

SCOPE CHANGE POLICY (Pages 3-7)

Purpose of the existing Policy

The Scope Change Policy was established to assess whether a project scope can change, as requested by the project applicant, while still generally maintaining the project's character. It was written with the assumption that requests are being made for projects that are not connected to other projects.

Need to Re-Examine

- In recent years, most scope change requests have related to eliminating a part of a project so it can be completed elsewhere as part of a different project. This is beyond the scope of the existing policy, which assumes requests are related to on-the-ground changes related to termini, changing needs for bus types, and other changes that occur during project development.

Considerations:

- Should federal funds be retained for removed project elements being completed elsewhere (as has been recent practice in the absence of policy direction)?
- Should scoring analyses be completed (given that sponsors still promise to complete the projects; again, in the absence of policy direction)?

Other Potential Topics

- Whether intersection treatment changes should be considered informal changes (as they are currently) and whether different consideration should be used for Spot Mobility and Safety projects (category did not exist when policy was first written).
- Whether an otherwise informal scope change that leads to a small cost reduction can be approved informally. While small amounts of funding have been retained by applicants when TAB and MnDOT State Aid considers the funding too small to warrant redistribution, staff has been hesitant to allow retention of even very small amounts of money to remain after a project reduction. Is there a small amount of money for which this can be allowed?
- Should any distinctions be made for transit? Transit projects have differences such as service type (e.g., on-demand vs. fixed route), fuel type, bus length, etc. Transit projects tend to have more flexibility regarding changing scope after project letting.
- Should any distinctions be made for HSIP? HSIP is scored through a MnDOT process. What influence should the policy have on HSIP scopes and federal funding retention?

PROGRAM YEAR POLICY (Pages 8-12)

Purpose of the Existing Policy

The Regional Program Year Policy was established to address projects not being let in their program years, as is required by FHWA. The policy allows for a one-time, one-year program year extension and includes a scoresheet to assure that projects are likely to be ready in their requested out-year.

Need to Re-Examine

- In recent years, most program year extension requests have been made by applicants whose projects have become component to a larger project that is either programmed for a later year (i.e., more than one year out) or, given its size, ends up being delayed. This often results in requested extensions of more than one year along with multiple extension requests for individual projects. Considerations:
 - Should the policy be adjusted to accommodate multiple extensions and/or multi-year extensions when the program year is out of the applicant's control?
 - Are there ways outside of the Program Year Policy to address this concern? For example, should a stricter definition of "independent utility" be established?

Other Potential Topics

- Should different rules be established for transit projects? FTA does not allow for advanced construction (AC) but does provide for significantly more flexibility (i.e., a project has five years from the start of its program year to be let).
- Can consideration for whether to extend a project be connected to the current state of the federal program?
- Should any distinctions be made for HSIP?
- Can the program be less strict regarding adherence to one program year given the rules around using federal funds?
- Could federal funds exchanges ("defederalization") be used to create flexibility?

Scope Change Policy

Projects awarded federal funds by the Transportation Advisory Board (TAB) as part of the Regional Solicitation or Highway Safety Improvement Program (HSIP) are often concepts that are further developed in the period from project application to implementation. Project sponsors work on activities after funds are awarded such as preliminary and final design, environmental studies, and public involvement. Sometimes during this project development process, the project sponsor wants to make changes to the scope of the project. Changes to a project's scope could affect its benefits to the region. It is important to the TAB that any change in a project's scope does not substantially reduce these benefits.

Scope Changes

A scope change is any revision that changes the physical characteristics of the project and has the potential to add to or detract from the project's benefits to the region. The project description in the original funding application serves as the project's scope for the purpose of determining whether a scope change is needed.

Three Levels of Scope Changes

There are three types of scope changes described below. The TAB Coordinator, the MnDOT Metro District Federal Aid Program Coordinator (for Federal Highway Administration-administered projects), and the Transit Federal Grants Manager (for Federal Transit Administration-administered projects) will determine the type of scope change.

Administrative scope changes:

Minor changes that typically occur when projects move into detailed design or minor additions such as project amenities or aesthetic items do not need TAB Coordinator/Metropolitan Council staff review. The MnDOT Metro District Federal Aid Program Coordinator or Metropolitan Council Transit Federal Grants Manager can review and approve minor changes including, but not limited to:

- Removing or adding of minor items, such as benches, waste receptacles, signage, etc.
- Changing the design of aesthetic items, such as lighting, railings, benches, etc.
- Adding items due to normal detailed design of a project such as noise walls, retaining walls, storm sewers, bike racks, wi-fi, etc.
- Adding new project elements/improvements funded through another source (e.g., a change to a more fuel-efficient bus) or combining a TAB-funded project with one or more separate non-TAB funded projects to improve efficiency and reduce construction impacts (e.g., combining a roadway project with an adjacent mill and overlay project). These changes should not detract from the original scope.
- Changing the width of a bike path (must still meet standards).

Informal scope changes:

Scope changes that exceed the standards of administrative scope changes are brought for a consultation between the TAB Coordinator; the MnDOT Metro District Federal Aid Program Coordinator or Metropolitan Council Transit Federal Grants Manager; and Council staff. The consultation will determine if the scope change can be approved through an informal process or if a formal scope change request is needed due to the potential negative impacts of the changes. An informal scope change may include, but is not limited to:

- Slightly changing a bike or pedestrian trail route alignment while still making the major connections.

- Combining two separate TAB-funded projects, provided this does not threaten to negatively impact either project.
- Changing the termini of a project, provided this does not threaten to negatively impact the project.
- Changing a pedestrian overpass to an underpass; or an underpass to an overpass.
- Changing an intersection treatment (e.g., a traffic signal to a roundabout) or an interchange design.
- Changing bus length, fuel source, type, or number, provided there is no resulting decrease in transit service.
- Reversion to the original scope (or a previously approved scope change). Note that any federal funds taken away in a previous scope change cannot be returned; the entire scope would need to be completed with the reduced federal contribution.

Formal scope changes:

Any change that may significantly alter the estimated benefits to the region (particularly if altered to the degree where the revised scope may not have justified its original selection) must go through the formal committee process and be approved by TAB. A formal scope change request process is likely to be needed in instances including, but not limited to:

- Removing significant elements such as a trail, sidewalk, pedestrian bridge, traffic signal, transit stop, transit vehicle, etc.
- Adding elements that detract from the value or intent of the original application.
- Removing proposed access closures, if the closures are described in the project description and used to score points in the application.
- Reducing the frequency or hours of transit service.
- Reducing the number of parking spaces in a park-and-ride facility.
- Changing the number of travel lanes.
- Shifting from a bridge replacement project to a bridge rehabilitation project.
- Changing designs from an off-road trail to on-road bicycle route.

Ineligible Requests

The TAB Coordinator may inform the project sponsor that the proposed revisions exceed the limits of a scope change and that the proposed change constitutes a new project. Such requests will not be processed through the TAC and TAB and that the original project should either be completed or withdrawn. If the project is to be withdrawn, the project sponsor should submit a formal letter to the TAB Coordinator stating that the project is being withdrawn and federal funds are being returned to the region for reallocation. A proposed change will be considered a new project and therefore not eligible for a scope change if it is:

- Relocating the project away from the defined problem, need, or location, such as switching transit start-up service from one market area to another
- Moving funding from one project to another, such as moving funds awarded to a project on County Road A to the same, similar, or different work on County Road Z.
- Eliminating the primary improvement proposed in the project description (e.g., a bridge will not be improved for a project submitted in the bridge application category or a trail will not be improved in the multiuse trails application category).

Steps and Requirements to Determine Scope Change Type and Request a Formal Scope Change

The following steps must be followed to determine a scope change type and whether the proposed change needs to go through the formal scope change request process. It should be noted that once a MnDOT Metro District State Aid project has been authorized, the project scope cannot change.

1. The project sponsor informs the TAB Coordinator and the MnDOT Metro District Federal Aid Program Coordinator or the Metropolitan Council Transit Grants Manager that it wants to change a project. At this time, the MnDOT Metro District Federal Aid Program Coordinator or the Metropolitan Council Transit Federal Grants Manager may determine that the change is minor in scope and no further action is needed. If the requested change is more substantial, the project sponsor will be asked to provide a written description of the proposed scope change and a map or schematics showing how the proposed scope change affects the project.
2. Upon this submittal, the TAB Coordinator will consult with the MnDOT Metro District Federal Aid Program Coordinator or the Metropolitan Council Grants Manager to discuss the extent of the changes and whether the scope change will require a formal scope change request. The TAB Coordinator will contact the project sponsor and inform them whether the proposed modification can be accomplished administratively or whether it will trigger a formal scope change request and/or TIP amendment¹ request.
3. For a formal scope change request, the project sponsor must provide data on the revised project scope to the TAB Coordinator, including a complete project description; location map; project layout, sketches, or schematics; and a discussion of project benefits being retained, gained, or lost. Applicants must provide a cost breakdown of the TAB-eligible items proposed for removal and addition (in the year of costs used in the original application) using the attached project cost worksheet. Failure to do so can result in the request not being included on the TAC Funding & Programming Committee's agenda.
4. Council staff and will conduct an analysis of the requested change, including the background information provided by the project sponsor for consideration by the TAC Funding & Programming Committee. The Committee will discuss the staff analysis and recommend one the following to TAC and TAB (see detailed sections below and on the following page about determining scope change and federal funding amount recommendations):
 - Approval of the scope change as requested;
 - Approval of the scope change request with modifications to the scope and/or a recommended reduction of federal funds; or
 - Denial of the requested change

Determining the Scope Change Approval Recommendation

To determine whether the scope change request should be approved, the TAC Funding & Programming Committee will discuss the merits of the proposed changes and weigh the overall

¹ A TIP amendment request is only required to accompany a scope change request if the project is in the current fiscal year and either the project description changes in the TIP, the project termini change by 0.3-mile or greater, or the funding amount changes enough to meet federal TIP amendment thresholds.

benefits or reduction of benefits to the region. Council staff will provide a written analysis regarding the potential impacts of the proposed changes. The affected scoring measures, except for cost-effectiveness (any cost increases are paid for by the local agency and not federal funds), will be analyzed by Council staff to determine if each sub-score would have likely increased, decreased, or stayed the same with the scope change (a precise rescoring of the application is not possible since applications were scored against each other at a specific moment in time). Council staff will then evaluate whether the total score would have likely increased, decreased, or stayed roughly the same based on the summation of the sub-score changes. This relative change in the total score will be compared to the scoring gap between the project's original score and the highest unfunded project in the same application category. The TAC Funding & Programming Committee may consider recommending denial of the scope change request if it is clear that the project would have scored fewer points than the highest-scoring unfunded project (i.e., the project would have been undoubtedly below the funding line). Council staff may confirm their findings with the original scorer of the measure and/or request additional information of the applicant, if necessary. Project sponsor must attend TAC Funding & Programming, TAC, and TAB meetings, where the item is on the agenda.

Determining the Federal Funding Amount Recommendation

To determine whether federal funds should be recommended to be removed from a project, Council staff will assess the project elements being reduced or removed and provide this information to the TAC Funding & Programming Committee. While adding eligible project elements is permitted, federal funds cannot be shifted away from any removed elements to new project elements unless the removed elements are being done as part of some other programmed project. Federal funds cannot be added to a project beyond the original award.

Applicants must provide a revised cost estimate including a cost breakdown of the items proposed for removal using the attached project cost worksheet. Any removed or added items should use the costs in the year requested in the original application instead of the year of construction costs. Regional Solicitation projects must continue to maintain at least a 20% non-federal match, while HSIP projects must continue to maintain at least a 10% non-federal match.

Staff may recommend funding reduction options, if applicable, based on the federal share of the cost of the project elements being removed or the proportionate reduction of project benefits in cases in which that is discernable (e.g., number of parking spaces or length of sidewalk) and/or another method developed by staff or the TAC Funding & Programming Committee. A recommendation will move from TAC Funding & Programming Committee to the TAC and TAB for approval. If applicable, a TIP amendment request will also be moved for approval through the Metropolitan Council.

ATTACHMENT 1: FUNDING DATA FOR SCOPE CHANGE REQUEST

Original Application:

Regional Solicitation Year	
Application Funding Category	
HSIP Solicitation?	Yes No
Application Total Project Cost	
Federal Award	
Application Federal Percentage of Total Project Cost	

Project Elements Being Removed:

	Original Application Cost

New Project Elements:

	Cost (Based on Year of Costs in Original Application)

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 1 to June 30 of the year in which the project is originally programmed in the Transportation Improvement Program (TIP).
- By April 1 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 15 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 TAB.
- 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 31 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

Construction Projects through the FHWA Process:

- Environmental document approved – April 1
 - *Environmental Documentation draft submittal due December 1*
- Right of way certificate approved –April 1
 - *Condemnation proceedings formally initiated by February 28 with title and possession by June 1.*
- Final construction plans submitted and reviewed for standards, eligibility, funding and structural design – April 1
- Engineer's estimate – April 1
- Utility relocation certificate – April 1
- Permit applications submitted – April 1

Construction Projects through the FTA Process

- Environmental document completed; project plans 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 – April 1
- OCPPM/SALT authorization to proceed – June 1

Right of Way Only Projects through FTA Process

- Environmental document completed
- Appraisals over \$250,000 approved by FTA; under \$250,000 reviewed by 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 31 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 and TAB for action. The requests will be presented to the TAB for action on its consent agenda. Staff for the Funding and Programming Committee will notify the applicant of the committee's decision.

Adopted by the Transportation Advisory Board

April 17, 2013

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 30 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 31 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 31 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 _____