

# MEMORANDUM OF UNDERSTANDING

## Erie Area Transportation Study (Erie MPO)

### Procedures for 2011-2014 TIP Modifications

#### Purpose

This Memorandum of Understanding (MOU) establishes a set of procedures to be used by the Erie Metropolitan Planning Organization (MPO) for processing modifications to the 2011-2014 Transportation Improvement Program.

#### 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.
- 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.
- ***Planning Partner*** is an MPO or an RPO.
- A ***Public Participation Plan (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 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).

#### What is the Statewide Transportation Improvement Program (STIP) and Transportation Improvement Programs (TIPs)?

The STIP constitutes a list of projects to be implemented over a four-year period. It is comprised of regional TIPs developed by the 23 Planning Partners, and the statewide IM Program 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.

23 USC 134(a) (Metropolitan Planning) states: “It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between states and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide planning processes. To accomplish the objectives stated above, metropolitan planning organizations, in cooperation with the State and public transit operators, shall develop long range transportation plans and transportation improvement programs for metropolitan areas of the State.” In addition, 23 USC 135 (Statewide Transportation Planning) under “Development of Plans and Programs,” states: “To accomplish the objectives stated in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation program for all areas of the State subject to section 134(a).”

### **STIP/TIP Administration**

FHWA and FTA will only authorize projects and approve grants for projects that are programmed in the current approved STIP. If the MPO, Erie Metropolitan Transit Authority (EMTA), or PennDOT wishes to proceed with a project not programmed on the current 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 the MPO’s TIP, 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 Regulation, 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 with the TIP document.

All modifications must maintain year-to-year fiscal constraint [23 CFR § 450.324 (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. The arbitrary reduction of the overall cost of a project, or project phase, shall not be utilized for the advancement of another project.

In addition, TIP modifications must be consistent with the MPO’s Long Range Transportation Plan (LRTP), and must correspond to the adopted provisions of the MPO’s Public Participation Plan (PPP). A reasonable opportunity for public review and comment shall be provided for significant revisions to the 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 endorsed. 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 adds, advances, or adjusts costs for a project, the MPO will be notified of the modification.

PennDOT shall coordinate an IM TIP modification, with notification provided to the MPO.

### **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;
- Adds a new project phase(s) or deletes a project phase(s) that utilizes federal funds where the modification exceeds the following thresholds:
  - \$5 million for the Statewide IM Program
  - \$3 million for MPOs with 2000 US Census population > 200,000 but < 1,000,000
- Increases or decreases a project phase(s) that utilizes federal funds where the modification exceeds the following thresholds:
  - \$5 million for the Statewide IM Program
  - \$3 million for MPOs with 2000 US Census population > 200,000 but < 1,000,000
- Creates a new line item that utilizes federal funds;
- Adds a project (does not pertain to betterments) that exceeds the following thresholds, where the funds originated from a line item:
  - \$5 million for the Statewide IM Program
  - \$3 million for MPOs with 2000 US Census population > 200,000 but < 1,000,000
- 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 the MPO (not to exceed the threshold contained in PennDOT's Statewide MOU)
  - Result in a scope change on any 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.

In the case that a project phase is pushed out of a TIP period, the MPO will demonstrate, through a Fiscal Constraint Chart, fiscal balance of the subject project phase on the next period of the Long Range Transportation Plan.

Approval by the MPO is required for amendments. The MPO must then request PennDOT Central Office approval using the e-STIP process. An FCC must be provided 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, approval by PennDOT's Program Management Committee (PMC) and FHWA is required.

An **administrative action** is a TIP modification that:

- Adds a project from a funding initiative or line item that utilizes 100 percent Statewide or local funding;
- Adds a project for emergency repairs to roadways or bridges, except those involving substantial, functional, location, or capacity changes\*;
- Adds or deletes a right-of-way phase for incidental right-of-way or utility work that does not exceed the threshold established in the MOU between PennDOT and the MPO, nor exceed the threshold established by PennDOT's Statewide MOU,
- Draws down from an existing STIP/TIP reserve line item and does not exceed the threshold established in the MOU between PennDOT and the MPO,
- Increases or decreases the cost of a project phase(s) or deletes a project phase(s) that does not exceed the threshold established in the MOU between PennDOT and the MPO not exceed the threshold established by PennDOT's Statewide MOU,
- Adds or deletes a project (does not pertain to betterments) that does not exceed the thresholds established in the MOU between PennDOT and the MPO, or established by PennDOT's Statewide MOU, where the funds originated from a line item from the same TIP,
- 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,
- 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, and does not exceed the threshold established in the MOU between PennDOT and the MPO, or the threshold established by PennDOT's Statewide MOU; and does not result in a scope change on any project that is significant enough to essentially constitute a new project.

**Administrative actions do not require Federal approval.** However, PennDOT will forward a copy of the modification(s) to the appropriate Federal agency for review and comment, with a courtesy copy to the other Federal agency. 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 disallow an administrative action that is not consistent with Federal regulations or with this MOU.

\* If a modification adds a project for emergency relief purposes, the project will be added as an *Administrative Action* to the TIP. Per 23 CFR § 450. 216 (g (5)), emergency relief projects may (but are not required to) be included on the STIP, except those involving substantial functional, locational, or capacity changes.

## **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**

PennDOT will provide a STIP/TIP Financial Report to the MPO and to FHWA and FTA on a quarterly basis, and establish targets for Federal obligation and state encumbrances of funds within 90 days after the enactment of annual Federal appropriations legislation.

At the end of each quarter, PennDOT will provide the MPO with a STIP/TIP Financial Report of actual Federal obligations and state encumbrances for highway/bridge programs in their region. 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.

At the end of the Federal fiscal year, PennDOT will provide the MPO, and FHWA and FTA, a summary STIP/TIP Financial Report of all highway/bridge obligations and state encumbrances within their region. A year-end STIP/TIP Financial Report will be provided to FHWA and FTA that includes the FHWA Performance Measure – “percent of STIP/TIP projects advanced per year, on a statewide and Planning Partner basis for highway/bridge programs.

## **TIP Modification Procedures**

When the MPO 2011 TIP is adopted, this MOU will be included with the TIP documentation. The MOU will clarify how the MPO will address all TIP modifications.

This document will serve as the basis for PennDOT when addressing IM TIP modifications.

This Memorandum of Understanding will begin October 1, 2010, and remain in effect until September 30, 2012, unless revised or terminated. Furthermore, it is agreed that this MOU will be reaffirmed every two years.

This Memorandum of Understanding will begin October 1, 2010, and remain in effect unless it is agreed to be modified by all parties or terminated.

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

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Mr. James D. Ritzman, P.E., Deputy Secretary  
For Planning  
Pennsylvania Department of Transportation

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Date

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Thomas C. Hoffman, Chair  
Erie Area Transportation Study (Erie MPO)

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Date

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Jake S. Welsh, Director  
Erie County Department of Planning

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Date

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Dennis Solensky, Director  
Erie Metropolitan Transit Authority

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Date