U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
CALIFORNIA DIVISION
650 Capitol Mall, Suite 4-100
Sacramento, CA. 95814

November 17, 2008

IN REPLY REFER TO
HDA-CA
Document #: S52247

Mr. Will Kempton, Director
California Department of Transportation
1120 N Street
Sacramento, CA 95814

Attention: Federal Resources Office, M.S. #82
For Rachel Falsetti, Transportation Programming

Dear Mr. Kempton:

SUBJECT: Revised Federal – Statewide Transportation Improvement Program (FSTIP) Amendment and Administrative Modification Procedures.

For the past few months, a subcommittee of the California Federal Programming Group (CFPG) consisting of representatives from the California Department of Transportation (Caltrans), the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA) and Metropolitan Planning Organizations (MPOs) throughout the State have collaborated on revisions to the current FSTIP/FTIP amendment and administrative modification procedures. These revisions were necessitated by the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), which defined an administrative modification.

Attached are the revised procedures detailing what specific types of programming changes to the FSTIP/FTIPs may be made as administrative modifications, for which approval has been delegated to the State, and what changes must be submitted to FHWA and/or FTA for approval as amendments (per the July 15, 2004 MOU between FHWA – CA and FTA Region 9). These procedures are intended to clarify the parameters of an administrative modification.

In addition, as agreed to, to ensure that adequate financial capacity exists to make administrative modifications, Caltrans will document that financial capacity is available and included in the FSTIP. In processing administrative modifications, the financial capacity will be documented in each administrative modification and each MPO will adjust its financial plan at its next formal amendment to reflect the changes made by previous administrative modifications.

If you have any questions regarding the attached procedures, please contact Ray Sukys, FTA, at 415-744-2803 (Raymond.Sukys@dot.gov) or Sue Kiser, FHWA, at 916-498-5009 (Sue.Kiser@fhwa.dot.gov).

Sincerely,

Leslie Rogers
Regional Administrator
Federal Transit Administration, Region IX

For
Gene K. Fong
Division Administrator
Federal Highway Administration, CA Div.

Enclosure

MOVING THE AMERICAN ECONOMY

Procedures for Federal – Statewide Transportation Improvement Program (FSTIP) Amendments and Administrative Modifications

The following procedures are applicable for processing amendments and administrative modifications to the Federal – Statewide Transportation Improvement Program (FSTIP). In accordance with the provisions of 23 CFR 450, Federal Transportation Improvement Programs (FTIP) developed by Metropolitan Planning Organizations (MPOs) are incorporated into the FSTIP and, as such, these procedures are also applicable to FTIPs.

In accordance with 23 CFR 450.216(c), projects in the recognized four-year period of the FSTIP may be delivered in any of the FSTIP program years subject to the project selection requirements of 23 CFR 450.222. Such modifications do not require approval, provided expedited project selection procedures have been adopted in accordance with 23 CFR 450.332 and the required interagency consultation or coordination is accomplished and documented. These changes should be accounted for through subsequent amendments or modifications to the FSTIP/FTIPs. Changes to illustrative projects or others that have been included for informational purposes only do not require administrative modifications or amendments.

1. Definitions:

   A. Administrative modifications are minor changes to the FSTIP/FTIP that do not require a conformity determination, a demonstration of fiscal constraint or a public review and comment period. Administrative modifications can be processed in accordance with these procedures provided that they:

      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,
      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.

B) Amendments or Formal Amendments are all other modifications to FSTIP/TIP that are not Administrative Actions.

2. Procedures:

A. Administrative Modifications

Each MPO-approved administrative modification will be forwarded to Caltrans Division of Transportation Programming for approval on behalf of the Governor. If the MPO Board has delegated approval of administrative modifications to the MPO Executive Director, the MPO will need to provide copies of the delegation to Caltrans, FHWA, and FTA.

The MPO will provide copies of administrative modifications submitted to Caltrans for approval to FHWA and/or FTA for informational purposes. In addition, the MPO will demonstrate in a subsequent amendment that the net financial change from each administrative modification has been accounted for. Once approved by Caltrans, on behalf of the Governor, the administrative modification will be incorporated into the FSTIP and no Federal action will be required. Caltrans will notify the MPO, FHWA and FTA of the approved administrative modification.

B. Amendments

Amendments to the FSTIP must be developed in accordance with the provisions of 23 CFR 450.326 and/or 23 CFR 450.216, and approved by the FHWA and/or FTA in accordance with 23 CFR 450.218, 23 CFR 450.328 and the July 15, 2004 MOU between FHWA – CA and FTA Region 9. Each MPO-approved amendment will be forwarded to Caltrans Division of Transportation Programming for approval on behalf of the Governor. To expedite processing, the MPO will also forward a copy of the submitted amendment to FHWA and FTA at the same time the amendment is sent to Caltrans. Once approved by Caltrans on behalf of the Governor, Caltrans will forward the amendment to FHWA and/or FTA for Federal approval. Once approved by FHWA and/or FTA, the amendment will be incorporated into the FSTIP. The FHWA and/or FTA approval letter will be addressed to Caltrans, with copies sent to the MPO.

3. Dispute Resolution

If a question arises on the interpretation of what constitutes an administrative modification or amendment, Caltrans, the MPO, FHWA and FTA will consult with each other to resolve the question. If after consultation, the parties disagree regarding what constitutes an administrative modification or amendment, the final decision rests with the FTA for transit projects and FHWA for highway projects.