

7/6/22

MEMORANDUM OF UNDERSTANDING (MOU)
Lackawanna-Luzerne Metropolitan Planning Organization (LLTS MPO)
Procedures for 2023-2026 Transportation Improvement Program (TIP) Revisions

Purpose

This Memorandum of Understanding (MOU) between PennDOT, the Lackawanna-Luzerne Area Transportation Study (LLTS) Coordinating Committee (LLTS MPO), and the County of Lackawanna Transit Authority (COLTS), the Luzerne County Transportation Authority and Hazeltown Public Transit (HPT) establishes procedures to be used for processing revisions to the 2023-2026 Transportation Improvement Program (TIP).

Definitions

- **Administrative Modification** is a minor revision to a Transportation Improvement Program (TIP).
- **Amendment** is a revision to a TIP that involves a major change to a project included in a TIP.
- **Betterment** consists of surface treatments/corrections to existing roadway [preferably within the Pennsylvania Department of Transportation's (PennDOT's) right-of-way] to maintain and bring the infrastructure to current design standards for that classification of highway. This may involve full depth base repair, shoulder widening, increased lane widths, correction of super-elevation, as well as, drainage improvements and guide rail updates.
- **Change in Scope** is a substantial alteration to the original intent or function of a programmed project.
- **Cooperating Parties** include PennDOT, the LLTS MPO, COLTS, LCTA, HPT, Federal Highway Administration (FHWA), and Federal Transit Administration (FTA).
- **Fiscal Constraint Chart (FCC)** is an Excel spreadsheet or a chart generated by the Multimodal Project Management System (MPMS) that depicts the transfer of funds
- **Interstate Management (IM) Program** is PennDOT's four-year listing of statewide interstate maintenance (non-capacity adding) projects.
- **New Project** is a project that is not programmed in the current TIP and does not have previous obligations from a prior TIP.
- **Planning Partner** is one of the following: MPOs, or RPOs, or the independent County of Wayne.

- **Public Participation Plan (PPP)** is a documented broad-based public involvement process that describes how the LLTS MPO will involve and engage the public in the transportation planning process to ensure that the concerns of stakeholders are identified and addressed in the development of transportation plans and programs.
- **Rapid Bridge Replacement (RBR)** Initiative (developed via a Public Private Partnership – P3) will follow the **Statewide Managed Program** guidance in the administration of the program. For example, the RBR Initiative project rollouts, independent of time intervals, will be considered an amendment on the STIP. Placement of RBR projects and or line items on the LLTS MPO’s TIP will be considered as an administrative action.
- **Reserve Line Item** holds funds that are not dedicated to a specific project(s) and may be used to cover cost increases or add a new project or project phase(s).
- **Revision** is either an Amendment or an Administrative Modification to the TIP.
- **Statewide Managed Program (Statewide Program)** includes those transportation improvements or projects that are managed on the STIP, including project selection, at the PennDOT Central office level, with possible regional Planning Partner input and solicitation. Examples include but are not limited to Highway Safety Improvement Program (HSIP), Railroad Crossing Program (RRX), and State Transportation Alternatives Program (TAP) projects. The Interstate Management Program (IM) will remain its own individual program.

TIP Administration

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) will only authorize projects and approve grants for projects that are programmed in the current approved TIP. If the MPO, the LLTS transit agencies, or PennDOT wishes to proceed with a federally funded project not programmed on the 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 MPO TIP. 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, LLTS MPO, COLTS, LCTA, HPT, FHWA, and FTA. Any alternative procedures must be agreed upon and documented in the TIP.

TIP revisions must be consistent with Pennsylvania’s Performance Management (TPM) requirements, Pennsylvania’s Long-Range Transportation Plan (LRTP), and the MPO’s LRTP. In addition, 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 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 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.

TIP revisions must correspond to the adopted provisions of the MPO's Public Participation Plan (PPP). A PPP is a documented broad-based public involvement process that describes how the MPO 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 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 MPO's Long Range Transportation Plan (LRTP) shall also be developed and approved by the MPO. The modified conformity determination would then be based on the amended LRTP conformity analysis, and public involvement procedures consistent with the region's PPP are required.

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.

TIP Revisions

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

An **Amendment** is a revision to the 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.

- Deletes a project that utilizes federal funds, except for projects that were fully obligated in the previous STIP/TIP and no longer require funding. In this case, removal of the project will be considered an administrative modification.
- Adds a new phase(s) to an existing project, deletes a project phase(s), increases or decreases a project phase(s) that utilizes federal funds where the revision exceeds the following threshold:
 - \$3 million for the LLTS MPO
 - \$10 million for the Interstate Management (IM) Program.
- Involves a change in the scope of work to a project(s) that would:
 - Result in an air quality conformity re-evaluation;
 - Result in a revised total project programmed amount that exceeds the thresholds established between PennDOT and the LLTS MPO;
 - Result 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 must then initiate PennDOT Central Office approval using the e-STIP process. An e-STIP 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 meeting. The supporting documentation should include PennDOT Program Management Committee (PMC) materials, if available.

All revisions associated with an amendment, including any supporting administrative modifications, should be shown on the same FCC, demonstrating both project and program fiscal constraint. The identified grouping of projects (the entire 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 four years of the TYP and/or the respective regional LRTP.

The initial submission and approval process of the Interstate Program and other federally-funded Statewide Programs and increases/decreases to these programs which exceed the thresholds above will be considered an amendment and require approval by PennDOT and FHWA/FTA (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. 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 FTA. These projects will be coordinated between FTA, PennDOT, the transit agency and associated MPO/RPO and should be programmed within the TIP of the urbanized area where the project is located. These projects and the initial drawdown will be considered an amendment to the Statewide Program.

An **Administrative Modification** is a minor revision to the MPO 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 relief (ER) program, except those involving substantial functional, location, or capacity changes;
- Adds a project, with any federal funding source, for immediate emergency repairs to a highway, bridge or transit project where in consultation with the relevant federal funding agencies, the parties agree that any delay would put the health, safety, or security of the public at risk due to damaged infrastructure;
- ;
- Draws down or returns funding from an existing TIP reserve line item and does not exceed the thresholds established above. (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 but does not exceed the above thresholds;
- Splits a project into two or more separate projects or combines two or more projects into one project to facilitate project delivery without a change of scope or type of funding;
- Adds, advances, or adjusts federal funding for a project based on FHWA August Redistribution based on documented August Redistribution Strategic Approach.

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; do not add a new federally-funded project or delete a federally-funded project; do not exceed the thresholds established in this MOU between PennDOT and the MPO (as detailed in the aforementioned Amendment Section); and do 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 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, numbered, and grouped as one action on an 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 LLTS MPO will demonstrate, through an FCC, fiscal balance of the subject project phase in the second or third years of the TYP and/or MPO MTP.

Transit

Statewide managed 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.

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\(g\)\(i\)&\(k\)](#) 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.

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.

TIP Transportation Performance Management

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

MPO TIP Revision Procedures

As the MPO TIP is adopted, this MOU between PennDOT and the MPO will be included with the TIP documentation to clarify how the MPO will address all TIP revisions. **In all cases, any individual MPO revision procedures will be developed under the guidance umbrella of this document.** If the MPO subsequently 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.

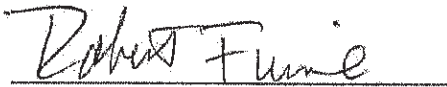
This Memorandum of Understanding will begin October 1, 2022, and remain in effect until September 30, 2024, unless revised or terminated. Furthermore, it is agreed that this MOU will be reaffirmed every two years.

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

Brian D. Hare Digitally signed
by Brian D. Hare
Date: 2022.07.13
15:20:54 -04'00'

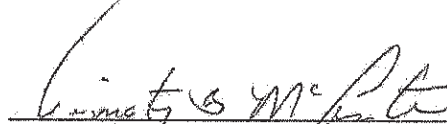
Brian Hare, P.E.
Director, Center for Program Development
And Management
Pennsylvania Department of Transportation

Date



Robert Flume, Chairman
LLTS Metropolitan Planning Organization
Luzerne County Transportation Authority

7/12/22
Date



Tim McGrath, Executive Director
County of Lackawanna Transit System

7/12/22
Date



Ralph Sharp, Director
Hazelton Public Transit

7-13-22
Date