



## HERKIMER-ONEIDA COUNTIES GOVERNMENTAL POLICY AND LIAISON COMMITTEE

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### HOCTS Resolution No. 2010-2

#### GOVERNMENTAL POLICY AND LIAISON COMMITTEE

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NYS Department of Transportation

**JOHN L. BUONO**, Chairman  
NYS Thruway Authority

**JOHN R. KENT, JR.** (Secretary)  
Program Director  
Herkimer-Oneida Counties  
Comprehensive Planning Program

To Amend the "Project Selection Process" Narrative of the approved 2008-12 Transportation Improvement Program for The Utica Urbanized Area And Rural Herkimer-Oneida Counties.

**WHEREAS;** Part 450 , Subpart B, 23 CFR Chapter I and Part 613, Subpart B, 49 CFR Chapter VI as published in the Federal Register of June 30, 1983, requires the development of a Transportation Improvement Program (TIP) within the Utica Urbanized Area; and

**WHEREAS;** the Governmental Policy and Liaison Committee has previously approved the 2008-2012 TIP; and

**WHEREAS;** the Safe, Accountable, Flexible, Efficient Transportation Equity Act, a Legacy for Users (SAFETEA-LU) required that the TIP and State Transportation Improvement Program (STIP) be "Fiscally Constrained" by Federal Fiscal Year (FFY) and by fund category; and

**WHEREAS;** the "Project Selection" process as described in the TIP allows for the selection of projects from years 2 and 3 in order to advance an already approved project to the first year of the TIP/STIP without the need for an amendment, and

**WHEREAS;** it may be necessary to select projects from the fourth year of the current TIP/STIP, and

**WHEREAS;** there is a need to efficiently administer and implement the projects contained in the TIP, it is recognized that project costs, fund sources and scheduling shown in the TIP are reasonable estimates which may change during the course of project development; and it is the intent of the Governmental Policy and Liaison Committee through its Transportation Planning Committee to monitor such changes, "Project Selection," and indicate to program administrators changes which are not consistent with the TIP and indicate what actions should be taken; and

**WHEREAS;** a TIP amendment is required in order to change the "Project Selection" language of the TIP;

THEREFORE BE IT RESOLVED, that the Governmental Policy and Liaison Committee approves the attached revised "Project Selection Process" narrative of the FFY 2008-2012 TIP; and

BE IT FURTHER RESOLVED, that the Governmental Policy and Liaison Committee hereby directs the Secretary to communicate this action to the appropriate State and Federal officials in the prescribed manner.

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Anthony J. Picente, Jr.                      Date  
Chairman

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John R. Kent, Jr.                              Date  
Secretary

Recommended by the Transportation  
Planning Committee

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Jay Ewanyk                                      Date  
Chairman

## 2008-2012 TRANSPORTATION IMPROVEMENT PROGRAM

### PROJECT SELECTION PROCESS

Federal regulations require development of an appropriate Project Selection mechanism for projects in the TIP. Project Selection consists of a financially constrained TIP with project actions arranged by year and grouped by funding sources that match the estimates of funds available for that year. The highest priority goes to the first year's projects and lesser priority to projects in succeeding years. The TIP may contain project actions that anticipate discretionary funding (e.g. discretionary bridge, general fund demonstration, Section 5309, etc.). These actions are identified as such in the TIP.

Under Metropolitan and Statewide Planning Rules and Regulations, the term "Project Selection" has taken on a new and completely different definition. As now applied by FHWA/FTA, the term refers to the process or mechanism used to manage project implementation from an approved and fiscally constrained TIP and/or State Transportation Improvement Program (STIP), for advancement to the FHWA or FTA for authorization.

Development of a uniform NY Statewide "Project Selection" procedure will significantly reduce the administrative workload by eliminating the need to process a TIP and/or STIP amendment each time it is determined that an already approved project not contained in the first year of the approved TIP/STIP must be advanced for implementation in the first year, or when a fund source revision is required, to ensure quick delivery of ready highway and transit projects. It should be noted that the addition of a new project (phase) to or deletion of an approved project (phase) from an approved TIP will require a formal TIP amendment.

The rules [Section 450.216 (a)(5) and Section 450.324 (c)] require that the TIP and STIP be fiscally constrained by Federal Fiscal Year and by fund category. This constraint is defined as the amount of funds in each category that is available for obligation in a given FFY. Currently, ~~constrained~~ means the authorized levels of funds in SAFETEA-LU plus the "carry forward balances" of Federal funds from prior FFY's. Additional guidance pending in Washington may further restrict the value of projects programmed in each year by not allowing carry forward balances to be included in the definition of fiscally constrained. For the present, however, the current definition applies.

Revised estimates of the value of programmed projects (based upon actual PS&E's or actual bids) and/or delays in the schedule of a project caused by unforeseen events (e.g., need for minor ROW takings) create a situation where the value of the list of projects shown in the first year of the TIP/STIP may not equal the value of the resources available as the year progresses. Based upon recent history, the value of the first year's program will decrease from the initial cost. Since each year is now required to be fiscally constrained, it is essential to identify a mechanism to advance approved projects from subsequent years of the TIP/STIP to ensure that the Federal funds available to New York in a given FFY are fully utilized and not returned to Washington for redistribution to another state. It's imperative to understand that, in a tightly constrained TIP, all projects, of all modes, in all fiscally-constrained years, represent hard commitments and all will be delivered unless withdrawn by the sponsor.

Project Selection for federal funds covered by the TIP is as follows:

1. Projects identified in the first year of the STIP have first right to the funds available. To the extent that all the projects are ready to be authorized and the actual costs match the programmed costs, no project selection is required.
2. If the value of a project or projects in the first year of a TIP/STIP increase from the programmed cost when it is ready for authorization, it will be necessary to maintain the fiscal integrity of the fund category in that Federal fiscal year in order to obtain Federal authorization. Generally, this will require that savings in other first year projects be identified. If that cannot be demonstrated, other first year projects would need to be deferred to later years. If they are deferred to later years, it is important to remember that fiscal balance in years 2, 3 and 4 of the TIP/STIP must also be maintained. This may necessitate deletion of scheduled projects in years 2, 3 and 4. Even though this sounds onerous, it often entails only minor schedule change of a project (e.g., September 2008 to October 2009). Again, the addition of a new project and/or the deletion of an approved project from an approved TIP would require a TIP Amendment.
3. In rare instances, it is necessary to revise the fund category in order to ensure timely authorization of an approved project. Revising the fund category may be permitted under project selection if the fiscal integrity of each affected fund category is maintained.
4. The most likely situation that would require Project Selection occurs as a result of savings incurred as a project is authorized (or bid) or when the schedule of a project slips causing the authorization to be deferred to a subsequent FFY. In these instances, it will be necessary to select a project from the second or third year of the TIP/STIP for authorization if NYSDOT is to avoid lapsing funds in the current FFY.
5. Affected local officials and GP&L Secretary will be notified in writing by NYSDOT as soon as NYSDOT is aware of a letting date change for a project moving into or out of a FFY.

Previously, the management of the use of the Title 1 (FHWA) funds was accomplished by NYSDOT within the approved TIPs. The TIPs have always been viewed as a commitment by NYSDOT and the commitment for delivery has been honored. The first year of TIP/STIP was overprogrammed to account for savings and schedule slippages which ultimately ended up with a modest balance of projects ready to go by the end of the FFY compared to the funds available in a given FFY. NYSDOT, with Division of Budget approval, advance funded construction projects late in the FFY. After new funds and/or Obligational Authority was authorized in October, these advance funded projects were then converted to the programmed funding. This resulted in the timely advancement of all Title funded projects in the approved TIP/STIP when the projects were ready to be authorized. All projects ready to be advanced were delivered.

A uniform implementation selection mechanism is necessary to accomplish the aforementioned process and ensure delivery of all ready projects. However, since the TIP/STIP is now fiscally constrained by year, it may be necessary to select projects from years 2, 3 and 4 to ensure full usage

of Title I funds. Since NYSDOT's commitment is to all the projects in the fiscally constrained TIP/STIP, all projects will be implemented. Therefore, it is necessary that the GP&L recognize that, as part of prudently managing the Obligation Authority, that NYSDOT can select Title I funded projects from years 2, 3 and 4 of the TIP/STIP and/or revise the fund category if it becomes necessary because of savings or schedule slippages in other Title I projects. This basis for selecting projects from years 2, 3 and 4 or revising fund categories would be, to the extent possible, to select a project that is ready to be authorized from Herkimer-Oneida Counties, then from the same NYSDOT Region and, finally, from anywhere within the State.

Similarly, for Title III (FTA) funded projects in the TIP/STIP, there may be occasions when projects included in the first year of the TIP/STIP will not be ready for authorization at the time the grantee prepares and submits the grant application to FTA or could be authorized with another Title III fund source. To the extent that the value of the projects in the first year of the TIP/STIP does not equal the funds available, project selection from years 2, 3 and/or 4 of the TIP/STIP may be necessary. Project selection will permit the grantee to select project(s) from years 2, 3 and/or 4 if the projects are ready to be implemented. The value of the project(s) selected must equal those in the first year that are not ready and the fund category must be the same. If the grantee does not have projects in years 2, 3 and/or 4 of the TIP/STIP, the grantee will consult with the GP&L to identify other Title III projects in the TIP/STIP that can be authorized in the first year.

Notwithstanding Step 5 of Project Selection, for Title I funded projects, NYSDOT will report to the GP&L on a quarterly basis if the project selection procedures are implemented. Similarly, for Title III funded projects, the Transit Operator will report to the GP&L on a quarterly basis if the operator intends to utilize the project selection procedures in submitting a grant application to FTA.

The rules give priority to projects which are included in the first year of the TIP/STIP even if the schedule precludes the projects from being authorized in year 1. However, there may be instances of projects listed in years 2, 3 or 4 of the TIP/STIP being ready for advancement in year one. Currently, NYSDOT authorizes each project when ready. The requirement to give priority to year one projects could result in projects ready to be authorized being delayed until the next FFY. If NYSDOT identifies any projects which would be delayed in implementation, the NYSDOT would attempt to identify sufficient resources (through saving or deferrals) to allow the project to be authorized when ready. If sufficient Federal resources cannot be identified in year one, NYSDOT would discuss, with the GP&L, the option of substituting the ready-to-go project for another project scheduled in year one.