

Appendix 17 - FHWA-FTA PennDOT MOU for STIP/TIP Revisions

MEMORANDUM OF UNDERSTANDING Pennsylvania's Statewide Procedures for 2023-2026 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 2023-2026 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 required by federal statute. The STIP includes regional TIPs developed by the MPOs, RPOs and PennDOT developed Interstate Management (IM) Program and other 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 Major Bridge Public Private Partnership (MBP3) Program, 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 (Act 120 of 1970), includes the STIP/TIPs in the first four-year period. The TYP is not covered by Federal statute. Therefore, this MOU covers revisions only to the STIP/TIP.

For more information on the development of the STIP/TIP, see *Pennsylvania's 2023 Transportation Program General and Procedural Guidance* and *Pennsylvania's 2023 Transportation Program Financial Guidance*. These documents were both released on July 15, 2021 and can be found on the [STIP page](#) on the STC Website under 2023 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 amendments and administrative modifications. If necessary, [23 CFR 450.328](#) permits the use of alternative procedures by the cooperating parties to effectively manage amendments and/or administrative modifications 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 Transportation Performance Management (TPM) requirements, Pennsylvania's Long-Range Transportation Plan (LRTP), and the associated 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 objectives 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 (PPPs). 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 once again 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 to the STIP/TIP that:

- **Affects air quality conformity regardless of the cost of the project or the funding source;**
- Adds a new federally funded project, 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), deletes a phase(s) or increases/decreases a phase(s) of an existing project that utilizes federal funds where the total revision of federal funds exceeds the following thresholds within the four years of the TIP:
 - \$10 million for the Interstate Management (IM) Program;
 - \$7.5 million for MPOs with most recent US Census Urbanized Areas (UZA) population $\geq 1,000,000$;
 - \$3 million for MPOs with most recent US Census Urbanized Areas (UZA) population $\geq 200,000$ 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 programmed amount that exceeds the thresholds established between PennDOT and the MPO/RPO;
 - 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 eSTIP 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 modifications that occurred along with or were presented with this amendment at the MPO/RPO meeting. The supporting documentation should include PennDOT Program Management Committee (PMC) and Center for Program Development and Management (CPDM) items/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 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 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 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 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; 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 modification that is not consistent with federal regulations or with this MOU where federal funds are being utilized.

Fiscal Constraint

Demonstration that STIP/TIP fiscal constraint is maintained takes place through an 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, per [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 that STIP/TIP revisions promote progress toward achievement of performance targets.

Statewide or Multi- UZA Transit Projects

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.

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, but the MPO/RPO established provisions cannot be less stringent than the statewide MOU.

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:

ALICIA E NOLAN
Digitally signed by ALICIA E
NOLAN
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Ms. Alicia Nolan
Division Administrator
Federal Highway Administration

Date

Theresa "Terry" Garcia-Crews
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Ms. Terry Garcia-Crews
Regional Administrator
Federal Transit Administration

Date

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

Date

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