



MEMORANDUM OF UNDERSTANDING (MOU) Lebanon County Metropolitan Planning Organization (LEBCO MPO) for FFY 2025-2028 Transportation Improvement Program (TIP) Revisions

Background

This Memorandum of Understanding (MOU) between the Pennsylvania Department of Transportation (PennDOT), the Lebanon County Metropolitan Planning Organization (LEBCO MPO), Lebanon Transit (LT), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA) establishes procedures to be used for processing revisions to the FFY 2025-2028 Transportation Improvement Program (TIP).

What is a Transportation Improvement Program (TIP)?

The TIP is the official transportation improvement program document mandated by federal statute **23 CFR 450.326** and recognized by FHWA and FTA. The TIP includes a list of projects to be implemented over a four-year period as well as all supporting documentation required by federal statute. The STIP includes regional TIPs developed by the MPOs and RPOs, the PennDOT developed Interstate Management (IM) Program and other Statewide Programs (PennDOT works with Wayne County to develop the Wayne County Independent TIP). Statewide Programs are coordinated initiatives, projects or funds that are managed by PennDOT's Central Office on a statewide basis. Examples of Statewide Programs include, but are not limited to, the Secretary of Transportation's Discretionary (Spike), the Major Bridge Public Private Partnership (MBP3) Program, the Rapid Bridge Replacement (RBR) Project developed via a Public Private Partnership (P3), Highway Safety Improvement Program (HSIP) set-a-side, the National Electric Vehicle Infrastructure (NEVI) Formula Program, Highway-Rail Grade Crossing Safety (RRX), Surface Transportation Block Grant Program set-a-side (TAP) funds, Green-Light-Go (GLG), Automated Red Light Enforcement (ARLE), Multi-Modal (MTF), Recreational (Rec) Trails, Transportation Infrastructure Investment Fund (TIIF), Statewide Transit and Keystone Corridor projects. The Interstate Management Program will remain its own individual program and includes prioritized statewide Interstate projects. The Commonwealth's 12-Year Program (TYP), required by state law (Act 120 of 1970), includes the STIP/TIPs in the first four-year period. The TYP is not covered by Federal statute. Therefore, this MOU covers revisions only to the STIP/TIP.

TIP Administration

FHWA and FTA will only authorize projects and approve grants for projects that are programmed in the current approved TIP. If the LEBCO MPO, LT, and/or PennDOT wishes to proceed with a federally funded project not programmed on the TIP, a revision must be made.

The federal statewide and metropolitan planning regulations contained in **23 CFR 450** govern the

provisions for revisions of the LEBCO MPO' TIP. The intent of this federal regulation is to acknowledge the relative significance, importance, and/or complexity of individual programming actions. If necessary, **23 CFR 450.328** permits the use of alternative procedures by the cooperating parties to effectively manage actions encountered during a given TIP cycle. Cooperating parties include PennDOT, the LEBCO MPO, LT, FHWA, and FTA. Any alternative procedures must be agreed upon and documented in the TIP.

TIP revisions must be consistent with Pennsylvania's Performance Management (TPM) requirements, Pennsylvania's Long Range Transportation Plan (LRTP), and the LEBCO MPO's LRTP. In addition, TIP revisions must support Pennsylvania's Transportation Performance Measures, the Transportation Asset Management Plan (TAMP), the Transit Asset Management (TAM) Plan, the Strategic Highway Safety Plan (SHSP) and Congestion Management Plan (CMP), as well as PennDOT's Connects policy. Over the years, Pennsylvania has utilized a comprehensive planning and programming process that focuses on collaboration between PennDOT, FHWA, FTA, MPOs/RPOs, and transit agencies at the county and regional levels. This approach will be applied to begin implementation of TPM and Performance Based Planning and Programming (PBPP). PBPP is PennDOT's ongoing assessment, target setting, reporting and evaluation of performance data associated with the TIP investment decisions. This approach ensures that each dollar invested is being directed to meet strategic decisions and enhances the overall performance of the Commonwealth's transportation system.

TIP revisions must correspond to the adopted provisions of the LEBCO MPO's Public Participation Plans (PPP). A PPP is a documented broad-based public involvement process that describes how the LEBCO MPO will involve and engage the public in the transportation planning process to ensure that comments, concerns, or issues of the public and interested parties are identified and addressed in the development of transportation plans and programs. A reasonable opportunity for public review and comment shall be provided for significant revisions to the TIP.

All projects within a non-attainment or maintenance area will be screened for Air Quality significance. PennDOT will coordinate with LEBCO MPO to screen Statewide Program projects for Air Quality significance. 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 PennDOT Air Quality Interagency Consultation Group (ICG). If a new conformity determination is deemed necessary, an **amendment** to the TIP shall also be developed and approved by the LEBCO MPO. The modified conformity determination would then be based on the amended TIP conformity analysis and public involvement procedures consistent with the LEBCO MPO's PPP. Upon adoption of the revised conformity determination, air quality resolution and amended TIP, the LEBCO MPO will then provide a formal request to PennDOT to submit the determination to FHWA/FTA for their review and approval. FHWA and FTA will coordinate with EPA to achieve concurrence and then subsequently issue a joint approval on the air quality conformity determination.

The federal planning regulations, **23 CFR 450.324(a) & (c)** and **23 CFR 450.330(c)**, define update cycles for LEBCO MPO LRTPs. Per **23 CFR 450.330(c)**, "Until the MPO approves (in attainment areas) or the FHWA and the FTA issue a conformity determination on (in nonattainment and maintenance areas) the updated Long Range Transportation Plan (LRTP), the LEBCO MPO may not amend the TIP." MPOs/RPOs in air quality nonattainment and maintenance areas are required to update their LRTP every 4 years, and their LRTP clock is reset with the joint FHWA/FTA air quality conformity action on their adopted plan. If the LRTP in a nonattainment or maintenance area has expired due to lack of a conformity approval, the LEBCO MPO cannot amend the LRTP or TIP and the State cannot amend the affected portion of the STIP. This includes any projects on the IM TIP or Statewide TIP occurring within the LEBCO MPO area. Accordingly, MPOs/RPOs in nonattainment or maintenance areas should allow at least 60-90 days between Board adoption and their LRTP conformity expiration date to allow for the necessary federal coordination and joint approval processes to be completed.

TIP Revisions - Amendments and Administrative Actions

In accordance with the federal transportation planning regulations 23 CFR 450 revisions to the TIP will be handled as an *Amendment* or an *Administrative Modification* based on agreed upon procedures detailed below.

An *Amendment* is a revision that adds a new project, deletes an existing project, or involves a major change to an existing project included in a TIP that:

- **Affects air quality conformity regardless of the cost of the project or the funding source;**
- Adds a new project, deletes a project that utilizes federal funds, or federalizes a project that previously was 100% state and/or locally funded. A new project is a project that is not programmed in the current TIP and does not have previous Federal obligations.
- Deletes a project that utilizes federal funds, except for projects that were fully obligated in the previous TIP and no longer require funding. In this case, removal of the project will be considered an administrative modification.
- Adds a new phase(s), deletes a phase(s) or increases/decreases a phase(s) of an existing project that utilizes federal funds that exceeds the thresholds:
 - \$2 million (Federally funded Statewide Program projects are excluded from this provision)
- 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 PennDOT and the LEBCO MPO (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.

Approval by the LEBCO MPO is required for *Amendments*. The LEBCO MPO must then initiate PennDOT Central Office approval using the e-STIP process. An eSTIP submission must include a Fiscal Constraint Chart (FCC) that clearly summarizes the before amounts, requested adjustments, after change amounts, and detailed comments explaining the reason for the adjustment(s), and provides any supporting information that may have been prepared. The FCC documentation should include any administrative modifications that occurred along with or were presented with this action at the LEBCO MPO meeting(s). The supporting documentation should include PennDOT Program Management Committee (PMC) and Center for Program Development and Management (CPDM) items/materials, if available. Before beginning the eSTIP process, the LEBCO MPO/District8-0/CPDM staff should ensure that projects involved in the eSTIP are meeting funding eligibility requirements and have the proper air quality conformity status and region exempt codes (as appropriate) in PennDOT's Multimodal Project Management System (MPMS).

All revisions associated with an amendment, including any supporting administrative modifications, should be shown on the same FCC, demonstrating both project and program fiscal constraint. The identified grouping of projects (the entire action) will require review and/or approval by the cooperating parties. In the case that a project phase is pushed out of the TIP period, the LEBCO MPO and PennDOT will demonstrate, through an FCC, fiscal balance of the subject project phase in the second or third four years of the TYP and/or the respective regional LRTP.

The initial submission and approval process of the Interstate Program and other federally funded Statewide Programs and increases/decreases to these programs which exceed the thresholds above will be considered an amendment and require approval by PennDOT and FHWA/FTA (subsequent placement of these individual projects or line items on respective LEBCO MPO TIP will be considered an administrative modification). In the case of Statewide Programs, including the IM Program and other federally funded statewide programs, approval by PennDOT's PMC and FHWA is required. Statewide managed transit projects funded by FTA programs and delivered via Governor's apportionment are selected by PennDOT pursuant to the Pennsylvania State Management Plan approved by FTA. These projects will be coordinated between FTA, PennDOT, the Lebanon Transit and LEBCO MPO and should be programmed within the TIP of the urbanized area where the project is located. These projects and the initial drawdown will be considered an amendment to the Statewide Program.

An ***Administrative Modification*** is a minor revision to a TIP that:

- Adds a new phase(s), deletes a phase(s) or increase/decreases a phase(s) of an existing project that utilizes federal funds and does not exceed the thresholds established above;
- Adds a project from a funding initiative or line item that utilizes 100 percent state or non- federal funding;
- Adds a project for emergency relief (ER) program, except those involving substantial functional, location, or capacity changes;
- Adds a project, with any federal funding source, for immediate emergency repairs to a highway, bridge or transit project where in consultation with the relevant federal funding agencies, the parties agree that any delay would put the health, safety, or security of the public at risk due to damaged infrastructure;
- Draws down or returns funding from an existing TIP reserve line item and does not exceed the threshold established in the MOU between PennDOT and the LEBCO MPO. A reserve line item holds funds that are not dedicated to a specific project(s) and may be used to cover cost increases or add an additional project phase(s) to an existing project;
- Adds federal or state capital funds from low-bid savings, de-obligations, release of encumbrances, or savings on programmed phases to another programmed project phase or line item and does not exceed the above thresholds;
- Splits a project into two or more separate projects or combines two or more projects into one project to facilitate project delivery without a change of scope or type of funding;
- Adds, advances, or adjusts federal funding for a project based on August Redistribution obligation authority based on documented August Redistribution Strategic Approach.

Administrative Modifications do not affect air quality conformity, nor involve a significant change in the scope of work to a project(s) that would trigger an air quality conformity re-evaluation; does not add a new federally-funded project or delete a federally-funded project; does not exceed the threshold established in the MOU between PennDOT and the LEBCO MPO, or the threshold established by this MOU (as detailed in the Amendment Section aforementioned); and does not result in a change in scope, on any federally-funded project that is significant enough to essentially constitute a new project. A change in scope is a substantial alteration to the original intent or function of a programmed project.

Administrative Modifications do not require federal approval. PennDOT, the LEBCO MPO, and LT 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 MOU where federal funds are being utilized.

All revisions, amendments, and administrative modifications shall be identified and grouped as one action on a FCC demonstrating both project and program fiscal constraint. The identified grouping of projects (the entire revision action) will require review and/or approval by the cooperating parties. In the case that a project phase is pushed out of the TIP period, the LEBCO MPO and PennDOT will demonstrate, through an FCC, fiscal balance of the subject project phase in the second or third years of the TYP and/or the LEBCO MPO LRTP.

Transit – Funds Related to Prior–Year Unobligated Funds

This section relates to Federal Transit funds which have been programmed for obligation in a Federal Fiscal Year (FFY), but which have not been obligated in an FTA grant in the current FFY. FTA requires all funds to be shown in the year of obligation in compliance with **23 CFR 450.326(g)**. Federal Transit funding – including Section 5307 and Section 5337 funds – which are apportioned and programmed but not obligated in the year of programming may be shifted to the next FFY and considered eligible as an Administrative Modification unless the project is undergoing significant changes as well.

Fiscal Constraint

Demonstration that TIP fiscal constraint is maintained takes place through a FCC. Real time versions of the TIP are available to FHWA and FTA through PennDOT's Multimodal Project Management System (MPMS). All revisions must maintain year-to-year fiscal constraint **23 CFR 450.218(l)&(m)** and **23 CFR 450.326(g)(j)&(k)** for each of the four years of the TIP. All revisions shall account for year of expenditure (YOE) and maintain the estimated total cost of the project or project phase within the time-period [i.e., fiscal year(s)] contemplated for completion of the project, which may extend beyond the four years of the TIP. The arbitrary reduction of the overall cost of a project, or project phase(s), shall not be utilized for the advancement of another project.

TIP Financial Reporting

PennDOT will provide reports to the LEBCO MPO and FHWA no later than 30 days after the end of each quarter and each Federal Fiscal Year (FFY). At a minimum, this report will include the actual federal obligations and state encumbrances for highway/bridge projects within the LEBCO MPO region and Statewide. In addition, PennDOT will provide the Transit Federal Capital Projects report at the end of each FFY to all of the parties listed above and FTA. The reports can be used by the LEBCO MPO as the basis for compiling information to meet the federal annual listing of obligated projects requirement **23CFR 450.334**. Additional content and any proposed changes to the report will be agreed upon by PennDOT, LEBCO MPO, LT, FHWA and FTA.

TIP Transportation Performance Management

In accordance with **23 CFR 450.326(c)**, PennDOT and the LEBCO MPO will ensure TIP revisions promote progress toward achievement of performance targets.

Statewide or Multi- UZA Transit Projects

Statewide managed transit projects funded by FTA programs and delivered via Governor’s apportionment are selected by PennDOT pursuant to the Pennsylvania State Management Plan approved by the FTA. These projects should be programmed within the TIP of the urbanized area where the project is located.

LEBCO MPO TIP Revision Procedures

As LEBCO MPO’s TIP is adopted, their respective MOU with PennDOT will be included with the TIP documentation. The MOU will clarify how LEBCO MPO will address all TIP revisions. **In all cases, any individual LEBCO MPO revision procedures will be developed under the guidance umbrella of this document.** If the LEBCO MPO subsequently elects to set more stringent procedures, then PennDOT, FHWA and FTA will adhere to those more restrictive procedures, but the LEBCO MPO established provisions cannot be less stringent than the statewide MOU.

This document will serve as the basis for PennDOT when addressing federally funded Statewide Program TIP revisions.

This Memorandum of Understanding will begin October 1, 2024, and remain in effect until September 30, 2026, unless revised or terminated. Furthermore, it is agreed that this MOU will be reaffirmed every two years.

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

Ms. Alicia Nolan
Division Administrator
Federal Highway Administration

Date

Ms. Terry Garcia-Crews
Regional Administrator
Federal Transit Administration

Date

Mrs. Kristin A. Mulkerin
Deputy Secretary for Planning
Pennsylvania Department of Transportation

Date

Ms. Teri Giurintano, Executive Director
Lebanon Transit

Date

Mayor Sherry L. Capello, Chairwoman
Lebanon County Metropolitan Planning Organization

Date

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