

# MEMORANDUM OF UNDERSTANDING

## Pennsylvania's Statewide Procedures for 2021-2024 Statewide Transportation Improvement Program and Transportation Improvement Program Revisions

### **Background**

This Memorandum of Understanding (MOU) between the Pennsylvania Department of Transportation (PennDOT), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA) establishes procedures to be used in the Commonwealth of Pennsylvania for processing revisions to the 2021-2024 Statewide Transportation Improvement Program (STIP). The STIP is the aggregation of the Metropolitan Planning Organization (MPO) and Rural Planning Organization (RPO) Transportation Improvement Programs (TIPs), including the Interstate Management (IM) Program and other statewide managed programs (Statewide Programs).

The STIP is the official transportation improvement program document mandated by federal statute [23 CFR 450.218](#) and recognized by FHWA and FTA. The STIP includes a list of projects to be implemented over a four-year period as well as all supporting documentation by federal statute. The STIP includes regional TIPs developed by the MPOs, RPOs and PennDOT developed Statewide Programs. Statewide Programs are coordinated initiatives, projects or funds that are managed by PennDOT's Central Office on a statewide basis. Examples of Statewide Programs include, but are not limited to, the Secretary of Transportation's Discretionary (Spike), the Rapid Bridge Replacement (RBR) Project developed via a Public Private Partnership (P3), Highway Safety Improvement Program (HSIP) set-a-side, Highway-Rail Grade Crossing Safety (RRX), Surface Transportation Block Grant Program set-a-side (TAP) funds, Green-Light-Go (GLG), Automated Red Light Enforcement (ARLE), Multi-Modal (MTF), Recreational (Rec) Trails, Transportation Infrastructure Investment Fund (TIIF), Statewide Transit and Keystone Corridor projects. The Interstate Management Program will remain its own individual program and includes prioritized statewide Interstate projects. The Commonwealth's Twelve Year Program (TYP), required by state law, includes the STIP/TIPs in the first four-year period.

For more information on the development of the STIP/TIP, see *Pennsylvania's 2021 Transportation Program General and Procedural Guidance* and *Pennsylvania's 2021 Transportation Program Financial Guidance*. These documents were both released on July 31, 2019 and can be found on the [STIP page](#) on the STC Website under 2021 Guidance Documents.

### **STIP/TIP Administration**

FHWA and FTA will only authorize projects and approve grants for projects that are programmed in the current approved STIP. If a MPO/RPO, transit agency, or PennDOT wishes to proceed with a federally funded project not programmed on the STIP/TIP, a revision must be made.

The federal statewide and metropolitan planning regulations contained in [23 CFR 450](#) govern the provisions for revisions of the STIP and individual MPO TIPs. The intent of this federal regulation is to acknowledge the relative significance, importance, and/or complexity of individual programming actions. If necessary, [23 CFR 450.328](#) permits the use of alternative procedures by the cooperating parties to effectively manage actions encountered during a given TIP cycle. Cooperating parties include PennDOT, MPOs, RPOs, FHWA, FTA, and transit agencies. Any alternative procedures must be agreed upon and documented in the TIP.

STIP/TIP revisions must be consistent with Pennsylvania's Performance Management (TPM) requirements, Pennsylvania's Long Range Transportation Plan (LRTP), and the MPO's/RPO's LRTP. In addition, STIP/TIP revisions must support Pennsylvania's Transportation Performance Measures, the

Transportation Asset Management Plan (TAMP), the Transit Asset Management (TAM) Plan, the Strategic Highway Safety Plan (SHSP) and Congestion Management Plan (CMP), as well as PennDOT's Connects policy. Over the years, Pennsylvania has utilized a comprehensive planning and programming process that focuses on collaboration between PennDOT, FHWA, FTA, and MPOs/RPOs at the county and regional levels. This approach will be applied to begin implementation of TPM and Performance Based Planning and Programming (PBPP). PBPP is PennDOT's ongoing assessment, target setting, reporting and evaluation of performance data associated with the STIP/TIP investment decisions. This approach ensures that each dollar invested is being directed to meet strategic decisions and enhances the overall performance of the Commonwealth's transportation system.

STIP/TIP revisions must correspond to the adopted provisions of the MPO's/RPO's Public Participation Plans (PPP). A PPP is a documented broad-based public involvement process that describes how the MPO/RPO will involve and engage the public in the transportation planning process to ensure that comments, concerns, or issues of the public and interested parties are identified and addressed in the development of transportation plans and programs. A reasonable opportunity for public review and comment shall be provided for significant revisions to the STIP/TIP.

All projects within a non-attainment or maintenance area will be screened for Air Quality significance. PennDOT will coordinate with regional MPO/RPOs to screen Statewide Program projects for Air Quality significance. If a revision adds a project, deletes a project, or impacts the schedule or scope of work of an air quality significant project in a nonattainment or maintenance area, a new air quality conformity determination will be required if deemed appropriate by the PennDOT Air Quality Interagency Consultation Group (ICG). If a new conformity determination is deemed necessary, an **amendment** to the STIP and region's TIP shall also be developed and approved by the MPO/RPO. The modified conformity determination would then be based on the amended TIP conformity analysis and public involvement procedures consistent with the MPO/RPO region's PPP.

The federal planning regulations, [23 CFR 450.324\(c\)](#), define update cycles for MPO/RPO LRTPs. If a MPO's/RPO's LRTP expires because the LRTP has not been updated in accordance with the planning cycle defined in the federal planning regulations, then the provisions of this MOU will not be utilized for that MPO/RPO. During a LRTP expiration, all STIP/TIP revisions that involve projects with federal funds within that MPO/RPO, where the LRTP expiration occurred, will be treated as an amendment and require federal approval. There will be no administrative modifications to projects with any federal funds until the MPO's/RPO's LRTP is in compliance with the federal planning regulations.

## **Pennsylvania STIP/TIP Revisions**

In accordance with the federal transportation planning regulations [23 CFR 450](#) revisions to the STIP/TIP will be handled as an **Amendment** or an **Administrative Modification** based on agreed upon procedures detailed below.

An **Amendment** is a revision that adds a new project, deletes an existing project, or involves a major change to an existing project included in a STIP/TIP that:

- **Affects air quality conformity regardless of the cost of the project or the funding source;**
- Adds a new project, deletes a project that utilizes federal funds, or federalizes a project that previously was 100% state and/or locally funded. A new project is a project that is not programmed in the current STIP/TIP and does not have previous Federal obligations.

- Adds a new phase(s), deletes a phase(s) or increases/decreases a phase(s) of an existing project that utilizes federal funds that exceeds the following thresholds:
  - \$7.5 million for the Interstate Management (IM) Program;
  - \$5 million for MPOs with 2010 US Census Urbanized Areas (UZA) population > 1,000,000;
  - \$3 million for MPOs with 2010 US Census Urbanized Areas (UZA) population > 200,000 but < 1,000,000;
  - \$2 million for the remaining areas;
  - \$1 million for other federally-funded Statewide Programs.
- Involves a change in the scope of work to a project(s) that would:
  - Result in an air quality conformity reevaluation;
  - Result in a revised total project estimate that exceeds the thresholds established between PennDOT and the MPO/RPO (not to exceed any federally-funded threshold contained in this MOU);
  - Results in a change in the scope of work on any federally-funded project that is significant enough to essentially constitute a new project.

Approval by the MPO/RPO is required for **Amendments**. The MPO/RPO must then initiate PennDOT Central Office approval using the e-STIP process. An eSTIP submission must include a Fiscal Constraint Chart (FCC) that clearly summarizes the before, requested adjustments, after changes, and detailed comments explaining the reason for the adjustment(s), and provides any supporting information that may have been prepared. The FCC documentation should include any administrative modification actions that occurred along with or were presented with this action at the MPO/RPO meeting. The supporting documentation should include PennDOT Program Management Committee (PMC) materials, if available.

The initial submission and approval process of the federally-funded Statewide Program or increases/decreases exceeding the thresholds above will be considered an amendment (subsequent placement of these individual projects or line items on respective MPO/RPO TIPs will be considered an administrative modification). In the case of Statewide Programs, including the IM Program and other federally-funded statewide programs, approval by PennDOT's PMC and FHWA is required.

An **Administrative Modification** is a minor revision to a STIP/TIP that:

- Adds a new phase(s), deletes a phase(s) or increase/decreases a phase(s) of an existing project that utilizes federal funds and does not exceed the thresholds established above. Adds a project from a funding initiative or line item that utilizes 100 percent state or non-federal funding;
- Adds a project for emergency repairs to a highway, bridge or transit project, except those involving substantial functional, location, or capacity changes;
- Draws down or returns funding from an existing STIP/TIP reserve line item and does not exceed the threshold established in the MOU between PennDOT and the MPO/RPO. A reserve line item holds funds that are not dedicated to a specific project(s) and may be used to cover cost increases or add an additional project phase(s) to an existing project;
- Adds federal or state capital funds from low-bid savings, de-obligations, release of encumbrances, or savings on programmed phases to another programmed project phase or line item and does not exceed the above thresholds;
- Splits a project into two or more separate projects to facilitate project delivery;
- Adds, advances, or adjusts federal funding for a project based on FHWA August Redistribution.

**Administrative Modifications** do not affect air quality conformity, nor involve a significant change in the scope of work to a project(s) that would trigger an air quality conformity re-evaluation; does not add a new federally-funded project or delete a federally-funded project; does not exceed the threshold established in the MOU between PennDOT and the MPO/RPO, or the threshold established by this MOU (as detailed in the Amendment Section aforementioned); and does not result in a change in scope, on any federally-funded project that is significant enough to essentially constitute a new project. A change in scope is a substantial alteration to the original intent or function of a programmed project.

**Administrative Modifications do not require federal approval.** PennDOT and the MPO/RPO will work cooperatively to address and respond to any FHWA and/or FTA comment(s). FHWA and FTA reserve the right to question any administrative action that is not consistent with federal regulations or with this MOU where federal funds are being utilized.

All revisions, amendments, and administrative modifications shall be identified and grouped as one action on a FCC demonstrating both project and program fiscal constraint. The identified grouping of projects (the entire revision action) will require review and/or approval by the cooperating parties. In the case that a project phase is pushed out of the TIP period, the MPO/RPO and PennDOT will demonstrate, through a FCC, fiscal balance of the subject project phase in the second or third years of the TYP and/or the respective regional LRTP.

## **Transit**

Statewide managed transit projects funded by FTA programs and delivered via Governor's apportionment are selected by PennDOT pursuant to the Pennsylvania State Management Plan approved by the FTA. These projects should be programmed within the TIP of the urbanized area where the project is located.

The Keystone Corridor (Pennsylvania portion) is the in-State and commuter rail service funded by PennDOT and FTA on the Amtrak rail line that runs between Philadelphia and Harrisburg. Keystone Corridor projects are funded within the three-contiguous large urbanized areas (UZA) – Harrisburg, Lancaster, and Philadelphia. The entire amount of federal funds applied to Keystone Corridor Projects shall be programmed on the TIP of the UZA from which the funds originate. If the Project is located within a UZA that is not the UZA from which the funds originate, then the Project shall be listed in the TIP (of the UZA where the Project is located) as a "Keystone Corridor Project", the use of the funding and amount shall be noted in the project description, and the funding amount shall be entered as \$0. The funds should only be noted for information and air quality conformity determination purposes, but not programmed, in the TIP where the Project is to avoid the double counting of programmed funds within the two TIPs. For instance, if federal funding from the Lancaster UZA is applied to the restoration of a Keystone Corridor station located in the Philadelphia UZA, then the full amount of the federal funding for the Project shall be programmed on the Lancaster TIP, and for information and air quality conformity purposes, the Project shall also be listed on the Delaware Valley Regional Planning Commission (DVRPC) TIP as "Keystone Corridor Station Restoration" along with notations per-above and the federal funding amount will be listed as \$0.

## **Fiscal Constraint**

Demonstration that STIP/TIP fiscal constraint is maintained takes place through a FCC. Real time versions of the STIP/TIP are available to FHWA and FTA through PennDOT's Multimodal Project Management System (MPMS). All revisions must maintain year-to-year fiscal constraint [23 CFR 450.218\(l\)](#) and [23 CFR 450.326\(g\)\(j\)&\(k\)](#) for each of the four years of the STIP/TIP. All revisions shall account for year of expenditure (YOE) and maintain the estimated total cost of the project or project phase within the time-period [i.e., fiscal year(s)] contemplated for completion of the project, which may extend beyond the four years of the STIP/TIP. The arbitrary reduction of the overall cost of a project, or project phase(s), shall not be utilized for the advancement of another project.

## **STIP/TIP Financial Reporting**

PennDOT will provide reports to each MPO/RPO and FHWA no later than 30 days after the end of each quarter and each Federal Fiscal Year (FFY). At a minimum, this report will include the actual federal obligations and state encumbrances for highway/bridge projects by MPO/RPO and Statewide. In addition, PennDOT will provide the Transit Federal Capital Projects report at the end of each FFY to all of the parties listed above and FTA. The reports can be used by the MPOs/RPOs as the basis for compiling information to meet the federal annual listing of obligated projects requirement [23 CFR 450.334](#). Additional content and any proposed changes to the report will be agreed upon by PennDOT, FHWA and FTA.

## **STIP/TIP Transportation Performance Management**

In accordance with [23 CFR 450.326\(c\)](#), PennDOT and the MPOs/RPOs will ensure STIP/TIP revisions promote progress toward achievement of performance targets.

## **MPO/RPO TIP Revision Procedures**

As each MPO's/RPO's TIP is adopted, their respective MOU with PennDOT will be included with the TIP documentation. The MOU will clarify how the MPO/RPO will address all TIP revisions. **In all cases, individual MPO/RPO revision procedures will be developed under the guidance umbrella of this document.** If a MPO/RPO elects to set more stringent procedures, then FHWA and FTA will adhere to those more restrictive procedures.

This document will serve as the basis for PennDOT when addressing federally-funded Statewide Program TIP revisions.

This Memorandum of Understanding will begin October 1, 2020, and remain in effect until September 30, 2022, unless revised or terminated. Furthermore, it is agreed that this MOU will be reaffirmed every two years.

We, the undersigned hereby agree to the above procedures and principles:

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Ms. Alicia Nolan  
Division Administrator  
Federal Highway Administration

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Date

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Ms. Terry Garcia-Crews  
Regional Administrator  
Federal Transit Administration

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Date

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Mr. Larry S. Shifflet  
Deputy Secretary for Planning  
Pennsylvania Department of Transportation

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Date