested transportation facilities, including support for incident management, traffic management, and strategies that increase use of high occupancy vehicles or the reduction of peak period vehicular travel demand.
4. Continue to support public transit in the region.
5. Help create flexible funding alternatives and preserve state and local funding for projects where federal funding and compliance would severely impact project development.
6. Prioritize projects that are located in and positively impact traditionally disadvantaged communities.\*

\*The Texas Department of Transportation defines disadvantaged communities as a community that, compared to the whole, has a higher percentage of elderly and/or minority populations, populations with below average per capita income, and/or above average unemployment.

## **Program Eligibility**

In order to promote the goals for the transportation development credit program, CAMPO has identified projects categories that it will generally consider for the award of development credits, as well as those that it will not likely consider. These project types and requirements are broad classifications that do not include or preclude any particular transportation project. Any project that can be shown to promote the stated goals of the policy will be considered for an award.

### **General Requirements**

- Projects must be a highway, rail, transit, or bicycle or pedestrian project as authorized by Title 23, U.S.C., other than an emergency relief program authorized by 23 U.S.C. §125, 21 or Chapter 53 of Title 49, U.S.C.
- Identified in a regional or local transportation plan as a major priority that addresses mobility and safety.
- Demonstrates regional significance.

### **Eligible Projects and Activities**

- Projects that address significant safety issues.
- Added capacity projects.
- Planning activities, specifically those that focus on issues of regional significance.
- Operational improvements that reduce congestion.
- Transit projects including rail.
- Bicycle and pedestrian projects funded through the Transportation Alternatives Set-Aside Program or through a Federal Transit Grant.

### **Ineligible Projects and Activities**

- Projects that are not regionally significant including those on minor collector or local streets.
- Stand-alone bicycle and pedestrian projects that are not part of a roadway project and not funded under the Transportation Alternatives Set-Aside program or through a Federal Transit Grant.
- Beautification and landscaping.
- Emergency projects eligible under the Emergency Relief Program.

## **Program Procedures**

CAMPO has established procedures for the application, award and subsequent administration of transportation development credits. The program procedures are outlined below.

### **Application Process**

1. An eligible project sponsor should submit an individual application request form for transportation development credits at the time federal funding is requested. However, applications may be submitted at any time (including during out-of-cycle funding calls and in support of discretionary awards and grants); consideration is at the discretion of the Transportation Policy Board.
2. The project sponsor must identify the specific project development phase or phases in which the TDCs will be applied including preliminary engineering and design, environmental, right-of-way and construction.
3. The application must include a detailed description of the project, the need for supporting the project using TDCs, and how the project supports the goals outlined by this policy.
4. The application must demonstrate the sponsor's ability to implement the project should transportation development credits be awarded.
5. The application must identify the specific transportation project or projects to receive the redirected local funding which would have been used to match the federal portion. These projects must also meet the goals outlined by this policy.
6. After submission, applications will be reviewed for completeness and eligibility. CAMPO staff will coordinate with project sponsors on applications deemed incomplete or ineligible.
7. Once an application is deemed complete and eligible, the sponsor will be notified and the application will be forwarded to the Transportation Policy Board for award consideration.
8. CAMPO shall notify each applicant of the Transportation Policy Board decision to award Transportation Development Credits.

### **Credit Administration**

Once CAMPO approves and awards transportation development credits, the project sponsor must enter in to an agreement with CAMPO regarding the application of the credits and future use of the replaced local-match. Per the Texas Administrative Code, this agreement must be executed within two years of the award. If the agreement is not executed within two years, or federal funds have not been obligated to the project after inclusion in the Transportation Improvement Program (TIP) the award may be rescinded or reallocated to another project by the Transportation Policy Board.

### **Credit Availability and Program Reporting**

Current information on the availability of transportation development credits is available from the Texas Department of Transportation as part of the Unified Transportation Program. Additionally, CAMPO provides information on the management of its transportation development credit program in an annual report to be released no later than December 1<sup>st</sup>.

### **Transfer of Credits**

Based on a documented request from another Metropolitan Planning Organization (MPO) or the Texas Department of Transportation (TxDOT), the Transportation Policy Board may approve a transfer of Transportation Development Credits to another MPO or the Texas Transportation Commission (TTC).