

## **Access Fund Administrator Working Group Meeting Minutes**

**April 20, 2021**

### **Attendees**

- American Association of People with Disabilities (AAPD)
- City of Oakland – ADA Programs Division
- Contra Costa Transportation Authority (CCTA)
- LA Metro
- Lyft
- Madera County Transportation Commission
- Mariposa County Transportation Planning
- North County Transit District (NCTD)
- Riverside County Transportation Commission
- Shasta Regional Transportation Agency (SRTA)
- San Francisco County Transportation Authority (SFCTA)
- San Bernardino County Transportation Authority
- San Diego Association of Governments (SANDAG)
- San Luis Obispo Council of Governments (SLOCOG)
- Solano Transportation Authority
- Southern California Association of Governments (SCAG)
- Stanislaus Council of Governments (StanCOG)
- Uber Technologies, Inc.
- Wingz

### **Attachments**

- Program Overview and Requirements V1.1
- PowerPoint Presentation
- Meeting Minutes (enclosed)
- Table of allowable expenses (Appendix A to D.20-03-007 enclosed)

## Meeting Minutes

### **Introductions**

- Anna Jew and Reagan Rockzsfforde: Analysts working on this program
- Terra Curtis: Supervisor of the Transportation Analysis Section
- Jeff Kasmar: Program Manager, Transportation Licensing and Analysis Branch
- Douglas Ito: Director, Consumer Protection and Enforcement Division
- Email Contact: [tncaccess@cpuc.ca.gov](mailto:tncaccess@cpuc.ca.gov)

### **LAFAs Program Timeline Update**

- See full timeline in attached PowerPoint presentation.
- May 3, 2021 - Application (Certification, Affidavit, and Payee Data Record) due Monday, May 3<sup>rd</sup> since May 1<sup>st</sup> falls on a Saturday.
- June 24, 2021 – CPUC votes on LAFAs Resolution
  - For more information on CPUC voting meetings:  
<https://www.cpuc.ca.gov/General.aspx?id=1128>
- July 9, 2021 – CPED will accept LAFAs Board Resolution as late as Friday, July 9 (same due date as the Consent Form) without any delay to the distribution of funding in September. Submittal after July 9 may delay funding distribution to LAFAs.
- September 2021 – CPED issues quarterly data reporting templates for Access Providers and LAFAs. CPED will host a Working Group call to walk through templates.

### **Frequency of Meetings**

- Monthly

### **Questions and Discussions**

This section includes a list of questions asked during the meeting, either verbally or through the chat.

1. What are the criteria for LAFAs selecting Access Providers?
  - *The LAFAs have the flexibility to develop the selection criteria based on the requirements adopted by the Commission in Rulemaking R.19-02-012. See Annual Phase V – Access Program Development and Implementation in the Program Overview and Requirements which provides minimum requirements Access Providers must meet to be eligible.*
2. If a LAFAs declines to participate for now, do they have to wait until April 1, 2022 to apply?
  - *Yes. If awarded for Funding Year 2022-2023, funds would be distributed by September 30, 2022.*
3. What happens if a LAFAs is approved by July 1, 2021, but decides to decline the role between July 1 and September 30, 2021?

- *On page 20, the Program Overview and Requirements allows LAFAs to withdraw their application at any time. “In the event the LAFA is no longer interested in continuing as an Access Fund Administrator, the LAFA shall inform CPUC staff within 30 business days via email at [tncaccess@cpuc.ca.gov](mailto:tncaccess@cpuc.ca.gov), identify the reason(s) for not continuing, and provide a LAFA Board Resolution withdrawing its application. The email will constitute an immediate withdrawal as a LAFA. Any Program funding held by the LAFA shall be returned to the Access Fund, including unobligated funds, administrative funds, and any accrued interest.”*
  - *In the event the LAFA withdraws its application and is interested the following year, the LAFA will be required to apply again by submitting the full Application, including the Certification, Affidavit, Board Resolution, and Payee Data Record.*
4. Have the exact amounts of funding available been published yet?
- *It is posted here: <https://www.cpuc.ca.gov/tncaccessadmin/> (under Funding Availability)*
  - *Direct link: [https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/Licensing/Transportation\\_Network\\_Companies/TNCAccess/LAFA%20NOFA%202021-22%20FINAL.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/Licensing/Transportation_Network_Companies/TNCAccess/LAFA%20NOFA%202021-22%20FINAL.pdf)*
5. When will a grant agreement be available so LAFAs can review the terms of the award?
- *The Program Overview and Requirements and the Application (Certification, Affidavit, Board Resolution, Payee Data Record) have been posted here: <https://www.cpuc.ca.gov/tncaccessadmin/>.*
  - *After award, the approved LAFA will be required to submit the Consent Form (available at the same link) by July 9, 2021.*
  - *Once received, these documents constitute the full agreement between CPUC and the LAFA.*
6. Can you please describe the other TCP permit holders that are not TNCs? What kind of services do they provide?
- *Ordering Paragraph 8 of D.21-03-005 states: “On an interim basis, a qualifying Access Provider shall be limited to a transportation carrier that holds a Commission-issued permit prior to applying to be an Access Provider.” Passenger carriers include Transportation Charter-Party (TCP) carriers (TNCs and Autonomous Vehicle companies are a type of TCP), Passenger Stage Corporations (PSCs, which generally transport*

*passengers between fixed points or over a fixed route), and Vessel Common Carriers (like ferries).*

- *The Transportation Charter-Party (TCP) carrier permit covers passenger carriers that perform charter service, for example: round trip sightseeing or transportation under contract to a business, government agency, or private school or limousine for a wedding. More information is available here: <https://www.cpuc.ca.gov/tcpinfo/>*
- *You can look up a list of transportation carriers currently permitted by the CPUC here: <https://apps.cpuc.ca.gov/apex/f?p=203:35:10518884081558::NO:RP::>*

7. Can a LAFA incur expenses prior to September, for example in hiring staff or developing its program, and request reimbursement from Access for All funds after the funds become available in September?
  - *Yes, the LAFA may incur expenses as soon as CPUC awards the LAFA on July 1, 2021, but not before award.*
8. If the Statewide Access Fund Administrator (SAFA) won't be established until the end of this year (2021), is the SAFA annual schedule going to be offset from the LAFA annual schedule? Or is the Statewide Fund Administer going to start distributing funds beginning July 1, 2022?
  - *The SAFA part of the program has not yet been implemented, therefore schedule has not yet been determined. Depending on the timing of the SAFA selection, we anticipate SAFAs to select Access Providers in counties where there are no LAFAs by July 1, 2022.*
9. Are LAFAs to follow 2 CFR 200? Are there other requirements for how funds could be expended, allowable costs, and cost reasonableness besides what is in the guidelines?
  - *The Access for All Program is a State administered program; 2 CFR 200 does not apply.*
  - *Ordering Paragraph 9 of the Track 3 Decision ([D.21-03-005](#)) states:*
    - *A qualifying expense for an Access Provider is defined as: (1) a reasonable, legitimate cost that improves wheelchair accessible vehicle service, and (2) the cost is on the list of eligible expenses attached as Appendix A to Decision [D.20-03-007](#).*
10. Provided potential Access Providers meet insurance and other requirements, why does the CPUC restrict eligibility to TNCs and TCPs? There are service providers that can provide WAV services that are neither TNCs or TCPs.

- In [D.21-03-005](#), the Commission was concerned about ensuring compliance with safety protocols for entities it does not regulate, but recognized that requiring Access Providers to obtain a TCP permit may limit the pool of eligible Access Providers. The Commission would like to consider the disbursement of Access Fund moneys to non-regulated entities without requiring a TCP permit if the Commission can ensure compliance with safety protocols. This question is being considered in [Track 4](#) of the proceeding, which is ongoing.

11. Are there materials available that a LAFA could provide to non-permitted stakeholders in its area to file for a permit if they wish to do so? How long does it take to get a permit? How onerous is the process?

- Visit the following page for information on TCP permitting process: <https://www.cpuc.ca.gov/tcpinfo/>.
- For information on the TCP permitting process, please contact: [licensing@cpuc.ca.gov](mailto:licensing@cpuc.ca.gov)

12. I'm a bit confused about the schedule. What if Track 4 decision comes \*after\* funds are to be distributed to LAFAs, and as a result an agency no longer wants to function as a LAFA because they are limited in terms of who can be an access provider?

- Regardless of when the Track 4 decision happens, even after funds are already distributed to LAFAs, page 20 of the Program Overview and Requirements allows LAFAs to withdraw their application at any time. "In the event the LAFA is no longer interested in continuing as an Access Fund Administrator, the LAFA shall inform CPUC staff within 30 business days via email at [tncaccess@cpuc.ca.gov](mailto:tncaccess@cpuc.ca.gov), identify the reason(s) for not continuing, and provide a LAFA Board Resolution withdrawing its application. The email will constitute an immediate withdrawal as a LAFA. Any Program funding held by the LAFA shall be returned to the Access Fund, including unobligated funds, administrative funds, and any accrued interest."
- In the event the LAFA withdraws its application and is interested the following year, the LAFA will be required to apply again by submitting the Application, which includes the Certification, Affidavit, Board Resolution, and Payee Data Record.

13. Why does CPUC require the resolution to be signed by the Board Chair of the agency applying for LAFA designation? Agencies already have processes in place for resolutions. As applicable to our agency, the Board Secretary certifies the resolution that the Board of Directors adopts. Will appreciate flexibility regarding this request.

- *We're requiring Board Chair to sign to demonstrate the Board's commitment and public process.*

14. Are the providers that Uber and Lyft are contracting with to provide WAV services required to hold TCP permits? How is the CPUC ensuring they meet the appropriate safety requirements?

- *WAV Providers that TNCs are contracting with are required to hold a TCP permit. D.20-03-007, Ordering Paragraph 28 states the following:  
"A Transportation Network Company (TNC) that chooses to own vehicles to provide wheelchair accessible vehicle (WAV) service, or to contract with a third -party transportation provider to provide WAV service shall obtain a Charter-party Carrier (TCP) permit. A transportation provider that chooses to use a TNC to provide WAV services shall also possess a TCP permit."*

15. Can you define what "obligation" means, including as it relates to program deadlines/ milestones? This is a term we are familiar with as applicable to the federal processes and requirements, but it may not be consistent with what the CPUC defines.

- *"Obligation" in this context refers to LAFAs' process of awarding a contract to an Access Provider. When the LAFA has awarded the contract, the funding has been "obligated" to the Access Provider. When the LAFA transfers the funding to and Access Provider through grants or reimbursements, this is referred to as "liquidation."*

- Can a list of the questions posted to the Chat please be saved and distributed to the AFA Distribution list? Thank you.

- *Yes. That list is contained here.*

16. To comply with the CPUC's competitive procurement requirement for selecting Access Providers, can LAFAs indicate in their RFPs the possibility of the execution of one or more one-year options after the award of the base contract, provided meeting established performance criteria? The procurement process may require about 6 months and an additional three months for Board approval. As proposed by the CPUC, there could be a gap in services to the restriction to annual contracts and procurement.

- *For Funding Year 2021-2022, LAFAs must obligate funding to Access Providers (i.e. award a contract) by July 1, 2022. There will be a full year between when the LAFA is awarded funding from CPUC (July 1, 2021) to when the LAFA must contract with the Access Provider(s).*
- *Regarding the idea of including one-year options on Access Provider contracts, there must be an annual opportunity for new or additional*

*Access Providers to enter the program and there must be an open and transparent process. Further, the optional years' funding would be contingent on the next annual funding award by CPUC. A LAFA may, for example, issue an RFI to understand whether there is additional interest in the marketplace for the follow-on years; if not, and if there is sufficient funding in the next cycle, the LAFA could execute the next one-year option with the currently contracted Access Provider, provided they are otherwise meeting the requirements of the program.*

17. I'm confused by the required criteria, which identify specific criteria such as increasing WAV availability (provide an estimate of hourly number of available WAVs resulting from the proposed improvement), and improving response times. At the same time the FAQ said that fare subsidies are allowable, which may not, for example, improve response times. Could you help explain this mismatch between criteria and allowable services / costs?

- *Per D.21-03-005 Ordering Paragraph 9, "A qualifying expense for an Access Provider is defined as: (1) a reasonable, legitimate cost that improves wheelchair accessible vehicle service, and (2) the cost is on the list of eligible expenses attached as Appendix A to Decision 20-03-007."*
- *In the example raised here, fare subsidies might not improve response times, but they might increase access to on-demand wheelchair accessible transportation and therefore "improve wheelchair accessible service."*

18. Can potential AFAs submit additional questions to CPUC staff by email for consideration on additional FAQs or revised guidelines?

- *Yes. Please send questions to [TNCAccess@cpuc.ca.gov](mailto:TNCAccess@cpuc.ca.gov).*

19. Can a LAFA use up to 15% of allocated funds from their first funding year (FY21) to support their AFA program development and Access Provider procurement process without having to implement service within the allocation year (FY22)?

- *Per D.21-03-005 Ordering Paragraph 9, "An AFA should be compensated for administrative costs up to 15 percent of the total amount awarded in a geographic area by the Commission in each funding cycle."*
- *LAFAs have discretion of when to utilize the allowance for administrative costs within each funding year; however, administrative costs may not exceed the 15% cap in any given funding year.*
- *A LAFA may, for example, use 15% of the allocated funding in Funding Year 2021-2022 between July 1, 2021 (when funding is awarded to the LAFA) and July 1, 2022 (when the LAFA must obligate the funding to*

*Access Provider(s)). Access Providers would then start offering service after July 1, 2022.*

- Another example is a LAFA may use 5% in the first year and have 10% of the first year's allocation still remaining in their account to be used next year along with 15% of the next year's funding allocation.*
- LAFAs will also need to maintain records of the type of expenses incurred and report to CPUC starting November 15, 2021 any administrative expenditures incurred each quarter (beginning July 1 immediately after the funds are awarded by CPUC). LAFAs must track its administrative cost allocation and expenditures separately from the allocation and expenditures for Access Provider service. If a LAFA chooses not to use the full 15% administrative cost allowance during the implementation of the program, the LAFA will still need to report to the CPUC the portion of expenses that were due to administrative costs.*

20. Can a LAFA use up to 15% of allocated funds each year for administration of the program regardless of how much of the allocated funds are obligated to Access Providers through the solicitation/RFP process? This is important because as noted in question number 1, actual service implementation will lag the allocation of funds by one year on a rolling annual basis and there could be circumstances warranting the decision not to obligate all of the 85% of allocated funds to Access Provider contracts.

- Yes, in D.20-03-007, the Commission limits administrative costs to 15% of the total amount awarded by the Commission each year. It is not dependent on the amount obligated to Access Providers.*

21. Can unexpended funds from the 15% of allocated funds set aside by the LAFA each year for administration be carried over to the next year for administration of the program? Can this include any interest earnings attributable to the 15% administration funds through separate accounting of the 15% administration funds? This is important because as noted in prior question, actual service implementation will lag the allocation of funds by one year on a rolling annual basis and there are uncertainties in the cost of administration from standing up the program before service implementation to managing annual solicitation processes along with concurrent service reporting requirements that are unknown at this time.

- In D.20-03-007, the Commission limits administrative costs to 15 percent of the total amount awarded by the Commission each year. If there are unallocated/unexpended funds in the current funding year, the balance can be carried over to the next funding cycle; this includes administrative costs. LAFAs cannot exceed the 15% cap overall. For example, a LAFA may use 5% of their first-year allocation and have 10% of the first year's*



*allocation still remaining going into the next funding year. The LAFA can use those remaining funds along with the 15% of the next year's funding allocation in the following year.*

22. Do LAFAs have the discretion to not obligate all funds from the funding year in the allocation year? It is understood that Access Providers under contract to the LAFA (by June 30 of each year) have one year to liquidate those funds, but it is not clear that there is a requirement that the LAFA needs to seek to obligate all funds available from the funding year in the corresponding allocation year to its selected Access Providers. This could be important to manage potential variability in funding identified by the CPUC each funding year. Per the CPUC schedule the balance of funds for each county will be identified by January of each funding year prior to the LAFA procurement process for services to be implemented by July 1 of the subsequent allocation year. This would allow LAFAs planning to implement their first year of service by July 1, 2022 to know whether there would be any significant change in funds available for service in the following year and consider balancing annual service levels. There could also be circumstances with the number of certified Access Providers and the cost of service in the first year that would warrant consideration of ramping up service commensurate with progress in Access Provider certification.

- *We want to encourage funds allocated every year to LAFAs to be obligated in each specific funding year to its fullest potential. This helps advance the goal of expanding access to on-demand WAV transportation. However, we understand there may be unobligated funds at the end of a funding year. SB 1376 allows unused funds to remain in the Access Fund and be distributed the next year. Therefore, unused funds will be carried over the next funding cycle to be obligated the following funding year.*

Appendix A

<b>Eligible WAV Expenses Adopted in <a href="#">D.20-03-007</a></b>	
<b>Vehicle Costs</b>	
Lease/Rental/Purchase Costs	
Rental Subsidies for Driver	
Inspections	
Maintenance, Service & Warranty	
Fuel Cost	
Cleaning Supplies/Services	
Other (Describe)	
<b>Partnership Costs</b>	
Transportation Service Partner Fees/Incentives and/or Management Fees	
Vehicle Subsidies	
Consultants/Legal	
Other (Describe)	
<b>Marketplace Costs</b>	
Recruiting	
Driver Onboarding	
Training Costs	
Driver Incentives	
Promo Codes for WAV	
Other (Describe)	
<b>Operational Costs</b>	
Marketing Costs	
Technology Investments/Engineering Costs/Enhancements	
Community Partnership/Engagement Costs	
Rental Management	
Pilot Management	
Wages, Salaries and Benefits (non-maintenance personnel)	
Other (Describe)	
<b>Other (Describe)</b>	