



**METROPOLITAN
TRANSPORTATION
COMMISSION**

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Memorandum

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Sri Srinivasan

RE: Update on the 2009 Transportation Improvement Program (TIP)

It's that time again, when the region is in the process of updating the federally required Transportation Improvement Program (TIP).

The TIP is a comprehensive listing of all Bay Area surface transportation projects that are to receive federal funding or are subject to a federally required action, or are considered regionally significant for Air Quality Conformity purposes, during the four-year period from FY 2006-07 through FY 2009-10. MTC is required to prepare and adopt an updated TIP every two years. The 2007 TIP was adopted by the Commission on July 26, 2006, and approved by the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) on October 2, 2006. The current 2007 TIP is valid through October 1, 2008; therefore, it is time to develop a new TIP. The 2009 TIP will cover the four-year period beginning FY 2008-09 through FY 2011-12.

Because it takes several months to prepare a new TIP, it was necessary to “lock down” the 2007 Transportation Improvement Program (TIP) on January 11, 2008 to allow the time needed to conduct the required Air Quality Conformity analysis and determination, provide sufficient time for public participation, provide sufficient time for Caltrans, FHWA and FTA review and approval, and to ensure the data is consistent as we move from the current 2007 TIP to the new updated 2009 TIP.

What does lock-down mean? Access to MTC’s Fund Management System (FMS) is temporarily restricted to only the ability to do project searches. Project sponsors cannot make any changes to the 2007 TIP. This lock-down will be removed after FHWA and FTA approve the 2009 TIP in early December 2008.

The draft 2009 TIP is currently available for public comment. Attachment A is an introduction to the TIP. It also details the development schedule and contact information. Attachment B is the notice of public hearing on April 9, 2008.

The 2009 Transportation Improvement Program

Information for Interested Agencies and the Public

Overview

The federally required Transportation Improvement Program (TIP) is a comprehensive listing of Bay Area surface transportation projects that receive federal funds or are subject to a federally required action, or are regionally significant. Transit, highway, local roadway, bicycle and pedestrian investments are included in the TIP with the exception of some improvements to the region's airports, seaports, and privately owned bus and rail facilities. Below are some key facts about the TIP:

- The current TIP includes approximately 1,026 individual transportation projects and includes committed federal, state, and local funding of approximately \$12 billion. The 2009 TIP is anticipated to have slightly more projects and funding. Most of the projects in the 2009 TIP will be carried over from the 2007 TIP.
- Inclusion in the TIP is required in order for a project to access federal funding and be granted federal permits. The TIP project listing indicates in which given year a project receives funding, its schedule and its budget. A project's presence in the TIP does not, however, represent a commitment of funds or an obligation to fund the project. A subsequent approval, involving a project-level NEPA document of the project is required before the project may be implemented. The TIP document itself is not subject to the provisions of NEPA or CEQA.
- All projects included in the MTC-prepared TIP must be consistent with the Regional Transportation Plan (RTP) for the Bay Area. The Commission decision to fund a program or a significant project is made at the RTP stage. Ideas for projects emerge from a variety of planning efforts at the city, county, transit operator, and regional levels. Some of the major sources for projects are the county congestion management programs, countywide transportation plans, transit operator short-range transit plans, and the state highway planning process conducted by Caltrans. These efforts are then merged with the planning efforts of the Regional Transportation Plan. When the project scope, schedule, and budget are fully developed, the project may then be proposed for funding. The TIP implements the transportation priorities and investment decisions of the RTP.
- The 2009 TIP programs transportation funding from a wide variety of sources. Several of the major sources from which funds are programmed are Federal Transit Administration (FTA) Programs, Federal Highway Administration (FHWA) Programs, and State, Regional, and local transportation programs.
- The Metropolitan Transportation Commission (MTC) prepares and adopts the TIP at least once every four years, covering at least a four-year period and containing a priority list of projects grouped by year. The 2009 TIP will cover four years of programming for fiscal years 2008-09 through 2011-2012.
- The TIP must be financially constrained by year, meaning that the amount of dollars committed to the project (also referred as "programmed") must not exceed the amount of dollars estimated to be available. The TIP must include a financial plan that demonstrates that programmed projects can be implemented.

- Adoption of the TIP must be accompanied by an evaluation and finding of air quality conformity, demonstrating that federal air quality standards are met.
- Federal regulations also require an opportunity for public comment and consultation with affected agencies. Per the MTC Public Participation Plan, Interagency consultation for the TIP occurs at the same time as the development of the long-range RTP, the earliest and key decision point regarding project and program priorities. Specifically this occurs starting with the scoping process for the RTP and its CEQA environmental document. In contrast, the TIP is a short-term programming document detailing the funding for only those investments identified and adopted in the RTP. During TIP development, additional opportunities are provided to interested agencies to comment on the Draft TIP Update. Upon the request of any agency, MTC staff will provide additional consultation.
- MTC also develops the TIP in cooperation with the Bay Area Partnership and its constituent members including individual cities and counties, transit operators and other project sponsors. The Partnership consists of the top managers of some three-dozen agencies responsible for moving people and freight in the Bay Area and for protecting the region's environment. Members include other regional agencies, federal and state agencies, county congestion management agencies (CMAs), public transit providers, and city and county public works representatives.
- Once the 2009 Draft TIP has been developed, it is then released for a 30-day public review and comment period. As part of the public review process, the draft document is sent to 27 major libraries throughout the Bay Area as well as the MTC-ABAG library. Notices are also sent to an extensive list including transportation agencies, other state, federal and tribal agencies and other transportation interests with the objective to continue the consultation process for transportation planning and investments in the Bay Area. A public hearing is also conducted to solicit public comment. After the close of the public comment period, MTC's responses to significant comments are compiled into an appendix in the Final 2009 TIP. After the public comment period, the 2009 TIP document is then presented to the Commission's Programming and Allocations Committee. After its review, the Committee forwards the document to the full Commission for adoption. After Commission adoption, it is sent to the Caltrans Office of Federal Programs for inclusion into the California Federal Statewide Transportation Improvement Program (FSTIP) or Statewide TIP. After review and approval by Caltrans, the Statewide TIP is forwarded to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) for their review and approval. Approval by FHWA/FTA constitutes the final approval of the TIP.

The current status of the 2009 TIP update, summary information, and the Draft 2009 TIP including project listings (available after March 27, 2008), is available on the MTC Website at <http://www.mtc.ca.gov/funding/tip/>

The public may also access specific projects contained in the current TIP through MTC's Fund Management System (FMS) that allows searches of projects using various criteria (such as project sponsor, project type, or project location). The FMS is available on the MTC website: http://www.mtc.ca.gov/funding/fms_intro.htm

TIP Development Schedule

- March 28, 2008: Draft 2009 TIP and Draft AQ Conformity Analysis released for public review and comment.
- April 9, 2008: Public Hearing (during Programming and Allocations Committee meeting).
- May 1, 2008: Close of 2009 Draft TIP/AQ Conformity Analysis public review and comment period.
- May 14, 2008: MTC Programming and Allocations Committee Review of Draft TIP and AQ Conformity Analysis and referral to Commission
- May 28, 2008: Final 2009 TIP and Final AQ Conformity analysis approved by Commission
- May 30, 2008: 2009 TIP submitted to Caltrans / AQ Conformity Analysis submitted to FHWA/FTA
- December 1, 2008: 2009 TIP Approval (anticipated) by FHWA / FTA

MTC Contacts for Questions About the TIP

For questions on the TIP, you may contact:

Ross McKeown (Program Manager)

Phone: 510-817-5842

Email: rmckeown@mtc.ca.gov

Craig Goldblatt (TIP Planning and Consultation)

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Email: cgoldb@mtc.ca.gov

Sri Srinivasan (TIP Administrator)

Phone: 510-817-5793

Email: ssrinivasan@mtc.ca.gov

**Metropolitan Transportation Commission
Notice of Public Hearing**

The public is invited by the Metropolitan Transportation Commission (MTC) to comment on the following draft transportation programming documents:

- 1) **Draft 2009 Transportation Improvement Program (TIP):** This is the region's transportation programming document that contains surface transportation project including, public mass transit, highway, local road, bicycle and pedestrian projects, proposed for funding based on anticipated available federal, state and local funding over the next four years that will receive federal funds or are subject to a federally required action or are regionally significant. The TIP must be financially constrained by year, and must be updated at least every four years. The Draft 2009 TIP was developed to be consistent with MTC's *Transportation 2030 Plan for the San Francisco Bay Area*, the 25-year spending plan for transportation projects in the nine-county San Francisco Bay Area.
- 2) **Draft Air Quality Conformity Analysis for the Draft 2009 TIP:** MTC is also conducting a new air quality conformity analysis for the Draft 2009 TIP. Since the 2009 TIP does not include any new regionally significant projects beyond those currently included in the Transportation 2030 Plan, and these projects have been modeled in the appropriate horizon year using the latest planning assumptions, MTC will rely on the previous regional emissions analysis to make a conformity finding on the 2009 TIP.

Copies of the Draft 2009 TIP, which includes the financial constraint analysis and the Draft Air Quality Conformity Analysis, will be available for public review on March 28, 2008, at the MTC Library, and at major public libraries in each of the nine Bay Area counties. They will be posted on the MTC Web site at <http://www.mtc.ca.gov/> or at <http://www.mtc.ca.gov/funding/tip/index.htm>.

A public hearing to receive public testimony on these documents is scheduled during MTC's Programming & Allocations Committee. The hearing is set for:

Wednesday, April 9, 2008, at 10:00 a.m., or immediately following
MTC's Administration Committee meeting, whichever occurs later.
Joseph P. Bort MetroCenter Auditorium, 101 Eighth Street, Oakland
(Across from the Lake Merritt BART Station)

Written comments may be submitted to MTC's Public Information Office at 101 Eighth St., Oakland, CA 94607 or faxed to MTC at 510-817-5848 or sent via e-mail to <info@mtc.ca.gov>. Written comments are due by 5 p.m. on Thursday May 1, 2008. For more information, call MTC's Public Information Office at 510/817-5757. This notice also serves to satisfy the public involvement requirements of the Federal Transit Administration (FTA) annual Program of Projects.

At its May 14, 2008 regularly scheduled meeting, MTC's Programming and Allocations Committee will consider public comments received by the end of the comment period. MTC is scheduled to approve the air quality conformity analysis and the 2009 TIP on May 28, 2008, during its regularly scheduled Commission meeting.



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Memorandum

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Ross McKeown

RE: Expedited Project Selection Procedures

Background

Federal Regulations 23, Code of Federal Regulations (CFR) Part 450.330 allows advancement of projects within the period of the Transportation Improvement Program (TIP) subject to procedures agreed to by partnering agencies.

Although it is common practice for regions throughout the state, including the MTC region, to move projects within the TIP period, the Federal Highways Administration (FHWA) requires that a procedure be in place to guide these transactions. FHWA is requiring that the region's Expedited Project Selection Process (EPSP), as required under CFR 450.332, be updated and adopted with the 2009 TIP so that the region may continue the practice of moving projects within the TIP period without necessitating a TIP amendment.

Proposal

Attached is the Expedited Project Selection Process proposed for your consideration and consultation, which, once approved, would be included as part of the 2009 TIP. The process does not modify any past or present practices, but rather documents that a procedure is in place. The region has had a project funding delivery policy (MTC Resolution 3606) in place for many years, governing the advancement of regional Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement (CMAQ) funding. That policy, revised April 26, 2006, is embedded (by reference) in the Expedited Project Selection Process, and will continue to govern the use of those funds. The proposed language outlines how other funds will be moved within the TIP period, without requiring at TIP amendment.

For FTA administered funds, projects may be moved within the period of the TIP/FSTIP at the request of the agency, as long as funding is available and the change does not negatively impact the delivery or availability of funds for other projects ready for obligation.

We are seeking consensus from the LS&R Working Group on the language for the Expedited Project Selection Process.

Attachments

Proposed Expedited Project Selection Process Language for 2009 TIP
Code of Federal Regulations (CFR) Part 450.330

Metropolitan Transportation Commission Expedited Project Selection Process

Federal Regulations 23 Code of Federal Regulations (CFR) Part 450.330 allow for the movement of projects within the period of the TIP and FSTIP subject to procedures agreed to by partnering agencies, including the State and transit operators within the region. MTC, as the Metropolitan Planning Organization (MPO) for the nine-county San Francisco Bay Area Region has a process in place, as outlined below, developed in consultation with the region's transportation partners that permits the movement of projects consistent with the Expedited Project Selection Process outlined in Code of Federal Regulations (CFR) 450.330. The projects listed within the TIP have all been selected based on the regulations in 23 CFR Part 450. Federal Regulation 23 CFR Part 450.330 allows for the movement of projects within the TIP/FSTIP subject to procedures agreed to by the partnering parties. This procedure is outlined as follows.

All movements must be consistent with the Regional Transportation Plan (RTP), must not adversely affect the expeditious implementation of Transportation Control Measures (TCMs), must comply with the provisions of Title VI, must not negatively impact the deliverability of other projects in the regional programs, and must not affect the conformity finding of the TIP.

For regional Surface Transportation Program (STP) or the Proposition 1B programs, Congestion Mitigation and Air Quality Improvement (CMAQ) funds, and other funds administered by the Federal Highways Administration (FHWA), MTC has developed a project funding delivery policy through extensive consultations with its regional transportation partners including the Bay Area transit operators, Congestion Management Agencies (CMA's), counties, FHWA, FTA and Caltrans. The *Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised April 26, 2006)* details how project-funding deadlines and fund management requirements are enforced and how projects may be moved within the time period of the adopted TIP. The policy satisfies the requirement of the expedited project selection procedures as stated in CFR 450.330. The project funding delivery policy is also embedded in the TIP amendment procedures, adopted along with the 2009 TIP. Although a TIP amendment is not required at the time a project is moved, an amendment may be processed following each federal fiscal year to reconcile the TIP for financial constraint purposes.

For projects within the State Transportation Improvement Program (STIP), MTC will move projects subject to amendment or allocation approval by the California Transportation Commission (CTC). Caltrans may move projects in the State Highway Operation Protection Program (SHOPP) document within the TIP/FSTIP period without amending the TIP, with notification to MTC.

Caltrans Division of Local Assistance has implemented a project selection process for the Highway Bridge Program (HBP), Highway Safety Improvement Program (HSIP), Safe Routes to School (SR2S) Program and other State-administered Local Assistance programs to produce the TIP listing of projects. This process was developed in cooperation with the implementing agencies, FHWA, the MPOs, and HBP Advisory Committee. Caltrans, MTC and the transit operators agree that the Caltrans Division of Local Assistance may move projects within the HBP, HSIP, SR2S and other State-administered Local Assistance programs within the TIP/FSTIP period without amending the TIP, with notification to MTC.

For FTA administered funds, projects may be moved within the period of the TIP/FSTIP at the request of the agency, as long as funding is available and the change does not negatively impact the delivery or availability of funds for other projects ready for obligation.

Implementing agencies wishing to advance projects using their own local funds until federal funds are available may request Advance Construction Authorization (ACA) from Caltrans, or pre-award authority from FTA to proceed with the project using local funds until OA and apportionment becomes available. In accordance with the Regional Project Funding Delivery Policy (MTC Resolution No, 3606) projects using ACA or FTA Grant Award Authority for FHWA-administered funds have priority for federal obligations when the availability of Obligation Authority is limited.

accordance with the cycles defined in § 450.322(c), projects may only be advanced from a TIP that was approved and found to conform (in nonattainment and maintenance areas) prior to expiration of the metropolitan transportation plan and meets the TIP update requirements of § 450.324(a). Until the MPO approves (in attainment areas) or the FHWA/FTA issues a conformity determination on (in nonattainment and maintenance areas) the updated metropolitan transportation plan, the TIP may not be amended.

(d) In the case of extenuating circumstances, the FHWA and the FTA will consider and take appropriate action on requests to extend the STIP approval period for all or part of the TIP in accordance with § 450.218(c).

(e) If an illustrative project is included in the TIP, no Federal action may be taken on that project by the FHWA and the FTA until it is formally included in the financially constrained and conforming metropolitan transportation plan and TIP.

(f) Where necessary in order to maintain or establish operations, the FHWA and the FTA may approve highway and transit operating assistance for specific projects or programs, even though the projects or programs may not be included in an approved TIP.

§ 450.330 Project selection from the TIP.

(a) Once a TIP that meets the requirements of 23 U.S.C. 134(j), 49 U.S.C. 5303(j), and § 450.324 has been developed and approved, the first year of the TIP shall constitute an "agreed to" list of projects for project selection purposes and no further project selection action is required for the implementing agency to proceed with projects, except where the appropriated Federal funds available to the metropolitan planning area are significantly less than the authorized amounts or where there are significant shifting of projects between years. In this case, a revised "agreed to" list of projects shall be jointly developed by the MPO, the State, and the public transportation operator(s) if requested by the MPO, the State, or the public transportation operator(s). If the State or public transportation operator(s) wishes to proceed with a project in the second, third, or fourth year of the TIP, the specific project selection procedures stated in paragraphs (b) and (c) of this section must be used unless the MPO, the State, and the public transportation operator(s) jointly develop expedited project selection procedures to provide for the advancement of projects from the second, third, or fourth years of the TIP.

(b) In metropolitan areas not designated as TMAs, projects to be implemented using title 23 U.S.C. funds (other than Federal Lands Highway program projects) or funds under title 49 U.S.C. Chapter 53, shall be selected by the State and/or the public transportation operator(s), in cooperation with the MPO from the approved metropolitan TIP. Federal Lands Highway program projects shall be selected in accordance with procedures developed pursuant to 23 U.S.C. 204.

(c) In areas designated as TMAs, all 23 U.S.C. and 49 U.S.C. Chapter 53 funded projects (excluding projects on the National Highway System (NHS) and projects funded under the Bridge, Interstate Maintenance, and Federal Lands Highway programs) shall be selected by the MPO in consultation with the State and public transportation operator(s) from the approved TIP and in accordance with the priorities in the approved TIP. Projects on the NHS and projects funded under the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the MPO, from the approved TIP. Federal Lands Highway program projects shall be selected in accordance with procedures developed pursuant to 23 U.S.C. 204.

(d) Except as provided in § 450.324(c) and § 450.328(f), projects not included in the federally approved STIP shall not be eligible for funding with funds under title 23 U.S.C. or 49 U.S.C. Chapter 53.

(e) In nonattainment and maintenance areas, priority shall be given to the timely implementation of TCMs contained in the applicable SIP in accordance with the EPA transportation conformity regulations (40 CFR part 93).

§ 450.332 Annual listing of obligated projects.

(a) In metropolitan planning areas, on an annual basis, no later than 90 calendar days following the end of the program year, the State, public transportation operator(s), and the MPO shall cooperatively develop a listing of projects (including investments in pedestrian walkways and bicycle transportation facilities) for which funds under 23 U.S.C. or 49 U.S.C. Chapter 53 were obligated in the preceding program year.

(b) The listing shall be prepared in accordance with § 450.314(a) and shall include all federally funded projects authorized or revised to increase obligations in the preceding program year, and shall at a minimum include the TIP information under § 450.324(e)(1) and (4) and identify, for each project, the amount of Federal

funds requested in the TIP, the Federal funding that was obligated during the preceding year, and the Federal funding remaining and available for subsequent years.

(c) The listing shall be published or otherwise made available in accordance with the MPO's public participation criteria for the TIP.

§ 450.334 Self-certifications and Federal certifications.

(a) For all MPAs, concurrent with the submittal of the entire proposed TIP to the FHWA and the FTA as part of the STIP approval, the State and the MPO shall certify at least every four years that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements including:

(1) 23 U.S.C. 134, 49 U.S.C. 5303, and this subpart;

(2) In nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;

(3) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;

(4) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;

(5) Section 1101(b) of the SAFETEA-LU (Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;

(6) 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;

(7) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR parts 27, 37, and 38;

(8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

(9) Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and

(10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

(b) In TMAs, the FHWA and the FTA jointly shall review and evaluate the transportation planning process for each TMA no less than once every four years to determine if the process meets the requirements of applicable provisions of Federal law and this subpart.

(1) After review and evaluation of the TMA planning process, the FHWA and