

**Memorandum of Understanding
between the
Rhode Island State Planning Council (RISPC)
and the
Rhode Island Department of Transportation (RIDOT)
and the
Rhode Island Public Transit Authority (RIPTA)**

**PROCEDURES TO AMEND AND MODIFY THE
TRANSPORTATION IMPROVEMENT PROGRAM**

The purpose of this memorandum of understanding is to establish procedures for changing the Transportation Improvement Program (TIP) after adoption by the State Planning Council (SPC) and approval by the Governor and after approval by the federal government. Under provisions of Titles 23 and 49, United States Code, the approved TIP may be amended and modified in order to add new projects, delete projects, move projects among the years of the TIP, make cost and phase of work changes and accommodate major scope changes to a project. Fiscal constraint shall be maintained when amending and modifying the TIP. Other provisions in Titles 23 and 49 permit the development of expedited procedures for making changes to the TIP by agreement between the State, the Metropolitan Planning Organization (MPO) and the Transit Operator. This Memorandum of Understanding (MOU) shall in its entirety constitute such agreement. The term "project sponsor" as applied in this MOU shall refer to the lead agency implementing the project, typically RIDOT or RIPTA, but may also refer to the MPO, a municipal government, or an independent authority if that agency has primary responsibility to implement the project. In all cases, the parties agree that the project sponsor shall follow the procedures contained herein.

A. ACTIONS REQUIRING CHANGES IN THE TIP

The State Planning Council's Rule IX, at 5.04.01 (a), requires a TIP amendment for "proposals to add, delete, or modify strategies, actions, or projects that would involve a substantial functional, locational, and/or capacity change".

This agreement defines the following three types of changes that may be made to the TIP:

- Administrative Adjustment
- Minor Amendment
- Major Amendment

Thresholds for TIP changes based on project cost or program amount are defined in **Attachment 1**. In the case of some minor changes, no action is required.

B. PROCEDURES FOR CHANGING THE TIP

The parties agree that project funding will be evaluated at the PS&E (Plans, Specifications, and Estimates) phase, prior to the advertisement for construction bids by the implementing agencies, and updated at periodic reporting intervals, as agreed in Part C below.

Whenever any adjustment or amendment is proposed, the project sponsor shall give the Rhode Island Statewide Planning Program (RISPP), acting as staff to the MPO, sufficient notice to acquire the necessary technical and policy level approvals. The project sponsor shall provide documentation with a clear explanation justifying the amendment. The project sponsor shall also provide the necessary project data required for the TIP listing including the funding source(s) and/or program categories and how fiscal constraint shall be maintained, and sufficient descriptive information for an air quality conformity determination. Changes to the TIP must be fiscally constrained. Project sponsors must identify the source of any new funds and/or the transfer of existing funds.

The RISPP, in consultation with the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Environmental Protection Agency (EPA), and state agencies, shall determine if the proposed amendment requires a new TIP conformity determination. Consultation is not required when proposed amendments clearly do not impact air quality. If the action is exempt under the EPA Air Quality Conformity Rule (40 CFR Parts 51 & 93), the amendment shall be approved through the procedures established in Rule IX. If the action is not exempt, the Air Quality Conformity procedures of the State Planning Council's Rule VIII shall also apply, and the proponent of the amendment shall complete an Air Quality/ Transportation Coordination Form, consult with the RI Department of Environmental Management, and perform project-level analysis as needed to determine project conformity with the State Implementation Plan for Air Quality (SIP). If a new regional TIP air quality conformity determination is required, the project sponsor shall provide information on the project design and scope to enable the RISPP to code the travel networks for the regional emissions analysis. Upon receipt of the project design and scope information, the RISPP shall conduct the regional emissions analysis.

Approvals that may be required by the Secretary, Transportation Advisory Committee (TAC), and/or State Planning Council, as well as public participation requirements, for adjustments and amendments are described in Attachment 1. The RISPP shall follow its adopted public participation procedures of Rule IX for amendments and conformity determinations to provide the appropriate level of public involvement prior to final action.

Following initial approval of amendments by the State Planning Council or the TAC, or approval of an Administrative Adjustment by the RISPP, the Secretary of the State Planning Council shall forward to the project sponsor a letter acknowledging approval, the revised TIP page(s), and assurance of all necessary compliance (i.e., adherence to public participation, congestion management, air quality conformity and fiscal constraint requirements). The Secretary shall also transmit TIP amendments, as required, to the Governor's Office for concurrence and transmittal to the FHWA and the FTA for final approval. (For major amendments requiring a new conformity determination, RISPP shall forward the conformity determination to the FHWA and the FTA and request a joint conformity finding.) In cases where requests for amendments or administrative adjustments are denied, the Secretary of the State Planning Council shall inform the project sponsor in writing.

RIDOT and RIPTA shall report on changes made in accordance with this section via periodic TIP Status Reports to the TAC providing updated costs and other implementation status information, as provided in Section C.

C. PROJECT REPORTING

The RIDOT and RIPTA shall provide information on TIP program and project status to the RISPP and the TAC at least every four months for the following programs: Highway, Bicycle & Pedestrian, Major Projects, and Transit. Reports shall be provided once annually for the remaining TIP programs. This information shall enable the RISPP and TAC to make informed decisions on TIP changes requested by project sponsors including the demonstration of fiscal constraint.

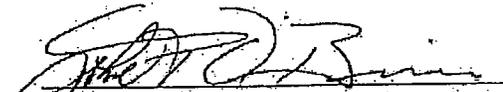
The RIDOT and RIPTA shall include the following information in their reports: Federal/State authorizations, and status of each project in the TIP with information in key issue areas and impact to the project schedule. As information systems allow, the reports shall also include information on project cost estimate changes and the potential impact of such changes on TIP fiscal constraint and project scheduling.

The RIDOT and RIPTA shall transmit the information to the RISPP in a mutually agreed to format. The RISPP shall disseminate the information to the TAC, and/or the SPC as appropriate.

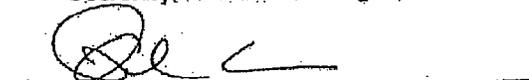
D. AMENDING THIS AGREEMENT

This agreement may be amended at any time by mutual agreement among the parties. This agreement shall be amended in the event that TIP categories change or new TIP programs are added.

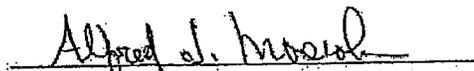
We, the undersigned, agree to use the above procedures to amend and modify the Transportation Improvement Program (TIP).


John P. O'Brien
Secretary, RI State Planning Council

4/10/03
Date


James R. Capaldi
Director, RI Department of Transportation

4/16/03
Date


Alfred Moscola
Acting General Manager, RI Public Transit Authority

4/24/03
Date

ATTACHMENT 1 TIP AMENDMENT CHART

Action type:	NO ACTION (1)	ADMINISTRATIVE ADJUSTMENTS (2)	MINOR AMENDMENTS (3)	MAJOR AMENDMENTS (3)
Procedure Required: TIP Category:	No Notice Required – Report changes in periodic status reports	Notice To TAC, SPC and RISPP –Administrative Approval	Notice To TAC, SPC and RISPP – Public comment via TAC process (10 day notice required) – TAC approval	Notice To TAC/RISPP – Requires full 30 day public comment period - TAC recommendation – SPC Approval
	ALL CATEGORIES: Change in existing project scope	_____	Minor change in project location, function, capacity, etc., not requiring air quality conformity re-assessment	Substantial change in project location, function, capacity, etc., or any change that requires air quality conformity re-assessment
ALL CATEGORIES: Addition/deletion of project or phase	_____	_____	Deletion /addition of project -- Air quality exempt or non-exempt positive impact	Deletion /addition of project -- Air quality non-exempt or potential negative impact
	Within TIP categories: ADMINISTRATIVE, CMAQ (4), ENHANCEMENTS, INTERSTATE, PAVEMENT MANAGEMENT, PLANNING, STUDY & DEVELOPMENT, TRAFFIC/SAFETY. Limits apply to total biennial TIP funding allocation within category.	Less than 10% change in total project category	10% or greater but less than 20% of total project category	20% or greater but less than 30% of total project category
Within TIP categories: BICYCLE/PEDESTRIAN, HIGHWAY. Limits apply to total funding for individual project line items as allocated in biennial TIP	Projects greater than or equal to \$5 million	20% or greater, but less than 30% change in project cost	30% or greater but less than 50% change in project cost	50% or greater change in project cost
	Projects less than \$5 million	Change in project cost equal to or greater than \$1 million but less than \$2 million	Change in project cost equal to or greater than \$2 million but less than \$3 million	Change in project cost equal to or greater than \$3 million
Within TIP category: TRANSIT (including CMAQ funds used for Transit)	Less than 10% change in line item	10% or greater but less than 20% of line item	20% or greater but less than 30% of line item	30% or greater change in line item
Within TIP categories: MAJOR PROJECTS and BRIDGE Limits apply to total biennial TIP funding allocation within category	Less than \$5 million change in project category.	\$5 million or greater, but less than \$10 million change in project category.	\$10 million or greater, but less than \$15 million change in project category.	\$15 million or greater change in project category.

General note: The RIDOT and RIP TA have discretion to advance individual line items within the Biennial Element based upon factors of project readiness, grouping of projects to facilitate contract management, and other administrative factors, however, they remain obligated to adhere to the above procedures in seeking the appropriate approval for the impacts of such changes in resource allocations to other TIP projects.

(1) NO ACTION REQUIRED

- When a project phase is moved among the two years of the TIP.
- The project sponsor can apply federal Advance Construction procedures to a project in the TIP or exercise FTA pre-award authority without RISPP approval, provided federal funding is shown for the project in the TIP.

(2) ADMINISTRATIVE ADJUSTMENT

- Unobligated projects from the previous TIP can be added to the current TIP using the Administrative Adjustment procedure provided that fiscal constraint is maintained.
- Highway ROW and Highway Design costs treated as single line item for all projects within category.
- When adding federal Discretionary funds to projects listed in the TIP.
- The SPC Secretary retains the right to have the administrative adjustment considered as a minor amendment.

(3) MINOR and MAJOR AMENDMENTS

- When applying federal funds to projects funded by private parties or other public agencies that are not party to this agreement.
- Highway ROW and Highway Design costs treated as single line item for all projects within category.
- The TAC reserves the right to refer a minor amendment to the SPC as a major amendment.

(4) Excluding CMAQ projects administered by RIPTA.