

# MEMORANDUM OF UNDERSTANDING

## Alabama Department of Transportation

### Statewide Procedures for FY 2020 - 2023 TIP/STIP Revisions

#### Purpose

This Memorandum of Understanding (MOU) establishes a set of procedures to be used in the State of Alabama for processing revisions to the Metropolitan Planning Organization (MPO) FY 2020-2023 Transportation Improvement Programs (TIPs), and the Alabama Department of Transportation's Statewide Transportation Improvement Program (STIP). The STIP is the aggregation of the MPO TIP s, AL DOT statewide and Interstate programs.

#### Definitions

- *Administrative Modification* means a minor revision to a long-range statewide or metropolitan transportation plan, Transportation Improvement Program (TIP), or Statewide Transportation Improvement Program (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, re-demonstration of fiscal constraint, or a conformity determination (in nonattainment and maintenance areas). [23 CFR 450.104]
- *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 (e.g., changing project termini or the number of through traffic lanes.) Changes to projects that are included only for illustrative purposes do not require an amendment. An amendment is a revision that requires public review and comment, re-demonstration of fiscal constraint, or a conformity determination (for metropolitan transportation plans and TIPs involving "non-exempt" projects in nonattainment and maintenance areas). In the context of a long-range statewide transportation plan, an amendment is a revision approved by the State in accordance with its public involvement process. [23 CFR 450.104]
- *Betterment* consists of surface treatments/corrections to existing roadway [preferably within Alabama Department of Transportation (ALDOT) 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 super-elevation, as well as drainage improvements and guide rail upgrades.
- *Change in Scope* is a substantial alteration to the original intent or function of a

- programmed project; (e.g., change project termini or the number of through-traffic lanes).
- *Cooperating Agencies* include ALDOT, Metropolitan Planning Organizations (MPOs), and Rural Planning Organizations (RPOs), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and transit agencies.
  - *Financially Constrained (Fiscal Constraint)* means that the metropolitan transportation plan, TIP, and STIP include sufficient financial information for demonstrating that projects in the metropolitan transportation plan, TIP, and STIP can be implemented using committed, available, or reasonably available revenue sources, with reasonable assurance that the federally supported transportation system is being adequately operated and maintained. For the TIP and the STIP, financial constraint/fiscal constraint applies to each program year. Additionally, projects in air quality nonattainment and maintenance areas can be included in the first two years of the TIP and STIP only if funds are "available" or "committed." [23 CFR 450.104]
  - *Fiscal Constraint Chart (FCC)* is an Excel spreadsheet, or a chart generated by the Comprehensive Project Management System (CPMS), that depicts the transfer of funds from one source of funding to a done project, or multiple projects, that net out to zero.
  - *Level of Effort (LVOE)* is the term used to describe certain grouped projects in the TIPs and STIP that are not considered of appropriate scale to be identified individually. Projects may be grouped by function, work type, or geographical area, using the applicable classifications under 23 CFR 771.117(c) and (d), and/or 40 CFR part 93. In air quality nonattainment and maintenance areas, project classifications must be consistent with the *exempt* project classifications, contained in the transportation conformity regulations (40 CFR part 93). These projects are placed in the TIPs and STIP according to selected funding programs, with their anticipated fiscal year apportionments within the plan.
  - *New Project* is a project that is *not* programmed in the current TIP/STIP, and does not have previous obligations from a prior TIP/STIP.
  - *Obligated projects* mean strategies and projects funded under Title 23 U.S.C. and Title 49 U.S.C. Chapter 53 for which the supporting federal funds were authorized and committed by the State or designated recipient in the preceding program year and authorized by the FHWA or awarded as a grant by the FTA.
  - *Planning Partner* may refer to one of the following: ALDOT, FHWA, MPOs, RPOs, or other federal or state agencies.
  - *Project Selection* means the procedures followed by MPOs, States, and public transportation operators to advance projects from the first four years of an approved TIP and/or STIP to implementation, in accordance with agreed upon procedures. [23 CFR 450.104]
  - *Public Participation Plan (PPP)* is a documented, broad-based public involvement process that describes how the Planning Partner will involve and engage the public, the underserved, and interested parties in the transportation planning process, and ensure that the concerns of stakeholders are identified and addressed in the development of transportation plans and programs.

Note: The Alabama MPO Public Participation Plans may be found on the individual MPO websites. A complete listing of MPO websites may be found on the following ALDOT site: <http://www.dot.state.al.us/ltweb/planning/MPOWebsites.html>.

- *Revision* means a change to a long-range statewide or metropolitan transportation plan, TIP, or STIP that occurs between scheduled periodic updates. A *major revision* is an "amendment," while a *minor revision* is an "administrative modification." [23 CFR 450.104]
- *Statewide-managed Program (Statewide Program)* includes those transportation improvements or projects that are managed in the STIP, including project selection, at the ALDOT Central Office level, with possible regional Planning Partner solicitation and input. Examples include, but are not limited to HSIP, RRX, and TAP projects.
- *Statewide Transportation Improvement Program (STIP)* means a statewide prioritized listing/program of transportation projects covering a period of four 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. [23 CFR 450.104]
- *Transportation Improvement Program (TIP)* means a prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the metropolitan transportation plan, and required for projects to be eligible for funding under Title 23 U.S.C. and Title 49 U.S.C. [23 CFR 450.104]

### **What is a Transportation Improvement Program (TIP) and what is a Statewide Transportation Improvement Program (STIP)?**

The TIP consists of the approved MPO projects, developed by the MPOs, and statewide programs and projects developed by ALDOT within the urban areas of the MPOs. The STIP is the official transportation improvement program document, mandated by federal statute and recognized by FHWA and FTA. The STIP is a statewide, prioritized listing or program, of transportation projects to be implemented over a four-year period, consistent with MPO Long Range, Regional, or Metropolitan Plans, Statewide Transportation Plans, and MPO Transportation Improvement Programs (TIPs). The State's Five-Year Program, which incorporates the TIPs and STIP, is required by Alabama state law.

### **TIP/STIP Administration**

FHWA and FTA will only authorize projects, and approve grants for projects, that are programmed in the currently-approved STIP. If a Planning Partner, Transit Agency, or ALDOT, wishes to proceed with a project not programmed in the STIP, a revision must be made to the STIP.

Highway and road projects will be approved by FHWA, and Transit projects will be approved by FTA.

The federal Statewide and Metropolitan Planning regulations contained in 23 CFR 450 et al, govern the provisions of the STIP and of individual MPO TIPs, parts related to STIP and TIP

revisions, and other actions taken to revise 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 and Programming, Code of Regulation, 23 CFR 450.324*, permits the use of alternative procedures by the cooperating parties, to effectively manage actions encountered during a given STIP cycle. The regulations require that any alternative procedures be agreed upon, and such alternative procedures be documented and included in the STIP document.

All revisions must maintain year-to-year fiscal constraint [23 CFR 450.324(e), (h), and (i)] for each of the four years of the TIPs and STIP. All revisions shall account for year of expenditure (YOE), and maintain the estimated total cost of the project, which may extend beyond the four years of the TIP/STIP. The arbitrary reduction of the overall cost of a project, or project phase(s), shall not be utilized for the advancement of another project.

In addition, TIP revisions must be consistent with the Long Range Transportation Plan of the individual MPO, and must correspond to the adopted provisions of the MPO Public Participation Plans. A reasonable opportunity for public review and comment shall be provided for significant revisions to the TIPs and STIP.

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 Interagency Air Quality Consultation Group (IAC). If a new conformity determination is necessary, an amendment to the Long Range or Regional Transportation Plan (project listings only), shall be developed and approved by the MPO. The modified conformity determination would then be based on the amended **LRTP** conformity analysis, and public involvement procedures, consistent with the existing PPP, would be required.

If the August Redistribution of Federal Highway Funds adds, advances, or adjusts federal funding for a project, the MPOs and other Planning Partners will be notified of the Administrative Modification by ALDOT.

### **Revisions: Amendments and Administrative Modifications**

Note: This MOU does NOT change the Codes of Federal Regulations. It does modify some language within those regulations to make clear the understanding between the agreeing parties. For full application of the CFRs, visit definitions for *Amendment*, *Administrative Modification*, and *Revision* on p. 1. Revisions are not applicable to authorized project scopes

An Amendment is a major STIP/TIP planned project revision 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 from a statewide line item, exceeds the thresholds listed below, and excludes those federally-funded statewide program projects.
- Adds a new project phase(s), or increases a current project phase, or deletes a project phase(s), or decreases a current project phase that utilizes federal funds, where the

revision exceeds the following thresholds:

\*\$5 million for ALDOT federally-funded projects and Transportation Management Area (TMA) attributable projects.

\*\$1 million for ALDOT federally-funded projects and for non-TMA MPOs attributable projects.

\*\$750,000 for the county highway and bridge program.

- 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 ALDOT and the Planning Partner (not to exceed any federally-funded threshold contained in this MOU).
  - \*Results in a change in the Scope of Work on any federally-funded project that is significant enough to essentially constitute a New Project.
  - \*Level of Effort (LVOE) planned budget changes, exceeding 20% of the original budgeted amount.

All items requiring amendments to the STIP should be submitted to the ALDOT Office Engineer bureau no later than the first Tuesday of each month. Amendments to the STIP will be conducted on a Bimonthly cycle. Non-routine amendments requested by the State Transportation Director or the Joint Highway committee can be performed at any time.

Approval by the MPO (or cooperative effort with an RPO) is required for Amendments. The MPO/RPO must then request ALDOT Central Office approval, using the electronic Financial Constraint Chart (FCC) process. An FCC must be provided (in Excel format), which summarizes previous actions, the requested adjustments, and after the changes, an updated TIP. ALDOT's Central Office will review, approve, and forward to the appropriate federal agency for review and approval, with copies to other partner federal agencies.

All revisions shall be identified and grouped as one action on an 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 the TIP four-year cycle, the Planning Partner will demonstrate, through a Fiscal Constraint Chart, fiscal balance of the subject project phase, in the second period of the respective Long Range Transportation Plan.

An *Administrative Modification* is a minor STIP/TIP revision that:

- Adds a project from a level of effort category or line item, utilizing 100 percent state or non-federal funding, or an MPO TIP placement of the federally-funded, Statewide Program, or federal funds from a statewide line item that do not exceed the thresholds established by the Planning Partner.
- Adds a project for emergency repairs to roadways or bridges, except those involving substantive or functional adjustments, or location and capacity changes.
- Draws down, or returns funding, from an existing STIP/TIP Reserve Line Item, and does not exceed the threshold established between ALDOT and the Planning Partners.
- Adds federal or state capital funds from low-bid savings, de-obligations, release of encumbrances, from savings on programmed phases, and any other project-cost modification sent to and approved by FHWA or FTA, to *another* programmed project phase or line item.

The initial submission and approval process of the Statewide Transportation Improvement Program (STIP), will establish federal funding for Level of Effort (LVOE) project groups. *Subsequent placement of individual projects in the STIP that are LVOE, will be considered Administrative Modifications.*

Administrative Modifications do not affect air quality conformity, nor involve a significant change in a project scope of work that would trigger an air quality conformity reevaluation; do not exceed the threshold established in the MOU between ALDOT and the Planning Partners, or the threshold established by this MOU (as detailed in the Revisions: Amendments and Administrative Modifications section); and do not result in a change in scope on any federally-funded project that is significant enough to essentially constitute a *new project*.

Administrative Modifications do not require federal approval. ALDOT and the Planning Partner will work cooperatively to address and respond to any FHWA or FTA comments. FHWA and FTA reserve the right to question any administrative action that is not consistent with federal regulations or with this MOU, where federal funds are being utilized.

### **Level of Effort Funding Categories**

Projects in the STIP/TIP, referred to as Level of Effort (LVOE) projects, represent grouped projects not considered of appropriate scale to be identified individually. Projects may be grouped by function, work type, and/or geographical area, using the applicable classifications under 23 CFR 771.117 (c) and (d), and/or 40 CFR part 93. In nonattainment and maintenance areas, project classifications must be consistent with the *exempt project* classifications contained in the EPA transportation conformity regulations (40 CFR part 93).

LVOE projects are placed in the STIP/TIP according to selected funding programs, with the planned funding amounts for each year. ALDOT, and the affected MPOs, will be required to make a formal amendment to the STIP/TIPs for any adjustment of funding of an LVOE group that exceeds 20 percent of its originally-planned funding. The selected statewide funding programs include:

- Interstate Resurfacing Program (includes lighting, sign & pavement rehabilitation)
- Non-Interstate Resurfacing Program (FM)
- Transportation Alternative Program (TAP)
- Safety Projects (Hazard elimination, roadway and rail, high-speed passenger rail, seatbelt, blood alcohol content, and others.)
- Recreational Trails (Funds are transferred to ADECA.)
- County Allocation Funds (Off-system bridges and STP non-urban.) (Only until prior year carryover is fully obligated)
- Federal Transit Programs: (Sub Recipient) 5307 (urbanized), 5311 (non-urban), 5310 (Elderly and Disabilities), and 5339 (Buses and Bus Facilities)

Addition or deletion of individual LVOE projects are considered an administrative modification, and do not require any further MPO action prior to authorization, subject to the dollar thresholds established in the sections above. ALDOT will include all individual LVOE projects on the STIP project detail listing and will also maintain a matrix listing, on the STIP website, of LVOE projects. The MPOs will be notified as soon as any specific projects within their urban areas, are identified and selected, and will have ten (10) days to decline the project. Additionally, the MPOs will be notified as soon as any specific projects are modified or deleted within their urban areas and will have ten (10) days to decline the project deletion or change.

Level of Effort (LVOE) holds funds that are not dedicated to specific projects, and may be used to cover cost increases, or add new projects or project phases. LVOE shall not exceed the thresholds, or the requirements, of any other items that require an amendment.

Level of Effort resurfacing shall be programmed annually. Projects or project lists will be added as soon as available, and MPOs will be notified of all changes that occur in the list.

### **Financial Constraint**

Demonstration of STIP/TIP financial constraint to FHWA and FTA, takes place through a summary of recent Administrative Modifications and proposed Amendments. Real-time versions of the STIP/TIP are available to FHWA and FTA through ALDOT's Comprehensive Project Management System (CPMS/MPO Portal).

Note: While there is no stipulated timeframe established in this MOU for securing federal approval for formal Amendments or Administrative Modifications, the agencies are expected to act responsibly and with all due diligence in order to complete these processes in a timely manner.

### **STIP/TIP Financial Reporting**

At the end of each quarter, ALDOT will provide each MPO or Planning Partner with a STIP/TIP financial report of actual federal obligations and state encumbrances for highway, bridge, and transit programs in the respective Metropolitan Planning Areas. At the end of the federal fiscal year, the ALDOT report card can be used by the Planning Partners as the basis for compiling information, in order to meet the Federal Annual Listing of Obligated Projects requirement. The STIP/TIP Financial Report, provided to FHWA and FTA, will also include performance measures as allowed under the *Project Approval and Oversight Agreement a Partnership between the Federal Highway Administration Alabama Division and the Alabama Department of Transportation*, applicable to LVOE and to include:

- The total percent of STIP/TIP construction projects advanced to be ran quarterly

A summary report detailing this information will be provided at the end of the federal fiscal year.

As each MPO TIP is adopted, this MOU will be included with the TIP documentation. The MPO or Planning Partner may choose to adopt an MOU that will clarify how the MPO or Planning Partner will address TIP revisions. **In all cases, individual MPO revision procedures will be developed under the guidance umbrella of this document.** If an MPO elects to set more stringent procedures, then ALDOT, FHWA, and FTA will adhere to the more restrictive procedures.

The procedures set forth in this document will serve as the basis from which ALDOT addresses federal-funded, Statewide Program TIP revisions. This Memorandum of Understanding will begin October 1, 2019, and remain in effect until September 30, 2023, unless revised or terminated.

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

Mark D. Baillitt

Division Administrator  
Federal Highway Administration

5/16/2019

Date:

Yvette M. Taylor

Regional Administrator  
Federal Transit Administration

5-16-19

Date:

John R. Cooper

Director  
Alabama Department of Transportation

4/15/19

Date: