

ACTION TRANSMITTAL No. 2012-34

DATE: November 15, 2012
TO: Technical Advisory Committee
FROM: TAC Funding and Programming Committee
REQUESTED BY: Federal Program Delivery Work Group
PREPARED BY: Kevin Roggenbuck, TAB Coordinator (651-602-1728)
Heidi Schallberg, Senior Planner (651-602-1721)
SUBJECT: New Program Year Policy Recommendation
MOTION: Recommend adoption of the Regional Program Year Policy

BACKGROUND AND PURPOSE OF ACTION: The Federal Program Delivery Work Group has focused on how to successfully move federally-funded projects to implementation. The group met six times to develop recommendations to policy and processes to improve project implementation. Members of the work group included chairs of TAC and the TAC Funding and Programming Committee, the TAB Coordinator, and representatives from cities, counties, transit, FHWA, and MnDOT.

For years, regional policies and rules have allowed a continuous shift of regional solicitation projects from year to year, under the auspices of flexibility and accommodation for local program delivery challenges. These policies have evolved into a practice that results in a local federal program that is substantially delaying important regional projects as reported in the State Transportation Improvement Program. The sunset date was a regional policy to allow an automatic extension of the program year until March 31st of the following year for federally-funded projects recommended through the TAB's solicitation process.

An analysis of the regional program indicates a delivery problem that translates into a transparency and accountability problem. Over the past five years, only 35% of the program was delivered in the original program year; 32% of the program was let in the sunset year; and 20% received a sunset date extension and delivered the projects. In addition, 13% of the projects were not completed.

Over the years, MnDOT has adjusted the federal program in an effort to accommodate movement of federally funded projects. This practice has resulted in a number of programming challenges that, in the end, put in jeopardy Minnesota's ability to fully use federal funds. The new transportation legislation, MAP-21, introduces performance measures and targets, tying spending of funds to specific outcomes. The result will be much more difficulty in shifting funds to different years.

As a result of these issues, one of the work group's recommendations is to eliminate the official automatic "sunset date" while allowing a process for projects that may need to request a program year extension due to extenuating circumstances. Additional information is provided in the attached Regional Program Year Policy.

In addition to recommending the adoption of the proposed Regional Program Year Policy, the work group made recommendations for managing the regional program:

- Provide regular project and program monitoring and reporting
 - State Aid should provide a project tracking report on program year projects to the TAC Funding and Programming Committee in January, April, and October each year.
 - This report should include relevant project data and status, based on reports provided for ARRA.
 - Performance measure reporting could be included in the future.
- The region should investigate the possibility of shifting federal funds from regionally-selected smaller projects to larger projects with over-matched federal funds, based on examples from throughout the state.
- Future project solicitations should consider project types and complexity related to project delivery.
- The state and region should review roles and responsibilities of managing the program in light of changes with MAP-21. The region will need to assume a larger role in managing its program to ensure timely project delivery.

On September 20, the TAC Funding and Programming Committee discussed the proposed changes to the region’s sunset date policy and scope change policy as they apply to projects awarded funding through the regional solicitation process. Additional comments were received from MnDOT Metro State Aid on the draft sunset date changes, and the work group met on November 7, 2012, to finalize their recommendation.

RELATIONSHIP TO REGIONAL POLICY: Since the first regional solicitation in 1993, the Transportation Advisory Board (TAB) has had a sunset date provision in place that applied to all projects awarded funding by the TAB. The sunset date is the date when the federal funds are no longer available to the project sponsor. The intent of the sunset date is give local project sponsors some additional time beyond its program year to develop their project and get it ready for authorization.

The sunset date is a regional policy adopted by the TAB and is not part of the federal guidance associated with each federal transportation funding act.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Funding & Programming Committee	Review & Recommend	November 15, 2012
Technical Advisory Committee	Review & Recommend	
Transportation Advisory Board	Review & Adopt	
Metropolitan Council	Information	

Transportation Advisory Board

Regional Program Year Policy

- The Regional Program Year Policy is intended to manage the development and timely delivery of transportation projects awarded federal funds through the TAB's Regional Solicitation Process.
- Project sponsors awarded federal funds through the regional solicitation process are expected to get their project ready for authorization in their program year.
- The program year is July 1st to June 30th of the year in which the project is originally programmed in the Transportation Improvement Program (TIP).
- By March 31st of the program year, the project must meet the criteria on the attached sheet.
- Additionally, if a regionally selected project is not ready to request authorization by June 15th of its program year, the project will not be carried over into the new TIP unless the project sponsor receives a program year extension from the Technical Advisory Committee (TAC).
- The Regional Program Year Policy will begin with projects currently programmed in Program Year 2014.
- Project sponsors that have made significant progress but are delayed by circumstances that prevent them from delivering their projects on time must submit a request for a program year extension to the TAB Coordinator by December 31st of the project's program year.
- The maximum length of a program year extension is one year. Projects are eligible for only one program year extension request.
- If a program year extension is granted, funding the project will be contingent on the availability of federal funds. A project sponsor is responsible for funding the project until federal funding becomes available.
- Projects receiving program year extensions will not receive an inflationary cost increase in their federal cost caps.
- "Procedure to Request a Program Year Extension" is provided as Attachment 1.

CRITERIA FOR MEETING PROGRAM YEAR

(Required by March 31st of program year)

Construction Projects through the FHWA Process:

- Environmental document approved
- Right of way certificate approved or condemnation proceedings have been formally initiated, with title and possession by June 15th of the program year
- Final construction plans submitted and reviewed for standards, eligibility, funding and structural design
- Engineer's estimate
- Utility relocation certificate
- Permit applications submitted

Construction Projects through the FTA Process

- Environmental document completed; reviewed by Metro State Aid for completeness
- Satisfactory review by Metro State Aid that project plans are complete and reflect the project that was selected
- Letting date can be set within 90 days
- FTA notification that grant approval imminent

Right of Way Only Projects through FHWA Process

- Environmental document approved.
- OCPPM/SALT authorization to proceed.

Right of Way Only Projects through FTA Process

- Environmental document completed; reviewed by Metro State Aid for completeness
- Appraisals over \$250,000 approved by FTA; under \$250,000 reviewed by MnDOT Metro State Aid/Right of Way Section
- FTA notifies that grant approval is imminent
- OCPPM transfers funds
- Offers made/condemnation initiated if offers refused

Program Project

- Grant application submitted to FTA; includes work plan
- Notification from FTA that grant approval is imminent
- Work will begin within 90 days after grant approval
- Agreement executed between MnDOT and proposer once funds are transferred

**TRANSPORTATION ADVISORY BOARD
PROCEDURE TO REQUEST A PROGRAM YEAR EXTENSION**

If it appears that a project cannot meet the deadline for authorization within its program year and a program year extension is necessary, the project sponsor must demonstrate to the Funding and Programming Committee that significant progress has been made on the project and the program year criteria can be met within the requested one-year time extension. Projects may be granted only one program year extension. Requests for a program year extension must be submitted by December 31st of the project's program year.

The answers provided on the Progress Schedule for Program Year Extension on Attachment 1 will determine whether a project is **eligible** for a one-year extension. In addition to responding to the Progress Schedule for Program Year Extension, the project sponsor must submit the following materials to the Funding and Programming Committee so it can determine if a program year extension is reasonable:

- 1) Project Background (will be provided by TAB Coordinator).
- 2) Project Progress:
 - a) Complete attached progress schedule with actual dates.
 - b) Right of way acquisition - provide map showing status of individual parcels.
 - c) Plans - Provide layout and discussion on percent of plan completion.
 - d) Permits - provide a list of permitting agencies, permits needed and status.
 - e) Approvals - provide a list of agencies with approval authority and approval status.
 - f) Identify funds and other resources spent to date on project.
- 3) Justification for Extension Request:
 - a) What is unique about this project that requires an extension of the program year?
 - b) What are the financial impacts if this project does not meet its current program year?
 - c) What are the implications if the project does not obtain the requested extension?
 - d) What actions will the agency take to resolve the problems facing the project in the next three to six months?

PROCESS AND ROLES

The Funding and Programming Committee will hear all requests for extensions. The Committee's recommendation will be forwarded to the TAC for action. The TAC will take action and provide an informational update to the TAB or its designated appropriate subcommittee. Staff for the Funding and Programming Committee will notify the applicant of the committee's decision.

Adopted by the Transportation Advisory Board

(insert date) 2012

Attachment 1: PROGRESS SCHEDULE FOR PROGRAM YEAR EXTENSION

Enter request date

INSTRUCTIONS:

1. Check status of project under each major heading.
2. Enter dates as requested for each major heading.
3. Enter points as suggested by each applicable response.
4. Total points received in the TOTAL POINTS line on the last page. **The minimum score to be eligible to request an extension is seven points.**

ENVIRONMENTAL DOCUMENTATION

____ PROJECT MEMORANDUM
____ Completed/Approved If checked enter 5. ____
Date of approval _____

____ EA
____ Completed/Approved If checked enter 2. ____
Date of approval _____

EITHER
____ Not Complete
Anticipated Date of Completion _____
If prior to January 31st of the program year, enter 1. ____

OPPORTUNITY FOR PUBLIC HEARING (not necessary for project memorandum)

____ Completed
Date of Hearing _____ If checked enter 2. ____
____ Not Complete
Anticipated Date of Completion _____
If prior to February 28th of the program year, enter 1. ____

FINAL ENVIRONMENTAL ASSESSMENT (not required for project memorandum)

____ Completed/FONSI Approved If checked enter 2. ____
Date of approval _____
____ Not Complete
Anticipated Date of Completion _____
If prior to March 31st of the program year, enter 1. ____

STUDY REPORT (required for Environmental Assessment Only)

_____ Complete/Approved If checked enter 1. _____
Date of Approval _____
_____ Not Complete
Anticipated Date of Completion _____

CONSTRUCTION PLANS

_____ Completed (includes signature of District State Aid Engineer)
Date _____ If checked enter 3. _____
_____ Completed (approved by District State Aid as to SA Standards but not signed)
Date _____ If checked enter 2. _____
_____ Not Complete
Anticipated Date of Completion _____
If prior to June 30th of the program year, enter 1. _____

RIGHT OF WAY ACQUISITION

_____ Completed (includes approval of R/W Cert. #1 or #1A) If checked enter 2. _____
Date _____
_____ Not Complete
Anticipated Date of Completion _____
If prior to December 31st of the year following the original program year, enter 1. _____

ENGINEERS ESTIMATE OF COSTS

_____ Completed If checked enter 2. _____
Date _____
_____ Not Complete
Anticipated Date of Completion _____
If prior to December 31st of the year following the original program year, enter 1. _____

AUTHORIZED

Anticipated Letting Date _____.
Anticipated letting date must be prior to June 30
in the year following the original program year,
so that authorization can be completed prior to
June 30 of the extended program year.

TOTAL POINTS _____