

# Information

Transportation Advisory Board



**Committee Meeting Date:** September 18, 2024

**Date:** September 11, 2024

## Action Transmittal: 2024-41 - Information

Program Year Policy Update

**To:** Transportation Advisory Board  
**From:** Technical Advisory Committee  
**Prepared By:** Joe Barbeau, Planning Analyst, 651-602-1750

### Requested Action

The Scope Change and Program Year Policy working group requests approval of an updated Program Year Policy.

### Recommended Motion

That the Technical Advisory Committee recommend approval of the updated Program Year Policy.

### Background and Purpose

The Regional Program Year Policy was established to address projects not being let in their program years, as is required by FHWA. The policy, which was last updated in 2014, allows for a one-time, one-year program year extension and includes a scoresheet on which a minimum score is needed for a request to be granted.

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 ends up being delayed. This often results in requested extensions of more than one year along with multiple extension requests for individual projects. These scenarios are not addressed in the existing policy. A working group of Technical Committee representatives and contracting professionals was formed to suggest key changes to the policy. The working group also addressed the Scope Change Policy, which is discussed in action item 2024-40.

The current policy has two primary objectives: to maintain order in the region's program (i.e., minimize the need to use funding sub-optimally or return federal funds) and to keep projects on track to be completed close to the originally awarded program year.

Working group members expressed support for allowing exceptions to the one-time/one-year rules and also addressed several other issues with the ten-year-old policy. Changes highlighted in the attached include:

- Clarification language designed to prevent un-vetted applications coming in at the application deadline.
- Exceptions to the one-time and one-year limitations due to circumstances related to another project.
- Removal of the MnDOT scoresheet for approval. The reasons the working group suggests removing the scoresheets are:
  - The scores are not meaningful to project readiness; this is something that can be

- determined less formally.
- Points in the current scoresheet are not available to all projects and do not allow some projects to get a qualifying score. Project readiness to start within one year of the current program year is a better indicator.
- The scoresheet discourages early application, which can delay re-programming of funds and lead to less optimal outcomes.
- Several deadline changes for documentation.
- Reference to requests being placed on the TAB consent agenda remains but now “at the chair’s discretion” to enable discussion in unique or potentially controversial situations.

Working group members also discussed using federal funding swaps, or defederalization, to balance program years. However, this would be a separate discussion, as it is not a part of this policy.

### Relationship to Regional Policy

The Transportation Advisory Board (TAB) adopted the Program Year Policy in April 2013 (updated in August 2014) to assist with management and timely delivery of transportation projects awarded federal funding through the TAB’s Regional Solicitation. The policy includes a procedure to request a one-year extension based on extenuating circumstances within certain guidelines but does not address requests that are dependent on other projects.

### Staff Analysis

Over the past several years, many applications for program year changes to Regional Solicitation-funded projects have been for multiple years and/or a second request based on the needs of larger aligned projects. These alignments are done for efficiency’s sake but lead to the need for more flexibility.

### Committee Comments and Action

At its August 15, 2024, meeting, the TAC Funding and Programming Committee voted unanimously to recommend the approval of the updated Program Year Policy. The action included a small change removing the phrase “for standards, eligibility, funding and structural design” from the “final construction plans due date” bullet under “Construction Projects through the FHWA Process.”

At its September 4, 2024, meeting, TAC discussed the action item. TAC members expressed three primary concerns:

- The statement “In each case, the applicant must show that its project would be ready to authorize in the currently programmed year” provides project sponsors requesting exceptions to the one-time/one-year extensions with a more restrictive project readiness burden (ready in this program year) compared to sponsors with standard requests.
- The policy does not show a limit to the number of extensions that can be granted to one project.
- It has been suggested that the scoresheet be removed as it is not very helpful in determining whether a project can and will be ready to be authorized on time. Additionally, requiring a minimum score on the scoresheet also discourages applicants from requesting an extension earlier in project development, when they first realize they may need an extension, and it is easier to manage the overall program if adjustments are made as early as possible. However, the removal of the scoresheet might not provide a strong enough standard for how to determine whether to grant a request.

TAC referred the action item back to Funding & Programming Committee to review the wording of the recommended changes. TAC also forwarded to TAB as an information item to get feedback to bring to the Funding & Programming Committee.



## Routing

| To                                  | Action Requested   | Date Completed<br>(Date Scheduled) |
|-------------------------------------|--------------------|------------------------------------|
| TAC Funding & Programming Committee | Review & Recommend | August 15, 2024                    |
| Technical Advisory Committee        | Review & Recommend | September 4, 2024                  |
| Transportation Advisory Board       | Information        | <i>September 18, 2024</i>          |
| TAC Funding & Programming Committee | Review & Recommend | <i>October 17, 2024</i>            |
| Technical Advisory Committee        | Review & Recommend | <i>November 6, 2024</i>            |
| Transportation Advisory Board       | Review & Adopt     | <i>November 20, 2024</i>           |



## 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 (FHWA) or October 1 to September 30 (FTA) 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 should coordinate with the appropriate grants manager (i.e., MnDOT Metro District State Aid or Met Council MTS) on application eligibility prior to submitting ~~must submit~~ a request for a program year extension to the TAB Coordinator by the deadline of 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. Exceptions to these limitations can be made due to extenuating circumstances related to a project's connection to another project. Specifically, if a project's implementation is tied to another project that is delayed and/or programmed more than one year out, TAB can grant a longer extension. Similarly, an additional extension can be granted if a project is tied to another project moving to a later year. In each case, the applicant must show that its project would be ready to authorize in the currently programmed year.

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-June 1
  - *Environmental Documentation draft submittal due December 1*
- Right of way certificate approved – April-June 1
  - *Condemnation proceedings formally initiated by February 28 with title and possession by June 1.*
- Final construction plans approved ~~submitted and reviewed for standards, eligibility, funding and structural design~~ – April-June 1
- Engineer's estimate – April-June 1
- Utility relocation certificate – April-June 1
- Permit applications submitted – April-June 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-June 1
- Right of way plans and estimate approved – June 1
- OCP/PPM/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
- OCP/PPM transfers funds
- Offers made/condemnation initiated if offers refused

#### Program Project - FTA

- 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

## Regional Program Year Policy

TAB Adopted: April 17, 2013

Administrative Modifications: August 20, 2014

- If project start date will be more than one year after end of program year, project manager notifies grants manager and consults with TAB Coordinator to demonstrate ability to complete project.

### 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. Exceptions to both restrictions can be granted for projects that require coordination with other projects with later dates. Requests for a program year extension must be submitted by December 31 of the project's program year.

The project sponsor must submit the following materials to the Funding and Programming Committee. The answers information provided on the under "Project Progress" below 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: Requests must include an agency's anticipated schedule:
  - a) Environmental document approval date or anticipated approval date
  - b) 100% plan approval date or anticipated approval date
  - a) Right-of-way certificate approval date or anticipated approval date ~~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.~~
  - g) c)
- 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

## Regional Program Year Policy

TAB Adopted: April 17, 2013

Administrative Modifications: August 20, 2014

| will be presented to the TAB for action on its consent agenda at the chair's discretion. -Staff for the Funding and Programming Committee will notify the applicant of the committee's decision.



# Regional Program Year Policy

TAB Adopted: April 17, 2013  
Administrative Modifications: August 20, 2014

## 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

Reviewed by State Aid \_\_\_\_\_ If checked enter 4. \_\_\_\_\_

Date of approval \_\_\_\_\_

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 31 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 28 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 31 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 \_\_\_\_\_

# Regional Program Year Policy

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Administrative Modifications: August 20, 2014

## 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 \_\_\_\_\_