5.) Amendment / Modification Procedures

Regional Summary

The Central Massachusetts Metropolitan Planning Organization (CMMPO) by virtue of its endorsement of the FY 2015 - FY 2018 Transportation Improvement Program (TIP) agrees to the following definitions/examples regarding Amendments and Modifications to the TIP:

An Amendment is called for when there is a significant change to the TIP. It will require formal action by the CMMPO. Examples of significant changes would include additions or deletions of projects, movement of highway projects from Year 3 (FY ‘17 and beyond) to Year 1 (FY ‘15) and other actions (such as significant cost or scope changes) deemed to necessitate formal action.

A Modification is called for when lesser actions affecting the TIP may be accommodated through an administrative procedure of the CMMPO. A modification to the TIP may include movement of a project from Year 2 (FY ‘16) to Year 1 (FY ‘15), movement from one funding category to another and the movement of FTA Year 3 (FY ‘17) projects to Year 1 (FY ‘15). The underlying purpose of this mechanism is to provide a degree of flexibility in programming projects in the CMMPO Endorsed TIP.

Further, a recommendation will be obtained as needed from the CMMPO Advisory Committee concerning whether an Amendment or Modification procedure is appropriate.

FHWA Guidance on TIP/STIP Amendment and Modification Procedures

The projects in the first year of an approved STIP shall constitute an “agreed to” list of projects for subsequent scheduling and implementation. For a project to receive federal funds, it must be programmed in the current fiscal year of the current FHWA/FTA approved STIP. FHWA will only authorize projects and FTA will only approve grants for projects that are programmed in the current fiscal year of the current FHWA/FTA approved STIP.

If an implementing agency wishes to proceed with a project not included in the current fiscal year of the current FHWA/FTA approved STIP, a STIP amendment or administrative modification must be made. Due to the fact that the Massachusetts STIP is an aggregation of 13 regional TIPs, a TIP(s) will have to be amended or administratively modified in order to amend or adjust the STIP. The minimum thresholds and corresponding required actions of a TIP amendment and modification are outlined below. The state and CMMPO may set stricter thresholds or require additional actions. A TIP/STIP may be amended or modified at any time (as long as air quality conformity is maintained).
**TIP Amendments**

The state and MPOs are required to make a formal amendment to the TIP if an implementing agency seeks current year federal-aid funding for:

- A project that is not programmed in the first three years of the current FHWA/FTA approved STIP.

- Project scope or cost changes that are significant in character or size. For example, more than 10% or more than $1 million for projects costing less than $10 million.

- A FTA-administered project that is programmed in the current fiscal year of the current FHWA/FTA approved STIP where there is a change in scope of more than 20% of the total programmed amount. (Total programmed amount is the authorized amount for a Regional Transit Authority set by MAP-21 and can include carryover funds from previous fiscal years and funds deobligated from previous grants.)

A public participation process shall be conducted by the respective MPO according to an MPO endorsed Public Outreach Program and shall include adequate public notice of public involvement activities and a public comment period of at least 30 days, subject to exceptions as outlined in the CMMPO Public Outreach Plan.

After the MPO formally endorses the TIP amendment in a public meeting, the MPO shall provide a copy of the endorsed amendment and conformity determination action (see the air quality conformity considerations listed below) to FHWA/FTA to indicate that an amendment to the STIP is forthcoming from the State.

**TIP Administrative Modifications**

Unless subject to an amendment process, as outlined above, an administrative modification to the TIP can be made rather than a formal amendment for the following projects for which current-year federal funds are sought by an implementing agency:

- A project that is programmed in the second or third year of the current FHWA/FTA approved STIP.

Additionally, for projects already programmed in the current fiscal year:

- A FHWA funded project programmed in the current fiscal year of the current FHWA/FTA approved STIP where the total project cost has increased by less than $1 million and less than 10% for projects costing less than $10 million.

- A FTA administered or FHWA flexed project programmed in the current fiscal year of the current FHWA/FTA approved STIP where the total project cost exceeds the TIP/STIP total FTA programmed amount by less than 20%. (Please note that for the programming of FHWA/FTA Discretionary Funds, only funds
that have a specific earmark, i.e. committed by Congress, may be programmed in fiscal year 1 or 2 of the TIP/STIP. Discretionary funds that are “reasonably expected to become available” may be programmed in fiscal year 3 and then administratively modified to fiscal years 1 or 2 when the project receives a specific earmark.)

All other current-year funding changes are considered “significant” and are subject to the amendment process.

Expeditious procedures for the TIP administrative modifications shall be developed by the state and MPOs and reflected in the respective MPO Public Outreach Program. If no such expeditious procedures are developed, formal amendment procedures must be followed.

When a TIP modification is agreed to by the state and MPO, the MPO shall provide a copy of the TIP modification and conformity determination action (see the air quality section below) to FHWA/FTA to indicate that a modification to the STIP is forthcoming from the State.

The TIP modification procedure can be used if an implementing agency seeks federal-aid funding of projects programmed using federal-aid in the previous fiscal year of the previous FHWA/FTA approved STIP. However, this situation should not happen if projects that have not been advertised are programmed in subsequent years of new TIPs/STIP as outlined in the TIPs/STIP development procedures.

**Air Quality Conformity Considerations of TIP Amendments or Modifications**

A conformity determination must be made when a TIP is amended or administratively modified unless the amendment or administrative modification consists entirely of projects that are not air quality sensitive. If this exception is the case, it shall be explicitly reflected in the TIP amendment/modification along with a statement that the original TIP conformity determination still applies. (Air quality sensitive projects include projects such as regionally significant projects, exempt projects that were included in the analysis of the RTP conformity determination, Transportation Control Measures from the SIP, etc.)

If there is reprogramming of air quality sensitive projects such that a new conformity analysis is needed, an amendment to the RTP shall be developed and endorsed along with a new conformity analysis and determination (consultation procedures still apply). The amended or administratively modified TIP conformity determination would then be based on the amended RTP conformity analysis. A less favorable option is to determine conformity of just the TIP amendment/modification. This option is only allowable if the programming of projects in the TIP is consistent with the RTP (consultation procedures still apply).