

2021

APPLICATIONS DUE  
OCTOBER 7, 2021



*Surface Transportation Program*

*Congestion Mitigation/Air Quality*

*Transportation Alternatives*

*September 2021*



**MIAMI VALLEY**  
Regional Planning Commission

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## **INTRODUCTION**

Background - Requirements for project selection and priority.

1. Metropolitan Planning Organizations (MPO) are responsible for developing a Long Range Transportation Plan (LRTP) and a Transportation Improvement Program (TIP). The TIP must be consistent with the LRTP and must include all projects in the metropolitan area that are proposed for federal funding. States are required to develop a State Transportation Improvement Plan (STIP) which is consistent with MPO TIPs.
2. MPOs with populations over 200,000 like MVRPC are considered Transportation Management Areas (TMA) which are responsible for project selection of all highway and transit projects in consultation with the state. The exceptions are selected by the state in cooperation with the MPOs.
3. TIPs must be prioritized and include a financial plan demonstrating how projects are to be funded. The TIP must demonstrate that full funding can be reasonably anticipated in the time period contemplated for completion of the project.
4. MPOs are required to provide a reasonable opportunity for public comment on the LRTP and TIP. ***Appendix A - TIP Development Process provides a graphic overview of the TIP development process including a public comment period.***
5. All project sponsors must know and implement the U.S. Department of Transportation Standard Title VI Assurances and Nondiscrimination Provisions, which states "No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including FHWA".

Use of MVRPC's *Program Policies and Procedures* in programming all federal transportation funds in the TIP.

1. MVRPC will use the *Program Policies and Procedures* to evaluate, rank, select and program suballocated Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) improvement program funds and Transportation Alternatives (TA) funds.
2. MVRPC will also use the *Program Policies and Procedures* to evaluate, rank, select and program all other federal highway funds.

## **Funds Availability and Project Approval Process**

Upon Board determination of funds availability, staff will update policies, procedures, and criteria, provide a seminar for jurisdictions, and solicit qualified member government entities for new STP, CMAQ and TA projects. The solicitation cycle will start on September 7, with applications being due on October 7 at MVRPC. **Project sponsors are limited to submitting up to 4 total applications for STP, CMAQ and TA funding. This year a Resurfacing Program set aside is available. Up to two additional**

**applications for this program may be submitted, one each to the STP Resurfacing Program or the CRRSAA Resurfacing Program.** A seminar for project applicants is conducted during the solicitation timeframe to provide potential applicants with information to assist them with completing the forms. After all applications are received, staff will prepare a profile summarizing all applications that will be made available for public comments. Staff will then present the list to the Technical Advisory Committee (TAC) and Board of Directors as an information report. Staff will then review all project applications based upon the selection criteria outlined herein, and for consistency with the Regional Complete Streets Policy. Staff will create a draft ranking of the projects and hold project sponsor meetings, where a final consensus will be reached. Finally, staff will develop a draft list of preferred projects and financial plan that will be forwarded to the TAC and Board for final approval. Ultimately, the Board will make a final project adoption at or before their March meeting subsequently directing staff to notify all project sponsors of the result. Upon funding approval, project sponsors are required to attend biannual project review meetings as setup by MVRPC staff. ***Appendix B – MVRPC Project Funding Prioritization Decision Making Process provides a graphic overview of MVRPC’s project funding prioritization decision making process.***

### **Eligible Applicants and Projects**

For required allocations of STP and TA funding, as well as CMAQ funding, applicants are limited to qualified member government entities located inside the boundaries of the MPO area. Both MPO and non-MPO member jurisdictions are eligible to compete for discretionary allocations of STP and TA funding.

Typical **STP** projects include: Capacity and maintenance projects such as lane additions, resurfacing/rehabilitation, safety upgrades...etc. (see Appendix D)

Typical **CMAQ** projects reduce congestion and improve air quality including but not limited to: turn lane additions, traffic signal interconnects, bikeway and pedestrian projects, Intelligent Transportation System (ITS) projects, High Occupancy Vehicle (HOV) lane, new transit services, pedestrian access, intermodal facilities, rideshare/ozone action programs, ...etc. (see Appendix D)

The **TA** program provides funding for programs and projects defined as transportation alternatives, including on-road and off-road pedestrian and bicycle facilities, infrastructure projects for improving non-driver access to public transportation and enhanced mobility, community improvement activities, and environmental mitigation; recreational trail program projects; safe routes to school projects ...etc. (see Appendix D)

All projects must be consistent with one or more of the 10 factors listed below as required by the Federal legislation.

1. Support the economic vitality of the metropolitan area
2. Increase safety
3. Increase security
4. Increase accessibility and mobility options for people and freight
5. Protect the environment, conserve energy, and improve quality of life
6. Enhance integration and connectivity of the transportation system
7. Promote efficiency

8. Emphasize preservation of the existing transportation system
9. Improve resiliency and reliability of the transportation system
10. Enhance travel and tourism

Projects must be consistent with one of the emphasis areas on comprehensive approaches to solving transportation problems, which include maintenance and improved efficiency, congestion reduction, coordination of transportation and land use planning, implementation of federal transportation control measures, and low cost operation or economically efficient improvements.

All project activities including design, right of way acquisition, ADA compliancy, etc. must adhere to all applicable federal and state laws.

Note: When Federal funds are used on a signal or signal project, warrants are required.

In addition to federal and state requirements, MVRPC requires that all projects:

- Be included or justified in a local plan or program.
- Are sponsored by an MVRPC member organization which has committed to a timely project development schedule.
- Be located within a member jurisdiction's boundaries. Projects located within the boundaries of a non-member jurisdiction are not eligible for MVRPC controlled Federal funds unless the member jurisdiction applying for funds would be the owner or maintainer of the facility being constructed.
- Provide evidence that alternative project funding sources have been considered.
- Are compliant with the Regional Complete Streets Policy, adopted January 6, 2011; STP and CMAQ project applications that do not comply with the Regional Complete Streets Policy will not be considered for funding.
- Applications must be submitted in accordance with the format guidelines included in the application.
- Are listed in a resolution from the applicant's governing body permitting the submission of an application, as well as detailing the local priority of the project. This resolution should also formally commit the jurisdiction to providing the local match (regardless of source) to the Federal funds as shown in the application as well as the funds for any 100% locally funded phases. **If there are multiple jurisdictions involved in the financing of a project, resolutions are required from each jurisdiction detailing their respective financial commitment to the project.**
- Upon funding approval, applicant is required to attend biannual project review meetings as setup by MVRPC staff.
- If an MVRPC funded project is subsequently awarded additional sources of Federal or State funds, the MVRPC funds must be encumbered first (100% up to the project cap) prior to utilization of the additional funding sources.

The Federal-Aid Highway Program, which includes STP, CMAQ and TA, is a federally funded state administered program. It is not a grant program, but rather a reimbursement program, meaning that FHWA reimburses the state for the funded share of the actual expenses it incurs on a project as the project proceeds. The state then reimburses the local project sponsor as the project progresses. In no case will costs be

eligible for reimbursement until the project is approved by ODOT and the Federal Highway Administration (FHWA).

### **STP-CMAQ Funding Provisions**

Project sponsors for either the STP or CMAQ program funds are encouraged to finance architectural/engineering plans, environmental assessment studies, right-of-way plans, right-of-way purchase and environmental remediation, if necessary. These costs are eligible for reimbursement, however, to maximize the region's resources the project advocate is encouraged to undertake these costs locally.

MVRPC's STP and CMAQ programs are very competitive; as such MVRPC's project evaluation system awards bonus points on a gradient scale for projects that include more than the minimum local match required. **Applicants providing greater than 20% local match for project phases funded with regionally controlled Federal funds will score bonus points in the overall ranking and scoring process.**

For STP and CMAQ projects, MVRPC will provide up to 80% (federal) of the cost for individual phases of a project. The maximum amount of STP funds available per project is \$3,000,000. In the event that multiple phases of a project are awarded STP funds, no more \$3,000,000 STP will be programmed in a single SFY. The applicant is required to provide a minimum of 20% (non-federal) of the cost for individual phases of the project. Projects such as signal interconnections and the Rideshare program are eligible for up to 100% funding.

MVRPC receives approximately \$12.3 million of STP funding annually. Of this amount, 90% (approximately \$11.1 million) is a required STP allocation and the remaining 10% (approximately \$1.2 million) is a discretionary STP allocation. By law, the required allocation can only be spent on eligible projects within the MPO boundary. The discretionary allocation can be spent on projects both within the MPO boundary and outside of the MPO boundary. The discretionary STP funding is not set aside for MVRPC non-MPO members but it allows the non-MPO member jurisdictions to submit eligible applications to compete for STP funding up to the discretionary STP allocation annually.

**Please note that Ohio's large MPOs no longer have direct control over CMAQ funds. A Statewide CMAQ Committee is in place and it has been determined that a CMAQ project solicitation will take place on a biennial basis. As such, the CMAQ project solicitation will be suspended until next year.**

### **Resurfacing Program Funding Provisions**

From time to time, a certain amount of funds may be set aside to fund Federally eligible simple resurfacing projects. The amount set aside for these resurfacing projects will be determined on an annual basis. This year, it has been determined that \$2,500,000 will be set aside for this component of the STP funded program and only projects able to be awarded in SFY2023 or SFY2024 will be considered. The maximum amount of STP funds available per resurfacing project is \$750,000. The maximum Federal participation

for the STP funded Resurfacing Program is 80%. In addition, MVRPC is also receiving \$5,199,864 of Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) funding which can be used for simple resurfacing projects able to be awarded in SFY2023 through the second quarter of SFY2024. The maximum amount of CRRSAA funds available per resurfacing project is \$400,000. The maximum Federal participation for the CRRSAA funded Resurfacing Program is 100%.

The intent of dedicating a specific set-aside for simple resurfacing projects is that these are the types of projects that, while eligible for STP funds, typically don't score well using the standard Project Evaluation System. These are also the types of projects that can be developed and awarded much more quickly than standard reconstruction projects. **Therefore, projects including ADA ramp work will NOT be eligible for funding under this program and any necessary ADA ramp work must be completed prior to submitting the Resurfacing set-aside application to MVRPC.** Local jurisdictions are required to indicate on the application that a field visit took place (date of visit), measurements were taken, and ADA compliance of ramps within the project verified. Submitting documentation to MVRPC or ODOT is not required but should be kept in case compliance is ever questioned. Projects that include curb and gutter work will be considered for funding, but Resurfacing set-aside funds will only be used to fund the resurfacing portion of the project. Curb and gutter work can be part of the project but will be completed using local funds.

When applying specifically for this component of the STP program, the project sponsor should mark the appropriate box on the front page of the application and fill out the Resurfacing evaluation form.

### **TA Funding Provisions**

The TA program will provide up to 80% (federal) of the construction or implementation cost of a project. The maximum amount of TA funds available per project is \$350,000. The applicant is required to provide a minimum of 20% (non-federal) of the construction or implementation cost. The applicant is required to finance architectural/engineering plans, environmental assessment studies, right-of-way plans, right-of-way purchase and environmental remediation, if necessary. These costs cannot be credited toward the applicant's cost of the construction or implementation costs. Applicants providing greater than 20% local match for the construction/implementation phase will score bonus points in the overall ranking and scoring process.

MVRPC receives approximately \$1.23 million of TA funding annually. Of this amount, 63% (approximately \$770,000) is a required TA allocation and the remaining 37% (approximately \$461,000) is a discretionary TA allocation. By law, the required allocation can only be spent on eligible projects within the MPO boundary. The discretionary allocation can be spent on projects both within the MPO boundary and outside of the MPO boundary. The discretionary TA funding is not set aside for MVRPC non-MPO members but it allows the non-MPO member jurisdictions to submit eligible applications to compete for TA funding up to the discretionary TA allocation annually.

Please note that non-infrastructure projects, while eligible for TA funds, typically don't score well using the standard Project Evaluation System. Applicants interested in Safe Routes to School non-infrastructure projects under the TA program are encouraged to apply directly to ODOT's Safe Routes to School Program. Jurisdictions interested in

completing travel plans near schools, adopting complete streets policies, conducting walking audits, or extending local trails should contact Stacy Schweikhart, MVRPC Director of Strategy and Engagement. Mrs. Schweikhart will provide applicants with essential information for project justification. She is a planning resource during the preparation of the application by the local jurisdiction and development of plans.

### **General Funding Provisions**

**Appendix G provides information about ADA compliance and right-of-way that must be addressed prior to submitting an application for funding.**

**NOTE:** Roadway projects utilizing MVRPC controlled Federal funds must be located on roadways functionally classified as Urban Collector or above or Rural Major Collector or above. Interactive functional classification maps can be found at: <https://www.mvrpc.org/pes/map.html>

The amount of federal funds available for reimbursement for a project will be capped at the MVRPC Board approved amount. If during the Environmental phase of a project, issues are discovered which would unexpectedly increase the cost of the project, exceptions to the funding cap may be considered. It is expected that all cost estimates will be reliable, well researched, inflated to year of expenditure and not expected to increase. In addition, cost estimates must be certified by a professional engineer. When compiling cost estimates, please take into consideration that there can be significant costs associated with compliance to federal regulations. Failure to account for such costs may result in your application's approval with insufficient funds to enable the project to be realized. All cost overruns realized at bid opening will be the sole responsibility of the project sponsor. Once approved, a project's scope can not be changed without the Board's approval.

**NOTE:** All projects approved for funding must be programmed with ODOT within three months of the project approval date to avoid retraction of funds. It is the responsibility of the project sponsor to program their project with ODOT, MVRPC will assist in this process if requested.

In order to prevent jeopardizing the regionally controlled Federal funds, once a State Fiscal Year (SFY) for the Federal funds has been requested by the project sponsor, every effort should be made by the project sponsor to ensure the funds are used in those years. When considering whether to allow a delay in the use of regionally controlled Federal funds, MVRPC will take into account the project sponsor's ability to obtain a waiver under ODOT's Annual Budget Carryover Reduction Policy. If existing projects that utilize MVRPC controlled Federal funds are allowed to be delayed from one SFY to another, a penalty of -5 points per project delay may be assessed to every future application by the project sponsor for the next application cycle or until the delayed project has been awarded. Similarly, if a sponsor withdraws a funded project, a penalty of -5 points per project withdrawn may be assessed to every application submitted to the next application cycle.

### **PROJECT EVALUATION AND RANKING PROCESS**

All proposed projects are reviewed using a two step project evaluation and ranking process. The first step is an initial screening which includes items discussed previously under the project eligibility and funding provision sections. If the proposed project meets



all of the pre-screening criteria, it will be assigned to either the STP, CMAQ or TA funding category. After funding categories have been determined for each project they will be advanced to the second step, ranking, using the criteria attached to the project application. The evaluation system is broken down into three categories of projects: roadway, transit and bikeway/pedestrian. The scoring system was devised to equitably rank all three types of projects regardless of project type.

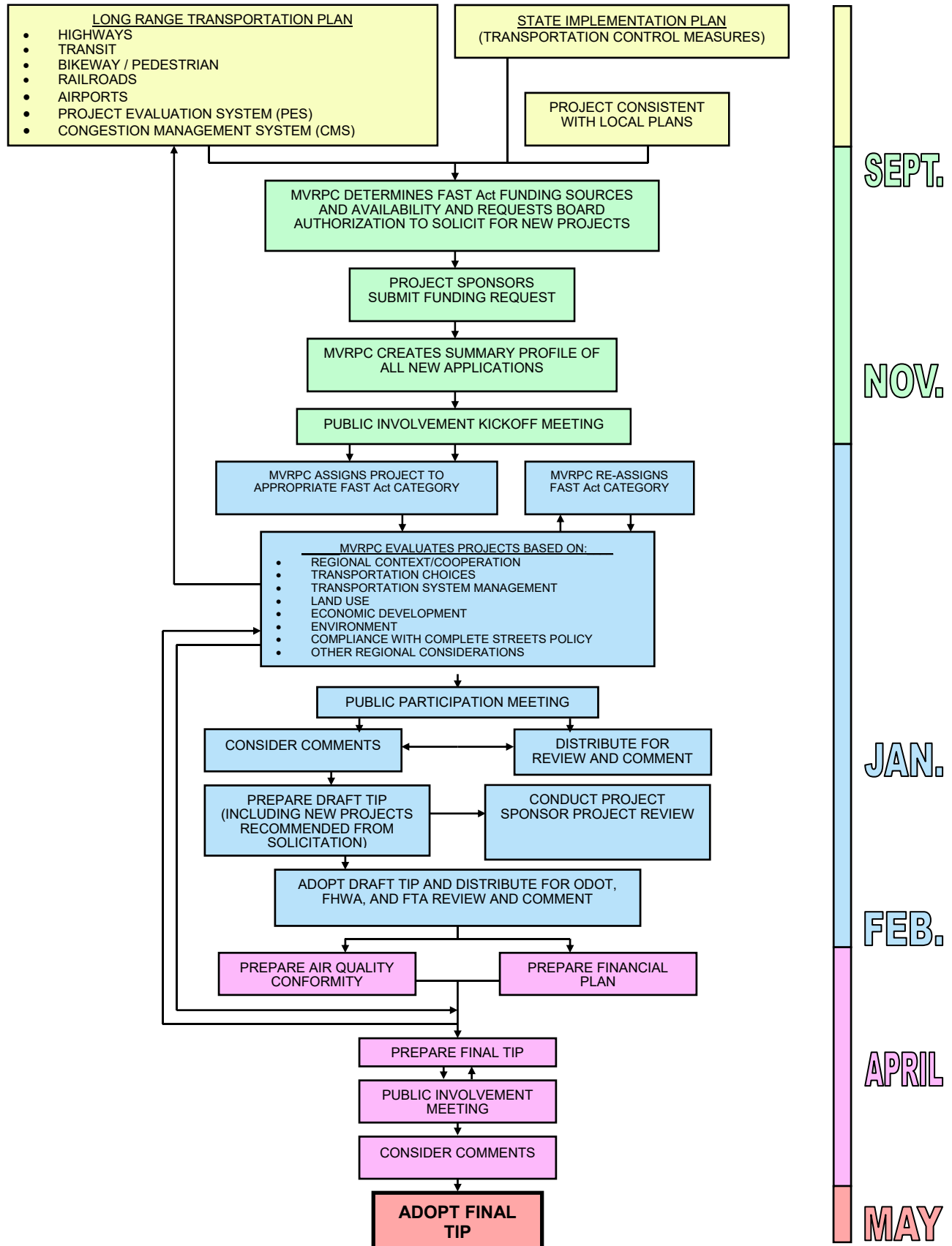
Once the draft scores from the project evaluation system are compiled, some projects may be reassigned to a different funding category. A final analysis would then be completed based upon the above criteria. In order to assure timely obligation of funds, annual TIP programming priority will be determined based upon funding rank, anticipated date of expenditure and funds availability.

## **SUMMARY**

MVRPC's Program Policies and Procedures states the general practices of the MVRPC Board of Directors regarding programming projects with federal funds. The policies and procedures will enable communities to evaluate projects for funding eligibility prior to submittal to MVRPC. They also provide a means of continuously monitoring the program so that only projects which are actively pursued will ultimately receive federal funds. Exceptions to these general policies and procedures will be considered on a case by case basis. For further information please visit our web site at [www.mvrpc.org](http://www.mvrpc.org) or contact:

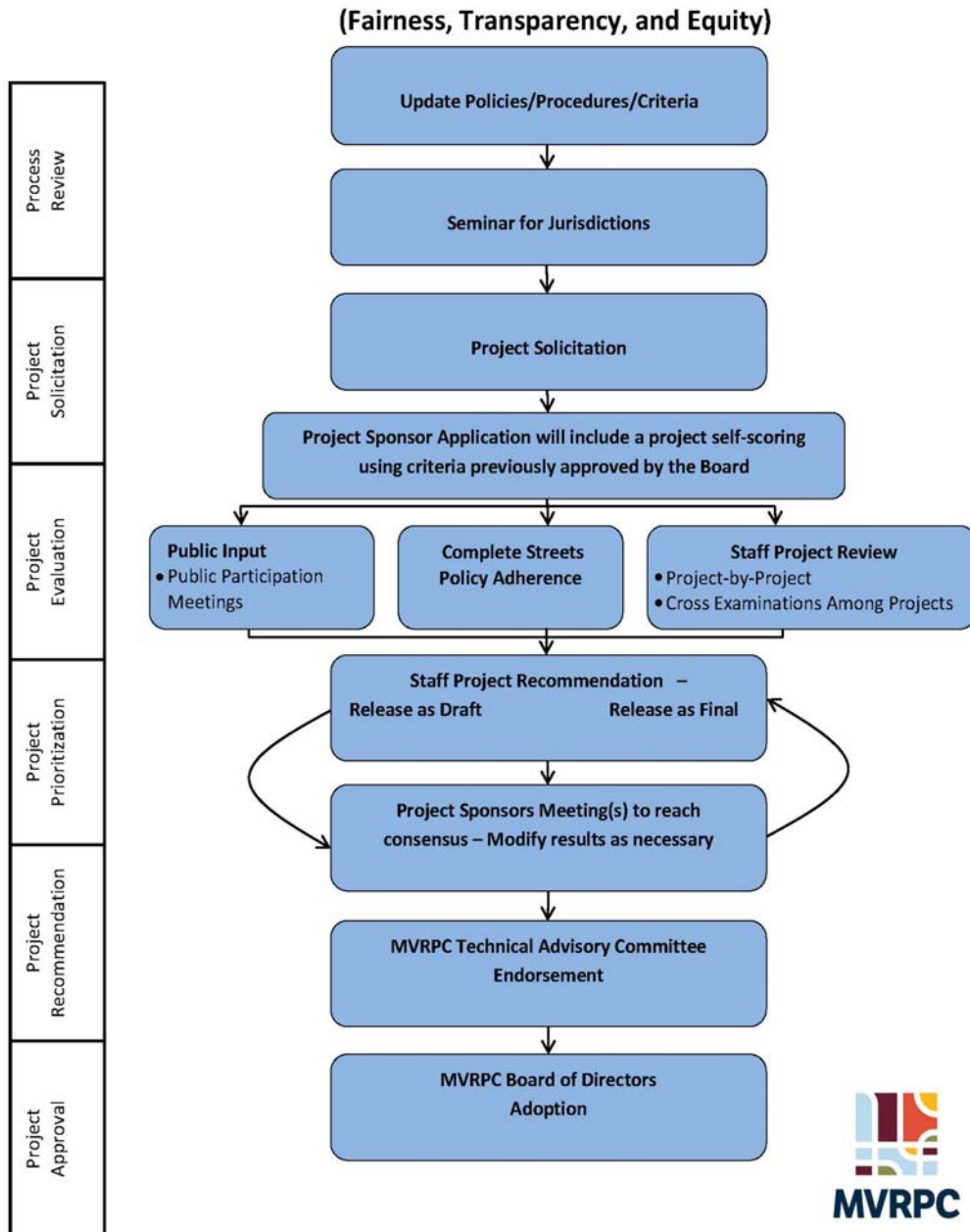
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## Appendix A — MVRPC's TIP DEVELOPMENT PROCESS

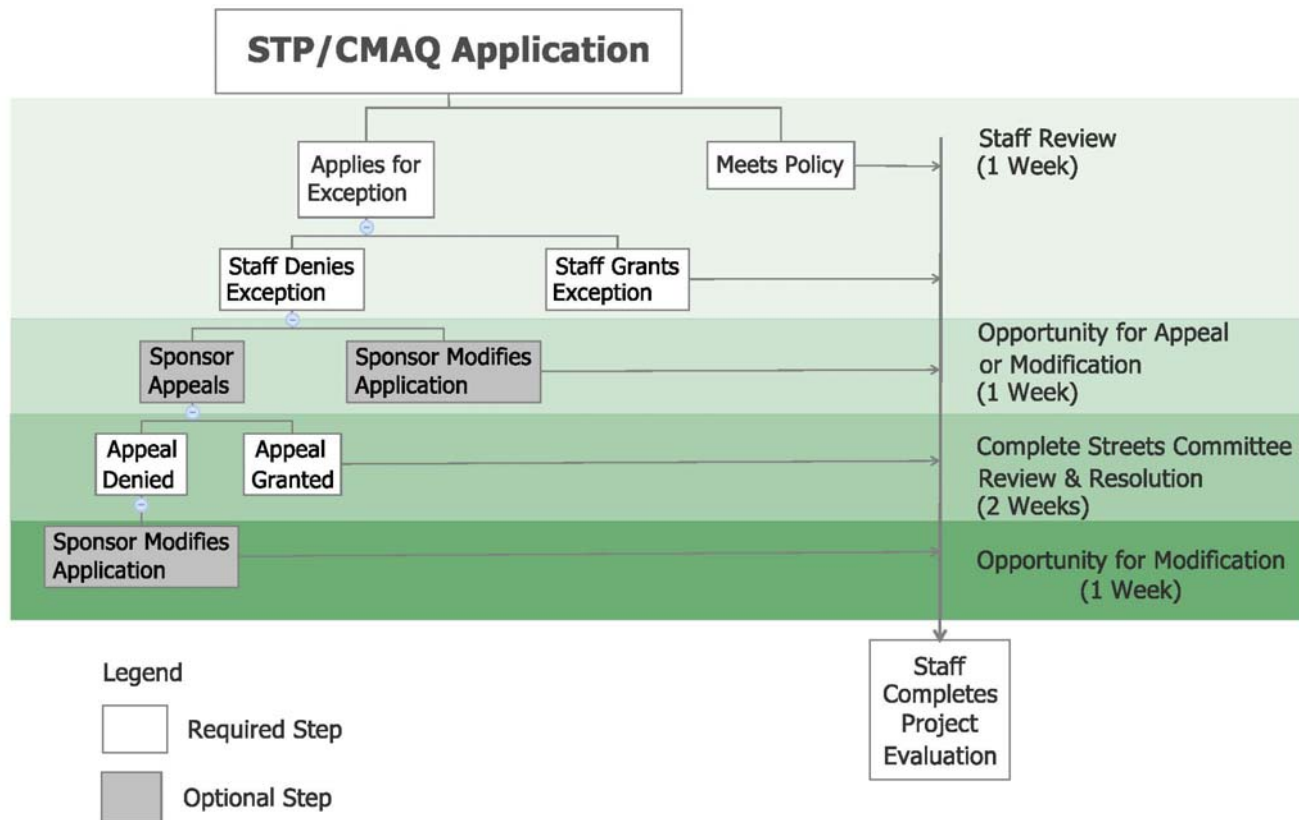


## Appendix - B

### MVRPC PROJECT FUNDING PRIORITIZATION DECISION MAKING PROCESS



## Appendix C - STP AND CMAQ COMPLETE STREETS ADHERENCE PROCESS



## **Appendix D - ELIGIBLE STP, CMAQ and TA FUNDING ACTIVITIES**

### **Eligible STP activities**

- Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways including Interstate highways and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate formate, or other environmentally acceptable, or minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under Title 23, United States Code
- Capital costs for transit projects eligible for assistance under chapter 53 of Title 49, United States Code, including vehicles and facilities, whether publicly or privately owned that are used to provide intercity passenger service by bus
- Carpool projects, fringe and corridor parking facilities and programs, bicycle and pedestrian facilities (off-road or on-road, including modification of walkways) on any public roads in accordance with 23 U.S.C 217 and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)
- Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings
- Highway and transit research and development and technology transfer programs
- Capital and operating costs for traffic monitoring, management, and control facilities and programs
- Surface transportation planning programs
- Transportation enhancement activities
- Transportation control measures listed in Section 108(f)(1)(AQ) (other than clause xvi) of the Clean Air Act (42 U.S.C. 7407(d))
- Development and establishment of management system under 23 U.S.C. 303
- Habitat and wetlands mitigation efforts related to Title 23 projects
- Infrastructure based intelligent transportation systems capital improvements
- Environmental restoration and pollution abatement projects to address water pollution or environmental degradations caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the such environmental restoration or pollution abatement shall not exceed 20 percent of the cost of the 4R project

### **Eligible CMAQ activities**

- Transportation activities in an approved State Implementation Plan
- Transportation control measures to assist areas designated as non-attainment under the Clean Air Act Amendments (CAAA) of 1990
- Pedestrian/bicycle facilities
- Traffic management/monitoring/congestion relief strategies
- Transit (new system/service expansion or operations)
- Transit vehicle replacement
- Alternative fuel projects (including vehicle refueling infrastructure)
- Inspection and maintenance (I/M) programs
- Intermodal freight
- Telecommunications
- Travel demand management
- Project development activities for new services and programs with air quality benefits
- Public education and outreach activities
- Rideshare programs
- Establishing/contraction with transportation management associations (TMAs)
- Fare/fee subsidy programs
- HOV programs
- Diesel retrofits
- Truck-stop electrification
- Experimental pilot projects
- Other Transportation projects with air quality benefits

**NOTE:** Ineligible CMAQ projects include construction of projects which add new capacity for single-occupancy vehicles.

The purpose of the CMAQ program is to fund transportation projects or programs that will contribute to attainment or maintenance of clean air standards. The primary eligibility requirement is that they will demonstrably contribute to attainment or maintenance of clean air standards.

For a complete listing of eligible projects, please visit the following link to review FHWA's Final CMAQ Program Guidance:

[http://www.fhwa.dot.gov/environment/air\\_quality/cmaq/index.cfm](http://www.fhwa.dot.gov/environment/air_quality/cmaq/index.cfm)

Upon MVRPC's initial project approval, sponsors may be asked to provide more detailed project information in order for MVRPC staff to conduct the required emissions reduction analysis. Assuming the analysis is favorable it will be forwarded to ODOT in a request for concurrence of the use of CMAQ funds. Following ODOT's determination of concurrence, ODOT will forward the analysis and a letter of concurrence to the FHWA and request final approval of the use of CMAQ funds.

## **Eligible TA activities**

TA projects are not required to be located along Federal-aid highways. Activities eligible under TA are eligible for STP funds (23 U.S.C. 133(b)(11)).

Under 23 U.S.C. 133(c)(2), TA-eligible projects funded with STP funds are exempt from the location restriction in 23 U.S.C. 133(c).

For SRTS noninfrastructure projects, traffic education and enforcement activities must take place within approximately two miles of a primary or middle school (grades K - 8). Other eligible noninfrastructure activities do not have a location restriction. SRTS infrastructure projects are eligible for TA funds regardless of their ability to serve school populations, and SRTS infrastructure projects are broadly eligible under other TA eligibilities, which do not have any location restrictions.

Under 23 U.S.C. 213(b), eligible activities under the TA program consist of:

1. Transportation Alternatives as defined in 23 U.S.C. 101(a)(29) (MAP-21 §1103):
  - A. Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.).
  - B. Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs.
  - C. Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users.
  - D. Construction of turnouts, overlooks, and viewing areas.
  - E. Community improvement activities, which include but are not limited to:
    - i. inventory, control, or removal of outdoor advertising;
    - ii. historic preservation and rehabilitation of historic transportation facilities;
    - iii. vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control; and
    - iv. archaeological activities relating to impacts from implementation of a transportation project eligible under title 23.
  - F. Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to-
    - i. address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329 of title 23; or
    - ii. reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.
2. The [recreational trails program](#) under section 206 of title 23.
3. The safe routes to school program eligible projects and activities listed at section 1404(f) of the SAFETEA-LU:

- A. Infrastructure-related projects.
  - B. Noninfrastructure-related activities.
  - C. Safe Routes to School coordinator.
4. Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

Transportation enhancement categories that are no longer expressly described as eligible activities under the definition of transportation alternatives are:

Landscaping and other scenic beautification. However, under the "community improvement activities" category, projects such as streetscaping and corridor landscaping may be eligible under TAP if selected through the required competitive process. States may use TAP funds to meet junkyard screening and removal requirements under 23 U.S.C. 136 if selected through the competitive process. Landscaping and scenic enhancement features, including junkyard removal and screening, may be eligible as part of the construction of any Federal-aid highway project under [23 U.S.C. 319](#), including TAP-funded projects.

For a complete listing of eligible projects, please visit the following link to review FHWA's Final TA Program Guidance:

[http://www.fhwa.dot.gov/environment/transportation\\_alternatives](http://www.fhwa.dot.gov/environment/transportation_alternatives).



## **Appendix E - MVRPC STATE INFRASTRUCTURE BANK (SIB)**

### **LOAN REPAYMENT POLICY**

April 2014

#### **Background**

In an effort to expedite regional priority projects and make such projects more competitive for other funding sources, MVRPC has developed a policy to guide the process of applying for Surface Transportation Program (STP) funds as a means of repaying a State Infrastructure Bank (SIB) loan.

#### **Financial Resources**

After approval of the Board's resolution approving a SIB loan repayment project, MVRPC will set aside up to \$775,000 of its annual STP allocation for the purpose of loan (principal only) repayment. The years that STP funds are set aside for repayment of the loan will be clearly spelled out in the Board's resolution. At no time will the SIB loan repayment interrupt approved MVRPC projects that are on the Transportation Improvement Program (TIP).

For comparison purposes, \$775,000 is approximately 7 percent of the current SFY 2013 STP allocation for the Region. This amount will be reviewed and modified when necessary due to future allocations. No more than \$400,000 annually shall be made available to any one project. There is a limit of one project per local sponsor. MVRPC's federal STP funds must be matched by the local project sponsor at a minimum of 20 percent. An additional SIB loan for repayment of the 20 percent local match could be allowed as determined by ODOT. MVRPC funds shall not be used to repay a SIB loan that repays local match.

MVRPC's policy requires that a local project sponsor initiates taking out the loan, submits the funding application to the SIB, pays closing costs, and pays interest payments for the duration of the loan. MVRPC would in turn commit to paying back the loan principal as long as federal STP funds are available. No other MVRPC grants, operating, or capital funds are to be used for loan repayment.

MVRPC's current funding commitments as documented in the current Transportation Improvement Program (TIP) shall not be affected by this policy. Future loan requests will be accommodated starting with the first year of available STP capacity.

STP allocations (or other equivalent federal funds) may be subject to change over time and this policy will be adjusted accordingly.

### Eligible Projects

Regional priority projects must meet the following conditions to be eligible for the STP SIB loan repayment program.

- The project is eligible to receive MVRPC STP funds and is included in the Region's most current Long Range Transportation Plan.
- Environmental document is complete and project development is underway.
- Project addresses a regional transportation goal such as improving safety or congestion.
- Project is included in a regional priority list.
- Project is supported by all directly affected communities.
- A long term funding plan has been prepared and has been agreed to by all local and state funding partners.

Consistent with MVRPC funding policy, the MVRPC portion of the payments shall be made available to the construction phase(s) of the project and the construction phase of the project must be estimated to be at least \$15 million.

### Loan Request Process

A local member jurisdiction contacts MVRPC staff to initiate a loan request for a specific project. Requests may be made at any time during the year. Since the SIB loan repayment program is unlikely to be the sole funding source for a project, the project sponsor must also provide a complete funding package, including any additional resources made available by the project sponsor and resolution of support by the jurisdiction's government body.

MVRPC staff would then verify financial capacity, project eligibility and work with the project sponsor to develop a MVRPC resolution detailing the financial arrangement of the proposed loan including loan amount, term, interest, and other relevant details as coordinated with the ODOT State Infrastructure Bank.

The loan request would be made available to the next two TAC/Board cycles, first as an information item and then as an action item. The loan request would also be made available on the MVRPC website and publicized via press release to provide for the opportunity for comment by the general public and other interested parties.

Following Board approval, MVRPC and the local jurisdiction will work with the ODOT SIB loan staff to finalize the loan agreement.

## Project Examples on Applying the MVRPC SIB Loan Repayment Policy

### Example 1 – MOT-35 – PID 89130 – Yes

Project is eligible to receive MVRPC STP funds and is included in the current Long Range Plan. Environmental is complete and plans are finished. Project addresses congestion by adding an additional lane to US-35 in Montgomery County. Project has been on the TRAC list for several years and is supported by all directly affected communities. The construction phase of the project is estimated to be greater than \$15 million.

**Answer:** Based on the information above, the project would be eligible for a MVRPC STP repaid SIB loan based on the policy.

### Example 2 – GRE-35 – PID 80468 – No

Project is eligible to receive MVRPC STP funds and is included in the current Long Range Plan. Environmental is not complete and plans are not finished. Project addresses safety by eliminating at-grade intersections on US-35 in Greene County. Project has been on the TRAC list for several years and is supported by all directly affected communities. The construction phase of the project is estimated to be greater than \$15 million.

**Answer:** Based on the information above, the project would not currently be eligible for a MVRPC STP repaid SIB loan based on the policy because Environmental and Design are not complete.

### Example 3 – No

A member jurisdiction would like to utilize the MVRPC SIB loan program for a roadway (minor arterial) reconstruction project that is estimated to cost \$5 million for construction. Project is eligible for MVRPC STP funds and Environmental and Design are completed. The project is not in the Long Range Plan, as it does not add capacity and has never been included on a regional priority list.

**Answer:** Based on the information above, the project would not be eligible for a MVRPC STP repaid SIB loan based on the policy because it is not on the Long Range Plan, does not address a regional transportation goal, it has never been on a regional priority list and the construction cost is estimated to be less than \$15 million.

### Example 4 – No

A member jurisdiction would like to utilize the MVRPC SIB loan program for a multi-jurisdictional roadway widening project that is estimated to cost \$20 million for construction. One directly affected community is opposed to the project. Project is eligible for MVRPC STP funds and Environmental and Design are completed. The project is in the Long Range Plan and has been included on a regional priority list.

**Answer:** Based on the information above, the project would be not eligible for a MVRPC STP repaid SIB loan based on the policy because it is not supported by all directly affected communities.

## **Appendix F – MVRPC’s LIST OF ACRONYMS**

4R	New Construction/Reconstruction
ADA	Americans with Disabilities Act 1990
CAAA	Clean Air Act Amendments 1990
CMAQ	Congestion Mitigation and Air Quality – MVRPC’s historical allocation of this Federal funding source is approximately \$ 6.4 million each year
CMP	Congestion Management Process
CRRSAA	Coronavirus Response and Relief Supplemental Appropriations Act
ELLIS	A web-based application designed to be a “major management system linking ODOT’s new approaches to project delivery, planning, system forecasting and financial management.
FAST Act	Fixing America’s Surface Transportation Act – Current Transportation Bill
FHWA	Federal Highway Administration, a department of the U.S. Department of Transportation
FTA	Federal Transit Administration
HOV	High Occupancy Vehicle
I/M	Inspection and Maintenance programs
ISTEA	Intermodal Surface Transportation Efficiency Act – Former Transportation Bill
ITS	Intelligent Transportation System
L RTP	MVRPC Long Range Transportation Plan
MAP-21	Moving Ahead for Progress in the 21st Century – Former Transportation Bill
MPO	Metropolitan Planning Organization
MVRPC	Miami Valley Regional Planning Commission
ODOT	Ohio Department of Transportation
PES	Project Evaluation System – Project scoring system for MVRPC projects
SAFETEA-LU	The Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users – Former Transportation Bill
SFY	State Fiscal Year - July 1 <sup>st</sup> – June 30 <sup>th</sup>
SIB Loan	State Infrastructure Bank Loan
STIP	State Transportation Improvement Program

STP	Surface Transportation Program – MVRPC’s allocation of this Federal funding source is approximately \$ 11.8 million each year
SRTS	Safe Routes to School
TA	Transportation Alternatives - MVRPC’s allocation of this Federal funding source is approximately \$ 1.2 million each year
TAC	Technical Advisory Committee
TAP	Transportation Alternatives Program
TEA-21	Transportation Equity Act for the 21st Century – Former Transportation Bill
TIP	Transportation Improvement Program
TMA	Transportation Management Areas
TRAC	Transportation Review Advisory Council

## **Appendix G – Information Regarding ADA Compliance and Various Right-of-Way Topics**

### **ODOT FAQ on ADA Curb Ramp Requirements**

Reference: FHWA Q&A on ADA requirements to provide curb ramps when streets, roads or highways are altered through resurfacing.

[https://www.fhwa.dot.gov/civilrights/programs/ada\\_resurfacing\\_qa.cfm](https://www.fhwa.dot.gov/civilrights/programs/ada_resurfacing_qa.cfm)

#### 1.) Resurfacing projects on federal aid highways

Q: What are the requirements for ADA Curb Ramps?

A: If a curb ramp was built or altered prior to March 15, 2012, and complies with the requirements for curb ramps in either the 1991 ADA Standards for Accessible Design (1991 Standards, known prior to 2010 as the 1991 ADA Accessibility Guidelines, or the 1991 ADAAG) or Uniform Federal Accessibility Standards UFAS, it does **not** have to be modified to comply with the requirements in the 2010 Standards. 1991 designed curb ramps require truncated domes.

#### 2.) Design Standards

Q: Where can you find the ADA Standards for Accessible Design?

A: 1991 Standards – <http://www.ada.gov/1991standards/adastd94-archive.pdf>

A: ODOT has also created a webpage with current applicable ADA design standards and resources which will be updated regularly with links and resources:

<https://www.transportation.ohio.gov/wps/portal/gov/odot/working/engineering/roadway/ada>

#### 3.) Proof of ADA Compliance

Q: What will ODOT require as documentation to demonstrate all ADA Curb Ramps are in compliance with either 1991 or 2010 design standards?

A: Documentation of ADA compliance by field evaluation is required. The ODOT ADA Rights of Way Inventory Manual for evaluating existing facilities may assist in the field evaluation:

[https://www.mvrpc.org/sites/default/files/final\\_odot\\_ada\\_rights\\_of\\_way\\_inventory\\_manual.pdf](https://www.mvrpc.org/sites/default/files/final_odot_ada_rights_of_way_inventory_manual.pdf)

In addition, ORE has released a Curb Ramp Measuring Guide located on the ODOT ADA website under "Resources". A direct link to this Measuring Guide is

<https://www.transportation.ohio.gov/wps/portal/gov/odot/working/engineering/roadway/ada/ada-compliant-curb-ramp-measuring-guide> along with a link to the Curb Ramp Evaluation and Measuring Form (xlsx format) at that same page.

#### 4.) Construction of ADA Curb Ramps on MVRPC funded resurfacing projects

Q: Does a resurfacing project require upgrading curb ramps to ADA standards?

A: Yes. Resurfacing is considered an alteration that requires curb ramps to be constructed or modified to ADA compliance. Due to the quick timeline associated with common resurfacing projects, ADA curb ramps must be upgraded prior to the application of funding.

**Note: Including the reconstruction of curb ramps on a resurfacing project will require the curb ramp work to be included in the Environmental evaluation. This will require survey of the locations to establish existing R/W lines, design of the proposed curb ramp, and review of the information. This process will usually cause delay unintended for these types of projects and funding and is therefore not to be included.**

**ODOT's ADA Design Resources can be found at the following link:**

<https://www.transportation.ohio.gov/wps/portal/gov/odot/working/engineering/roadway/ada>

#### 5.) ADA Curb Ramp Waivers

Q: Can an ADA waiver be used in lieu of upgrading ramps?

A: Ramps shall be upgraded to the greatest extent possible in accordance with the requirements. A waiver should be the last option and justified. Waivers will be reviewed on a case by case basis and not assumed to be approved. At a minimum, the ramp is to be in good condition and include a detectable warning pad. Final approval of a waiver rests with the District Design Engineer. Refer to ODOT's L&D Vol. 1, Section 306.1 and the Waiver Form documents on the ADA Design Resources Website under the "Curb Ramp" heading. It is expected that future projects with the appropriate scope and Purpose & Need should reference previously approved waivers and make full upgrades where possible.

## **Ohio LPA Advisory Group - Right of Way Fact Sheet – May 15, 2015 (Updated May, 2021)**

### **Certified Appraisers are being check/reviewed by Certified Appraisers. Why?**

This is law...Ohio Administrative Code (OAC) 5501:2-5-06; CFR Title 49; Part 24.104. Ohio/FHWA has adopted a Waiver of Appraisal process. This valuation process/document is known as the Value Analysis valuation format, and it is the most common valuation report utilized on transportation projects (state and local). Persons preparing and/or reviewing a Value Analysis report are not required to be State Certified Appraisers, but must still be pre-qualified with ODOT to perform this task. ODOT has one of the most comprehensive Real Estate training schedules in the country, with many courses available online. LPA's are encouraged to have staff trained to perform one or more of the various Real Estate Acquisition disciplines. All online courses offered by ODOT are free of charge. Many LPA's across Ohio have staff members that are "pre-qualified" for Real Estate tasks, and it has always proven to be cost effective for those entities. Additionally, the Value Analysis report no longer requires an independent appraisal review, which can significantly cut time and cost measures on applicable projects.

### **Roadway Easement vs Warranty Deed**

There is no law/requirement which states that an agency must acquire permanent rights of way by Warranty Deed, as opposed to Standard Highway Easement. However, the law does require that if any rights, which were acquired with federal funds, are disposed of then the agency must reimburse FHWA at current fair market value. The conflict is with State law. Ohio law states that the agency cannot charge a property owner when vacating easement rights. Thus, on projects utilizing federal funds to acquire property rights, ODOT generally acquires by Warranty Deed so that the agency may charge the property owner at current market value if rights of way are ever disposed. This is not a requirement, but if an LPA chooses to use federal funds to acquire by easement instead of warranty deed, the LPA must acknowledge that it will cover any costs associated with any disposal of said property right(s).

### **Quit Claim Deeds**

An LPA may accept a Quit Claim Deed, and would be doing so at its own discretion. ODOT does not, generally, accept QC deeds and does not have a standardized QC form. However, the LPA is urged to review the Title Report closely, as the LPA will be held solely liable for any claims that arise from third parties as a result of accepting a QC deed.

### **Quick Take Authority for Bikeway Projects – Can this be enacted?**

ODOT does not have and/or exercise quick take authority on bikeway projects, but a LPA may have such rights within its locale. The LPA should discuss these options with their own local legal counsel.

**Establish a R/W Task Order for all Locals** – There is no statewide task order contract for use by all locals, but ODOT District offices have the option to secure district-wide right of way services contracts for LPA use, if they desire.

**Extreme expense to acquire a small amount of land** - This is a direct result of supply and demand. Fee guidance for Right of Way Services has been established, and the LPA should work closely with the District Real Estate Office to explore options on a project by project basis. Additionally, there are various training (online) and pre-qualification opportunities for LPA employees, which can help limit the need/extent of professional services contracts.



**LPA's not allowed to speak to property owners when federal funds are involved**

An LPA may speak to a property owner at any time it pleases. In fact, early (during project development/plan design) communication with property owners is encouraged, as information derived from discussions with effected property owners could impact final design. Additionally, an LPA may inquire as to a property owner's interest in donating property rights, as long as the LPA makes the property owner aware that they have the right to full and just compensation. However, an LPA may not discuss money/compensation with a property owner, or initiate any type of "negotiation" on compensation, until an appraisal has been completed and the Fair Market Value Estimate (FMVE) has been established.

**Limited number of pre-qualified R/W consultants in the State.**

ODOT realizes that the pool of Right of Way professionals is limited, and this is also impacting the State's program. ODOT Real Estate has taken steps to help R/W consultants bring on additional staff/trainees. LPAs should work closely with their respective District Real Estate Office, Central Office Real Estate, and/or the Office of Consultant Services in the review of consultant proposals.

Questions regarding any of this information may be directed to:

**Shawn P. Hillman**  
**Statewide LPA Coordinator**  
**ODOT-Office of Real Estate**  
**1980 W. Broad Street**  
**Columbus, OH 43223**  
**614-644-8200**  
[shillman@dot.oh.gov](mailto:shillman@dot.oh.gov)

Optional

ODOT Curb Ramp Evaluation and Measurement Form																			
Background Information																			
C-R-S:						FID:													
Municipality:						Number of Approaches:													
District:						Number of Curb Ramps:													
County:						Traffic Control Type:													
Major Road:						Date Inspected:													
Minor Road:						Reviewer Name:													
Notes: 1. Take measurements for each Curb Ramp Type (A through E) and measurements for (F) Common Curb Ramp Elements. 2. All values should be collected and input out to two decimal places ex. 8.25% or 4.00 ft.																			

SKETCH

CURB RAMP POSITION ID DIAGRAM

(A) Perpendicular Ramps																			
Curb Ramp Position ID:		A		B		C		D		E		F		G		H			
ADA Collector App ID:		1234																	
Waiver Required? (Y/N)		Y		Y		Y		N		N		N		N					
(A1) Ramp	Values	Compliant (Y/N)	Values	Compliant (Y/N)	Values	Compliant (Y/N)	Values	Compliant (Y/N)	Values	Compliant (Y/N)	Values	Compliant (Y/N)	Values	Compliant (Y/N)	Values	Compliant (Y/N)	Values	Compliant (Y/N)	
(A1.1) Running Slope (%)	8.34	8.34	N	8.34	N	8.34	N	8.32	8.32	Y	8.32	Y	8.32	Y					
(A1.2) Cross Slope (%)	2.01	2.01	N	2.01	N	2.01	N	1.99	1.99	Y	1.99	Y	1.99	Y					
(A1.3) Width (ft.)	3.99	3.99	N	3.99	N	3.99	N	4.01	4.01	Y	4.01	Y	4.01	Y					
(A2) Landing Area / Turning Space																			
(A2.1) Running Slope (%)	2.01	2.01	N	2.01	N	2.01	N	1.99	1.99	Y	1.99	Y	1.99	Y					
(A2.2) Cross Slope (%)	2.01	2.01	N	2.01	N	2.01	N	1.99	1.99	Y	1.99	Y	1.99	Y					
(A2.3) Length (ft.)	3.99	3.99	N	3.99	N	3.99	N	4.01	4.01	Y	4.01	Y	4.01	Y					
(A2.4) Width (ft.)	3.99	3.99	N	3.99	N	3.99	N	4.01	4.01	Y	4.01	Y	4.01	Y					
(A3) Flared Sides																			
(A3.1) Flares Present? (Y/N)	N	Y		Y	Y														
(A3.2) Right Flared Slope (%)	10.01	10.01	N	10.01	N	10.01	N	9.99	9.99	Y	9.99	Y	9.99	Y					
(A3.3) Left Flared Slope (%)	10.01	10.01	N	10.01	N	10.01	N	9.99	9.99	Y	9.99	Y	9.99	Y					
(A4) Pedestrian Street Crossings Without Yield or Stop Control																			
(A4.1) Ped. Access Route Cross Slope (%)	5.01	5.01	N	5.01	N	5.01	N	4.99	4.99	Y	4.99	Y	4.99	Y					

After filling in all measurements for curb ramp, if there is an "N" in any Compliant Column, then the ramp is noncompliant.

## Pictorial Illustrations of Curb Ramp Elements

Curb Ramp Elements (Perpendicular Curb Ramp)	▼
Detectable Warnings	▼
Detectable Warnings (at mid-block crossing)	▼
Gutter/Street Slope	▼
Flush Grade Breaks	▼

## **BIKEPATH PROJECTS: EMINENT DOMAIN, APPROPRIATION & QUICKTAKE**

### **Stand Alone Bikepath Projects:**

ODOT does not have quick take authority on these projects.

LPA's may use quick take on bikepath projects if their legal department is in agreement with the use of quick take.

Both ODOT and LPA's can appropriate bikepath projects, this does not mean they have the authority to use quick take.

### **Road Project with Bikepath/Pedestrian Facility:**

ODOT and LPA's have the authority to appropriate and use quick take when the bikepath/pedestrian facility is part of a roadway project.

Eminent domain - is the inherent and innate power of a sovereign government to take private property for a public purpose.

ODOT is authorized to use the power of eminent domain to appropriate real property needed for highway purposes; this power of eminent domain is exercised by ODOT commencing an action to appropriate the needed property.

Appropriation - the appropriation process starts when a petition to appropriate is filed in the common pleas or probate court of the county in which the property, or a part of it, is located. Upon the filing of the petition to appropriate, ODOT deposits with the Clerk of Courts the amount of money which ODOT has determined to be just compensation for the property taken and damages, if any, to the residue.

Quick Take Authority - This authority gives ODOT the right to enter upon and take possession of the property that is to be appropriated on the condition that the deposit has been made to the court at the time of the filing of the petition.

## **ADA TRANSITION PLAN**

### **Background**

- An ADA transition plan identifies the steps and strategies to make the necessary changes to an agency's inventoried facilities within the public rights of way (ROW) and programs to bring them to ADA standards.
- Federal regulations require that Federal-aid recipients comply with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504).
- Required for government agencies with more than 50 employees.
- For FHWA programs, recipients and public entities with responsibility for public roadways and pedestrian facilities are required to ensure that these facilities are accessible to and usable by persons with disabilities.

### **Why Does This Matter to Your MPO?**

- The ADA transition plan either required for ODOT or applicable local public agency should be integrated with State and MPO planning processes.
- Federal planning regulations also require MPOs to self-certify compliance with ADA and Section 504.
- Since your MPO self certifies compliance with ADA and Section 504 on a periodic basis, MPO's need to be aware of the requirements and cooperate with ODOT and other local partners as they work to address any ADA Transition Plan deficiencies.

### **Elements of an ADA Transition Plan**

- Location of barriers
- Methods to remove barriers
- Timetable to address
- Official responsible for implementation
- Estimated Cost

### **More information**

- Please visit the following FHWA websites for an overview of the regulations and specific needs of an ADA Transition Plan.
  - Foundations of ADA/504 <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=72>
  - ADA Transition Plans <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=32>
- The FHWA Ohio Division and ODOT intend to provide training opportunities in the near future
- FHWA Ohio Division Contact: Andy Johns, [andy.johns@dot.gov](mailto:andy.johns@dot.gov), 614.280.6850