

Approved June 15, 2022

# **APPENDIX B**

# **AMENDMENT AND ADMINISTRATIVE MODIFICATION PROCEDURES**



# **PROCEDURES FOR REVISIONS TO THE LONG-RANGE TRANSPORTATION PLAN AND THE TRANSPORTATION IMPROVEMENT PROGRAM (TIP) FOR THE NATIONAL CAPITAL REGION**

**RESOLUTION ADOPTED SEPTEMBER 2019**

## **Introduction**

On January 16, 2008, the TPB adopted procedures for processing revisions to its Long-Range Transportation Plan (LRTP) and Transportation Improvement Program (TIP). A revision is a change to the LRTP or TIP that occurs between scheduled periodic updates. A minor revision is an Administrative Modification and a major revision is an Amendment. These procedures are in accordance with the US DOT planning regulations 23 CFR 450. These procedures were most recently amended by TPB Steering Committee Resolution SR 8-2020 on September 6, 2019.

According to 23 CFR 450.326: TIP Revisions and Relationship to the STIP, the regional TIP projects must be included without change in a federally approved state transportation improvement program (STIP) in order for them to receive federal funding. In the TPB's metropolitan Washington region, the District of Columbia Department of Transportation (DDOT), the Maryland Department of Transportation (MDOT), and the Virginia Department of Transportation (VDOT) each provide the project descriptions and funding information for the development of the regional TIP and LRTP. Each DOT has adopted procedures for revising its STIP. When it becomes necessary for a DOT to revise the project information in the TIP, its procedures must be consistent with the TPB procedures for revising its regional TIP.

The TPB procedures are based upon the procedures adopted by DDOT, MDOT and VDOT. The procedures define what Administrative Modifications and Amendments are.

## **Definitions**

Administrative Modifications are minor changes to a project included in the LRTP, TIP or STIP that do any one or combination of the following actions:

1. Revise a project description without changing the project scope or conflicting with the environmental document;
2. Change the source of funds;
3. Change a project lead agency;
4. Split or combine individually listed projects; as long as schedule and scope are unchanged and as long as the funding amounts stay within the guidelines in number seven below.;
5. Change required information for grouped project (lump sum) listings; or,
6. Add or delete projects from grouped project (lump sum) listings as long as the funding amounts stay within the guidelines in number seven below.
7. Revise the funding amount listed for a project's phases subject to the applicable definition of the funding limitations adopted by DDOT, MDOT, and VDOT for their respective STIPs.

- a. For projects to be included in the DDOT STIP, the additional funding is limited to 20% of the *total project cost*\*
- b. For projects to be included in the MDOT STIP, changes to the funding amount is limited based upon a sliding scale that varies by the total cost\* of the project as follows:
  - If the total project cost is less than \$3 million, an Administrative Modification shall be used for an increase or decrease in cost of up to 50% of the total project cost or \$1 million, whichever is less.
  - If the total project cost is greater than \$3 million but less than \$10 million, an Administrative Modification shall be used for an increase or decrease in cost up to 30% of the total project cost.
  - If the total project cost is greater than \$10 million, an Administrative Modification shall be used for an increase or decrease of cost up to 20% of the total project cost.
- c. For projects to be included in the VDOT STIP, the additional funding is limited based upon a sliding scale that varies by the funding source and total cost\* listed for the project as follows:
  - For transit projects using Federal Transit Administration (FTA) funds:
    - If the Approved STIP total estimated project cost is \$2 million or less, an Administrative Modification shall be used for an increase of up to 100% of the total project cost.
    - If the project cost is greater than \$2 million but is \$10 million or less, an Administrative Modification shall be used for an increase of up to 50% of the total project cost.
    - If the project cost is greater than \$10 million, an Administrative Modification shall be used for an increase of up to 25% of the total project cost
  - For highway projects using Federal Highway Administration (FHWA) funds:
    - If the Approved STIP total estimated project cost is \$2 million or less, an Administrative Modification shall be used for an increase of up to 100% of the total project cost.
    - If the project cost is greater than \$2 million but is \$10 million or less, an Administrative Modification shall be used for an increase of up to 50% of the total project cost.
    - If the project cost is greater than \$10 million but is \$20 million or less, an Administrative Modification shall be used for an increase of up to 25% of the total project cost.
    - If the project cost is greater than \$20 million but is \$35 million or less, an Administrative Modification shall be used for an increase of up to 15% of the total project cost.
    - If the project cost is greater than \$35 million, an Administrative Modification shall be used for an increase of up to 10% of the total project cost

An Administrative Modification can be processed in accordance with these procedures provided that:

- It does not affect the Air Quality Conformity determination;
- It does not impact financial constraint; and
- It does not require public review and comment.

Amendments are major changes to a project included in the LRTP, TIP or STIP that are not Administrative Modifications.

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\* See "Defining Total Project Cost" on the next page for further clarification of this term and how it relates to the definitions permitting Administrative Modifications.

## Defining Total Project Cost

One of the TPB's primary roles is to verify the financial constraint of the region's LRTP and TIP. In order to accomplish this, the TPB must have accurate estimates for all expenditures planned in the LRTP and programmed in the TIP. The Project InfoTrak database application is one tool that the TPB uses to meet this requirement. Project InfoTrak includes hundreds of records of projects and programs in the LRTP and TIP and their planned expenditures. Each of these records can be categorized as either a *discrete project* or an *ongoing program*. These two terms are defined below along with an explanation of how the "total project cost" for each type is calculated. These two definitions for the total project cost are what TPB staff will use when determining the threshold between which actions can be performed as Administrative Modifications and which will require

### Total Project Cost for Discrete Projects

Discrete projects are those LRTP or TIP records that have finite total costs and actual projected completion dates. The total project cost is not the same as the total amount of funding programmed in the four years of the TIP and can include funding spent or programmed outside the four years of the TIP.

The total project cost for discrete project records should cover the full scope of work described in the project's description including studies, planning, preliminary engineering, right-of-way acquisition, construction, utilities, and overhead or any other capital expenditures through the expected completion of the project. The TPB's Project InfoTrak database application automatically calculates a total cost for each project by adding together all funds programmed in previous TIPs (shown in TIP tables in the "Prior" column), all funds programmed in the active four years of the TIP, and any funding that the implementing agency has scheduled beyond the final year of the TIP (shown in TIP tables as "Future" funding, sometimes called "balance to build" or "cost to complete"). ***For discrete projects, this calculated "total programmed amount" will serve as the total project cost.*** While the Project InfoTrak system labels all funding entered for a project as "programmed," any future funding amount is provided only for the purpose of calculating the total project cost and does not necessarily represent an agency's programmed funding beyond the TIP, nor shall it be considered a commitment to program those funds. Consistent with practices used in the LRTP financial analysis, all future funding should be provided in Year-of-Expenditure (YOE) dollars.

### Breakouts from Discrete Projects

Sometimes agencies will advance one segment of a larger discrete LRTP project into the TIP to begin programming it for construction. There may also be instances where an agency will begin studying, planning, preliminary engineering or even acquiring rights-of-way for projects that aren't expected to begin construction until much later. This section discusses how breakouts from discrete projects should be handled and what constitutes the "total project cost" for those breakout records.

As stated in the "Definitions" section of this document, a project segment or phase may be broken out in the TIP as an independent discrete project record, so long as there is no change to how the project is reflected in the most recently approved air quality conformity analysis and the action is in compliance with any and all other federal requirements. Discrete projects or any sub-segment or independent phase thereof should be submitted in the Project InfoTrak system as either an LRTP record or a TIP record so as to prevent double counting of projected expenditures. Any breakout record should be titled, categorized (using the Primary Project Type field) and described so that it is

clear the record covers only that specific phase or segment. Break-out records for project segments should include the total projected cost for that segment only, using prior and/or future funding if necessary. Breakout records for any pre-construction phases should capture the projected cost of that entire phase (again using prior and/or future funding if necessary). This will then be considered the “total project cost” for those breakout phases or segments. Whenever a project phase or segment is broken out from a larger LRTP (or another TIP) project, the original project data (title, description, map, and funding, etc.) should also be updated to reflect the removal of that phase or segment. For example, the total project cost of a record that is identified as “Study Only” should only cover the cost of doing the actual study. The full projected cost of constructing the project should remain with the original project record minus the cost of the study, presuming it had previously included that amount.

## **Total Project Cost for Ongoing Programs**

Ongoing programs differ from discrete project records in that they are typically anticipated to continue indefinitely and do not have an estimated completion date. These programs are often funded at or near the same level from year to year. They may be operational programs such as a Commuter Assistance Program or traffic operations. They may focus on roadway, sidewalk, or transit asset maintenance. Ongoing programs also include project groupings which are utilized by every agency. Project groupings may themselves be a collection of smaller-scale discrete projects, however the continuous annual funding and lack of a conclusive date mean they behave more like an ongoing operational program than a discrete project. This continuous nature makes calculating a finite “total project cost” somewhat arbitrary. ***For ongoing program records, the 4-year program total will serve as the total project cost.*** Funds shall be programmed in the active four years of the TIP only. All prior funding will be removed and no future funding should be entered. To account for all expenditures in the LRTP, ongoing programs should have one TIP record to cover the first 4 years, and one LRTP record that reflects the cost of the program beyond the final year of the current TIP through the horizon year of the LRTP.

## **Procedures**

When it becomes necessary for a DOT to revise the information for a project in the LRTP or TIP, the agency will review the type of changes to the project and apply the above definitions to determine if it can be processed by the TPB as an Administrative Modification or an Amendment. The DOT will then submit the project changes to the TPB and request that it take the appropriate action to approve either a project Administrative Modification or a project Amendment.

TPB staff will publish a schedule that announces in advance when submissions for amendments and administrative modifications will be accepted and the associated due dates for data entry and submission of the requests. These dates are subject to change due to unforeseen circumstances, but staff will update the published schedule as far in advance as possible and make every effort to inform the implementing agencies of any such changes. Amendment and administrative modification submissions will not be accepted after the posted due dates, save for extenuating circumstances.

## **Amendments**

At the beginning of each Amendment cycle, TPB staff will issue a call for Amendments. Each agency requesting an LRTP or TIP Amendment must complete their data entry and submit a signed letter addressed to the Chair of the TPB by the specified deadline. The letter must state why the

Amendments are being requested, specify if any funds are simply being advanced and deducted from “future” funding (which would not change the total project cost), identify the source of any new funding that would increase the total project cost, and whether or not that funding was included in the financial analysis of the most recently approved LRTP and TIP.

The requests will be reviewed by TPB staff and those meeting the definition of an Amendment will be presented to the TPB Steering Committee. The Steering Committee will consider and be asked to approve project Amendments that are non-regionally significant†. Under the TPB Bylaws, the Steering Committee “shall have the full authority to approve non-regionally significant items, and in such cases, it shall advise the TPB of its action.” The Steering Committee will consider and place all other project Amendments on the TPB agenda for consideration and approval after meeting the applicable US DOT planning regulations for LRTP and TIP Amendments. For agencies requesting an amendment to update its entire section of the TPB’s TIP, a 30-day public comment period is required. In such instances, agencies must provide TPB staff with notice at least 60 days in advance in order to ensure that the amendment can be given adequate time on the necessary agendas.

All TPB approved requests for LRTP and TIP project Amendments will be forwarded to the requesting DOT and recorded in Project InfoTrak. Upon receipt of the approved amendment, the requesting DOT will transmit it to FHWA and/or FTA (depending on the funding sources involved) along with the request for federal approval of an amendment to its STIP. Agencies may transmit their STIP amendment requests either directly from within Project InfoTrak or via email to the appropriate US DOT agency. Requests sent via Project InfoTrak will alert the federal agency personnel responsible for review of that jurisdiction’s STIP that there is a pending amendment request and provide them with a link to log into the system, review the request and approve it if deemed acceptable. Requests sent via email should include courtesy copies sent to the Director of the Department of Transportation Planning of the Metropolitan Washington Council of Governments and any relevant TPB staff member(s). The DOT is also responsible for ensuring that TPB staff are kept apprised of any federal approvals so that they may be logged in Project InfoTrak. After approval by FHWA and FTA, the Amendment will be incorporated into the DOT’s STIP.

## **Administrative Modifications**

In accordance with the posted schedule, TPB staff will announce the opening of each period for accepting Administrative Modification requests. The TPB has delegated approval of LRTP and TIP project Administrative Modifications to the Director, DTP. Requests for LRTP and TIP project Administrative Modifications will be submitted via email to the Director or their designee. In the Administrative Modification request, the submitting agency must state why each Administrative Modification is needed, the source of any new funds that increase the project cost and whether those funds were included in the most recent financial analysis of the LRTP and TIP, and why the agency believes that the action qualifies as an Administrative Modification, citing the definitions provided above and the agency’s procedures and agreements with FHWA and FTA. The request(s) will be reviewed and those meeting the definition of Administrative Modification will be approved and posted in the Project InfoTrak system. Approved LRTP and TIP project Administrative Modifications will be forwarded to the requesting implementing agency for incorporation into its STIP with no federal action required.

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† The definition of “regionally significant” and “non-regionally significant” used here is not the same as that used in the air quality conformity process (which involves the creation of new movement options within the model used to predict travel patterns from which motor vehicle emissions are calculated). Here, the term is more subjective and factors such as the scale and scope of the project and the additional amount of proposed funding may be considered.

## **Cumulative Administrative Modification Totals**

Since Administrative Modifications are not reviewed and approved by FHWA or FTA, only initial TIP adoptions or subsequent Amendments can provide those agencies with an official change in project or program cost. Therefore, when calculating the percentage increase in a total project cost across successive Amendment Modification requests, the baseline total project cost will always refer back to the total project cost most recently approved by adoption of, or Amendment to the TIP. Once the threshold between an Administrative Modification and an Amendment is reached the next action taken must be by Amendment, regardless of the size of the Administrative Modification requested. This will prevent a scenario where successive Administrative Modification requests would effectively bypass the intended limit to an increase of a project or program's cost.

## **Dispute Resolution**

If a question arises on the interpretation of the definition of an Amendment, the TPB, the requesting DOT, FHWA and FTA (the parties) will consult with each other to resolve the question. If after consultation, the parties disagree on the definition of what constitutes an Amendment, the final decision will rest with the FTA for transit projects and FHWA for highway projects.