

# TIP/STIP REVISION OPERATING PROCEDURES

September 3, 2009

## Introduction

These *TIP/STIP Revision Operating Procedures* outline the procedures agreed upon by the NYMTC TCC members\* to revise project listings on the approved Transportation Improvement Program (TIP) and the Statewide Transportation Improvement Program (STIP). FTA and FHWA do not approve NYMTC's TIP document presented for council approval or TIP modifications to the TIP. FTA and FHWA do approve amendments to the STIP. Since the STIP must include all projects listed on the TIP, the use of the terms TIP and STIP are synonymous in these procedures.

There are two types of revisions to the TIP. A minor revision is considered an administrative modification, and a major revision is considered an amendment.

The following procedures are consistent with 23 CFR Part 450 of the Statewide Transportation Planning; Metropolitan Transportation Planning; Final Rule.

## Definitions

### Administrative Modification

In the Metropolitan Transportation Planning Final Rule an administrative modification “means a minor revision to a long-range statewide or metropolitan transportation plan, TIP, or STIP that includes minor changes to project/project phase costs, minor changes to funding sources of previously-included projects, and minor changes to project/project phase initiation dates. An administrative modification is a revision that does not require public review and comment, redemonstration of fiscal constraint, or a conformity determination (in nonattainment and maintenance areas).” (23 CFR 450.104 Definitions)

### Amendment

In the Metropolitan Transportation Planning Final Rule an amendment “means a revision to a long-range statewide or metropolitan transportation plan, TIP, or STIP that involves a major change to a project included in a metropolitan transportation plan, TIP, or STIP, including the addition or deletion of a project or a major change in project cost, project/project phase initiation dates, or a major change in design concept or design scope...” “An amendment is a revision that requires public review and comment, redemonstration of fiscal constraint, or a conformity determination.” (23 CFR 450.104 Definitions)

\* *These procedures shall also apply to other public transit operators which are not members of NYMTC but which are designated recipients of the Federal Transit Administration, as specified in the metropolitan planning agreement per federal requirements.*

## Clarifications on Specific or Unique Situations

While the Metropolitan Transportation Planning Final Rule provides the above definitions, FTA, FHWA, NYMTC members and NYMTC staff thought that certain specific processes needed to be addressed to avoid uncertainty on how to proceed under specific or unique situations. These operating procedures are to be used as a guide in administering all TCC TIP administrative modifications and/or amendments.

### Fiscal Constraint

In non-attainment and maintenance areas, projects included in the first two years of the TIP and STIP shall be limited to those for which funds are available or committed. Federal guidance on financial planning and fiscal constraint is available at [http://www.fhwa.dot.gov/planning/guidfinconstr\\_qa.htm](http://www.fhwa.dot.gov/planning/guidfinconstr_qa.htm).

Fiscal constraint must be maintained for all actions. For the purpose of these Operating Procedures, fiscal constraint for FHWA projects is defined as maintaining the amount of funding programmed in each year of the TIP so that it does not exceed the fiscal funding allocated for each of the STIP years and the overall amount of funds available over the timeframe of the STIP. Fiscal constraint shall be documented for each action.

In the case of FTA funded projects, future year TIP allocation estimates are based on transportation authorization. Annually, appropriations bills are enacted and apportionments and allocations are published by the FTA in the *Federal Register*. As a result, in order to maintain and document fiscal constraint, FTA funds programmed on the TIP need to be consistent with the amounts shown in the *Federal Register*.

### Earmarks and Discretionary Funds

Earmarks and other discretionary funds are new revenue sources that can only be used for a specific purpose as outlined in the *Federal Register*, and are by their nature fiscally constrained. These funds do not require the redemonstration of fiscal constraint unless the sponsoring agency is also adding other federal funds to the project. Transit earmark amounts need to be consistent with the amounts published by FTA in the *Federal Register*, including any rescissions.

### Public Review

An amendment to the TIP requires 10 calendar days for public review. If the TIP amendment is due solely to project cost increases and the scope of the project – or project phase as programmed in the TIP – does not change, and in the case where public review has already been conducted on the project (or project phase) by the sponsoring agency (for example as part of a federally required Program of Projects notice, required for FTA Section 5307 formula funds), that public review shall constitute the required amendment public review. The sponsor-held public review must have occurred within three years of the requested TIP amendment, otherwise a new public review must occur. The notice of a project published in the *Federal Register* shall constitute the required amendment public review.

In the case of an amendment where a project is shown on the TIP, including the committed column, and has gone through either the TIP or a project level public review process, an additional public review will not be necessary prior to processing the amendment.

Public review for non-exempt projects may be combined with the public notice in the NYMTC Conformity Determination. The public review notice will be sent to the applicable TCC mailing list via e-mail, mail or fax. If an e-mail address is available, the notice shall be sent by e-mail. If not, fax will be utilized. If a fax number is not available, mail will be utilized. The mailing list will be updated on a regular basis along with periodic major updates. The proposed amendment may also be posted on the NYMTC website during the public review period and paper copies will be made available upon request. Any public comments will be forwarded to the TCC voting members as part of the amendment approval process.

### Changing Project Funding from Local Funding to Federal Funding

If a project is shown with 100% local funds and is being changed to include federal funds, this action will be processed as an amendment. If public review has already occurred, then only approval by the TCC voting members and subsequent STIP processing is required.

### Rollover

Rollover could occur for projects that were shown in the previously approved TIP/current TIP committed column, but due to delay in progressing the project are not in the current TIP. Projects that are listed in the last year of the immediate prior TIP and that will be obligated in the first year of the current TIP, do not require an amendment and may be moved into the TIP with an administrative modification as long as the TIP's fiscal constraint is maintained or the action results in an amount of funds programmed in the TIP that are consistent with the allocation in the *Federal Register*. This is referred to as the "rollover" and is consistent with NYMTC's rollover clause in the TIP approval resolution.

FHWA projects do require a STIP amendment to be added back on to the STIP.

### Withdrawn Projects

Projects which are withdrawn due to lack of expenditures or progress will need to be added back on to the TIP as an amendment. If the project is not shown on the current TIP, including the committed column, an additional public review will be necessary. A STIP amendment is also necessary to add the project back onto the STIP.

### Cost

For federally funded projects, amendments are required when the total project cost increases, based upon the following threshold criteria:

- FHWA – an increase of \$10 million or greater
- FTA – an increase of 25% or greater.

NYMTC will work with project sponsors to determine the total project cost, e.g. in cases in which a project is programmed over multiple years, assigned multiple project identification numbers (PINs), or represented in multiple phases in the TIP and/or Regional Transportation Plan.

## CMAQ Funded Projects

Voting member concurrence will be required when changes to CMAQ (and STP Urban in MHSTCC) funded projects are processed as Administrative Modifications. TCC member concurrence will occur via e-mail, telephone, fax, or paper notification. Voting members will be notified of the revision request and allowed five calendar days to voice any objections to the revision.

### **Steps in the Process**

1. Project sponsor completes a TIP Change Request Form with marked up TIP strips, and submits to TCC staff.
2. TCC staff determines if the change is an administrative modification or amendment based on these Operating Procedures. If requested by TCC staff, the project sponsor shall provide additional information on the proposed TIP change (for example, the number of traffic lanes, project cost).
3. TCC staff, in coordination with the project sponsor, submits the project for NYSDOT Environmental Science Bureau/Interagency Consultation Group review.
4. Public review occurs, as applicable.
5. TCC staff process the action.
6. For Administrative Modifications, the action is entered into the eSTIP database and then forwarded to NYMTC Central Staff for further processing to NYSDOT.
7. For Amendments, the action is entered into eSTIP, forwarded to NYMTC Central Staff, and then NYSDOT. NYSDOT will approve (or disapprove) the request in eSTIP for subsequent approval/disapproval by the federal agencies.
8. Project sponsors will be notified of completed actions by the individual performing the action.
9. Project sponsors will be copied on all TIP action/amendment correspondence.

### **Voting Member Approval**

Amendments can be voted on by NYMTC TCC voting members (or designee) by mail, fax, e-mail, phone or paper ballot, or at a meeting. As per the TCC Operating Procedures, consensus is required for the approval of an amendment. If any negative votes are received or objections are raised, the action will be suspended until the objection is resolved or consensus is declared. The names of the voting members and their designee are kept on file with the TCC.

### **Resolution of Issues**

The project sponsor and TCC will work to resolve issues of whether the project falls within the category of administrative modification or amendment. If an issue cannot be resolved, the TCC would seek guidance from FTA and FHWA, as applicable.

In the event an amendment is approved and then there are subsequent issues with a project, a subsequent action would need to be approved by consensus to revise the approved amendment.

### **Procedures Review**

The TIP Revision Procedures shall be reviewed after one year from the approval date. The procedures shall also be reviewed following passage of new federal re-authorization legislation.

The following table summarizes the aforementioned parameters:

| Table of Procedures  | Administrative Modification | Amendment |
|--|-----------------------------|-----------|
| <b>Project Cost</b>  |                             |           |
| ▪ Below Thresholds   | √                           |           |
| ▪ Above Thresholds   |                             | √         |
| <b>Project/Phase Initiation Date</b>   |                             |           |
| ▪ Within the 4-year STIP   | √                           |           |
| ▪ Outside the 4 years of the STIP  |                             | √         |
| ▪ Change to a non-exempt project affecting the regional conformity determination                             |                             | √         |
| <b>Rollover</b>  |                             |           |
| ▪ Within resources   | √                           |           |
| ▪ When redemonstration of fiscal constraint is needed  |                             | √         |
| <b>Fund Sources</b>  |                             |           |
| ▪ Local to Federal   |                             | √         |
| ▪ Federal to Federal   | √                           |           |
| ▪ Earmark – adding funds to existing project   | √                           |           |
| ▪ New funds not previously programmed<br>(e.g. ferry boat discretionary, highway SIP funds)                  |                             | √         |
| <b>Addition or Deletion</b>  |                             |           |
| ▪ Addition of a new project  |                             | √         |
| ▪ Deletion of a project  |                             | √         |
| ▪ Split out of a block project   |                             |           |
| ~ Regional preventative maintenance  | √                           |           |
| ~ Recreational trails, Safe Routes to School, high risk rural roads, scenic byways, Section 5310, JARC, etc. | √                           |           |
| ▪ Addition of a minor phase  | √                           |           |
| ▪ Addition of a R.O.W. acquisition or construction phase   |                             | √         |
| ▪ Project under construction below thresholds  | √                           |           |
| ▪ Project under construction above thresholds  |                             | √         |
| ▪ Project split into multiple PINs for implementation/construction   | √                           |           |
| ▪ Separate project combined for implementation/construction into one PIN.                                    | √                           |           |
| ▪ Addition of a withdrawn project  |                             | √         |

## TIP Revision Request Form

(Please contact your TCC director for assistance with this form.)

|                  |  |
|------------------|--|
| PIN:             |  |
| Project Name:    |  |
| Project Sponsor: |  |
| Date:            |  |
| Submitted by:    |  |

| <u>Air Quality</u>  |
|---|
| Air Quality Classification: <input type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt |
| Air Quality Code:   |

|   |
|---|
| Public Review: <input type="checkbox"/> Already Conducted <input type="checkbox"/> Needed               |
| Redemonstration of Fiscal Constraint Required: <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Impact to Conformity Determination: <input type="checkbox"/> Yes <input type="checkbox"/> No            |

| Type of Revision                                      | Amendment                | Administrative Modification |
|---|--------------------------|-----------------------------|
| <input type="checkbox"/> Addition of New Project      | <input type="checkbox"/> | <input type="checkbox"/>    |
| <input type="checkbox"/> Deletion of Existing Project | <input type="checkbox"/> | <input type="checkbox"/>    |
| <input type="checkbox"/> Project Scope Change         | <input type="checkbox"/> | <input type="checkbox"/>    |
| <input type="checkbox"/> Cost Change                  | <input type="checkbox"/> | <input type="checkbox"/>    |
| <input type="checkbox"/> Fund Source Change           | <input type="checkbox"/> | <input type="checkbox"/>    |
| <input type="checkbox"/> Schedule Change              | <input type="checkbox"/> | <input type="checkbox"/>    |

| <u>Project Details and Reason for Change</u> |
|--|
|  |

|  |
|--|
| Action processed as: <input type="checkbox"/> Administrative Modification <input type="checkbox"/> Amendment |
|--|