

APPENDIX I ***FTIP Amendment Procedures***

Updated December 2008

FTIP Amendment Procedures

The Council of Fresno County Governments as a federally designated Metropolitan Planning Organization (MPO) adopts a Federal Transportation Improvement Program (FTIP), which includes projects and sets priorities for federal transportation funding. Federal regulations require fairly strict adherence to the projects and priorities (schedules) contained within the adopted FTIP. Normally, changes can only be made if the FTIP is formally amended. That process, which requires State and Federal approval, can take up to several months to facilitate.

Current federal regulations [Title Code 23 of Federal Regulations Part 450.332-c] provide MPOs the ability to adjust FTIP project schedules and make minor changes without the need for a "Formal" Amendment. Under certain circumstances, FTIP change approvals may be delegated to the COG Executive Director, and approved without formal Policy Board review. The COG Policy Board has adopted "Formal Amendment-Director Delegation" and "Administrative Modification" procedures providing this flexibility.

A major part of the FTIP is the four-year "Element". Federal guidance requires that the FTIP be delivered in the following manner:

- All projects (as a group) shown in the first year of the Element shall have first priority.
- All projects (as a group) shown in the second year of the Element shall have second priority; and
- All projects (as a group) shown in the third year of the Element shall have third priority.
- All projects (as a group) shown in the fourth year of the Element shall have fourth priority.

The significance of this method is that the federal government expects the Fresno COG to make every effort to complete first year projects before second year projects, the second year projects before third year projects, and the third year project before the fourth year projects. In theory, failure to do so could throw the entire program into chaos with second, third, or fourth year projects being held up due to the inability of a single first year project to proceed. In practice, the federal reviewing agencies have generally been satisfied if significant progress is being made to implement all first year projects, even if one or more projects happen to slip into the next year. However, if a project is stalled or is no longer going to be implemented, Fresno COG is required to recognize this fact and adjust the FTIP.

Different restrictions apply to projects that can qualify as Transportation Control Measures (TCMs). In accordance with federal air quality regulations, Fresno COG is required to expeditiously implement all TCMs. If programmed TCM projects are unavoidably delayed, other TCMs must be advanced, least we risk jeopardizing the entire program.

FTIP Amendment Process

The FTIP “Formal Amendment-Director Delegation” and “Administrative Modification” Procedures allow staff the administrative flexibility to respond to changing FTIP conditions by eliminating several “time consuming” procedural steps related to “minor changes” in the FTIP; particularly changes to the Regional Surface Transportation Program (RSTP), Congestion Mitigation & Air Quality (CMAQ) Program, and the Transportation Enhancement Activities (TE) Program.

With passage of AB 1012, better known as the “use it or lose it” legislation, local governments are required to process their RSTP and CMAQ projects in a timely manner. By speeding up the time it takes to make formal programming adjustments, the strict timing requirements as established under AB 1012 can be better met.

FTIP Amendment Cycles

Fresno COG in cooperation with the Federal Highway Administration and Caltrans have entered into an agreement to regulate the number of FTIP Amendment Cycles in order to help federal and state agencies insure for a more expeditious review of Regional FTIP Amendments. As a part of the agreement, Fresno COG would consider limiting the number of FTIP Amendment Cycles to one per two-month period, with exceptions as needed for safety or emergency reason. Fresno COG would be responsible for verifying that urgent requests for amendments meet the criteria for exceptions. FHWA and Caltrans, likewise, have agreed to provide expeditious review of Fresno COG FTIP Amendments.

It is understood that future consideration will be made to limit the number of amendments to one per three-month period.

FTIP “Formal Amendment-Director Delegation”

Fresno COGs Amendment Procedures include “Formal Amendment-Director Delegation”, which allows the amendment process to be streamlined in limited instances. Procedurally, the only difference between a “Formal Amendment-Director Delegation” and a “Formal Amendment” is that the COG Executive Director without COG Policy Board approval can approve the “Director Delegation”. Such an amendment would still require full state and federal approval. However, by removing the need for COG Board approval, up to a full month of processing time can be eliminated. This timesaving could be critical for a safety project. The following FTIP “Formal Amendment-Director Delegation” criteria shall apply:

1. The project is a safety project intended to address a public safety concern.
 2. The project to be amended into the FTIP must qualify as an “Exempt” project under Articles 51.460 of the Environmental Protection Agency’s Transportation Conformity Rule.
 3. The project must not affect the existing FTIP Financial Plan and have a verified fund resource for inclusion (i.e., the project must not adversely impact financial constraint).
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4. No programmed FTIP project can be delayed or hindered in any way by the inclusion of the new project unless the project is a substitution and the project sponsor(s) concur with the substitution.
5. The project must be consistent with the adopted and federally approved Regional Transportation Plan.
6. The project must not interfere with the timely implementation of Transportation Control Measures.
7. The project changes do not affect the regional emissions analysis.

All other Formal Amendments not meeting the criteria above must be approved by the Fresno COG Policy Board.

FTIP “Administrative Modification”

FTIP “Administrative Modification” procedures are used whenever a “minor” change related to project cost, description, scheduling, funding sources, or other defined minor changes within the four-year element occur. The COG Executive Director shall have the delegated authority to approve Administrative Amendments and select Formal Amendments.

Administrative amendments include minor changes to project cost, schedule, description, or funding sources. Administrative amendments require action by Fresno COG and approval by Caltrans. Federal agencies are notified, but do not take approval action on administrative amendments. Public notification of an administrative amendment is posted on Fresno COG’s website at the time of action, and subsequently posted on Caltrans website after Caltrans’ approval. The following FTIP “Administrative Amendment” criteria shall apply per FHWA, FTA, and Caltrans 11/13/08 Agreement.

Basic Criteria:

- i. Revise a project description without changing the project scope or conflicting with the environmental document;
 - ii. Revise the funding amount listed for projects or project phases. Additional funding is limited to the lesser of 25 percent of the total project cost or \$5 million, and programming capacity has to be available in the FSTIP/FTIP prior to programming the modification, and documented in the support materials;
 - iii. Cost decreases have no cap, however, the request to reduce the cost must originate from the project sponsor and include an explanation for the decrease;
 - iv. Change sources of funds;
 - v. Change a project lead agency;
 - vi. Program federal funds for Advance Construction conversion;
 - vii. Change program year of funds with the 4-year FTIP/FSTIP, provided Expedited Project Selection Procedures are in place;
 - viii. Split or combine individually listed projects, provided cost, schedule and scope remain unchanged;
 - ix. Change required information for grouped or lump sum project listings; or,
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- x. Add or delete projects from grouped or lump sum project listings provided the funding amounts stay within the funding change guidelines above (see Section ii).
- xi. Administrative modifications are allowed for the re-programming of projects for which CMAQ funds were transferred to FTA in the prior FTIP and the FTA had not approved the grant yet. The project can be programmed in the current FTIP via administrative modification as long as there is no change in the original scope or cost, and the project needs to be programmed with "FTA 5307 (CMAQ Transfer Funds)" in the FTIP.
- xii. Administrative modifications may be used for programming FTA projects from the previous FTIP. The project can be programmed into the current FTIP via administrative modification as long as there is no change in the original scope or cost. Prior year funding must be differentiated from the current year funding by including narrative in the project description (or in "CTIPS MPO Comments" section) stated the year, amount and nature of the prior year funds.
- xiii. Make minor changes to the FTA funded grouped project listings. Minor changes include changing the number of transit vehicles purchased by 20% or less and changes to the fuel type of transit vehicles. MPO needs to take the change through its interagency consultation procedures to confirm that the change in scope is minor.

Changes to illustrative projects or others that have been included for information purposes only do not require administrative modifications or amendments.

Amendments or Formal Amendments are all other modifications to the FTIP that are not Administrative Actions.

Amendments and modifications are subject to different public participation and interagency consultation requirements. These processes are more fully described in Fresno COGs Public Participation Plan.

FTIP "Expedited Project Selection Procedures"

The State, the Council of Fresno County Governments and transit operators have implemented a project selection process for its Federal Transportation Improvement Program (FTIP) as required by Federal Regulations 23 Code of Federal Regulations (CFR) Part 450 and Title 23 United States Code (USC), and as outlined on the following table. The State, Council of Fresno County Governments and transit operators have selected all of the projects in the first four years of the FTIP based on the attached table for Project Selection Procedures. It has been agreed by all member agencies represented by the Council of Fresno County Governments, the California Department of Transportation (Caltrans), and the transit operators per 23 CFR 450.332, that the projects within the first four years of the FTIP may be advanced within the Four-Year Element (Element) of the Federal Statewide Transportation Improvement Program

(FSTIP) subject to the conditions of the Expedited Project Selection Procedures outlined below.

The projects within the State Transportation Improvement Program (STIP) may be advanced subject to amendments approved by the California Transportation Commission CTC to the STIP.

The projects funded within the RSTP and CMAQ program may be moved subject to the Council of Fresno County Governments Expedite Projects Selection Process (attached).

Fresno COG and Caltrans agree that the Caltrans Program Managers for the following programs may implement projects within the four year FSTIP element without amending the FTIP/FSTIP.

- State Highway Operation and Protection Program (SHOPP)
- Highway Bridge Program (HBP)
- Hazard Elimination and Safety Program (HSIP)
- Safe Routes to School Program (SRTS/ SR2S)
- High Risk Rural Roads Program (HRRR)
- Section 130 - STP Railroad Program
- Highway Safety Improvement Program (HSIP)

Council of Fresno County Governments designates Executive Director Barbara Goodwin to sign below acknowledging that advancing of projects under such agreement does not invalidate the financial constraint of its FTIP.

Tony Boren, Executive Director

Date:

Project Selection Procedures - Consultation and Cooperation Requirements

Region	Project Type	Selecting Agency	Selection Procedure	Consulted/ cooperating Agency
TMA MPO	Projects funded with title 23 and Federal Transit Act funds-except: projects on the, NHS, HBP, IM and FLHP funded projects	MPO	Consultation	State and Transit Operator
	Projects on the Highway-Railroad Grade Separation, NHS, and projects	State	Cooperation	MPO

	funded under the HBP and IM programs			
	Projects funded with Federal Lands Highway Program (FLHP) funds	Selected in accordance with 23 U.S.C. 204		

These changes should be accounted for through subsequent amendments or modifications to the FSTIP/FTIPs.

Council of Fresno County Governments Expedited Project Selection Process

The COG Policy Board hereby establishes guidelines for programming the Surface Transportation (STP) program and Congestion Mitigation and Air Quality (CMAQ) program to insure timely project delivery within federal and state funding deadlines.

It is the responsibility of the implementing agency at the time of programming to understand the requirements and procedures for authorizing a project through Caltrans Local Programs and insure the deadlines and provisions of project delivery can be met.

COG staff will actively monitor all RSTP and CMAQ projects regarding the funding authorization, implementation schedule, and obligation status in order to identify delivery issues as they arise and make determinations on project placement in the FTIP based on this policy. Appeals to this decision process must be taken through the COG committee process to the policy board.

Projects Eligible for Programming

To be eligible for programming in the FTIP a project must be included in a list of Lifeline and/or Regional Bid projects authorized by the COG Board. COG staff will endeavor to provide targets for Lifeline and Regional Bid programs based on estimated apportionments during the life of the federal-aid appropriation.

Lifeline — Lifeline targets are authorized in advance at the beginning of the federal-aid highway act appropriation cycle. Lifeline is an amount available to each member based on the members’ population share and highway maintained mileage. Projects are selected by member agencies subject to federal eligibility requirements, FTIP Amendment procedures/policies, and programming capacity in the FTIP. Members may move Lifeline funding from project to project to fit their internal program requirements. Project savings from closed out lifeline projects are vested with the member and can be moved to other projects that meet Federal regulations for the type of funding involved.

Regional Bid — Regional Bid pot targets are determined by estimating the residual remaining in the federal-aid appropriation after the Lifeline amounts are calculated. Regional Bid projects are selected in cycles by a “Call For Projects” process. Supplemental cycles may be required toward the end of the federal-aid appropriation to adjust for differences in actual appropriation. The selection and scoring criteria to identify these projects has been adopted by the COG Policy Board through an extensive

regional consensus process in conformance with 23 CFR 450.332. Once selected on regional merits, a Regional Bid project should be delivered. Changes in scope are allowed up to 20% of the total cost of the project if resources are available. A project sponsor may apply Lifeline to a Regional Bid project but not the reverse. Regional Bid funds from a canceled project, or project savings from closed out Regional Bid projects do not vest with the project sponsor; however, these funds may be used in funding up to a 20% overrun in other Regional Bid Project costs or returned to the Regional Bid pot to be applied to the next eligible project that was not funded from the most recent Call For Projects list.

Programming the FTIP

Working through the COG regional consensus process, staff will program the authorized list of eligible Lifeline and Regional Bid projects in the Element of the FTIP until all available programming capacity has been consumed. The remaining projects are then programmed in the "Out Years" of the FTIP. As additional programming capacity becomes available, the "Out Year" projects provide a pool of authorized projects to move into the Element. To move Out Year projects into the Element requires a formal FTIP amendment including a finding of Financial Constraint on the entire FTIP.

When determining the split between projects in the Element and Out Years various factors may be considered.

- The status of the project as a Lifeline or Regional Bid project
- The priority assigned the project on the Call for Projects list.
- The phasing and deliverability schedule of the project or project phase.
- The status of previously programmed project phases.
- The status of the project as a Capital Procurement or Transit Operations (CMAQ).
- The track record of the project sponsor in delivering projects on schedule.
- The status of the project as having been previously programmed in the Element or Out Years.

Placement in the Four-Year Element

To be considered for placement in the Four-Year Element of the FTIP a project sponsor must submit an implementation schedule by year showing a logical planned obligation of the various phases (PE, ROW, CON). Failure to adhere to this schedule may result in the project being rescheduled. Criteria for this implementation schedule should include but not be limited to;

- Securing political commitments and authorization from local boards
 - Securing required matching funds
 - Fulfilling the requirements of Caltrans Local Programs
 - Securing required permits, certifications, and waivers
 - Completion of preliminary environmental and design studies
 - Right of way certification
 - Completion of final design
 - Readiness to bid construction
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Depending on the requirements of the project, the implementation schedule may be simple or quite complex. COG staff will schedule the projects in the Element based on this implementation schedule subject to the availability of programming capacity.

Projects with multiple phases (PE, ROW, CON) must have a reasonable expectation that the preliminary phases can be completed prior to programming subsequent phases in the current Element. Project Sponsors must be cognizant of Local Programs requirements affecting the phasing of their projects. For instance, a project cannot proceed to final design, right of way acquisition, or construction until a Preliminary Environmental Study (PES) identifies the environmental condition of the project area and proposes mitigation if required. Furthermore, final construction cannot begin until Caltrans issues an environmental certification (if required), the local agency has certified Right of Way (if included) and final plans and specs have been submitted to Caltrans along with a PSE checklist. It follows that any project with significant environmental mitigation requirements identified on the PES, unresolved Right of Way issues, or issues with final design can not be obligated for the affected project phase until those issues are resolved. Project sponsors must identify those issues that can delay their project and document a reasonable expectation, schedule and commitment to complete required preliminary phases before requesting subsequent project phases be placed in the current Element Year.

Lump sums programmed in the Element must be accompanied by a detailed list identifying the specific deliverable project phases of the Lump sum. Lump sum project sponsors must be able to demonstrate the deliverability of the individual projects and project phases.

It is understood by all COG member agencies, which includes all public transit operators within Fresno County, that while the above discussion of project placement within the financial element explains the method used for initial placement of the regions projects within the FTIP, approval of this "Expedited Project Selection" process will provide the COG Policy Board the flexibility to alter the order of projects within the Element of the FTIP to fit the priorities and needs of the transportation program in Fresno County without "Formal" or "Administrative" to the approved FTIP.

Failure to Deliver

Projects that are programmed in the current Element year that fail to obligate on schedule represent a potential loss of Apportionment to the region unless another project advances to use the available Apportionment. For this reason if a project falls behind in schedule it may be necessary to replace it with another project that has a reasonable chance of obligating. Depending on the apparent demonstrated commitment of the project sponsor to deliver the project; the nature of the delay; and, the availability of programming capacity in the Four-Year Element the project may be rescheduled to the second, third, or fourth year of the Element or to the Out Years.

The FTIP is completely revised every four years. At the end of the first year, projects in the first year of the Element that did not obligate or move back are considered "Prior Year" projects. In order to obligate those projects in the subsequent year an administrative amendment must be processed transferring the projects back into the

new current Element year. However, at the end of the fourth year when the FTIP is revised, all Prior Year projects must be reprogrammed in the Element or they become "Out Year" projects.

Loss of Funds through AB 1012 or decreased apportionment

AB 1012 is apportionment specific. The MPO has three years including the year of apportionment to obligate each apportionment (i.e. the 2006/07 apportionment expires at the end of the 2008/09 fiscal year). The estimated amount of available apportionments is calculated when setting the Lifeline and Regional Bid targets. Should actual apportionments come in significantly lower than those estimates, or should delayed project delivery cause a loss of apportionments via AB 1012, staff will re-estimate the capacity to deliver the program using remaining apportionments. If this results in removing projects from the pool of Lifeline and Regional Bid project list, staff will identify candidate projects for the COG Policy Board to consider for removal. Factors to be considered when identifying projects for removal will include the age of the project and failure to meet committed scheduling.

Project Obligation, Implementation and Close Out

Projects have seven years (state requirement) from the first obligation to proceed to completion and close out. A one time, one year extension may be requested. Projects that lapse unclosed may be subject to repayment by the local sponsoring agency of federal funds to the funding agency.
