

FHWA and FTA Response to Tier 1 Proposed Actions and Questions

DOT&PF February 16, 2024 Email (copied and pasted with no change)

As we work through the STIP Tier 1 findings issued Monday, we have prepared a list of proposed actions and a one question. Thank you in advance for FHWA's consideration. Having concurrence from FHWA on our proposed actions and answer to our question will allow DOT&PF to move quickly to incorporate changes into our required STIP re-submittal.

Tier 1, Finding 1: MPO and Other Transportation Improvement Programs

Proposed actions: All projects and programs listed in Appendix A will be removed and incorporated into single programs for each MPO, that include the summaries of designated funding sources for the individual projects and programs identified in the representative TIPs to meet fiscal constraint requirements.

We note that within 6 months we are required under Tier 2, Condition 1 to further work on DOT&PF's roles and responsibilities working with MPO's, and will address additional concerns at that time.

FHWA/FTA response:

As outlined in the Federal Planning Finding, projects listed in Appendix A must be removed from the STIP and no further changes to the STIP are appropriate for the projects listed in Appendix A. The projects in Appendix A must be amended into the TIPs for the MPOs, Federal Lands Management Agency or Tribe through the processes established by each agency. Each individual agency administers a process to document and present fiscal constraint for funding and projects programmed in their respected TIP document. Please work with the identified agencies (MPOs, Federal Lands Management Agency or Tribe) to clarify their processes for including the projects from Appendix A into their TIPs and to assist in their demonstration for fiscal constraint associated with these projects.

For accuracy, Tier 2 Corrective Actions are required to be addressed within six months or prior to the first STIP amendment. Strike language related to Tier 2 as part of addressing Tier 1 corrective actions.

Tier 1, Finding 2: Project Groupings

Proposed actions: The groupings identified in Appendix B will be removed. Revenue allocated to removed groupings will be allocated to accepted projects and programs.

FHWA/FTA response:

Tier 1 Corrective Action b does not require removal of all projects in Appendix B. Rather, each project grouping in Appendix B per 23 CFR 450.218(j) requires that grouped projects reflect those projects that are not considered to be of appropriate scale (generally small scale) for individual identification, and any project group provide additional information to ensure each project meets the parameters for a grouped project. These parameters include a project description that explains, the type of work, the location of where the work will take place and whether the work is exempt for AQ conformity and that the projects are a Categorical Exclusion under NEPA. Many grouped projects included in the STIP provided brief descriptions, which enabled FHWA and FTA to understand how they meet project grouping parameters. The projects in Appendix B do not include an appropriate project description detail to determine eligibility for grouping.

Any decision to remove project groupings or funding associated with the project groupings in Appendix B is under the purview of the DOT&PF. If DOT&PF elects to address this comment by removing these projects and adding the funding to other projects in the STIP, FHWA/FTA will need to review the projects to which these funds are added to ensure eligibility prior to inclusion in STIP.

Tier 1, Finding 3: Fiscal Constraint

Corrective action c proposed action: A summary of Alaska’s FY2020-2023 Operating Budgets will be provided, outlining all funding sources, with a system approach that looks at 2020-2023 infrastructure improvements and documented deficiencies that may increase or reduce the State of Alaska’s maintenance burden.

FHWA/FTA response:

The Corrective Action focuses on how the DOT&PF determined the operations and maintenance needs and how these needs are defined and funded. The 2020-2023 Operating Budgets may suggest how funding is allocated for the purpose of operating and maintaining the existing transportation system, but it does not explain how the DOT&PF determine the operating or maintenance needs throughout the state to operate and maintain the existing transportation system. In addition, in the event that the operation and maintenance needs exceed the anticipated Operating Budget for the transportation system, an explanation of how the State manages existing assets and prioritizes and addresses the operation and maintenance of the existing transportation system.

Corrective action d proposed action: A statement of the State’s ability to fund Advanced Construction projects will be included.

FHWA/FTA response:

Beyond a statement of how the State uses Advance Construction and the State’s ability to fund projects using this tool, the resolution of corrective action d also requires documentation of the availability of State and/or local funds to support the Advance Construction funds programmed in the STIP.

Corrective action e proposed action: We will use the STIP’s 4 year time horizon and an estimate of discretionary grant future availability, as well as the State of Alaska’s probability of success as a measure of “reasonable” in including discretionary grants.

FHWA/FTA response:

The estimated probability of success in receiving discretionary grants must be documented in the STIP as part of the fiscal constraint demonstration. Likewise, if this approach is used, the State must document what steps will be taken for any project that is identified in the STIP for discretionary grant funding, if that project is unsuccessful in receiving a discretionary grant and conversely, when a project identified under this category receives a discretionary grant. In addition, documentation must clarify the processes for any project not included in the STIP for this proposed discretionary grants category, if that project receives a discretionary grant.

Corrective action f: Will comply

No response from FHWA/FTA required.

Corrective action g: will comply

No response from FHWA/FTA required.

Corrective action h: will comply

No response from FHWA/FTA required.

Corrective action i: will comply

No response from FHWA/FTA required.

Tier 1, Finding 4: STIP Amendment and Modifications

Corrective action j:

Question: Without agreed upon exemptions of amendments and modification criteria and thresholds, certain aspects of project delivery may be put at risk. Our understanding from the language in the corrective action statement is we are being asked to remove the “Funding Adjustments to Award Contracts” bullet from the section titled: “Updates that do not require a STIP Change” on page 20. Is this a correct assumption?

A primary concern is the State’s ability to award contracts timely when bid increases exceeding thresholds are experienced. In Alaska, our construction windows are short, and delays in awarding contracts are likely to increase construction timeframes and potentially delaying projects into subsequent seasons (and increasing costs). Contract award adjustments required during construction activities can have the same effect.

Proposed action (corrective action j): Maintain the State’s prior authority outlined in Approved STIP AMD #8 to conduct contract changes without waiting for STIP modifications and Amendments.

Corrective action k: will comply.

FHWA/FTA response:

The corrective action was established based on findings throughout the 2020-2023 STIP that raised significant concern about the use of the identified list of exceptions as the basis for management of the STIP outside of the amendment and administrative modification procedures. Therefore, the corrective action requires the removal of all exceptions to the agreed-to STIP modification and amendment procedures. Tier 2, Recommendation 5 b.), suggests that the DOT&PF review the TIP/STIP amendment and modification procedures to ensure they adequately address needs. If the DOT&PF pursues Tier 2, Recommendation 5, b.), FHWA and FTA may consider processes to address rare, extenuating circumstances outside of the TIP/STIP amendment modification and amendment processes.

Tier 1, Finding 5: Self Certifications, Federal Findings, and Federal Approvals

Corrective action I proposed action: Will add a section to narrative regarding Air Quality Conformity Freeze of FNSB.

No response from FHWA/FTA required.

Corrective action M proposed action: Will remove projects that haven’t been processed through the FNSB Interagency Consultation process.

FHWA/FTA response:

Proposed action appears to meet corrective action. To allow us to expedite our review, provide documentation of any projects included in the STIP that have completed the Fairbanks North Star Interagency Consultation processes and have been found exempt. In addition, any project listed under Appendix C of the Federal Planning Finding that is located within the Fairbanks North Star MPO planning area, must be amended into the MPO TIP via the MPO’s TIP amendment processes prior to amending the project into the STIP.

For accuracy, below is Table C from the Federal Planning Finding that notes the projects and how they should be programmed (i.e., in the STIP or the FAST TIP):

Table C

Need ID	Title	TIP/STIP
34399	Weigh-in-Motion Wayside Improvements	STIP
34130	Richardson Highway Milepost 346 Chena Bridges Replacement	TIP
34196	International Airport Charging Stations	TIP