

# MEMORANDUM OF UNDERSTANDING

## SEDA-COG Metropolitan Planning Organization (MPO)

### 2023-2026 SEDA-COG Transportation Improvement Program

### Procedures for Transportation Improvement Program Revisions

#### Background

This Memorandum of Understanding (MOU) establishes the procedures to be used for processing revisions to the 2023-2026 SEDA-COG Transportation Improvement Program (TIP). MPOs use a TIP to identify transportation projects and strategies they will pursue over the next four years. A TIP is a region's means of allocating its transportation resources among the various capital, maintenance, and operating investment needs of the area. The TIP is based on a clear set of short-term transportation priorities prepared through a performance-driven process. All projects receiving FHWA and/or FTA funding or requiring a Federal Action must be included in the TIP. The Statewide Transportation Improvement Program (STIP) is the aggregation of the Metropolitan Planning Organization (MPO) and Rural Planning Organization (RPO) TIPs.

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), 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.

#### 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 a 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 projects.
- **Long Range Transportation Plan (LRTP) Expiration** is where a Planning Partner's LRTP has not been updated in accordance with the cycles defined in the federal planning regulations.
- **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.
- **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.

### **STIP/TIP Administration**

FHWA and FTA will only authorize projects and approve grants for projects that are programmed in the current approved STIP. If an 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 Plan (PPP). 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 MPOs/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 an 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 an 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.

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

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 that adds a new project, deletes an existing project, or involves a major change to an existing project included in a 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:
  - \$2 million for the SEDA-COG MPO. Any changes above this threshold would constitute an amendment by the SEDA-COG MPO procedures.
  - \$10 million for the Interstate Management (IM) Program;
  - \$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 re-evaluation;
  - 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 an 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 the STIP 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. 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.

### **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 Pennsylvania's Statewide Procedures.** If an 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 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:

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Mr. Steve Herman  
Chairman  
SEDA-Council of Governments MPO

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Date

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Mr. Brian Hare  
Director  
Center for Program Development and Management  
Pennsylvania Department of Transportation

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Date