

NEPA and Fiscal Constraint Fact Sheet

June 16, 2011

This information is presented by the FHWA Ohio Division Office based on Supplemental Information on "Transportation Planning Requirements & Their Relationship to NEPA Process Completion," issued on February 9, 2011 by FHWA and on 23 CFR 450, to assist our partners in improving documentation of fiscal constraint during the NEPA process.

Fiscal Constraint is a demonstration that the entire program of projects (MTP, TIP, STIP) can be implemented.

Communication between ODOT Central Office, ODOT District Offices, MPOs, and others involved in projects is critical.

Projects requiring a Federal action, or that are funded with Federal-aid, must be included on a Fiscally Constrained:

- Metropolitan Transportation Plan (MTP)
- Transportation Improvement Program (TIP)
- Statewide Transportation Improvement Program (STIP)

ODOT posts the relevant STIP/TIP documents on their website:

<http://www.dot.state.oh.us/Divisions/TransSysDev/ProgramMgt/STIP/Pages/default.aspx>

Individual MTPs, can be found at the respective MPOs website (see attached list for MPO contact information.)

Before a Final Environmental Decision (ROD, FONSI, CE) is approved in Metropolitan Areas, Fiscal Constraint must be demonstrated by:

- Entire Project is included in the MTP
- At least one subsequent phase of the Project is in the TIP (more if within TIP timeframe)
- Full funding is reasonably available for the completion of the entire Project

Before a Final Environmental Decision (ROD, FONSI, CE) is approved in Non-Metropolitan Areas (Outside MPO), Fiscal Constraint must be demonstrated by:

- Project is consistent with the Statewide Long-Range Plan (ACCESS OHIO)
- At least one subsequent phase of the Project is in the current STIP (more if within STIP timeframe)
- Full funding is reasonably available for the completion of the entire Project

NEPA project approval can only be given when the NEPA documents meet all applicable environmental laws, Executive Orders, and other related requirements, or reasonable assurances of compliance are provided [23 CFR § 771.133].

1. As a NEPA practitioner, your role is to report what is known of the status of fiscal constraint in the NEPA document
2. It is the planner's role (at ODOT and the MPOs) to ensure compliance with the guidance in terms of ensuring the most recent cost estimates are reflected in the MTP, TIP and/or STIP
3. If the current project costs estimates do not match cost information provided in the planning documents (MTP, TIP, STIP), then notify the District Planning & Engineering staff. District Planning & Engineering staff will work with the ODOT Division of Planning and the appropriate MPO to update the planning documents.

For an Environmental Assessment or Environmental Impact Assessment, a narrative discussion is appropriate.

For a Categorical Exclusion Document, using the current forms, a brief discussion of the applicable MTP, TIP/STIP References in the Project Description Section is suitable.

*The new CE Form will have a section for this information to be documented

To properly reference the fiscal constraint related to a given project;

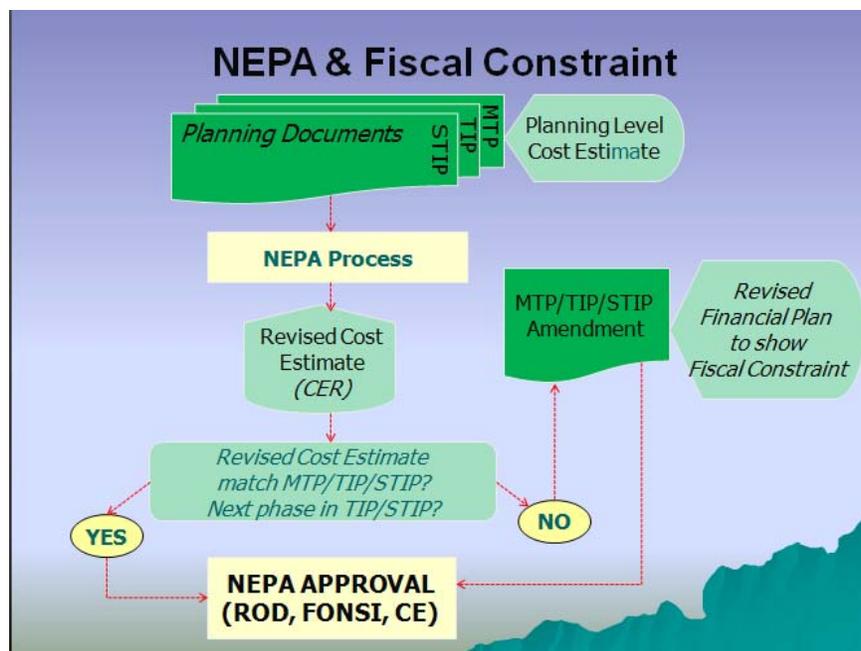
- Reference the STIP and/or STIP Amendment
Cite the PID and whether referencing the STIP or an amendment
Cite Total Project Cost & Cite Current & Next phase costs
- Reference the appropriate MPO, and MPO document, such as MTP and/or TIP
Cite Project Identification Number (PID) and page number if appropriate
Cite Total Project Cost & Cite Current & Next phase costs

Fiscal constraint in this context should reflect the cost estimates at the time of NEPA clearance. Additional changes to cost estimates during PE & final design will not trigger a NEPA re-evaluation.

However, re-evaluations that are triggered for other appropriate reasons (i.e. change to design concept and scope, time-lapse, etc.) must re-confirm fiscal constraint based on the cost information available at that time.

Can the ROD/FONSI/CE be approved when the cost estimates in the environmental documentation does not match what is in the MTP or STIP/TIP?

- No. it is important that final environmental review cost estimates are consistent with the MTP and STIP/TIP.
- If not, a plan and/or STIP/TIP amendment is necessary prior to the final NEPA decision.



If you have questions, please contact your ODOT District Planning and Engineering representative.