

# MEMORANDUM OF UNDERSTANDING (MOU)

## PROCEDURES FOR MARYLAND DEPARTMENT OF TRANSPORTATION (MDOT) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) MODIFICATIONS

The Final Rule on **Statewide and Metropolitan Transportation Planning and Programming**, which took effect on March 16, 2007, contained in 23 CFR 450 defines Amendments and Administrative Modifications. The following procedures are applicable for processing amendments or modifications to the Maryland STIP. In accordance with the provisions of 23 CFR 450.216(b), the STIP shall be developed in cooperation with the Metropolitan Planning Organization (MPO) designated for a metropolitan area. Each metropolitan transportation improvement program (TIP) shall be included without change in the STIP, directly or by reference, after approval of the TIP by the MPO and the Governor.

In accordance with 23 CFR 450.216 (n), projects in any of the first four years of the STIP may be moved to any other of the first four years of the STIP subject to the project selection requirements of 23 CFR 450.220.

The following criteria has been developed for processing Technical Corrections, Administrative Modifications, and Amendments to the STIP and is proposed as a model for those processes in the modification of the Metropolitan Planning Organizations' (MPO) TIPs and Long-Range Transportation Plans (LRTP) in accordance with the provisions of the Final Rule 23 CFR 450.

### 1. DEFINITIONS

**1.1 Technical Corrections** are **minor** changes that do not require federal or MPO approval, and meets the following qualifications:

**1.1.1** Corrects typographical, grammatical or syntactical errors that address, for example, an error in spelling, grammar, deletion of a redundant word or formatting that was inadvertently published. Does not include changes to any funding amounts.

**1.1.2** Changes a project lead agency, implementing agency, or sponsor;

**1.2. Administrative Modifications** are **minor** changes to a project included in a STIP that meets the following qualifications:

**1.2.1** Revise project status information, justification, or project scope as long as it does not trigger air quality conformity analysis; or affect fiscal constraint.

**1.2.2** Increase/decrease of funding amount of phase or shifts of funds from one phase to another within a project where the increase/decrease is within the limits of modifications identified below:

- a. If the project total cost as indicated on the STIP page is less than \$3 million, an administration modification shall be used for an increase/decrease in cost up to 50% of the total project cost or \$1 million (whichever is less).
- b. If the project total cost is greater than \$3 million but less than \$10 million, an administration modification shall be used for an increase/decrease in cost up to 30% of the total project cost.
- c. If the project total cost is greater than \$10 million an administrative modification shall be used for an increase/decrease of cost up to 20% of the total project cost.

**1.2.3** Changes the program year of funds;

**1.2.4** Changes the source of funds for a phase or a project, provided it does not exceed the threshold later noted in section 1.2.2. of this MOU;

**1.2.5** Splits or combines individually listed projects in Statewide Categories/Grouped Projects.

**1.3 Amendments** are **major** changes to a project included in a LRTP, TIP or STIP that are not Administrative Modifications. An **Amendment** is a modification to the TIP or STIP that:

**1.3.1** Affects financial constraint.

**1.3.2** Affects air quality conformity regardless of the cost of the project or the funding source.

**1.3.3** Adds or deletes a project or project phase.

**1.3.4** Increases or decreases an existing project phase greater than the threshold established in section 1.2.2 of this MOU.

**1.3.5.** Involves a major change in the scope of work to a project(s) that would trigger air quality conformity reevaluation, or result in a revised total project cost that exceeds the threshold established in 1.2.2 of this MOU. A major change could include a major change that alters the original project intent. Examples include a change in capacity or an increase or decrease in project termini of more than 10 percent of the total length of the project.

## 2. PROCEDURES

**2.1 Technical Corrections** do not require Federal or MPO approval.

**2.1.1** MDOT will notify the MPO and FHWA of technical corrections in writing on a quarterly basis through an agreed upon process.

**2.1.2** Changes based on technical corrections will be made to the STIP by MDOT.

**2.2 Administrative Modifications** do not require Federal approval.

**2.2.1** MDOT will provide the MPO with an Administrative Modification by letter. An MPO may elect not to process any TIP changes as administrative modifications and as a result all changes would be processed as amendments. Each MPO-approved Administrative Modification will be forwarded to the Maryland Department of Transportation for approval on behalf of the Secretary. The MPO Board may delegate approval of Administrative Modification to the MPO's Executive Director. If the MPO Board delegates approval of Administrative Modification to the Executive Director, the MPO will need to provide copies of the delegation to MDOT and FHWA.

**2.2.2** Once approved by the MPO and MDOT, the Administrative Modification will be incorporated into Maryland's STIP and no Federal action will be required. Notification of the action shall be made available to the public. MDOT will forward Administrative Modifications to FHWA for their records. FHWA reserves the right to disallow an Administrative Modification if it is inconsistent with this procedure.

**2.3 Amendments** (major changes to a project) **require Federal Approval**. Amendments to the STIP must be developed in accordance with the provisions of 23 CFR 450.326 and/or 23 CFR 450.216.

**2.3.1** Each approved MPO TIP Amendment will be forwarded to MDOT from the MPO. MDOT will prepare a STIP Amendment letter and attach the TIP Amendment and forward it to FHWA for Federal approval. Once approved by FHWA the Amendment will be incorporated into Maryland's STIP. The FHWA approval letter will be addressed to MDOT, with copies to the State Highway Administration (SHA), Maryland Transit Administration (MTA), and any applicable MPOs.

**3. FEDERAL REVIEW**

Consistent with the MOU between MDOT and FHWA STIP amendment review procedures all efforts should be made to approve STIP amendments within 3 weeks of receiving the amendment from MDOT. A written response (email acceptable) shall be provided to MDOT notifying them of the approval.

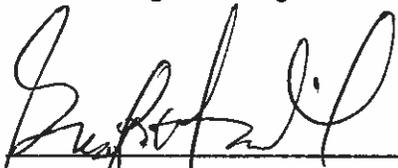
**4. DISPUTE RESOLUTION**

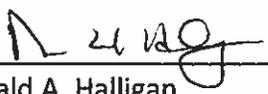
If a question arises on the interpretation of the definition of an Administrative Modification or Amendment, MDOT, SHA, MTA, the MPO, and FHWA will consult with each other to resolve the question. If after consultation, the parties disagree on the definition of what constitutes an Administrative Modification or Amendment, the final decision rests with FHWA for highway projects.

This MOU will begin June 1, 2013, and remain in effect until it is modified or terminated.

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

Acknowledged and agreed to:

  
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Date: 5/22/13  
Gregory K. Murrill  
Division Administrator  
Federal Highway Administration

  
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Date: 4/21/13  
Donald A. Halligan  
Director of Planning and Capital Programming  
Maryland Department of Transportation