

# MEMORANDUM OF UNDERSTANDING

## Lehigh Valley Transportation Study's

### Procedures for 2015-2018 STIP and TIP Modifications

#### Purpose

This Memorandum of Understanding (MOU) establishes a set of procedures to be used by the Lehigh Valley Transportation Study (LVTS), the Metropolitan Planning Organization for Lehigh and Northampton counties, for processing modifications to the 2015-2018 Transportation Improvement Program (TIP).

#### Definitions

A ***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.

A ***Change in Scope*** is a substantial alteration to the original intent or function of a programmed project.

***Cooperating Parties*** are PennDOT, Metropolitan Planning Organizations (MPOs) and Rural Planning Organizations (RPOs), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and transit agencies.

A ***Fiscal Constraint Chart*** is an excel or MPMS generated chart depicting the transfer of funds from one (source of funding) to a project or projects. Ideally, net change should be zero.

The ***Interstate Management (IM) Program*** is PennDOT's four year listing of statewide interstate maintenance (non-capacity adding) projects.

A ***Modification*** is either an amendment or an administrative action to the TIP.

A ***New Project*** is a project that is not programmed in the current TIP, and does not have previous obligations from a prior TIP.

A ***Planning Partner*** is the Commonwealth's Metropolitan Planning Organizations (MPO) or Rural Planning Organizations and an independent County (Wayne).

A ***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.

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 a new project or project phase(s).

A ***Statewide Managed Program (Statewide Programs)*** are those transportation improvements 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 not limited to HSIP, RRX, TAP, and Keystone Corridor projects. The Interstate Management Program will remain its own individual program.

The ***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.

### **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.

### **STIP/TIP Administration**

FHWA and FTA will only authorize projects and approve grants for projects that are programmed in the current approved STIP. If LVTS, Lehigh and Northampton Transportation Authority (LANta), or PennDOT wishes to proceed with a project not programmed on the TIP, a modification 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 modifications, and other actions taken to modify 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 modifications must maintain year-to-year fiscal constraint [23 CFR § 450.324 (e), (h) & (i)] for each of the four years of the STIP/TIP. Modifications 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, TIP modifications must be consistent with the 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 modification 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 Interagency Air Quality 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 August Redistribution of Federal Highway Funds adds, advances, or adjusts federal funding for a project, LVTS will be notified of the modification by the Department.

### **Modifications – Amendments and Administrative Actions**

An *amendment* is a TIP modification 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 excluding 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 modification 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 scope on any Federally funded project that is significant enough to essentially constitute a new project.

All modifications (including modifications defined as administrative actions) associated with the amendment shall be identified and grouped as one action on a Fiscal Constraint Chart (FCC) demonstrating both project and program fiscal constraint. The identified grouping of projects (the entire amendment action) will require approval by the Cooperating Parties (see definitions). In the case that a project phase is pushed out of the TIP period, LVTS will demonstrate, through a Fiscal Constraint Chart, fiscal balance of the subject project phase on the 2<sup>nd</sup> period of the LVTS's Long Range Transportation Plan.

Approval by LVTS is required for amendments. LVTS must then request PennDOT Central Office approval using the e-STIP process. An FCC must be provided (in Excel format) which summarizes the before, requested adjustments, and after changes 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 action* is a STIP/TIP modification 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 Federal funded Statewide Program projects (see definition) 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 this MOU;

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;

Does 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 this MOU; 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 actions do not require Federal approval.** PennDOT and LVTS 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.

### **Financial Constraint**

Demonstration of TIP financial constraint to FHWA and FTA takes place through the summary of recent modifications. Real time versions of the TIP are available to FHWA and FTA through PennDOT's Multimodal Project Management System (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 programs in the region. At the end of the Federal Fiscal Year, the PennDOT report card can be used by the 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 Modification Procedures**

As the LVTS TIP is adopted, this MOU will be included with the TIP documentation. The MOU will clarify how LVTS will address all TIP modifications. **In all cases, individual Planning Partner modification procedures will be developed under the guidance umbrella of the statewide 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 modifications.

This Memorandum of Understanding will begin October 1, 2014, and remain in effect until September 30, 2016, 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. Armando V. Greco, Executive Director  
Lehigh and Northampton Transportation Authority

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Date