

## MEMORANDUM OF UNDERSTANDING (MOU)

### Harrisburg Area Transportation Study (HATS) Procedures for FFY 2025-2028 Transportation Improvement Program (TIP) Revisions

#### Purpose

This Memorandum of Understanding (MOU) between the Pennsylvania Department of Transportation (PennDOT), the Harrisburg Area Transportation Study (HATS), and Capital Area Transit (CAT) establishes procedures to be used for processing revisions to the FFY 2025-2028 Transportation Improvement Program (TIP).

#### Definitions

- ***Administrative Modification*** is a minor revision to a Transportation Improvement Program (TIP).
- ***Amendment*** is a revision to a TIP that involves a major change to a project included in a TIP.
- ***Betterment*** consists of surface treatments/corrections to existing roadway [preferably within the Pennsylvania Department of Transportation's (PennDOT's) 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 of super-elevation, as well as, drainage improvements and guide rail updates.
- ***Change in Scope*** is a substantial alteration to the original intent or function of a programmed project.
- ***Cooperating Parties*** include PennDOT, HATS, CAT, Federal Highway Administration (FHWA), and Federal Transit Administration (FTA).
- ***Fiscal Constraint Chart*** (FCC) is an Excel spreadsheet or a chart generated by the Multimodal Project Management System (MPMS) that depicts the transfer of funds.
- ***Interstate Management (IM) Program*** is PennDOT's four year listing of statewide interstate maintenance (non-capacity adding) projects.
- ***Keystone Corridor (Pennsylvania portion)*** is the in-State and commuter rail service funded by PennDOT and FTA on the Amtrak rail line that runs between Philadelphia, PA and Harrisburg, PA.
- ***New Project*** is a project that is not programmed in the current TIP, and does not have previous obligations from a prior TIP.
- ***Planning Partner*** is one of the following: a metropolitan planning organization (MPO) such as HATS, rural planning organization (RPO), or the independent County of Wayne.
- ***Public Participation Plan (PPP)*** is a documented broad-based public involvement process that describes how HATS will involve and engage the public in the transportation planning process to ensure that the concerns of stakeholders are identified and addressed in the development of transportation plans and programs.
- ***Rapid Bridge Replacement (RBR) Initiative*** (developed via a Public Private Partnership – P3) will follow the ***Statewide Managed Program*** guidance in the

administration of the program. For example, the RBR Initiative project rollouts, independent of time intervals, will be considered an amendment on the state's TIP (STIP). Placement of RBR projects and or line items on HATS's TIP will be considered as an administrative action.

- ***Reserve Line Item*** holds funds that are not dedicated to a specific project(s) and may be used to cover cost increases or add a new project or project phase(s).
- ***Revision*** is either an Amendment or an Administrative Modification to the TIP.
- ***Statewide Managed Program (Statewide Program)*** includes those transportation improvements or projects that are managed on the STIP, including project selection, at the PennDOT Central office level, with possible regional Planning Partner input and solicitation. Examples include but are not limited to Highway Safety Improvement Program (HSIP), Railroad Crossing Program (RRX), State Transportation Alternatives Program (TAP), and Keystone Corridor projects. The Interstate Management Program (IM) will remain its own individual statewide program.

### **TIP Administration**

FHWA and FTA will only authorize projects and approve grants for projects that are programmed in the current approved TIP. If HATS, CAT, 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 HATS' 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, HATS, CAT, 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 HATS Regional Transportation Plan (RTP). 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 used a comprehensive planning and programming process that focuses on collaboration between PennDOT, FHWA, FTA, MPOs, 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 HATS Public Participation Plan (PPP). A PPP is a documented broad-based public involvement process

that describes how HATS 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 the non-attainment or maintenance area of HATS will be screened for Air Quality significance. PennDOT will coordinate with HATS 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 HATS TIP shall also be developed and approved by HATS. The modified conformity determination would then be based on the amended TIP conformity analysis and public involvement procedures consistent with the HATS PPP. Upon adoption of the revised conformity determination, air quality resolution and amended TIP, HATS 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\(c\)](#), define update cycles for the HATS RTP. 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 metropolitan transportation plan, the MPO may not amend the TIP.” HATS required to update its RTP every 4 years, and its RTP clock is reset with the joint FHWA/FTA air quality conformity action on their adopted plan. If the RTP has expired due to lack of a conformity approval, HATS cannot amend the RTP 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 HATS area. Accordingly, HATS should allow at least 60-90 days between Board adoption and their RTP conformity expiration date to allow for the necessary federal coordination and joint approval processes to be completed.

### **TIP Revisions**

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 the HATS 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 uses 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

- obligations from a prior TIP. (Federally-funded Statewide Program projects are excluded from this provision);
- Deletes a project that utilizes federal funds, except for projects that were fully obligated in the previous STIP/TIP and no longer require funding. In this case, removal of the project will be considered an administrative modification.
- Adds a new phase(s) to an existing project, deletes a project phase(s) or increases/decreases a project phase(s) that uses federal funds where the total revision of federal funds exceeds the following thresholds within the four years of the TIP:
  - \$3 million (Federally-funded Statewide Program projects are excluded from this provision), or
  - \$250,000 for any revision using HATS STP Urban (STU) funds.
- Involves a change in the scope of work to a project(s) that would:
  - Result in an air quality conformity re-evaluation;
  - Result in a revised total project estimate that exceeds 50%; or
  - 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 HATS is required for *Amendments*. HATS must then initiate PennDOT Central Office approval using the e-STIP process. An e-STIP submission must include a Fiscal Constraint Chart (FCC) that clearly summarizes the before amounts, requested adjustments, after changes 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 modification actions that occurred along with or were presented with this action at the HATS meeting. 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, HATS/District/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).

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, CAT (SRTA) and HATS.

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

- Any changes to the federally-funded Statewide Program, including any funding increases/decreases to project phases will be considered an administrative modification on the HATS TIP. In the case of Statewide Programs, including the IM Program and other federally-funded statewide programs (including transit), approval by PennDOT's PMC and FHWA is required.
- Shifts federally-funded projects, a federally-funded project phase(s), or federal funds to existing federally-funded projects or a federally-funded project phase(s) in the approved TIP, must maintain year-to-year TIP fiscal constraint requirements and does not exceed the established thresholds;

- 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 uses 100 percent state or non-federal funding, or HATS TIP placement of the federally-funded Statewide Program;
- Adds a project for emergency repairs to a highway, bridge or transit project, 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 thresholds established above. (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;
- Advances a project phase from the 2<sup>nd</sup> or 3<sup>rd</sup> four years of the TYP or HATS's RTP for a project that has another phase included in the TIP using federal funds and does not exceed the established thresholds;
- Adds, advances, or adjusts federal funding for a project based on FHWA August Redistribution.

*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; do not add a new federally-funded project or delete a federally-funded project; do not exceed the threshold established in the MOU between PennDOT and HATS (as detailed in the aforementioned Amendment 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. (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 and HATS 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 used.

All revisions, amendments, and administrative modifications shall be identified, numbered, 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, HATS 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 HATS RTP.

### **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 an 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\(l\)](#) 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 HATS 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 by HATS and Statewide programs. In addition, PennDOT will provide the Transit Federal Capital Projects report at the end of each FFY to all of the parties listed above, CAT, and FTA. The reports can be used by HATS as the basis for compiling information to meet the federal annual listing of obligated projects requirement [23 CFR 450.334](#). Additional content and any proposed changes to the report will be agreed upon by PennDOT, FHWA and FTA.

### **TIP Transportation Performance Management**

In accordance with [23 CFR 450.326\(c\)](#), PennDOT and HATS 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.

The Keystone Corridor (Pennsylvania portion) is the in-State and commuter rail service funded by PennDOT and FTA on the Amtrak rail line that runs between Philadelphia and Harrisburg. Keystone Corridor projects are funded within the three-contiguous large urbanized areas (UZA) – Harrisburg, Lancaster, and Philadelphia. The entire amount of federal funds applied to Keystone Corridor Projects shall be programmed on the TIP of the UZA from which the funds originate. If the Project is located within a UZA that is not the UZA from which the funds originate, then the Project shall be listed in the TIP (of the UZA where the Project is located) as a “Keystone Corridor Project”, the use of the funding and amount shall be noted in the project description, and the funding amount shall be entered as \$0. The funds should only be noted for information and air quality conformity determination purposes, but not programmed, in the TIP where the Project is to avoid the double counting of programmed funds within the two TIPs. For instance, if federal funding from the Lancaster UZA is applied to the restoration of a Keystone Corridor station located in the Philadelphia UZA, then the full amount of the federal funding for the Project shall be programmed on the Lancaster TIP, and for information and air quality conformity purposes, the Project shall also be listed on the Delaware Valley Regional Planning Commission (DVRPC) TIP as “Keystone Corridor Station Restoration” along with notations per-above and the federal funding amount will be listed as \$0.

### **HATS TIP Revision Procedures**

When HATS’s TIP is adopted, a copy of this MOU will be included with the TIP documentation to clarify how HATS will address all TIP revisions. **HATS revision procedures are developed under the guidance umbrella of the PennDOT-FHWA-FTA MOU.** If HATS elects to set more stringent procedures, then PennDOT, FHWA and FTA will adhere to those more restrictive procedures.

This document will serve as the basis for PennDOT when addressing federally-funded HATS 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:

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Commissioner Jeffrey T. Haste, Chairman  
Harrisburg Area Transportation Study

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Date

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Commissioner Brenda Watson, Vice Chairman  
Harrisburg Area Transportation Study

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Date

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Mr. Rich Farr, Executive Director  
Capital Area Transit (SRTA)

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Date

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Ms. Kristin Mulkerin  
Deputy Secretary for Planning  
Pennsylvania Department of Transportation

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Date