

# MEMORANDUM OF UNDERSTANDING

## Lehigh Valley Transportation Study's Procedures for 2017-2020 TIP Modifications

### Purpose

This Memorandum of Understanding (MOU) establishes a set of procedures to be used by the Lehigh Valley Metropolitan Planning Organization (MPO) for processing modifications to the 2017-2020 Transportation Improvement Program (TIP).

### Definitions

- **Administrative Modification** is a minor revision to a Transportation Improvement Program (TIP) or Statewide Transportation Improvement Program (STIP).
- **Amendment** is a revision to a TIP or STIP that involves a major change to a project included in a TIP or STIP.
- **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, Metropolitan Planning Organizations (MPOs) and Rural Planning Organizations (RPOs), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and transit agencies.
- **Fiscal Constraint Chart** is an Excel spreadsheet that depicts the transfer of funds from one source of funding to a donee project or projects and that nets to zero.
- **Interstate Management (IM) Program** is PennDOT's four year listing of statewide interstate maintenance projects.
- **Invest Plan** is PennDOT's ongoing assessments and re-evaluation of data associated with the Transportation Investment decisions ensuring that each dollar invested is being directed to meet the strategic decisions and that enhances the overall performance of the Commonwealth's Transportation system. The regional targets were set with a continued focus on maintaining assets with the following priorities: Bridges on the NHS, Roadway conditions on the NHS, Bridges on the balance of the system; and Roadway conditions on the balance of the system.
- **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, PA and Harrisburg, PA.
- **Long Range Transportation Plan (LRTP) Lapse** is where a Planning Partner's LRTP has not been updated in accordance with the cycles defined in the federal planning regulations [23 CFR § 450.322 (c)].
- **New Project** is a project that is not programmed in the current STIP/TIP, and does not have previous obligations from a prior STIP/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 Planning Partner 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 regional TIPs will be considered as an administrative action for each MPO/RPO.
- **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 STIP/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 HSIP, RRX, “TAP”, Green Light Go, ARLE, Multi-modal, Recreational Trails and Keystone Corridor projects. The Interstate Management Program will remain its own individual program.

### **What is a Statewide Transportation Improvement Program (STIP) and a Transportation Improvement Program (TIP)?**

The STIP constitutes a list of projects to be implemented over a four-year period. It is comprised of regional TIPs developed by the Planning Partners and Statewide Programs developed by PennDOT. The STIP is the official transportation improvement program document mandated by Federal statute and recognized by FHWA and FTA. The Commonwealth’s Twelve Year Program which incorporates the TIPs and STIP is updated every two years as required by state law.

### **How and When is a STIP/TIP Developed?**

See General and Procedural Guidance dated January 5, 2016 (attached).

### **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 LVTS, Lehigh and Northampton Transportation Authority, or PennDOT wishes to proceed with a 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 of the STIP and of individual MPO TIPs, related to STIP and TIP revisions, and other actions taken to revise the TIP. The intent of this Federal regulation is to acknowledge the relative significance, importance, and/or complexity of individual programming actions. Federal Transportation Planning Regulations 23 CFR § 450.324 permits the use of alternative procedures by the cooperating parties to effectively manage actions encountered during a given TIP cycle. The Federal Transportation Planning Regulations require that any alternative procedures be agreed upon, and such alternative procedures be documented and included in the TIP document.

All revisions must maintain year-to-year fiscal constraint [23 CFR § 450.324 (e), (h) & (i)] for each of the four years of the STIP/TIP. All revisions shall account for year of expenditure, 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.

In addition, STIP/TIP revisions must be consistent with LVTS Long Range Transportation Plan (LRTP), and must correspond to the adopted provisions of the LVTS Public Participation Plan (PPP). A reasonable opportunity for public review and comment shall be provided for significant revisions to the STIP/TIP.

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. If a new conformity determination is deemed necessary, an amendment to the region's LRTP shall also be developed and approved by LVTS. The modified conformity determination would then be based on the amended LRTP conformity analysis and public involvement procedures consistent with the region's PPP shall be required.

If the LVTS LRTP lapses due to the fact that 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 LVTS. During a LRTP lapse, all STIP/TIP revisions within the LVTS planning region, where the LRTP lapse occurred, will be treated as amendments and require Federal approval. There will be no administrative modifications for that LVTS until the LRTP is in compliance with the federal planning cycle.

If August Redistribution of Federal Highway Funds adds, advances, or adjusts Federal funding for a project, Planning Partners will be notified of the Administrative Modification by PennDOT.

### **Revisions – Amendments and Administrative Modifications**

An **Amendment** is a STIP/TIP revision that:

- Affects air quality conformity regardless of the cost of the project or the funding source;
- Adds a new project or deletes a project that utilizes Federal funds from a statewide line item that exceed the thresholds listed below and exclude those Federally-funded Statewide Program projects;
- Adds a new project phase(s) or increases a current project phase or deletes a project phase (s) or decreases a current project phase that utilizes Federal funds where the revision exceeds \$2 million;
- 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 LVTS
  - Results in a Change in the Scope of Work on any Federally-funded project that is significant enough to essentially constitute a new project.
- During an LVTS LRTP lapse, all STIP/TIP revisions within the LVTS planning region will be treated as amendments and the below administrative modifications will not be utilized (or in effect).

The initial submission and approval process of the Federally-funded Statewide Program will be considered an amendment (subsequent placement of these individual projects or line items on respective planning partner TIPs will be considered an administrative action).

Approval by the LVTS is required for Amendments. LVTS must then request PennDOT Central Office approval using the e-STIP process. A Fiscal Constraint Chart (FCC) must be provided (in Excel format) which summarizes the before, requested adjustments, after changes, and comments explaining the reason for the adjustment(s) along with an updated TIP. PennDOT's Central Office will review, approve, and forward to the appropriate Federal agency for review and approval, with a courtesy copy to the other Federal agency.

In the case of the IM Program and other Federally-funded statewide programs, approval by PennDOT's Program Management Committee (PMC) and FHWA is required.

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

- Adds a project from a funding initiative or line item that utilizes 100 percent State or non-Federal funding; or regional TIP placement of the Federally-funded Statewide Program or Federal funds from a statewide line item that do not exceed the thresholds established by LVTS;
- Adds a project for emergency repairs to roadways or bridges, 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 threshold established in the MOU between PennDOT and LVTS;
- Adds Federal or state capital funds from low bid savings, deobligations, release of encumbrances, or savings on programmed phases to another programmed project phase or line item.

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 exceed the threshold established in the MOU between PennDOT and LVTS, or the threshold established by this MOU (as detailed in the Amendment Section); and does not result in a Change in Scope on any Federally-funded project that is significant enough to essentially constitute a New Project.

**Administrative Modifications do not require Federal approval.** PennDOT and the Planning Partner 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 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 Amendment action) will require approval by the Cooperating Parties. In the case that a project phase is pushed out of the TIP period, the Planning Partner will demonstrate, through a Fiscal Constraint Chart, fiscal balance of the subject project phase on the second period of the respective Planning Partners' Long Range Transportation Plan.

### **Programming Statewide Managed Funds**

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.

### **Financial Constraint**

Demonstration of TIP financial constraint to FHWA and FTA takes place through a summary of recent Administrative Modifications and proposed Amendments. Real time versions of the TIP are available to FHWA and FTA through PennDOT's MPMS.

### **STIP/TIP Financial Reporting**

At the end of each quarter, PennDOT will provide LVTS with a STIP/TIP Financial report of actual Federal obligations and state encumbrances for highway/bridge and transit programs in their region. At the end of the Federal Fiscal Year, the PennDOT report card can be used by LVTS as the basis for compiling information in order to meet the Federal Annual Listing of Obligated Project requirement. The STIP/TIP Financial Report provided to FHWA and FTA will also include the FHWA Planning Performance Measure – “percent of STIP/TIP projects advanced per year” on a Statewide and Planning Partner basis. A summary report detailing this information will be provided no later than 30 days after the end of a Federal Fiscal Year.

### **TIP Revision Procedures**

As each Planning Partner's TIP is adopted, their respective MOU will be included with the TIP documentation. The MOU will clarify how the Planning Partner will address all TIP revisions. **In all cases, individual Planning Partner revision procedures will be developed under the guidance umbrella of this document.** If a Planning Partner 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, 2016, and remain in effect until September 30, 2018, 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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Mr. Larry S. Shifflet, Director, Center for  
Program Development and Management  
Pennsylvania Department of Transportation

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Date

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Mr. Michael Rebert, P.E., Chair  
Lehigh Valley Transportation Study

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Date

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Ms. Becky A. Bradley, AICP, Executive Director  
Lehigh Valley Planning Commission

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Date

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Mr. Owen O'Neil, Executive Director  
Lehigh and Northampton Transportation Authority

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Date