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RESOLUTION
of the
METROPOLITAN TRANSPORTATION BOARD
of the
BOARD OF DIRECTORS
of the
MID-REGION COUNCIL OF GOVERNMENTS OF NEW MEXICO
(R-12-04 MTB)

**ADOPTING REVISED
TRANSPORTATION IMPROVEMENT PROGRAM
POLICIES AND PROCEDURES
FOR THE
ALBUQUERQUE METROPOLITAN PLANNING AREA**

WHEREAS, federal regulations governing transportation planning require that a short-term Statewide Transportation Improvement Program (STIP) be adopted by the State; and

WHEREAS, federal regulation governing transportation planning require that a short-term Transportation Improvement Program (TIP) be adopted by the Metropolitan Planning Organization (MPO) for Metropolitan Areas; and

WHEREAS, federal regulation require MPO TIP's to be incorporated into the STIP without modification; and

WHEREAS, federal regulations require the State and MPO's to develop procedures, which are agreed to by the cooperating parties (State, MPO's and Public Transportation Operators), for the development and revision of the STIP and TIP

27 respectively; and

28 WHEREAS, federal regulations require the development of project selection
29 criteria to use in selecting projects for implementation; and

30 WHEREAS, the Mid-Region Metropolitan Planning Organization is the MPO for
31 the Albuquerque Metropolitan Planning Area (AMPA); and

32 WHEREAS, the current procedures governing development and management of
33 the TIP for the AMPA have been in place since 2008; and

34 WHEREAS, The "TIP Policies and Procedures for the AMPA" enables
35 participants in the metropolitan transportation planning process to understand and
36 participate more fully in the development of the TIP; and

37 WHEREAS, 23 CFR 450.216(n) reads in part: "In addition, the STIP may be
38 revised at any time under procedures agreed to by the State, MPO(s), and public
39 transportation operator(s) consistent with the STIP development procedures established
40 in this section, as well as procedures for participation by interested parties [see
41 §450.210(a)], subject to FHWA/FTA approval [see §450.218]. Changes that affect
42 fiscal constraint must take place by amendment of the STIP."; and

43 WHEREAS, 23 CFR 450.324(n) reads in part: "In addition, the TIP may be
44 revised at any time under procedures agreed to by the State, MPO(s), and public
45 transportation operator(s) consistent with the TIP development procedures established
46 in this section, as well as procedures for participation by interested parties [see
47 §450.316(a)] and FHWA/FTA actions on the TIP [see §450.328]."; and

48 WHEREAS, the State adopted and approved its *STIP Policies and Procedures* in
49 January 2012, with concurrence by the New Mexico Federal Highway Administration

50 Division Office in February of 2012, without the agreement of the Mid Region
51 Metropolitan Planning Organization, the AMPA public transit providers, or the other
52 MPO's and public transit providers throughout the state; and

53 WHEREAS, the adopted and approved *STIP Policies and Procedures* contain a
54 provision limiting an administrative modification of a project's total programmed funds
55 (20% or less and under \$2,000,000) to occur only once in the two-year life of the STIP
56 (known as the "one time rule"); and

57 WHEREAS, the Mid Region Metropolitan Planning Organization believes the
58 "one time rule" to be overly restrictive and a hindrance to effective delivery of local lead
59 projects; and

60 WHEREAS, discussions with the state over concerns about the "one time rule"
61 have not resulted in any changes to the *STIP Policies and Procedures* to ensure the
62 continued effective delivery of local lead projects, and

63 WHEREAS, the Mid Region Metropolitan Planning Organization was informed by
64 the State at the April 13, 2012 Transportation Coordinating Committee meeting that
65 processing of TIP amendments would be suspended until the MPO amended its *TIP*
66 *Policies and Procedures* to be consistent with the *STIP Policies and Procedures*
67 including incorporation of the "one-time rule";

68 NOW THEREFORE BE IT RESOLVED by the Metropolitan Transportation Board
69 of the Mid-Region Council of Governments of New Mexico that the *Transportation*
70 *Improvement Program Policies and Procedures for the Albuquerque Metropolitan*
71 *Planning Area* and appendices as revised (Attachment A) is adopted for use in
72 managing, developing and revising the TIP.

73 AND BE IT FURTHER RESOLVED, that the Metropolitan Transportation Board
74 encourages the State to reconsider its position, and undertake a comprehensive and
75 inclusive process to update the STIP and TIP Policies and Procedures that includes
76 collaboration with MPO's and public transit providers according to federal regulations,
77 and results in a policy that ensures the continued effective delivery of all STIP/TIP
78 projects;

79 AND BE IT FURTHER RESOLVED that the Metropolitan Transportation Board
80 acknowledges receipt of the letter dated April 19, 2012 from the NMDOT (Attachment B)
81 which states the Department will assist local entities in making modifications necessary
82 to reduce the risk of any projects in the TIP of not being able to obligate their FY 2012
83 funds.

84 PASSED, APPROVED, AND ADOPTED this 20th day of April 2012 by the
85 Metropolitan Transportation Board of the Board of Directors of the Mid-Region Council
86 of Governments of New Mexico.

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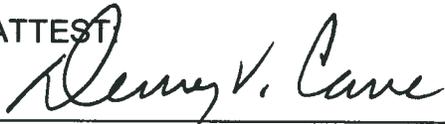
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ATTEST



Dewey V. Cave, Executive Director
Mid-Region Council of Governments



Maggie Hart-Stebbins, Chair
Metropolitan Transportation Board

Transportation Improvement Program Policies and Procedures

for the

Albuquerque Metropolitan Planning Area

● **DRAFT-Proposed 2012 Revisions** ●

April 19, 2012

● **KEY SECTION ONLY** ●

BLACK Text = current wording to remain as is.

RED Text = Proposed Changes Previously Agreed Upon By NMDOT

BLUE Text = Further Proposed Changes as of April 16, 2012

GREEN Text = Explanatory notes, not part of the revisions.

Approved by the Metropolitan Transportation Board - October 23, 2008

Revisions Approved by the Metropolitan Transportation Board - October 15, 2010

For MTB Action - April 20, 2012

As of April 19, 2012

X. TIP REVISIONS

All projects or particular phase of the project included in the adopted TIP will be programmed to the amount needed to complete the project or phase and in a time frame that allows all project requirements to be met by the obligation authorization deadline. Unfortunately, project costs may rise or fall as a result of forces outside the project sponsor's control. In the same way, projects may not be able to be completed in the time frame originally estimated. For these and other reasons, sponsors may find it necessary to request revisions to the adopted TIP.

According to Federal regulations [23 CFR § 450.104] TIP *Revisions* are changes made to a TIP; these are further classified into two categories:

- TIP *Amendments* are major revisions which require **public review and opportunity for comment, redemonstration of fiscal constraint, a conformity determination (if necessary), and** official approval by the Metropolitan Transportation Board. This is followed by submission to the New Mexico Secretary of Transportation for approval and subsequent approval by the FHWA and FTA.
- TIP *Administrative Modifications* are minor revisions which can simply be made by MRMPO staff after proper notification and verification that the change(s) falls into this category. **All administrative modifications to the programmed funds of any project or group of projects must demonstrate fiscal constraint or be funding neutral. [Added for clarification.]**

Criteria Differentiating TIP Amendments and TIP Administrative Modifications

Amendments are required for:

- addition or deletion of any project (except as noted in the *Administrative Modifications* section below);
- substantial changes to the scope of a project (e.g. changing the number of through traffic lanes, changing the type of project such as from rehabilitation to reconstruction);
 - changes to any project that would affect air quality conformity;
 - changes in the availability (adding or deleting funds by Congressional action) of earmarked (special appropriation) funds;
- moving a project into or out of the first four Federal Fiscal Years of a TIP;
- changes in a project's total programmed amount greater than **15% 20% of the sum of all programmed funds listed for the project in the four-year TIP (as of the date the project first appeared in the current active TIP or as noted in the most recent approved TIP Amendment affecting that project) or any amount greater than \$2,000,000;**
- ~~changes in a project's state or local non-matching funds exceeding \$2,000,000 must be revised by amendment; (kept in for clarification)~~
- changes in a project's fund source(s) from- non-Federal to Federal; and
- changes in the termini of a ~~capacity project of any length OR any~~ project in which the **termini is extended beyond the limits presented to the public during the public involvement process and/or beyond the limits noted in the environmental document. total length changes more than ½ mile.**

Administrative Modifications can be made for:

- any revisions that do not meet the Amendment criteria listed above, such examples as:

- changes made to an existing project's **four-year total** programmed amount less than ~~15%~~ **20%** (up to \$2,000,000). **However, (effective October 1, 2012)** This type of modification may be done **only one time** per project in the two-year life of the active TIP and should be utilized only when funds are close to being obligated and there is not enough time for a TIP Amendment. If a modification revises the federal funding of a project, but does not change the total amount programmed in the 4 year TIP, then this "one-time" rule has not been utilized. **(Per letter of April 19, 2012, the NMDOT has agreed to work with local agencies and the Mid-Region MPO to revise the funding for FY 2012 projects which may be in jeopardy of not obligating their funds by August 15, 2012.)**

▪ **The "four-year total programmed amount" shall be defined as the sum of all federal, state, local and tribal programmed funds listed for the project in the four-year TIP (as of the date the project first appeared in the current TIP or as noted in the most recent approved TIP Amendment revising that project's programmed amount). (kept in for clarification)**

Examples:

- If a modification simply moves a project's funds from one FY to another in the 4 year TIP, the total remains the same, so the "one-time" rule does not apply.
- If a modification switches two or more projects by moving them from one FY to another in the 4 year TIP, the total of each project remains the same, so the "one-time" rule does not apply.
- If a modification simply switches fund sources, the total remains the same, so the "one-time" rule does not apply.
- If a modification adds federal funds in one category and removes the same amount in another category in the same project, the total remains the same, so the "one-time" rule does not apply.
- If a modification adds federal funds to a project in the first 4 years of the TIP, the total has been increased, so the "one-time" rule does apply.
- If a modification reduces federal funds in a project in the first 4 years of the TIP, the total has been decreased, so the "one-time" rule does apply.
- If a modification moves federal funds from one project in the first 4 years of the TIP to another project, the total of one project has been decreased and the other increased, so even though the net change to the TIP is zero, the "one-time" rule does apply **(provided both changes did not exceed 20% or \$2 million, whichever is less).**
- If an agency needs to increase its right-of-way federal funds it may do so in one of two ways.
 - a). The agency could move some construction funds from one FY to another so the "one-time" rule would not apply, and then submit a TIP Amendment to put additional funds in construction. This increases the project's cost by amendment but now the 20% rule is applied to the new, higher total when and if the "one-time" rule is utilized.
 - b). The agency could increase the ROW funds by administrative modification in which case the project's total has been increased, so the "one-time" rule does apply, but the ROW funds were obligated on time. If construction is not anticipated within the two-year time frame of the active TIP, it doesn't matter that the "one-time" rule has been utilized.
- If a project's funds are adjusted to change the previously estimated amount of FTA or FLHP funds in order to reflect the amount actually awarded, this falls under allowable administrative modifications (continued below) and the

"one-time" rule does not apply because the change is necessary to ensure fiscal constraint of those funds sources.

- minor changes to the scope of a project (such as a change that does not require any recertification);
 - minor changes to the termini of a ~~non-capacity~~ project (~~one that increases or decreases the total length of the project by no more than ½ mile~~) which falls within the termini of the environmental document and does not extend beyond the limits taken to the public during the public involvement process;
 - adding or deleting a project development phase of a project (Env. Doc, PE, Design, ROW, Constr. or Other) without major changes to the scope to the project;
 - moving a project's funds to another Federal Fiscal Year provided they are not being moved into or out of the first four FY's of a TIP;
 - moving projects in any of the first four years of the TIP which may be advanced in place of another project in the first four years of the TIP including the movement of those funds to another Federal Fiscal Year provided they are not being moved into or out of the first four years of the TIP and show fiscal constraint [23 CFR 450.324(n)];
 - minor changes to funding sources of a project in the TIP (including switching Federal funding categories);
 - changes in a project's fund source(s) from Federal to non-Federal with no changes to the project's scope provided the funds have not been obligated (however, the disposition of the "freed-up" Federal funds remain under the authority of the MRMPO and are subject to TIP Revisions as appropriate);
 - changes to a project's "Work Type" codes and other coding which do not change the amount of funds programmed; and
 - changing a project's lead agency when agreed upon by the two agencies affected.
- In addition, the following changes shall also be considered Administrative Modifications:
- changes made to an existing project's programmed FTA funds, National Scenic Byway funds, ~~Safe Routes to School funds~~, Federal Lands Highway Program funds (FH, IRR, PRP, PLHD, WRR & DAR) ~~HSIP~~, and Federal Recreational Trail funds, in order to reflect the actual amount awarded by the federal agency and the corresponding required amount of matching funds provided the change does not exceed \$2,000,000;
 - adding a project to the TIP which utilizes FTA funds, National Scenic Byway funds, ~~Safe Routes to School funds~~, Federal Lands Highway Program funds (FH, IRR, PRP, PLHD, WRR & DAR), ~~HSIP~~, Federal Recreational Trail funds, or 100% state and/or local funds, provided the total project amount is \$2,000,000 or less, and the project is consistent with the MTP having minor impact on the overall metropolitan transportation system and it will not add or reduce through-travel lanes on any roadway functionally classified as an *urban collector* or *rural major collector* or higher;
 - adding a project to the TIP which is split from a "parent project" provided the cumulative, total amount of Federal funding in each funding category in the parent and split projects remains intact and the overall scope of work intended to be accomplished does not

- change; and
- o combining two or more projects already in the TIP **provided** the cumulative, total amount of Federal funding in each funding category of the combined projects remains intact **and** the overall scope of work intended to be accomplished does not change.

Amendments to the TIP

NMDOT has established a process for amending the STIP on a quarterly basis. This schedule allows for review of the STIP by the New Mexico State Transportation Commission at their meetings in ~~November, February, May, and August~~ **December, March, June and September** of every year. To comply with the state process, MRMPO will process TIP Amendments through its committees and the MTB meetings ~~held in October, January, April, and July of every year~~ in a timely fashion which allows NMDOT to incorporate the TIP amendment into the STIP amendment for review by the State Transportation Commission.

For all TIP Amendments the opportunity for public participation will be provided in accordance with *Public Involvement Procedures for the Mid-Region Council of Governments* [23 CFR § 450.326(a)]. ~~TIP Amendments will be available for public comment at least fifteen (15) days prior to their consideration by the MTB in addition to the time allotted for public comment at the MTB meeting.~~

- All proposed TIP Amendment will be available for public review and comment and posted on the MRCOG website (www.mrcog-nm.gov) for at least fifteen (15) days prior to the vote by the MTB. MRMPO staff will review any comments received and make any necessary recommendations regarding appropriate ways to address any concerns. Additionally, time will be allotted at the MTB meeting for public comment on the TIP Amendment prior to the vote. **[This section revised for clarification.]**

After approval by the MTB the Amendment is forwarded to the **District Engineer(s) and the NMDOT STIP Coordinator** who forwards the Amendment to the NM Secretary of Transportation for approval and is incorporated without modification to the STIP. It is then forwarded to FHWA and FTA for approval and is. [23 CFR 450.326(a)] A *Quarterly Amendment Cycle* has been established for the TIP and STIP per NMDOT procedures. (See Appendix E, for TIP Quarterly Amendment Cycles and Timeline and Appendix K for a flow chart describing the revision process.)



April 19, 2012

Dave Pennella
Transportation Program Manager
Mid Region Metropolitan Planning Organization
809 Copper Avenue NW
Albuquerque, NM 87102

RE: TIP Policies & Procedures – Amendments & Administrative Modifications

Mr. Pennella,

This letter is in response to your most recent email dated April 16, 2012, regarding the TIP Policies and Procedures. While we appreciate your inclusion of the revised administrative modification procedure commonly referred to as the "one-time" rule, we cannot consider MRMPO's TIP Policies and Procedures in compliance with the NMDOT's STIP Policies and Procedures until this language is in effect. As of February 9, 2012, the NMDOT's revised Policies and Procedures are in effect and all modifications to the TIP/STIP, whether administrative modifications or amendments must comply with these. We also had some additional comments on the proposed language that will need to be addressed prior to the NMDOT being able to consider the TIP Policies and Procedures in compliance with the STIP Policies and Procedures.

The NMDOT understands the MPO's concerns regarding its ability to make modifications necessary to deliver its program by the end of the federal fiscal year. To this end, every effort will be made in accordance with the established policies and procedures. This includes providing assistance to the local entities in making the modifications necessary to reduce the risk of any projects in the TIP not making the federal closeout. In order to accomplish this we will need the MPO and the local entities to compile a list of projects in jeopardy and provide the reasons they are at risk. We will also ask that local entities provide the most recent estimates, scope and termini information for these projects in order to receive the most appropriate advice.

If you have any further questions regarding this response please call me at 505-476-3785.

Respectfully,

A handwritten signature in blue ink that reads "Rebecca Maes". Below the signature, the name and title are printed in a standard black font.

Rebecca Maes
STIP Coordinator

Cc:

Elias Archuleta
Claude Morelli
Tony Abbo
Max Valerio
Anne McLaughlin
Tamara Haas

Susana Martinez
Governor

Alvin C. Dominguez, P.E.
Cabinet Secretary

Commissioners

Pete K. Rahn
Chairman
District 3

Debra Hicks
Vice Chairman
District 2

Dr. Kenneth White
Secretary
District 1

Ronald Schmelts
Commissioner
District 4

Butch Mathews
Commissioner
District 5

Jackson Gibson
Commissioner
District 6