

**MEMORANDUM OF AGREEMENT BETWEEN
THE TENNESSEE DEPARTMENT OF TRANSPORTATION
AND
THE JOHNSON CITY METROPOLITAN TRANSPORTATION PLANNING
ORGANIZATION**

**REGARDING THE DEFINITION AND NEED FOR AMENDMENTS /
ADMINISTRATIVE MODIFICATIONS TO THE STATEWIDE TRANSPORTATION
IMPROVEMENT PROGRAM / TRANSPORTATION IMPROVEMENT PROGRAMS IN
THE STATE OF TENNESSEE**

INTRODUCTION:

The purpose of this Memorandum of Agreement is to establish two categories of actions to meet Federal requirements and streamline the maintenance of the Statewide Transportation Improvement Program/Transportation Improvement Program (STIP/TIP). One category of action is a "STIP/TIP Amendment" and the other is a "STIP/TIP Administrative Modification."

DEFINING THE STIP/TIP:

As detailed in Title 23 Code of Federal Regulations (CFR) Part 450, the STIP is defined in Federal regulations as “a statewide prioritized listing/program of transportation projects covering a period of 4 years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and TIPs, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.” All projects and groupings in the STIP and TIPs must list the eligible funding source(s) (e.g., FTA Section program, Surface Transportation Block Grant, etc.). Approval authority over the STIP and all STIP amendments lies with FHWA and FTA.

Per 23 CFR 450.218, the State of Tennessee STIP shall include each metropolitan TIP for each MPO in Tennessee, as approved by the associated MPO and TDOT (as delegated authority from the Governor of the State of Tennessee). Per Federal regulations, TDOT can elect to include the metropolitan TIPs in the STIP directly or by reference, with specific expectations for each option:

- Direct inclusion of the metropolitan TIP – in this situation, TDOT’s STIP, as published and approved by FHWA and FTA, will include all projects listed in the approved metropolitan TIP, regardless of project sponsor or funding source. Accordingly, FHWA and FTA will match authorization requests for all projects across the State of Tennessee to the latest approved/amended STIP.
- Inclusion of the metropolitan TIP by reference – in this situation, TDOT’s STIP, as published and approved by FHWA and FTA, will make narrative reference to the metropolitan TIPs, as approved by the MPO and TDOT. Accordingly, FHWA and FTA will match all authorization requests for projects in metropolitan areas to the latest approved/amended metropolitan TIP, and all authorization requests for projects in non-metropolitan areas will be matched to the latest approved/amended STIP.

More information on the amendment/administrative modification processes and authorization requests is available below.

STIP/TIP AMENDMENT:

An amendment is a revision to the STIP/TIP that involves major changes to a project or the overall program and must meet the requirements of 23 CFR §450.216 and §450.326 regarding public review and comment, re-demonstration of fiscal constraint, and transportation conformity. An amendment is required when changes to the STIP/TIP include:

- A major change in the total project cost (excluding groupings) (see discussion on project cost change thresholds with Table A); or
- Adding a new project or deleting a project from the STIP/TIP; or
- A major change of project scope; examples include, but are not limited to, changing the number of through-lanes, adding/deleting non-motorized facilities (i.e. greenways, sidewalks, bike lanes, transfer stations, etc.), changing mode (e.g., rolling stock or facility type for transit, such as light rail cars instead of trolleys, vans instead of buses, etc.), changing capital category (i.e., transit funding added to a CMAQ funded project or CMAQ funding substituted for transit funding), or changing termini; or
- Any change requiring a new regional air quality conformity finding (including a grouping); or
- Moving funds between a Metropolitan Planning Organization (MPO) TIP and STIP unless a written agreement exists between the MPO and the Tennessee Department of Transportation (TDOT) that such an action may be processed as an administrative modification; or
- Moving funds between an MPO's TIP and another MPO's TIP unless a written agreement exists between each MPO and TDOT that such an action may be processed as an administrative modification.

AMENDMENT DOCUMENT AND APPROVAL PROCEDURES:

The STIP/TIP may be amended at any time, but amendments require Federal approval and redetermination of STIP/TIP fiscal constraint and air quality conformity, where applicable. TDOT will review each TIP amendment, approve its inclusion in the STIP, and submit the amendment to the appropriate Federal Agency. The Federal Agencies will independently review and respond to a formal written request for amendment approval from TDOT within 10 business days of receipt.

Documentation:

The MPO will send the following documentation to TDOT:

- Electronic correspondence describing the action taken and requesting review and approval of the proposed amendment;
- A copy of the original and amended TIP pages;

- Documentation supporting:
 - Fiscal constraint,
 - Interested parties' participation (i.e., public involvement, stakeholder involvement, and consultation),
 - Air quality conformity (in non-attainment and/or maintenance areas only), and
 - Required MPO certifications, including the MPO Self-Certification with a current date; and
 - The resolution adopting the amendment.

For financial transactions, the MPO must identify in the documentation the origin and destination of the funds being moved.

Regardless of whether the metropolitan TIP is included directly or by reference into the STIP, both the MPO and TDOT (through authority delegated by the Governor of Tennessee) must approve any TIP amendment including State managed projects before transmittal to FHWA/FTA for inclusion in the STIP. FHWA and FTA still retain authority over the inclusion of any amendments into the STIP, whether the TIP is included directly or by reference. In both cases, TDOT shall send the above-described documentation to FHWA/FTA for review and approval of the TIP amendment, along with a current Self-Certification for the STIP.

When FHWA or FTA approves an amendment, the appropriate approving agency will send to TDOT and the MPO:

- The original amendment review request,
- The original supporting amendment documentation, and
- Letter documenting FHWA's or FTA's approval.
- For transit projects, the Multimodal office should work with the Program Development and Scheduling office to ensure that any amendments are included in the updated STIP.

Amendment documentation will conform to the correspondence standards outlined in Appendix A.

STIP/TIP ADMINISTRATIVE MODIFICATIONS:

A STIP/TIP administrative modification is a minor change from the approved STIP/TIP. Administrative modifications must be consistent with 23 CFR Part 450, but they do not require public review and comment, or a conformity determination in non-attainment or maintenance areas. STIP/TIP administrative modifications are defined as follows:

- A minor change in the total project cost (see Table A)
- A minor change in project description that does not change the air quality conformity finding in maintenance and/or non-attainment areas; or
- A minor change in project description/termini that is for clarification and does not change the project scope such as a length change for reasonable transition purposes or to correct minor clerical errors or discrepancies; or
- Shifting funds between projects or groupings within the STIP/TIP (i.e., funding sources

and projects already identified in the STIP/TIP) if the change does not result in a cost increase greater than the amendment threshold (see Table A) for the total project cost of all phases shown within the approved STIP/TIP; or

- Adding an amount of funds already identified in the STIP/TIP for the current or previous year(s) if:
 - The funds are currently identified in the STIP/TIP either in an existing project or as available funds and
 - The change does not result in a cost increase greater than the amendment threshold (project cost change thresholds listed in Table A) for the total project cost of all phases shown within the approved STIP/TIP; or
- Moving project phases or funding from year to year within an approved STIP/TIP, except those that cross air quality horizon years of the project; or
- Adding any phase (if total project cost includes all phases), such as environmental or location study, preliminary engineering, right-of-way, or construction to a project in the STIP/TIP so long as such a change does not result in a cost increase greater than the amendment threshold (see Table A) for the total project cost of all phases shown within the approved/amended STIP/TIP; or
- Changes required to follow FHWA or FTA instructions as to the withdrawal of funds or re-establishment of funds withdrawn at the request of FHWA or FTA; or
- Moving funds between similarly labeled groupings, regardless of percent of change, or adding or removing a project(s) to or from an already established grouping; or
- Adjustments in revenue to match actual revenue receipts; or
- Adding a project with 100% state or non-federal funding for all phases that does not change the air quality conformity finding in maintenance and/or non-attainment areas; or
- Adding or changing a funding source, as long as the change does not result in a cost increase greater than the amendment threshold (see Table A);

ADMINISTRATIVE MODIFICATION DOCUMENT PROCEDURES:

Administrative modifications do not require Federal approval. Accordingly, no interested parties' participation or air quality conformity is required. TDOT and the MPOs 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 MOA. Administrative modifications made to TDOT-sponsored projects in the TIP will be requested by TDOT through notification to the MPO upon submission of the administrative modification to FHWA/FTA. The MPO will make the changes to funding tables, and project sheets as needed without the need for distribution.

Documentation:

The MPO will send the following documentation to TDOT for locally-sponsored projects:

- Electronic correspondence describing the action taken;
- A copy of the original and modified TIP pages.

For financial transactions, the MPO must identify in the documentation the origin and destination of the funds being moved. Administrative modification documentation will conform to the correspondence standards outlined in Appendix A.

AUTHORIZATION:

FHWA and FTA match project authorization requests to the STIP/TIP prior to approving a request for project authorization. Therefore, all administrative modifications and amendments must be processed to completion prior to TDOT requesting federal authorization approvals. For projects in MPO areas TDOT must ensure FHWA and FTA receipt of documented notification that the respective MPO has accounted for the administrative modification unless TDOT has a formal agreement with the respective MPO stating otherwise.

In the FMIS authorization request, TDOT shall provide the most recent amendment and administrative modification numbers affecting the project in the "STIP Reference" field or in the "State Remarks" if additional space is required.

PROJECT COST CHANGE THRESHOLDS:

For changes to the cost of projects (excluding groupings and reductions of any amount provided project length, termini, and description remain the same), a sliding scale (see Table A) is outlined to determine which category of revision is required. All measurements for these cost changes will be made from the last approved STIP or STIP amendment/administrative modification to account for incremental changes.

TABLE A

Total programmed funding within the approved STIP/TIP	Amendment	Administrative Modification
Up to \$2 million	≥75%	< 75%
\$2 million to \$15 million	≥50%	< 50%
\$15 million to \$75 million	≥40%	< 40%
\$75 million and above	≥30%	< 30%

PROJECT PHASE OVERRUNS AND UNDERRUNS:

Project overruns and underruns for previously authorized phases of projects in a previous TIP will not be programmed in the current TIP. If the phase of the project is in the current TIP then the rules of this document will apply; however, if the phase of the project was authorized in a previous TIP no action will be necessary within the current TIP. If a project programmed in a grouping incurs an overrun or underrun from a previously authorized phase, no TIP action will be needed. Any request for authorization of a new

phase will need to follow the rules within this document.

- If a project is being closed out but incurs an overrun, it will not require an amendment or administrative modification.

PROJECT GROUPINGS:

The use of project groupings is permitted under 23 CFR §450.218(j) for projects located in the non-metropolitan portion of the STIP and 23 CFR §450.326(h) for projects in an MPO's TIP. Projects that are funded by such groupings are to be of a scale small enough not to warrant individual identification and may be grouped by function, work type, and/or geographic area using the applicable classifications under 23 CFR §771.117(c) and (d) and/or 40 CFR part 93. Project groupings may only include projects that meet the following conditions: non-regionally significant, environmentally neutral, and exempt from air quality conformity. As appropriate, in instances where it is uncertain if specific project(s) meet those conditions in air quality nonattainment or maintenance areas, the sponsoring agency, in coordination with the MPO, must consult with the appropriate Interagency Consultation group (IAC) to determine whether the specific project(s) proposed to be included with the grouping are subject to the requirements of 40 CFR 93.

The STIP/TIP will include a description of all grouping categories, eligible activities, and sufficient financial information to demonstrate the projects that are to be implemented using current and/or reasonably available revenues. The MPO will develop the grouping categories and eligible activities included within the STIP/TIP in consultation with TDOT. All TDOT-sponsored projects located within an MPO area must be included in the MPO's TIP, including those projects that are eligible for grouping. Therefore, projects eligible for groupings that are located within the MPO planning area may be grouped within the MPO's TIP or listed individually in the MPO's TIP, but may not be included in the STIP.

PROJECTS IN RURAL/URBAN AREAS AND PROJECTS IN TWO (2) OR MORE MPOs

All projects that cross the MPO boundary and include an area outside of the MPO boundary will be programmed in the TIP only.

In instances where a project is in two (2) or more MPO planning areas, the affected MPOs will consult and coordinate as to which MPO is most impacted by the project, taking into consideration project limits, air quality conformity requirements, regional significance, etc. The MPO most impacted will program the project in its TIP and include it in the demonstration of fiscal constraint. The other MPO(s) will reference the project in its TIP for informational purposes. In instances where the MPOs are unable to reach an agreement, TDOT will facilitate a consultation process with the affected MPOs, TDOT, and FHWA/FTA.

CONSULTATION PROCESS:

The MPO will consult with TDOT and the appropriate approving agency (i.e., FTA for transit projects and FHWA for highway projects) on the suitable category of action when the proposed change to the STIP/TIP does not clearly fall into the category of a "STIP/TIP Amendment" or a

"STIP/TIP Administrative Modification" or the proposed change involves extenuating circumstances. Consultations will suspend the formal 10 business day review period for "STIP/TIP Amendments" until a resolution is established. The MPO also will consult with the appropriate approving agency prior to adding new non-formula or specialized federal funds (such as BUILD program funds) to a project to determine if the addition of the funds would warrant an amendment.

PROCESS REVIEW:

The MPO and TDOT will review this agreement in conjunction with each Statewide Planning Finding or when STIP/TIP management procedures are substantively changed (e.g., implementation of an electronic STIP/TIP). The focus of the review is to verify the appropriate use of the agreed-to amendment and administrative modification processes and consistency with Federal regulations.

We, the undersigned, approve this Memorandum of Agreement. This Agreement will become effective upon approval of signature by all parties, and will remain in effect as long as each agency agrees to and abides by the conditions set forth in this document. This Agreement may be amended at any time, but revisions will require signature by all parties. Any signatory to this Agreement may propose amendment to the agreement at any time.

All prior agreements and correspondence related to the definition and need for amendments or administrative modifications to STIP/TIPs are voided with the execution of this agreement.

SIGNATURES:



Jenny Brock, Chair
Johnson City MTPO Executive Board

20 Dec 2019
Date



Clay Bright, Commissioner
Tennessee Department of Transportation

1/27/2020
Date

APPENDIX A: CORRESPONDENCE STANDARDS

All amendment and administrative modification correspondence will be submitted to TDOT's Program Development and Scheduling Office. The MPO will submit the correspondence and documentation to STIP.Requests@tn.gov and the Program Monitor in the Program Development and Scheduling Office responsible for the TDOT Region in which the MPO is located.

Amendment Documentation:

Amendment documentation will be grouped in a single electronic document with the naming convention, "Amendment [X] ([Project#])", where [X] identifies the amendment's sequential identifier and [Project #] represents the unique project number(s) of the program element(s) being amended.

Email correspondence will use the naming convention, "Amendment [X], [Organization]" in the subject line where [X] identifies the amendment's sequential identifier and [Organization] represents name of the organization (MPO) submitting the amendment. The body of the email or cover letter/project description within the packet will include all applicable information as needed such as: amendment number, PIN, STIP/TIP ID, project sponsor, location of project, route, termini, project description, funding type (e.g., STBG, 5310), length, and description of amendment. Correspondence will include ccs to the appropriate representatives within TDOT's Long Range Planning Division and/or Multimodal Resources Division.

Modification Documentation:

Modification documentation will be grouped in a single electronic file and use the naming convention, "Modification [X] ([Project#])", where [X] identifies the administrative modification's sequential identifier and [Project #] represents the unique project number(s) of the program element(s) being modified.

Email correspondence will use the naming convention, "Modification [X], [Organization]" in the subject line where [X] identifies the administrative modification's sequential identifier and [Organization] represents name of the organization (MPO) submitting the administrative modification. The body of the email or cover letter/project description within the packet will include all applicable information as needed such as: modification number, PIN, STIP/TIP ID, project sponsor, location of project, route, termini, project description, funding type (e.g., STBG, 5310), length, and description of amendment. Correspondence will include ccs to the appropriate representatives within TDOT's Long Range Planning Division and/or Multimodal Resources Division.