

Memorandum of Understanding (MOU)
Franklin County Metropolitan Planning Organization (FCMPO)
Procedures for 2023-2026
Transportation Improvement Program (TIP) Revisions

Purpose: This memorandum of understanding (MOU) between the Pennsylvania Department of Transportation (PennDOT) and the Franklin County Metropolitan Planning Organization (FCMPO) establishes procedures to be used for processing revisions to the FY 2023-2026 Transportation Improvement Program.

Background: The TIP is the official transportation improvement program document mandated by federal statute 23 CFR 450.218 and recognized by FHWA and FTA. The TIP includes a list of projects to be implemented over a four-year period as well as all supporting documentation required by federal statute.

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, Franklin County MPO, 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 FCMPO 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 state’s TIP (STIP). Placement of RBR projects and or line items on Franklin County’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 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 FCMPO 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, MPO, FHWA, and FTA. Any alternative procedures must be agreed upon and documented in the TIP.

TIP revisions must be consistent with Pennsylvania’s Transportation 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 FCMPO'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 the non-attainment or maintenance area of Franklin County will be screened for Air Quality significance. PennDOT will coordinate with FCMPO 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 FCMPO'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 FCMPO. If a FCMPO'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. During a LRTP expiration, all STIP/TIP revisions that involve projects with federal funds within FCMPO, 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 FCMPO 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 that adds a new project, deletes an existing project, or involves a major change to an existing project included in the FCMPO's TIP that:

- a. Affects air quality conformity regardless of the cost of the project or the funding

source;

- b. Adds a new project, deletes a project that uses 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 TIP, and does not have previous obligations from a prior TIP. (Federally-funded Statewide Program projects are excluded from this provision);
- c. Adds a new phase(s) to an existing project, deletes a project phase(s) or increases/decreases a project phase(s) that uses federal funds where the revision exceeds the following thresholds:
 - i. \$2 million (Federally-funded Statewide Program projects are excluded from this provision)
- d. Involves a change in the scope of work to a project(s) that would:
 - i. Result in an air quality conformity re-evaluation;
 - ii. Result in a revised total project estimate that exceeds 50%; or
 - iii. 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 FCMPO is required for **Amendments**. FCMPO 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 FCMPO meeting. The supporting documentation should include PennDOT Program Management Committee (PMC) materials, if available.

The initial submission and approval process for the federally-funded Statewide Program or increases/decreases exceeding the thresholds defined in the STIP MOU will be considered an amendment to the STIP (subsequent placement of these individual projects or line items on the MPO TIP will be considered an administrative modification). In the case of Statewide Programs, including the Interstate Management Program and other federally-funded statewide programs, approval by the PMC and FHWA is required.

An **Administrative Modification** is a minor revision to the FCMPO TIP that:

- Any changes to the federally-funded Statewide Program, including any funding increases/decreases to project phases will be considered an administrative modification on the FCMPO TIP. 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.

- Shifts federally-funded projects, a federally-funded project phase(s), or federal funds to existing federally-funded projects or a federally-funded project phase(s) in the approved TIP and must maintain year-to-year TIP fiscal constraint requirements;
- Adds a project from a funding initiative or line item that uses 100 percent state or non-federal funding, or FCMPO TIP placement of the federally-funded Statewide Program;
- 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 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 and does not exceed the above thresholds;
- Splits a project into two or more separate projects to facilitate project delivery;
- Advances a project phase from the 2nd or 3rd four years of the TYP or FCMPO's RTP for a project that has another phase included in the TIP using federal funds;
- 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; do not add a new federally-funded project or delete a federally funded project; do not exceed the threshold established in the MOU between PennDOT and FCMPO (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 FCMPO 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 used.

All revisions, amendments, and administrative modifications shall be identified, numbered, 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, FCMPO

will demonstrate, through an FCC, fiscal balance of the subject project phase in the second or third years of the TYP and/or FCMPO.

Financial 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.

Financial Reporting:

PennDOT will provide reports to FCMPO 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 FCMPO and Statewide programs. In addition, PennDOT will provide the Transit Federal Capital Projects report at the end of each FFY to all of the parties listed above, CAT, and FTA. The reports can be used by FCMPO 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 FCMPO will ensure TIP revisions promote progress toward achievement of performance targets.

FCMPO TIP Revision Procedures:

When FCMPO's TIP is adopted, a copy of this MOU will be included with the TIP documentation to clarify how FCMPO will address all TIP revisions. FCMPO revision procedures are developed under the guidance umbrella of the PennDOT-FHWA-FTA MOU. If FCMPO elects to set more stringent procedures, then PennDOT, FHWA and FTA will adhere to those more restrictive procedures.

This document will serve as the basis for PennDOT when addressing federally funded FCMPO 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:

Sam Cressler
MPO Chairman

Date

David Keller
Commissioner Chairman

Date

Brian Hare, Director, Program Center
Pennsylvania Department of Transportation

Date