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Administrative Guide to Metropolitan Planning Organizations

FINAL DRAFT

July 2009

Contents

Acknowledgements and References	1
Introduction	2
Section 1: Metropolitan Planning Organizations in Maine	3
1.1 – Overview	3
Maine’s metropolitan planning organizations.....	4
Statewide MPO map.....	5
Lewiston-Auburn MPO map.....	6
Greater Bangor MPO map.....	7
Kittery Area MPO map	8
Greater Portland MPO map.....	9
1.2 – Metropolitan Transportation Planning Process	10
Table 1: Schedule for MPO Plans and Programs	13
1.3 – MaineDOT’s Role in Metropolitan Planning	13
1.4 – Summary	16
Section 2: MPO Structure	18
2.1 – MPO Committees	18
Maine MPO Committee Schedules and Contacts	20
2.2 – MPO Directors and Staffs	21
2.3 – MPO Boundaries	22
2.4 – Highway Classifications	23
2.5 – Transportation Management Areas	24
2.6 – Summary	25
Section 3: Funding for MPOs	26
3.1 – Transportation Planning Funds	26
3.2 – Federal Capital Improvement Funds	30
3.3 – Matching Funds for Capital Improvements	35
3.4 – Federal Transit Funds	35
3.5 – Consolidated Planning Grant	37
3.6 – Federally Ineligible Activities	38
3.7 – Project Status Updates	39
3.8 – Summary	40
Section 4: MPO Long-Range Transportation Plans	44
4.1 – Timeline	44
4.2 – Federal Requirements	44
4.3 – Consultation with Other Agencies	45
4.4 – Public Participation in the Long-Range Plan	46
4.5 – Maine’s Sensible Transportation Policy Act	47

4.6 – Environmental Mitigation	48
4.7 – Approval and Distribution	49
4.8 – Amendments	49
4.9 – Summary	49
Section 5: MPO Unified Planning Work Programs	51
5.1 – Eligible Activities	51
Table 2: Schedule for Development of the UPWP	52
5.2 – MaineDOT-MPO Cooperative Agreements	53
5.3 – UPWP Amendments and Revisions	54
5.4 – Progress Reports	54
5.5 – Transportation Studies	55
5.6 – Consultant Selection	56
5.7 – Summary	58
Section 6: The Project Selection Process	60
6.1 – MaineDOT Six-Year Plan	60
6.2 – MaineDOT Two-Year Work Plan	61
Table 3: Work Plan Schedule	62
6.3 – Programming MPO Projects	63
Table 4: Capital Improvement Responsibilities	66
6.4 – Scoping Projects	67
6.5 – Summary	69
Section 7: Transportation Improvement Programs	71
7.1 – Federal Requirements for the MPO TIP	71
Table 5: Metropolitan Transportation Improvement Program Schedule	72
7.2 – MPO Projects	73
7.3 – MaineDOT Projects in MPO Areas	74
7.4 – TIP Amendments	74
7.5 – Statewide transportation improvement program	75
Table 6: Statewide Transportation Improvement Program Schedule	76
7.6 – Annual Listing of Obligated Projects	78
7.7 – Metropolitan Planning Process Certification	79
7.8 – Summary	80
Section 8: The Project Development Process	82
8.1 – Roles and Responsibilities	82
8.2 – Project Milestones	85
8.3 – National Environmental Policy Act	88
8.4 – Public Involvement	90
8.5 – Project Agreements	91
8.6 – Resolving Conflicts	93
8.7 – Locally Administered Projects	95
8.8 – Summary	99

Section 9: Public Involvement and Title VI	101
9.1 – Public Involvement Process	101
9.2 – Environmental Justice	105
9.3 – Summary	107
Section 10: Air Quality Conformity	109
10.1 – Role of MaineDOT	110
10.2 – Role of the MPO	110
10.3 – Options for Reducing Emissions	112
10.4 – Summary	112
Appendix	114
A. Definitions of Transportation Terms	A1
B. Sample Request for Proposals	B1
C. MaineDOT Project Scope Codes	C1
D. Required Data for Project Scopes	D1
E. TIP Amendment/Adjustment Procedures	E1
F. Sample Cooperative Agreements	F1
G. Sample Three-Party Agreement	G1

Acknowledgements and References

This MaineDOT *Administrative Guide to Metropolitan Planning Organizations* was developed in cooperation with the following organizations:

- Androscoggin Transportation Resource Center (ATRC)
- Bangor Area Comprehensive Transportation System (BACTS)
- Federal Highway Administration, Maine Division
- Kittery Area Comprehensive Transportation Study (KACTS)
- MaineDOT – Bureau of Transportation Systems Planning and Bureau of Project Development
- Portland Area Comprehensive Transportation System (PACTS)

References

- Florida Department of Transportation, *MPO Program Management Manual*, 2001.
 - Ohio Department of Transportation, *MPO Administrative Manual*, September 2004.
 - Federal Highway Administration, Office of Legislative and Government Affairs, *Financing Federal-Aid Highways*, Publication No. FHWA-PL-07-017, March 2007.
 - U.S. Department of Transportation, *The Transportation Planning Process: Key Issues – A Briefing Book for Transportation Decision-makers, Officials, and Staff*, Publication No. FHWA-HEP-07-039, September 2007.
 - Title 23, Code of Federal Regulations, part 450, “Statewide Transportation Planning; Metropolitan Transportation Planning; Final Rule,” published in the *Federal Register* on February 14, 2007.
-

Introduction

Metropolitan planning organizations (MPO) play a critical role in the transportation planning process. They work with communities, mass transit providers and the Maine Department of Transportation to plan and program transportation projects that serve Maine's major population centers. But what are MPOs, what do they do, and what is their relationship to MaineDOT?

MaineDOT developed this *Administrative Guide to Metropolitan Planning Organizations* in cooperation with Maine's four MPOs to answer these questions. The guide explains the metropolitan transportation planning process – from the establishment of long-term goals to the development of projects designed to meet those goals. It sets forth the basic administrative requirements for MaineDOT and the state's MPOs to follow as they conduct Maine's urban transportation planning process. It is intended for the use of MPO staffs, MPO members and MaineDOT personnel, with the purpose of clarifying roles and responsibilities, improving communication, and minimizing conflicts that could affect the planning and project delivery processes.

The guide is based on interviews with the directors of Maine's four MPOs and with MaineDOT personnel, as well as research into state and federal transportation regulations. The guide consists of 10 major sections:

- MPOs in Maine
- MPO Structure
- MPO Funding
- MPO Long-Range Plans
- MPO Unified Planning Work Programs
- The Project Selection Process
- Transportation Improvement Programs
- The Project Development Process
- Public Participation and Title VI
- Air Quality Conformity

This guide is designed to capture the policies and practices of MaineDOT and Maine's four MPOs, with the goal of improving the transportation planning process in our state. As a "living document," the guide will evolve as policies and practices change. Accordingly, MaineDOT will update the document from time to time as needed.

Section 1:

Metropolitan Planning Organizations in Maine

1.1 - OVERVIEW

Metropolitan planning organizations (MPO) grew out of the Federal-Aid Highway Act of 1962 to carry out a continuing, cooperative and comprehensive transportation planning process in large, urban areas. In Maine, MPOs share responsibility with the Maine Department of Transportation (MaineDOT) and mass transit providers for making transportation investments in urban areas with core populations of at least 50,000.

Maine has four MPOs:

- **Androscoggin Transportation Resource Center (ATRC)**, organized in 1975, covers the Lewiston-Auburn metropolitan area.
- **Bangor Area Comprehensive Transportation System (BACTS)**, formed in 1982, serves the Bangor metropolitan area.
- **Kittery Area Comprehensive Transportation Study (KACTS)**, formed in 1982, covers the Maine portion of a metropolitan area that lies primarily in New Hampshire.
- **Portland Area Comprehensive Transportation System (PACTS)**, formed in 1975, serves the Portland metropolitan area.

Structure: MPOs are formed by agreement between Maine’s governor and the cities and towns in each metropolitan area. They are governed by boards, known as policy committees, consisting of state and local officials, and representatives of regional planning agencies, business groups and transit providers. Additionally, MPOs use advisory committees and employ staffs to assist in making transportation investment decisions.

Funding: MPOs every two years receive planning money to cover their operating costs and support transportation studies and other planning activities. Additionally, MaineDOT every two years provides Maine’s MPOs with capital-improvement money to select projects that preserve and improve the federal-aid transportation systems in their regions. MaineDOT in most cases designs and delivers the MPO projects. MPO funding is addressed in Section 3.

Products: Each MPO produces a 20-year transportation plan, a two-year unified planning work program (UPWP), and a four-year transportation improvement program (TIP). These documents, which describe the investment priorities for each MPO region, are covered in Section 4 through Section 7.

MAINE'S METROPOLITAN PLANNING ORGANIZATIONS

Androscoggin Transportation Resource Center (ATRC)

Address:

125 Manley Road
Auburn, ME 04210

Phone: (207) 783-9186

Web: www.atrcmpo.org

Director: Don Craig

E-mail: dcraig@avcog.org

Metropolitan planning area: Auburn, Lewiston, Lisbon and a portion of Sabattus. The ATRC area population, according to the U.S. Census of 2000, is 70,518.

Bangor Area Comprehensive Transportation System (BACTS)

Address:

40 Harlow Street
Bangor, ME 04401

Phone: (207) 942-6389 or (800) 339-6389

Web: www.bactsmmpo.org

Director: Rob Kenerson

E-mail: rkenerson@emdc.org

Metropolitan planning area: Bangor, Brewer, Veazie and portions of Hampden, Orono, Old Town, Milford, Bradley, Eddington, Orrington, and the Penobscot Nation. The BACTS area population, according to the U.S. Census of 2000, is 64,238.

Kittery Area Comprehensive Transportation Study (KACTS)

Address:

21 Bradeen Street
Springvale, ME 04210

Phone: (207) 324-2952

Web: www.smrpc.org/transportation/kacts/kacts.htm

Director: Tom Reinauer

E-mail: treinauer@smrpc.org

Metropolitan planning area: KACTS comprises the Maine portion of a larger urbanized area primarily in New Hampshire. The MPO covers portions of Kittery, Eliot, Berwick, South Berwick, and Lebanon. The KACTS area population, according to the U.S. Census of 2000, is 23,568.

Portland Area Comprehensive Transportation System (PACTS)

Address:

68 Marginal Way
Portland, ME 04101

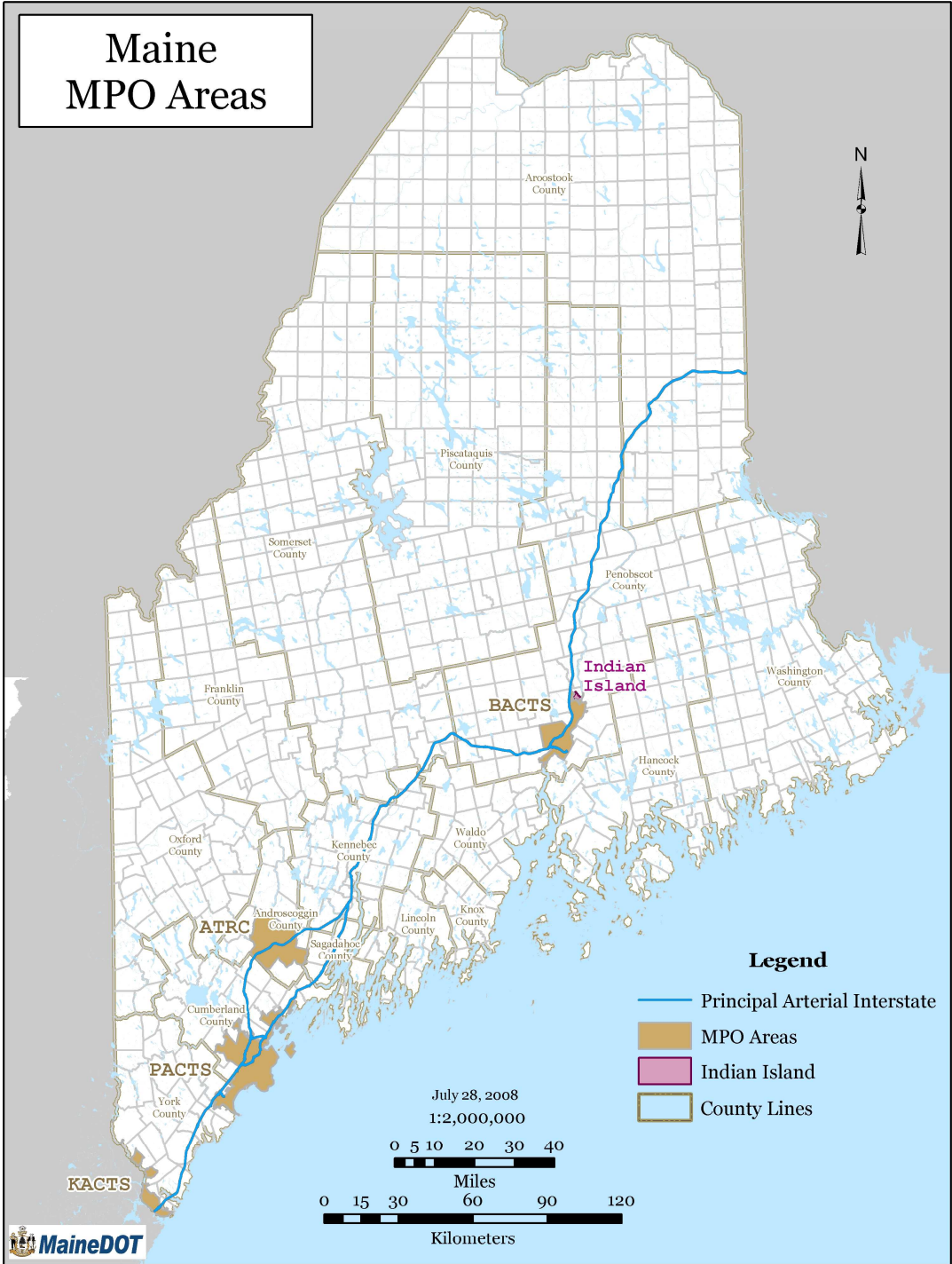
Phone: (207) 774-9891

Web: <http://pactsplan.org/>

Director: John Duncan

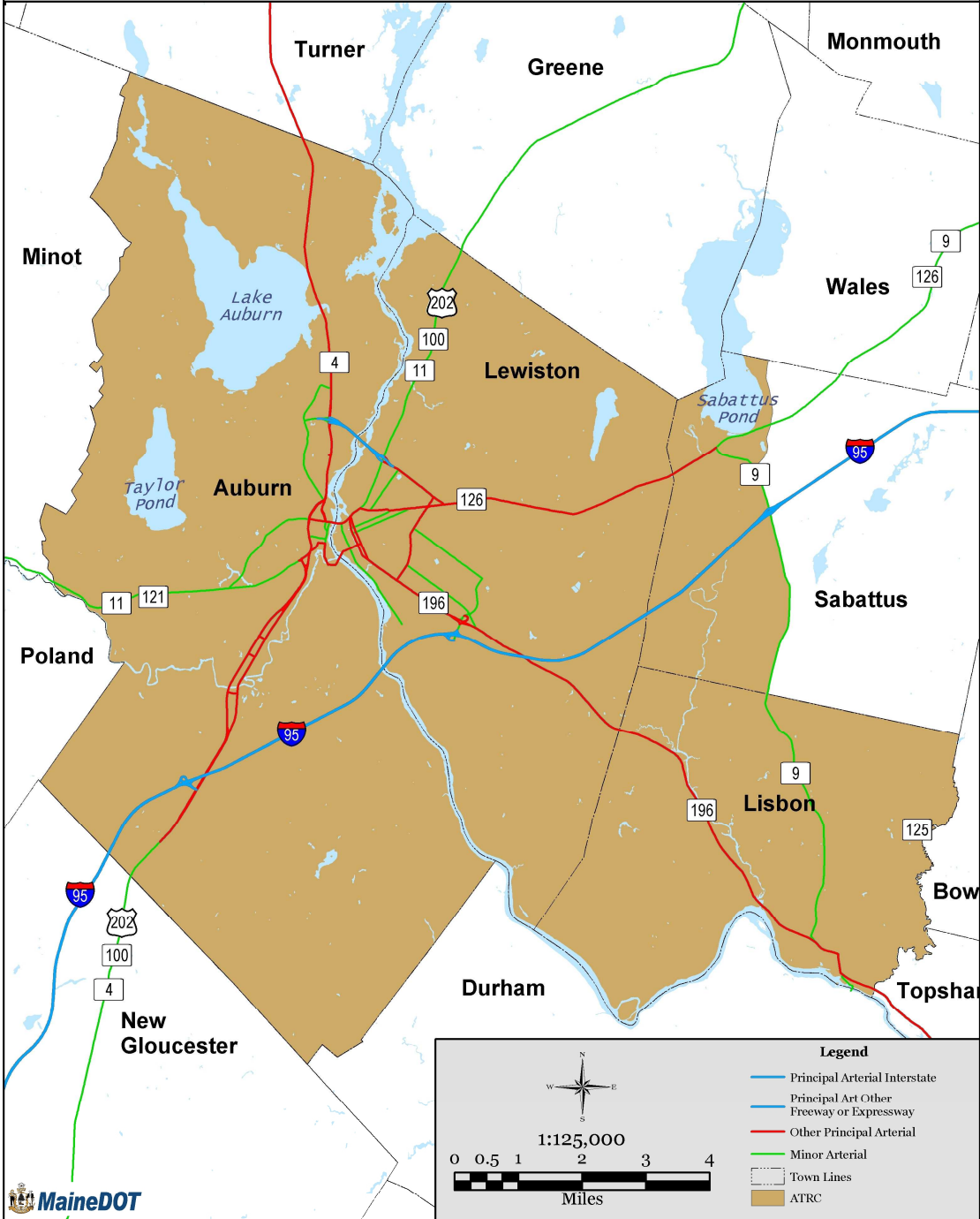
E-mail: jduncan@gpcog.org

Metropolitan planning area: Portland, South Portland, Cape Elizabeth and Westbrook, along with portions of Freeport, Yarmouth, North Yarmouth, Cumberland, Falmouth, Windham, Gorham, Scarborough, Old Orchard Beach, Biddeford and Saco. The PACTS area population, according to the U.S. Census of 2000, is 188,080.



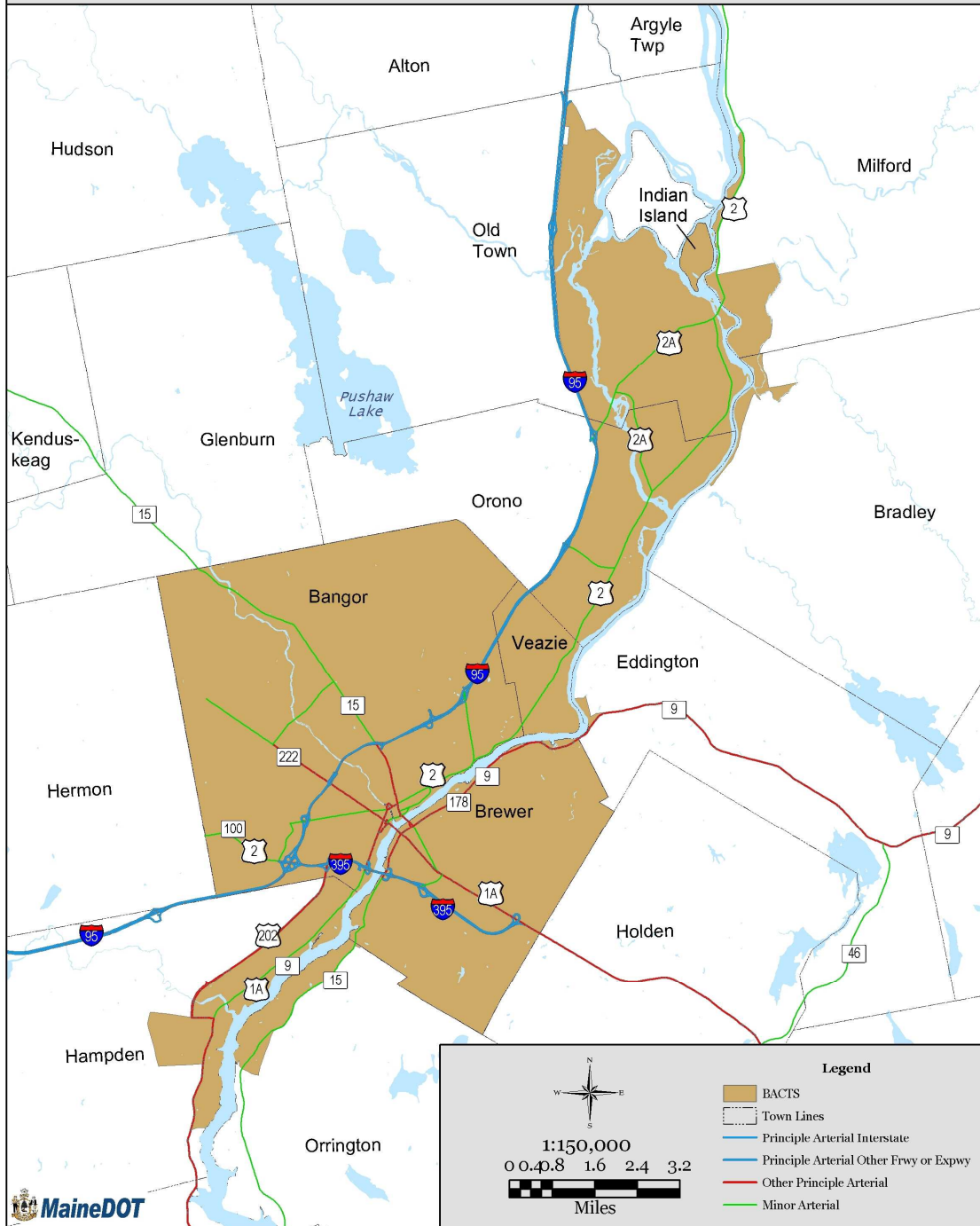
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ATRC Metropolitan Planning Area



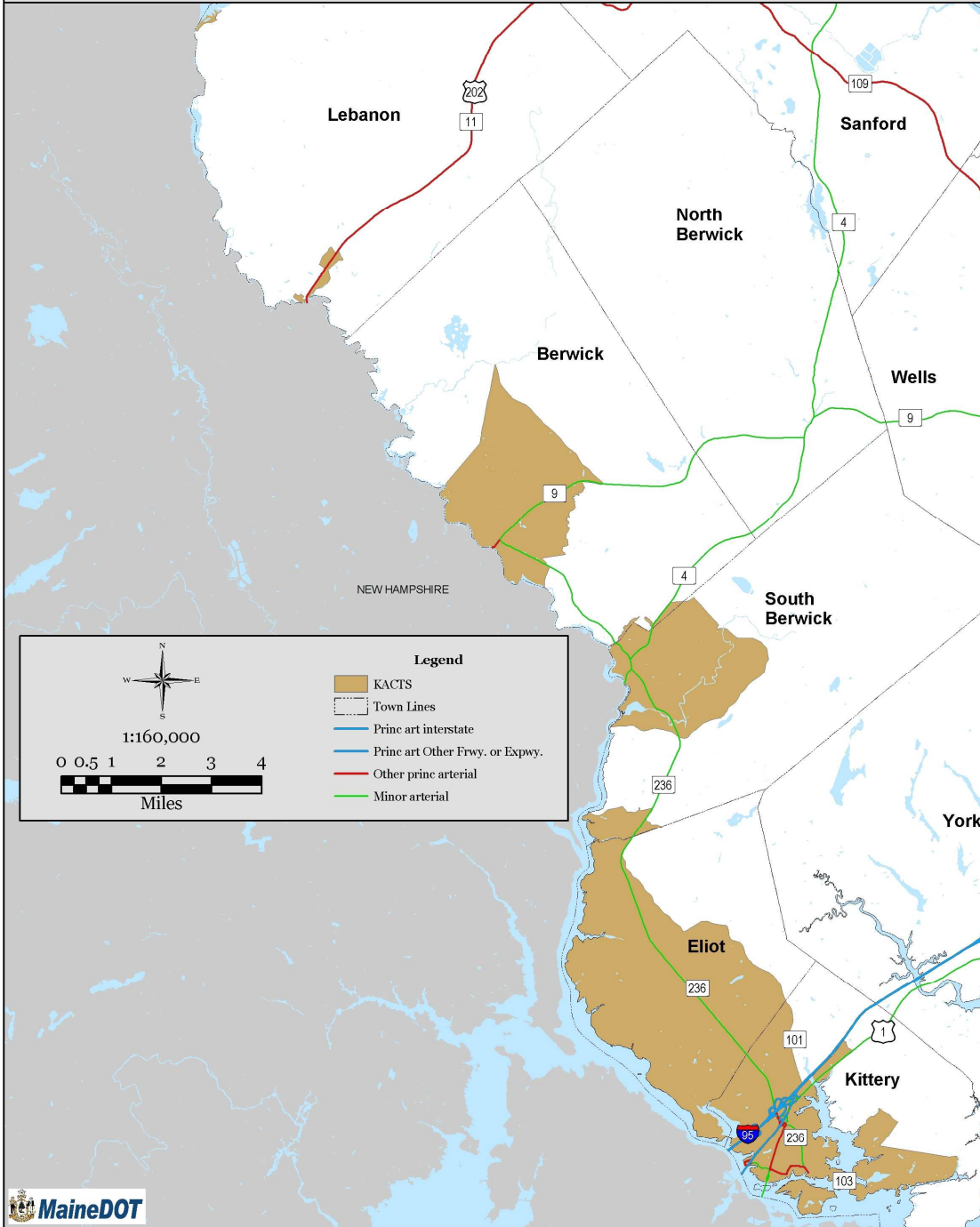
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BACTS Metropolitan Planning Area



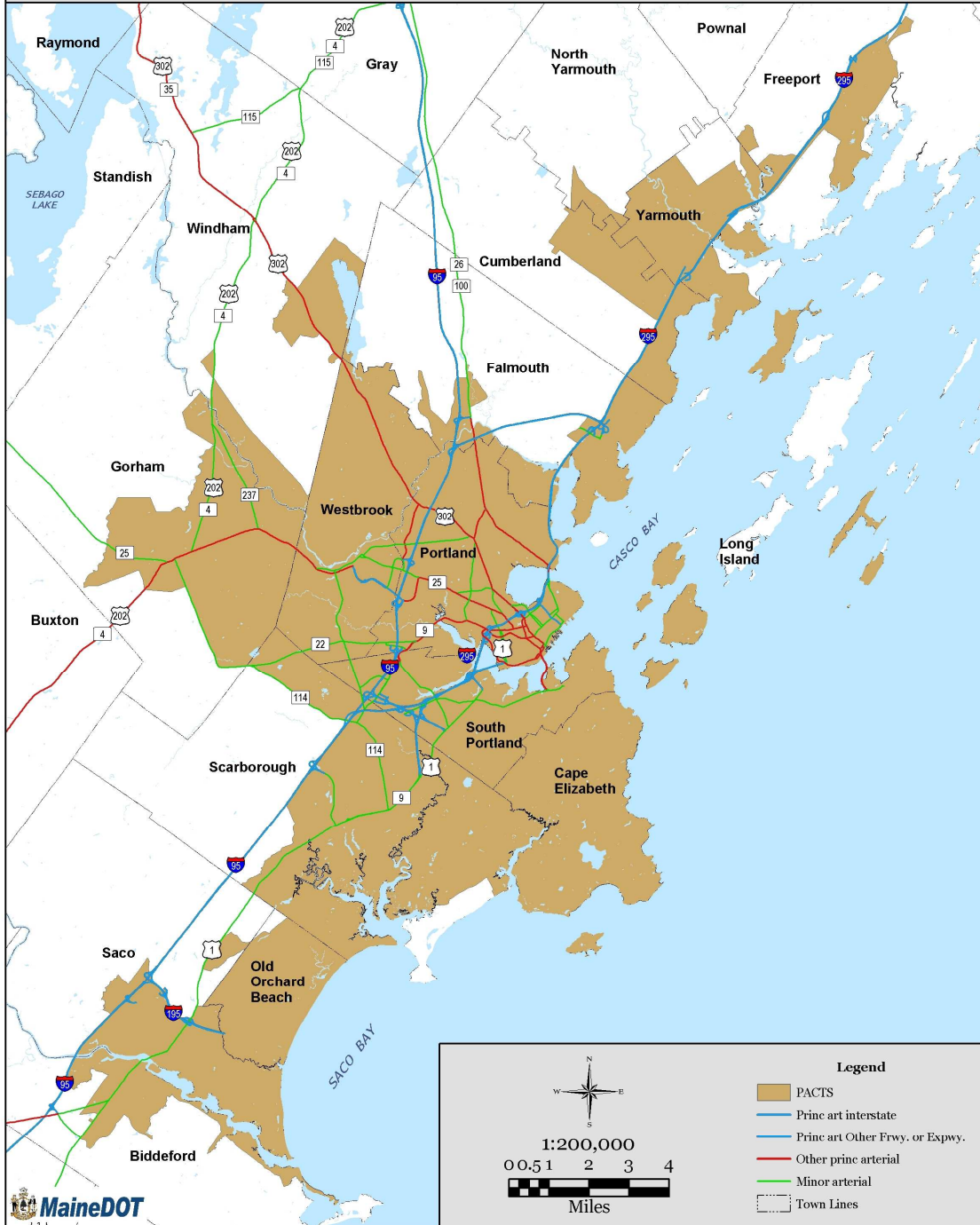
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KACTS Metropolitan Planning Area



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PACTS Metropolitan Planning Area



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1.2 – METROPOLITAN TRANSPORTATION PLANNING PROCESS

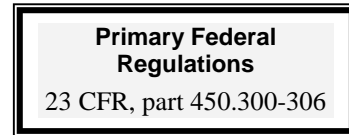
MPOs carry out a continuing, cooperative and comprehensive (“3-C”) planning process in partnership with MaineDOT, public transit operators and other agencies that undertake transportation planning and project selection in urban areas, as follows:

- **Continuing** – The process is ongoing and cyclical.
- **Cooperative** – Transportation stakeholders work together to develop the best strategies for a metropolitan area.
- **Comprehensive** – Programs and strategies address all modes of transportation, all options, and the benefits and drawbacks of all alternatives.

Transportation planning involves more than merely listing highway and transit projects. Maine’s four MPOs, MaineDOT, the Maine Turnpike Authority and other agencies cooperate to identify needs, evaluate options and select strategies to manage, preserve and improve Maine’s transportation network. These partners regularly produce plans and programs that consider all modes of transportation and that support the interests of the state and its communities, with the goal of advancing statewide and regional long-term goals.

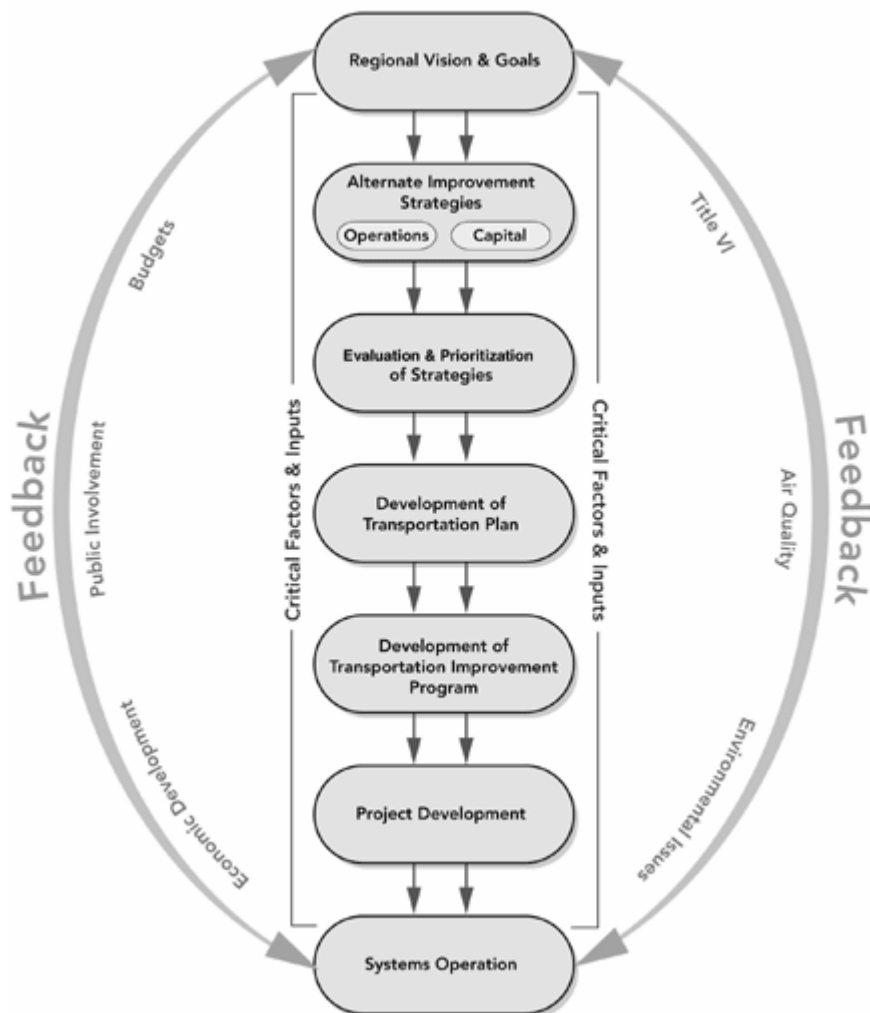
To promote such “3-C” regional planning, MPOs by federal regulation must consider eight federal planning factors:

- 1) Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity and efficiency.
- 2) Increase the safety of the system for users of all modes of transportation.
- 3) Increase the security of the system for users of all modes of transportation.
- 4) Improve accessibility and mobility for people and freight.
- 5) (a) Protect and enhance the environment; (b) promote energy conservation; (c) improve the quality of life; and (d) promote consistency between transportation projects, and state and local planned growth and economic development patterns.
- 6) Enhance the integration and connectivity of the transportation system, between modes, for people and freight.
- 7) Promote the efficient operation and management of the system.
- 8) Emphasize the preservation of the existing transportation system.



Transportation Planning Process Flowchart

(Source: Federal Highway Administration)



❑ MPO plans and programs

Each MPO produces three federally required documents:

- **Long-range metropolitan transportation plan.** The long-range plan, covering at least 20 years, describes a long-term regional vision for transportation investments. It identifies the policies, goals and strategies needed to meet an MPO region's demand for transportation services. The plan should consider all modes, and foster: 1) mobility and access for people and goods; 2) efficient performance and preservation of the system; and 3) good quality of life within the metropolitan region. Plans must be updated every four years in air quality non-attainment and maintenance areas, and every five years in attainment areas. MPO long-range plans are covered in Section 4.

- **Unified planning work program (UPWP).** The UPWP describes transportation studies and other planning tasks that an MPO intends to undertake in its region with federal, state and local planning money. MPOs update their UPWPs every two years, during odd-numbered calendar years. UPWPs are discussed in detail in Section 5.
- **Transportation improvement program (TIP).** The TIP is a four-year, fiscally constrained program of capital investments planned for each MPO area, based on the priorities in the MPO long-range plan. MPO TIPs list all projects to be done with available federal funds in an MPO area, including those programmed by MaineDOT. Maine MPOs update their TIPs every two years, during odd-numbered calendar years, for the review and approval of federal transportation agencies. The TIP process is discussed in detail in Section 7.

Additionally, MPOs contribute to two of the state’s primary transportation planning tools:

- **Six-Year Transportation Improvement Plan.** Every two years, MaineDOT requests candidate projects from each MPO for its six-year plan. This plan is the bridge between MaineDOT’s 20-year plan and its project-based two-year work plan. The project listings in the six-year plan enable MaineDOT, in partnership with each MPO, to begin scoping project candidates. The six-year plan is addressed in Section 6.
- **Biennial Capital Work Plan.** Every two years, MPOs select capital improvements for MaineDOT’s Biennial Capital Work Plan with their allocated federal and state funds, plus local matching shares. MPO-approved project lists are due to MaineDOT by October 31 of even-numbered years, and they form the foundations for MPO TIPs. For more about the MaineDOT work plan, see Section 6.

Additionally, federal transportation law requires each MPO to produce two other documents:

- **Public participation plan.** Public involvement is a key component of the transportation planning process. Each MPO must have an approved public participation plan that provides citizens with complete information, timely public notice, and opportunities for early and continuing involvement in the transportation planning process. MPOs must update their plans as needed to stay current with relevant federal regulations. Public participation is addressed in Section 9.
- **Title VI/environmental justice plan.** Each MPO must have a plan for complying with federal Title VI and environmental justice anti-discrimination requirements. MPOs must update their plans annually, after the October 1 start of a new federal fiscal year, for the review of the Federal Highway Administration and Federal Transit Administration. Title VI and environmental justice are covered in Section 9.

Table 1: Schedule for MPO Plans and Programs

Document	Horizon	Contents	MPO Updates
Metropolitan transportation plan for FHWA/FTA	20 years	Policies, goals and strategies	Every 5 years (4 years for Non-attainment and Maintenance areas)
Unified planning work program for MaineDOT/FHWA	2 years	Planning studies & tasks	Every two years, in odd-numbered calendar years
MPO project lists for MaineDOT six-year plan	6 years	Transportation investments	The six-year plan generally is produced every two years, in off years from the two-year work plan.
Transportation improvement program for FHWA/FTA	4 years	Transportation investments	Every two years, in odd-numbered calendar years
MPO projects for MaineDOT work plan	2 years	Transportation investments	Due to MaineDOT by October 31 of even-numbered years
Public participation plan for FHWA/FTA	N/A	Details of the MPO public involvement process	As needed to stay in compliance with relevant federal regulations
Title VI/Environmental justice Plan for FHWA/FTA	N/A	Actions each MPO takes to meet federal anti-discrimination laws	Annually, usually after October 1

1.3 – MaineDOT’s ROLE in METROPOLITAN PLANNING

MaineDOT is a partner in the metropolitan transportation planning process. MaineDOT representatives serve on MPO committees and present the state’s perspective in the consensus building that identifies the transportation needs, priorities and solutions in each MPO region.

<p>Primary Federal Regulations</p> <p>23 CFR, part 450.200 23 CFR, part 450.206 23 CFR, part 450.208</p>

By federal regulation, MaineDOT must carry out a continuing, cooperative and intermodal transportation planning process that facilitates the efficient, economic movement of people and goods. MaineDOT coordinates and consults with a variety of agencies – including the four MPOs – as it develops the plans and programs that carry out the state’s long-term strategies for maintaining and improving Maine’s transportation system.

MaineDOT uses four primary capital-planning documents:

- **Long-range transportation plan.** The long-range plan sets goals and objectives for Maine’s transportation system over a 20-year period. It is updated every five years and prepared in cooperation with a variety of agencies, including Maine’s four MPOs.
- **Six-Year Transportation Improvement Plan.** The six-year plan lists projects that MaineDOT is likely to undertake during the next three biennial funding cycles. MaineDOT updates the plan every two years, typically during even-numbered calendar years. MPOs contribute project lists, in consultation with MaineDOT. The six-year plan is covered in detail in Section 6 of this guide.
- **Biennial Capital Work Plan.** Every two years, MaineDOT transfers its top priorities from the six-year plan to its Biennial Capital Work Plan. This work plan provides a snapshot of all projects in Maine and their prospective funding sources, including those sponsored by MPOs. MaineDOT submits the work plan to the Legislature in March of every odd-numbered calendar year as a reference tool during review of MaineDOT’s two-year budget. The work plan is covered in Section 6.
- **Statewide transportation improvement program (STIP).** The STIP is a budgetary and scheduling document prepared for federal transportation agencies. It lists the transportation improvements scheduled to be done in Maine with available federal funding over four years, including those in MPO areas. The document focuses specifically on the years in which MaineDOT expects to draw down, or “obligate,” its federal funding. MaineDOT submits its STIP to federal agencies for approval every two years, during odd-numbered calendar years. The STIP is covered in Section 7.

□ **MaineDOT’s role in financial management**

MaineDOT manages Maine’s federal and state transportation funding, including the money set aside for Maine’s four MPOs. In this role – described in Section 3 – MaineDOT:

- Distributes federal planning money to the MPOs and provides state matching funds for MPO planning activities;
- Administers the federal transit money that is set aside for Maine MPOs and public transit agencies to support planning activities, transit agency operations, and investments in Maine’s public transit systems;
- Allocates federal and state highway money to the MPOs and ensures that they produce financially balanced transportation improvement programs; and
- Manages the money in the projects that MPOs select for MaineDOT’s two-year work plan.

❑ **MaineDOT's role in project selection and development**

MaineDOT provides technical assistance to MPO staffs, helps with project scoping and cost estimation, and routinely develops the projects that MPOs program. MaineDOT also works with MPOs as they develop their transportation improvement programs (TIPs) to ensure that the documents include MaineDOT projects in MPO areas.

The Bureau of Transportation Systems Planning and the Office of Freight and Business Services oversee the planning and funding of projects statewide. Once MaineDOT's statewide transportation improvement program (STIP) has received federal approval, the Bureau of Project Development designs and delivers the planned projects, including those in MPO areas. For more information about the project development process, see Section 8.

❑ **Role of MaineDOT MPO coordinator**

The MPO coordinator, in the Bureau of Transportation Systems Planning, is MaineDOT's primary liaison to Maine's four MPOs. The coordinator:

- Serves as a bridge between planning and project development, for all projects programmed by MPOs and developed by MaineDOT.
- Tracks MPO committee schedules to ensure that the appropriate MaineDOT staff members attend, and represents MaineDOT at MPO meetings as needed.
- Works with MPOs and MaineDOT personnel, including project managers, to resolve questions about transportation studies, capital projects and other matters.
- Reviews and approves monthly invoices from each MPO, seeking reimbursement of expenses eligible for federal and state planning funds.
- Produces bimonthly project updates for MPO directors and committee members. These reports – produced in January, March, May, July, September and November – show the financial status and schedule of every MPO project.
- Maintains a spreadsheet that tracks the annual unexpended balance of federal Metropolitan Planning (PL) funds for each MPO.
- Calculates each MPO's biennial allocation of federal planning and capital improvement funding, using formulas developed cooperatively by the MPOs and MaineDOT. (MPO funding is covered in Section 3.)
- Provides annual schedules and monitors the development MPO long-range plans, UPWPs, TIPs, and two-year capital project lists to ensure that MPOs meet deadlines and comply with state and federal regulations. Usually, the MPO coordinator sends a letter to each MPO in January of every year outlining deadlines and other important dates in the planning process.

❑ Role of MaineDOT urban program administrator

The urban program administrator, within the Bureau of Transportation Systems Planning, serves as MaineDOT's primary liaison to urban mass transit providers.

The administrator:

- Represents MaineDOT at MPO transit committee meetings and other events.
- Serves as a primary contact for the MPOs regarding transit-related issues.
- Oversees the distribution of federal transit planning, capital improvement and operating funds to Maine's urban transit providers.
- Calculates the federal allocation of transit planning, capital improvement and operating funds to each MPO, using standardized federal formulas.
- Provides schedules and monitors the status of MPO UPWPs, TIPs, MaineDOT's STIP, UPWP Progress Reports, and MPO sections of MaineDOT's Six-Year Plan and two-year work plan to make sure MPOs are meeting deadlines and remaining compliant with state and federal transit regulations.
- Shares information and coordinates activities with the MaineDOT MPO coordinator, as appropriate.

1.4 - SUMMARY

A metropolitan planning organization (MPO) is a transportation policy-making body made up of representatives from local government and transportation providers in an urban area with a core population of at least 50,000. MPOs were created by federal law in 1962 to ensure that transportation investments in urban areas were based on a continuing, cooperative and comprehensive ("3-C") process.

MPOs consist primarily of the cities and towns in each metropolitan area. They are governed by policy committees that include appropriate state and municipal officials, as well as representatives of regional planning agencies and mass transit operators. Additionally, MPOs use multiple advisory committees to provide their policy committees with information needed to make decisions. MPOs also employ directors and technical staffs.

Each MPO produces three core products:

- A long-range (20-year) metropolitan transportation plan;
- A four-year transportation improvement program (TIP); and
- A two-year unified planning work program (UPWP).

MPOs every two years receive federal highway and transit planning funding to cover their operating costs and support transportation studies and other planning activities. Additionally, MaineDOT every two years provides MPOs with federal and state capital-improvement money, which they use to program projects in their regions for MaineDOT's two-year work plan. MaineDOT in most cases designs and delivers the MPO-selected projects.

Finally, MPOs must involve the public in regional transportation planning by striving to inform citizens of critical issues facing their regions. MPOs should pay special attention to groups that are traditionally under-represented in the expenditure of transportation money. (See Section 9, "Public Participation and Title VI," for more information.)

❑ **Web resources**

Androscoggin Transportation Resource Center
www.atrcmpo.org

Association of Metropolitan Planning Organizations
www.ampo.org

Bangor Area Comprehensive Transportation System
www.bactsmpto.org

Kittery Area Comprehensive Transportation Study
www.smrpc.org/transportation/kacts/kacts.htm

Portland Area Comprehensive Transportation System
<http://pactsplan.org/>

Federal guidance on the transportation planning process
<http://www.planning.dot.gov/documents/briefingbook/bbook.htm#6BB>

Working with MaineDOT, a publication of the Maine Department of Transportation
<http://mainegov-images.informe.org/mdot/working-with-dot/pdf/2007workingwithmainedota.pdf>

Section 2:

MPO Structure

Metropolitan planning organizations (MPO) are the forums for cooperative transportation decision-making in federal urbanized areas, which the U.S. Census Bureau defines as having at least 50,000 people and core densities of 1,000 or more people per square mile. They are formed by agreement between Maine’s governor and the communities comprising at least 75 percent of the people in an urbanized area, including the largest city. MPOs include representatives from cities and towns, MaineDOT and agencies that oversee major modes of transportation, such as public mass transit providers. The member cities and towns determine the voting representatives by consensus.

Primary Federal Regulations
23 CFR, part 450.310, 314

2.1 - MPO COMMITTEES

❑ Policy committee

A policy committee governs each MPO, overseeing the regional planning process and approving the resulting plans and programs. Policy committees include appointed and/or elected officials from cities and towns, along with representatives from regional planning organizations, public transit providers, and MaineDOT.

The Maine Turnpike Authority is a member of the MPOs serving the Lewiston-Auburn, Kittery and Portland regions. The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) are non-voting members of each MPO. Members elect the committee chairs and other officers.

The chief of MaineDOT’s Bureau of Transportation Systems Planning appoints a representative to each MPO policy committee and notifies each MPO of MaineDOT’s official voting member and any alternates.

The policy committees of Maine’s four MPOs generally meet as follows:

ATRC (Lewiston-Auburn) – 4th Thursday of each month, 10 a.m.

BACTS (Bangor area) – 3rd Tuesday, 9:30 a.m., during odd-numbered months.

KACTS (Kittery area) – As needed (no regular schedule.)

PACTS (Portland area) – 3rd Thursday of a month, 1:30 p.m., as needed.

Generally, each MPO policy committee establishes the overall transportation policy direction for its region. The policy committee:

- Adopts the MPO long-range plan, unified planning work program (UPWP), transportation improvement program (TIP), and other documents, including the public participation plan.
- Hires the MPO director, sets the director's salary, and addresses personnel issues.
- Approves funding for MPO-sponsored projects.
- Reviews and acts on technical reports and studies from staff and consultants.
- Forms other committees necessary to assist the policy committee.
- Performs any other duties required by federal and state regulations, including the certification of the MPO planning process.

❑ **Technical advisory committee**

MPO technical advisory committees assist their policy committees by making recommendations on transportation improvements and by providing technical analysis on specific issues. MPO technical committees in Maine consist primarily of municipal engineers and public works directors.

Project scoping engineers from the Bureau of Transportation Systems Planning represent MaineDOT on MPO technical committees. Additionally, technical staff members from some of MaineDOT's regional offices often attend meetings to answer questions and provide information.

Three of Maine's four MPOs have technical committees. KACTS (Kittery area) performs its technical committee activities at the policy committee level. Committee chairs are elected by the members.

Each MPO technical advisory committee generally meets as follows:

ATRC (Lewiston-Auburn) – Second Thursday of the month, 10 a.m.

BACTS (Bangor region) – Third Tuesday, 9:30 a.m., even-numbered months.

PACTS (Portland region) – Second Tuesday of the month, 8:30 a.m.

Maine MPO Committee Schedules & Contacts, 2009

Androscoggin Transportation Resource Center (ATRC)			
Policy	Schedule	MaineDOT Member	MPO Contact
	Monthly 4th Thursday 10 a.m.	Duane Scott, Statewide Planning Division 624-3309 Duane.Scott@Maine.Gov	Don Craig, Director 783-9186 dcraig@avcog.org
Technical	Schedule	MaineDOT Member	MPO Contact
	Monthly 2nd Thursday 10 a.m.	Darryl Belz, Safety & Scoping Unit 624-3275 Darryl.Belz@Maine.Gov	Jason Ready, Engineer 783-9186 dready@avcog.org
Bangor Area Comprehensive Transportation System (BACTS)			
Policy	Schedule	MaineDOT Member	MPO Contact
	Odd months 3rd Tuesday 9:30 a.m.	Peggy Duval, Deputy Chief of Planning 624-3300 Margaret.Duval@Maine.Gov	Rob Kenerson, Director 942-6389 rkenerson@emdc.org
Technical	Schedule	MaineDOT Member	MPO Contact
	Even months 3rd Tuesday 9:30 a.m.	Darryl Belz, Safety & Scoping Unit 624-3275 Darryl.Belz@Maine.Gov	Rob Kenerson, Director 942-6389 rkenerson@emdc.org
Signals	Schedule	MaineDOT Member	MPO Contact
	Bimonthly, as needed. No set schedule.	Steve Landry, Traffic Engineering 624-3620 Stephen.Landry@Maine.Gov	Dianne Rice, Technician 924-6389 drice@emdc.org
Kittery Area Comprehensive Transportation Study (KACTS)			
Policy	Schedule	MaineDOT Member	MPO Contact
	As needed. No set schedule.	Sara Behr, Statewide Multimodal Planning 624-3255 Sara.Behr@Maine.Gov	Tom Reinauer, Director 324-2952 treinauer@smrpc.org
Portland Area Comprehensive Transportation System (PACTS)			
Policy	Schedule	MaineDOT Member	MPO Contact
	As needed 3rd Thurs. of month 1:30 p.m.	Kat Fuller, Chief of Planning 624-3300 Kat.Fuller@Maine.Gov	John Duncan, Director 774-9891 jduncan@gpcog.org
Technical	Schedule	MaineDOT Member	MPO Contact
	Monthly 2nd Tuesday 8:30 a.m.	Mimi Cerveny, Safety & Scoping Unit 624-3300 Mimi.Cerveny@Maine.Gov	Paul Niehoff, Sr. Planner 774-9891 pniehoff@gpcog.org
Planning	Schedule	MaineDOT Member	MPO Contact
	Monthly 1st Thursday, 9 a.m.	Mike Laberge, Statewide Planning Division 624-3280 Michael.Laberge@Maine.Gov	Carl Eppich, Planner 774-9891 ceppich@gpcog.org
Transit	Schedule	MaineDOT Member	MPO Contact
	Monthly 2nd Thursday 9:30 a.m.	Sara Behr, Statewide Multimodal Planning 624-3255 Sara.Behr@Maine.Gov	Steve Linnell, Sr. Planner 774-9891 slinnell@gpcog.org
Executive	Schedule	MaineDOT Member	MPO Contact
	Monthly 1st Tuesday 8 a.m.	MaineDOT has no seat.	John Duncan, Director 774-9891 jduncan@gpcog.org

Generally, MPO technical advisory committees:

- Review and rank potential projects for policy committee approval and inclusion in the MaineDOT Biennial Capital Work Plan and MPO TIP.
- Direct MPO staffs in developing scopes for technical studies and in reviewing and scoring consultant proposals.
- Oversee the development and maintenance of traffic data collection and transportation management systems, as directed by the policy committee.
- Conduct other business, as directed by their policy committees.

❑ **Other committees**

- **BACTS** (Bangor region) has a standing **traffic signal committee**. Members include municipal engineers and/or planners from the BACTS region and a representative from MaineDOT's Traffic Engineering Division. The committee generally meets every two months, as needed.
- **PACTS** (Portland region) in 2008 created an **executive committee** to address routine business between policy committee meetings. The group consists of the chair, vice-chair and immediate past chair of the PACTS Policy Committee, along with the chairs of the planning, technical and transit committees. The committee meets at 8 a.m. on the first Tuesday of every month.
- **PACTS** has a **planning committee** that considers issues that include land use, economic development, and community enhancement. The committee comprises primarily municipal planners, and MaineDOT's representative is the MPO coordinator. The group meets at 9 a.m. on the first Thursday of each month.
- **PACTS** has a **transit committee** that considers issues involving public passenger transit. MaineDOT's representative is the urban program administrator. The committee meets at 9:30 a.m. on the second Thursday of every month.

2.2 - MPO DIRECTORS AND STAFFS

Each MPO employs a director who reports to the policy committee. The director is akin to a chief operating officer, handling day-to-day activities and managing the MPO staff and consultants.

At the discretion of their policy committees, MPOs employ other staff members to perform planning and technical services. MPO staffs provide committees with technical assessments and evaluations of proposed transportation improvements. They also collect data, prepare documents, foster coordination with MaineDOT and other agencies, facilitate public involvement, and manage the transportation planning process.

Additionally, MPOs in Maine contract for administrative, planning and financial management services with regional planning agencies, as follows:

ATRC – Androscoggin Valley Council of Governments, in Auburn.

BACTS – Eastern Maine Development Corporation, in Bangor.

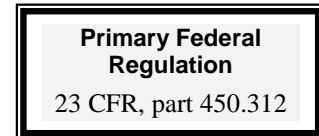
KACTS – Southern Maine Regional Planning Commission, in Springvale.

PACTS – Greater Portland Council of Governments, in Portland.

2.3 - MPO BOUNDARIES

The metropolitan planning area is an MPO’s official boundary, representing the region in which the metropolitan transportation planning process takes place.¹ Federal transportation money may be used within this area, which must cover at a minimum:

- The entire federal urbanized area for each MPO region, as defined by the U.S. Census Bureau; and
- The surrounding area likely to become urbanized within the 20-year forecast period of an MPO long-range plan.



After each federal census, MaineDOT coordinates with each MPO and federal officials to gather information supporting the establishment of the planning area. Approval of the planning area requires the dated signatures of the MPO chair and the MaineDOT commissioner, acting for Maine’s governor. In Maine, a representative from the Federal Highway Administration (FHWA) also signs the official MPO boundary maps, which must be submitted to the FHWA and the Federal Transit Administration (FTA). For maps of Maine’s official MPO boundaries, see Section 1, “Metropolitan Planning Organizations in Maine.”

□ Boundary maps

After each federal census, MaineDOT’s Bureau of Transportation Systems Planning reviews the data and maps produced by the U.S. Census Bureau. MaineDOT, in cooperation with each MPO, may make adjustments to ensure that boundary lines accurately reflect the official Census Urbanized Area for each MPO. MaineDOT staff will consider geographic features, development densities, and any other variables necessary to produce accurate maps. Maps include municipal boundaries, waterways, major roads, railroads, airports, and intermodal stations.

¹ Two MPOs refer to their metropolitan planning areas (MPA) by different names. The Portland Area Comprehensive Transportation System calls its MPA a “Funding Area.” The Kittery Area Comprehensive Transportation Study refers to its MPA as a “Capital Improvement Area.”

2.4 - HIGHWAY CLASSIFICATIONS

Public roads fall into different classes, based on the character of service they provide. Transportation agencies use these functional classifications to identify roads eligible for federal money. The Community Services Division, in MaineDOT's Bureau of Transportation Systems Planning, oversees Maine's functional classification system. MPO areas have two primary classes of roads eligible for federal funds: arterial highways and urban collectors.

❑ Arterial highways

Arterials provide long-distance connections between towns and regional centers, typically handling more than 10,000 vehicles per day. Types of arterials in urban areas:

Principal arterial - interstate. These are divided, limited-access highways that in Maine consist of I-95 (Kittery to Houlton); I-195 (Saco); I-295 (South Portland to Gardiner); I-395 (Bangor-Brewer) and I-495 (Falmouth spur of Maine Turnpike).

- Capital improvement responsibility: MaineDOT.

Principal arterial - other freeway and expressway. These are divided highways with full or partial control of access. Examples: Washington Street (U.S. Route 202) in Auburn, Westbrook Arterial, and U.S. Route 1 between Brunswick and Bath.

- Capital improvement responsibility: MaineDOT.

Other principal arterial. These routes carry through traffic and most of the trips to and from urban areas. Examples: Route 1 in Kittery, Brighton Avenue (Route 25) in Portland, Sabattus Street (Route 126) in Lewiston, and Wilson Street (Route 1A) in Brewer.

- Capital improvement responsibility:
 - ✓ MaineDOT – preservation.
 - ✓ MPOs – reconstruction and rehabilitation.

Minor arterial. These routes, which interconnect with principal arterial highways, distribute travel to smaller regions than those served by the principal arterials. Examples: Western Avenue in South Portland, Main Street in Lewiston, and Hogan Road in Bangor.

- Capital improvement responsibility:
 - ✓ MaineDOT – preservation.
 - ✓ MPOs – reconstruction and rehabilitation.

❑ Urban collectors

Urban collectors typically handle between 2,000 and 8,000 vehicles a day as they deliver traffic from local roads to the nearest arterial highway. Examples: Route 1 in Yarmouth, Route 111 in Biddeford, Hotel Road in Auburn, and Stillwater Avenue in Bangor.

- Capital improvement responsibility: MPOs.

After each 10-year federal census, MaineDOT reviews the functional classifications of the roads in each MPO area. Staff members compare the classifications of these routes against their current functions. MaineDOT, in coordination with the MPOs and communities, determines if functional classification adjustments are necessary based on changing uses and/or traffic conditions.

MaineDOT must submit any proposed changes in functional class status to the affected MPOs for review and concurrence. All changes require Federal Highway Administration approval.

2.5 - TRANSPORTATION MANAGEMENT AREAS

Urban areas with populations of at least 200,000 are designated as Transportation Management Areas (TMA). Maine currently has no TMAs. The MPO for the Portland urbanized area, PACTS, may grow to become a TMA after the 2010 federal census. PACTS, as of the 2000 Census, had a planning area population of 188,080.

TMAs face specific requirements outlined in federal regulations, including the development of a congestion management plan that identifies congestion in a region and outlines strategies to address it.² As a TMA, PACTS would receive an allocation of Surface Transportation Program (STP) funds directly from Congress, rather than through MaineDOT. PACTS would continue to program transportation improvements in its region, and MaineDOT would continue to develop those projects.

Primary Federal Regulations
23 CFR, part 450.306(i)
23 CFR, part 450.310(d)
23 CFR, part 450.320
23 CFR, part 450.334(b)

Additionally, PACTS as a TMA would face other changes, including:

- PACTS could no longer use section 5307 funds from the Federal Transit Administration (FTA) for transit operating costs.
- The FTA and Federal Highway Administration (FHWA) would jointly conduct a formal certification review of PACTS at least every four years to determine if the planning process meets applicable provisions of federal law. Opportunities for public comment would be provided as part of this review.
- The PACTS membership, by federal regulation, would need to include local elected officials, officials of public agencies that administer or operate major modes of transportation in the metropolitan planning area and appropriate state transportation officials.

² The federal Department of Transportation provides guidance on congestion management at the following site: <http://plan4operations.dot.gov/congestion.htm>

2.6 - SUMMARY

❑ MPO structure

MPOs carry out transportation planning in federal urbanized areas, which have at least 50,000 residents and population densities of 1,000 or more people per square mile. The policy committee is the MPO governing body, consisting of municipal officials and representatives from regional planning agencies, public transit providers, and MaineDOT. The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) are non-voting members.

Most MPOs also have advisory committees that consider technical, mass transit, transportation planning and other specialized topics. These committees draw their members from appropriate technical fields and advise MPO policy committees on relevant issues.

❑ MPO staffs

Each MPO has a director who reports to the policy committee. MPOs also employ other staff members to perform planning, engineering and other technical services. MPO staffs provide committees with technical assessments and evaluations of proposed transportation initiatives. They also prepare documents, foster coordination with MaineDOT and other agencies, facilitate public involvement, and manage the overall planning process.

❑ MPO boundaries

The metropolitan planning area is an MPO's official boundary, representing the region in which the transportation planning process takes place. Federal transportation planning and capital improvement funds may be used within this area, which must cover:

- The entire urbanized area for each metropolitan region, as defined by the U.S. Census Bureau; and
- The surrounding area likely to become urbanized within the 20-year forecast period of an MPO long-range plan.

❑ Web resources

Federal functional classifications of highways

<http://www.state.me.us/mdot/maines-transportation-systems/classification-highways%20.php>

Federal guidance in applying census data to urbanized areas

<http://www.fhwa.dot.gov/planning/census/faq2cdt.htm>

Federal guidance on the transportation planning process

<http://www.planning.dot.gov/documents/briefingbook/bbook.htm#6BB>

Section 3:

Funding for MPOs

Maine's four metropolitan planning organizations (MPO) receive federal, state and local planning money to cover their operating costs and support transportation planning activities, including studies. Additionally, MaineDOT provides each MPO with federal and state capital-improvement money, which supports a variety of regional transportation projects. This section describes the types of funding available to MPOs and the requirements for use of this money.³

3.1 - TRANSPORTATION PLANNING FUNDS

Congress annually appropriates Metropolitan Planning (PL) funds that the Federal Highway Administration (FHWA) distributes to the states. States, in turn, allocate this money to MPOs to carry out their unified planning work programs (UPWP). Any task in a federally approved UPWP is eligible for PL funding, as discussed in Section 5. MPOs may program PL funds to cover up to 80 percent of federally eligible planning activities.

Federal Reference
23 CFR, part 420.109
23 CFR, part 420.113
23 USC, Section 134

State matching funds for planning

MaineDOT, by consensus with Maine's MPOs, provides \$18,750 in state matching funds for every \$100,000 in federal PL money an MPO receives. That equates to 15 percent of total costs, assuming a federal share of 80 percent. MPOs have the flexibility to apply this state money to federally eligible activities at proportions that best meet their regional needs, as long as the federal share of any task does not exceed 80 percent.

Maine's PL funding distribution formula

MaineDOT and the four MPOs have developed a formula for distributing federal PL funds that considers vehicle miles traveled (VMT) and population, giving population 90 percent of the weight and VMT the remaining 10 percent.

The formula is shown on the next page:

³ The Federal Highway Administration explains the federal funding process in, *Financing Federal-aid Highways*, available on the FHWA website: <http://www.fhwa.dot.gov/reports/financingfederalaid/index.htm>

Base + [% Pop*((Fed w/OL* 0.9) - B_{MPO})] + [% VMT*(Fed w/OL * 0.1)] ... where: ⁴

Base is the base amount for an MPO – \$90,000 per fiscal year for ATRC, BACTS and PACTS; \$48,000 per fiscal year for KACTS.

% Pop is an MPO’s share of the population of Maine’s four urbanized areas.

Fed w/OL is the federal PL apportionment to Maine, *after* obligation limitations are applied. (Obligation limitations typically range from 85 percent to 90 percent.)

B_{MPO} is the sum of the four MPO base amounts, currently \$318,000.

% VMT is an MPO’s percentage of total vehicle miles of travel in all four of Maine’s urbanized areas.

Consider, for example, the distribution of federal PL funding to PACTS, the MPO for the Portland urbanized area. Using the chart below, the MPO share of PL funding for fiscal year 2008 was calculated as follows:

$$\$90,000 + [0.551 * (\$1,286,599 * 0.9) - \$318,000] + [0.545 * (\$1,286,599 * 0.1)] = \text{\$622,558}$$

Sample PL Funding Chart for Maine’s MPOs				
MPO	POP (Census 2000)		VMT (Annual, as of 2000)	
	(#)	(%)	(#)	(%)
PACTS	193,929	55.1%	1,117,878,007	54.5%
ATRC	70,518	20.0%	397,931,183	19.4%
KACTS	23,568	6.7%	139,522,779	6.8%
BACTS	64,238	18.2%	395,265,132	19.3%
Totals	352,253	100.0%	2,050,597,101	100.0%

FFY 08-09 PL Funds			
Fiscal Year	2008	2009	Biennial
Full Federal Share	\$1,496,045	\$1,519,833	\$3,015,878
Fed @ 86%	\$1,286,599	\$1,307,056	\$2,593,655

PL Funding	2008	2009	Biennial
PACTS	\$622,558	\$633,809	\$1,256,367
ATRC	\$283,116	\$287,199	\$570,314
KACTS	\$112,951	\$114,322	\$227,274
BACTS	\$267,974	\$271,726	\$539,700
Total	\$1,286,599	\$1,307,056	\$2,593,655

⁴ *Note:* The PL formula does not work as intended for amounts of less than \$355,000. Multiply small numbers by 10 before running them through the formula, and then divide by 10 once the results are calculated.

❑ Funding schedule

By January 15 of every odd-numbered year, MaineDOT provides each MPO with an estimate of available federal PL funds for the next two-year budget cycle, using funding projections from the FHWA. When the FHWA releases final figures after October 1, MaineDOT informs each MPO of the actual amount of available PL funding. MPOs must adjust their budgets if actual figures differ from initial estimates.

❑ Cooperative agreements

Before spending its planning funds, an MPO must have in place a cooperative agreement with MaineDOT that spells out the roles and responsibilities of the state and the MPO during the two-year period of the UPWP. The FHWA regional office in Maine requires MaineDOT to execute these agreements every two years. For a sample agreement, see *Appendix F*.

Agreements must cover two state fiscal years (July 1 to June 30) and be in place before work begins. They must be signed by the MPO chair and the chief of MaineDOT's Bureau of Transportation Systems Planning before July 1 of every odd-numbered year. See Section 5.2, "MaineDOT-MPO Cooperative Agreements," for more detail.

❑ PL funds invoices

MaineDOT provides federal and state planning funds to each MPO through an invoice process. Federal law requires MaineDOT to reimburse MPOs for eligible expenditures – shown in their approved UPWPs – within 30 days of receipt of an acceptable invoice.

An MPO must submit to MaineDOT's MPO coordinator the following:

- An invoice, signed by the MPO director or designee, that shows the period covered and the amount requested. The invoice should include the project identification number (PIN), vendor code, and MaineDOT agreement number.
- A breakdown of the expenses, by UPWP task. Invoices must show the federal, state and local shares of expenditures, along with the sum of previous invoices and the remaining balance in the MPO's contract with MaineDOT.

MaineDOT's MPO coordinator generally reviews invoices within five business days, and:

- Either approves an invoice for payment or returns it to the MPO for corrections;
- Checks the expended amounts to date shown in an MPO invoice against the figures in MaineDOT's financial tracking system to ensure that they match; and
- Forwards approved invoices to a contract specialist in the Bureau of Transportation Systems Planning for final processing and payment.

❑ Tracking unspent planning funds

Any federal PL money that is unspent at the end of a biennium becomes part of an MPO's accumulated federal fund balance – unless MaineDOT authorizes an MPO to carry forward those funds. Any unspent state money is moved into an MPO's holding PIN for state funds.

MaineDOT's MPO coordinator uses a spreadsheet to track each MPO's balance of unspent federal PL funds. The spreadsheet, e-mailed to each MPO director after June 30 of each year, notes:

- The unspent federal PL balance, as of the close of the most recent fiscal year for Maine State Government. This consists of any unspent PL money from the most recent fiscal year, plus the accumulated balances from previous years.
- The amount of new federal money available, which consists of the full amount multiplied by any obligation limitation that Congress applies. Obligation limitations typically range from 85 percent to 90 percent.
- The amount of money that an MPO has spent, as of the end of a two-year period covered by a UPWP.
- The resulting total unexpended balance.

❑ Unspent planning funds

By January 1 of an odd-numbered year, each MPO should review the status of its UPWP to determine whether it is likely to complete all tasks within the two-year program. If the MPO expects some tasks to remain incomplete, it may request authorization from MaineDOT to carry forward the federal PL and state matching money associated with those activities.

Requests to carry forward federal PL funds should be made in writing to the chief of MaineDOT's Bureau of Transportation Systems Planning and note:

- Any incomplete or unaccomplished tasks that need to be carried over; and/or
- Any need beyond the federal PL allocation for the next two-year budget cycle, which an MPO would draw from its unexpended PL fund balance.

MaineDOT will review its statewide needs to see if it can shift any obligational authority to MPO areas. If so, MPOs may use this additional obligational authority to carry forward PL funds and/or to draw down some of their unspent federal fund balances from previous years.⁵

⁵ **Obligational authority** is the total amount of federal transportation money that MaineDOT may draw down in a given year from all sources. See page 34 for a detailed explanation.

3.2 – FEDERAL CAPITAL IMPROVEMENT FUNDS

❑ Funding for MPO areas

Congress annually appropriates capital improvement money that federal transportation agencies provide to the states by formula for a variety of programs. MaineDOT, which manages Maine’s federal transportation funding, allots a portion of this money to the state’s four MPOs through the Surface Transportation Program (STP), the National Highway System (NHS) and Equity Bonus funding categories.⁶

MaineDOT determines each MPO’s share of this money through formulas established by consensus and based on the federal method for distributing money to Maine. There is no federal requirement to provide small MPOs (populations of less than 200,000) with capital improvement money, but MaineDOT believes that its MPO allocation policy promotes effective, regional planning. Roads classified as “urban collector” and “arterial” qualify for federal funding. (See Section 2.4, “Highway Classifications,” for more information.)

Additionally, MaineDOT makes a variety of federally funded investments in urban areas beyond the MPO programs, including:

- Paving of interstate highways and freeways (except for the Maine Turnpike);
- Bridge maintenance, repair and replacement projects;
- Pavement preservation projects on arterial highways;
- Highway safety improvements; and
- Community-based projects funded through the competitive Transportation Enhancement Program, Safe Routes to School, Scenic Byways Program, Small Harbor Improvement Program, and Congestion Mitigation and Air Quality Improvement (CMAQ) Program.

❑ MPO capital improvement funding formula

Maine allocates capital improvement money to the four MPOs based on the formula that Congress uses to distribute transportation funding to the states. The formula uses a weighted combination of non-interstate lane miles, vehicle miles traveled and population to calculate NHS, STP and Equity Bonus allocations. The NHS and non-NHS amounts are combined to determine the total federal allocation for each MPO.

⁶ Because of a large number of high priority projects (earmarks), Maine received no Equity Bonus funding under the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU.)

Distribution formula for NHS funds

$$\text{Maine NHS Funds} \times [(\text{W}_t\text{VMT} \times \% \text{MPO VMT}) + (\text{W}_t\text{LM} \times \% \text{MPO LM}) + (\text{W}_t\text{LM}/\text{Pop} \times \% \text{MPO LM}/\text{Pop})] \dots \text{where:}$$

Maine NHS Funds = Maine’s biennial apportionment of NHS funding, drawn from the FHWA Fiscal Management Information System Report W10A, with an obligation limitation.

W_tVMT = Weighting factor for vehicle miles traveled (0.50), based on the federal formula.

% MPO VMT = Percentage of statewide system VMT within an MPO area.

W_tLM = Weighting factor for lane miles (0.36), based on the federal NHS formula.

% MPO LM = Percentage of statewide non-interstate lane miles in an MPO area.

W_tLM/Pop = Weighting factor for lane miles ÷ population (0.14), based on federal formula.

% MPO LM/Pop = Percentage of statewide non-interstate lane miles ÷ MPO population.

Data for MPO NHS funding formula

MPO	NHS Vehicle Miles Traveled		Non-Interstate NHS Lane Miles		LM ÷ POP
	(#)	(%)	(#)	(%)	Ratio
ATRC	139,321,770	5.4%	78	3.5%	0.0056
BACTS	76,971,153	3.0%	52	2.3%	0.0051
KACTS	15,278,312	0.6%	7	0.3%	0.0054
PACTS	204,122,005	7.9%	90	4.0%	0.0039
MPO areas	435,693,240	16.9%	226	10.1%	0.0046
Outside MPO areas	2,147,202,078	83.1%	2,008	89.9%	0.0117
Total, Statewide	2,582,895,318	100.0%	2,234	100.0%	0.0097

NHS weighting factors, modeled after federal formula

Factor	Federal Formula	Maine Formula*
Vehicle Miles Traveled	0.35	0.50
Lane Miles	0.25	0.36
LM/POP	0.10	0.14
Diesel Fuel Use	0.30	0.00
Total	1.00	1.00

** Note: The federal NHS formula considers estimates of fuel tax payments from motorists in each state to the national Highway Trust Fund. The MPO formula does not use this factor and adjusts the others proportionally.*

Distribution formula for STP funds

$$\text{Maine STP Funds} \times [(\text{W}_t\text{VMT} \times \% \text{MPO VMT}) + (\text{W}_t\text{LM} \times \% \text{MPO LM})]$$

... where:

Maine STP Funds = Maine’s apportionment of STP funding in a given biennium, drawn from Federal Highway Administration (FHWA) Fiscal Management Information System (FMIS) Report W10A, with an obligation limitation applied.

W_tVMT = Weighting factor for vehicle miles traveled (0.62), based on the formula for apportioning federal STP funding to Maine.

% MPO VMT = Percentage of statewide system VMT within an MPO area.

W_tLM = Weighting factor for lane miles (0.38), based on the formula for apportioning STP funding to Maine.

% MPO LM = Percentage of statewide system lane miles within an MPO area.

Data for MPO STP funding formula				
MPO	Non-NHS Vehicle Miles Traveled		Non-NHS Lane Miles	
	(#)	(%)	(#)	(%)
ATRC	258,609,413.1	4.1%	298.96	2.9%
BACTS	318,293,979.5	5.1%	273.62	2.6%
KACTS	124,244,467.0	2.0%	104.71	1.0%
PACTS	913,756,001.5	14.6%	665.00	6.4%
MPO areas	1,614,903,861.1	25.7%	1,342.29	12.9%
Outside MPO areas	4,659,858,698.9	74.3%	9,060.71	87.1%
Total, Statewide	6,274,762,560.0	100.0%	10,403.00	100.0%

STP weighting factors, based on federal formula		
Factor	Federal Formula	Maine Formula*
Vehicle Miles Traveled	0.40	0.62
Lane Miles	0.25	0.38
Highway Trust Fund	0.35	0.00
Total	1.00	1.00

** Note: The federal STP formula considers estimates of fuel tax payments from motorists in each state to the national Highway Trust Fund. Maine’s formula does not use this factor and adjusts the others proportionally.*

❑ Requirements for National Highway System funding

The NHS covers all interstate highways and some principal arterial highways.⁷ It provides a system of primary routes serving major population centers, ports, airports, public transportation terminals, intermodal centers, and other major travel destinations. The NHS funding set aside for each MPO area supports improvements on this system.

Federal Reference 23 U.S.C., Section 103(b)

NHS-eligible projects carry a federal share of up to 80 percent and generally include:

- Construction, reconstruction, rehabilitation, resurfacing and safety improvements on non-interstate sections of the NHS.
- Bicycle and pedestrian improvements on non-interstate NHS highways.
- Improvements to a federal-aid highway not on the NHS – and construction of a transit project eligible for federal assistance – if:
 - ✓ A highway or transit project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the NHS;
 - ✓ The improvements will improve the level of service on the access-controlled highway and improve regional traffic flow; and
 - ✓ The improvements are more cost-effective than an improvement to the fully access-controlled highway.

❑ Requirements for Surface Transportation Program funding

STP money supports a variety of projects on the federal-aid system and generally covers up to 80 percent of eligible costs. MPOs use their allocated STP funds to program federally eligible transportation improvements, including:

Federal Reference 23 U.S.C., Section 133
--

- Construction, reconstruction, rehabilitation, and pavement preservation projects on the federal-aid system, which covers urban collector and arterial highways.
- Operational and safety improvements at intersections with disproportionately high accident rates and/or high levels of congestion.
- Bicycle and pedestrian projects, including sidewalk modifications to meet the Americans with Disabilities Act of 1990.
- Capital costs for transit projects eligible for assistance under federal transit laws, including vehicles and facilities that provide intercity bus service.

⁷ For maps of the National Highway System, visit the FHWA website: <http://www.fhwa.dot.gov/hep10/nhs/>

Note: MaineDOT caps the amount of STP funding set aside for each MPO, and an MPO must request MaineDOT authorization to program more than its share of STP funding. MaineDOT will consider such requests against its overall commitment of federal funds. MPOs should request flexibility *in writing*, in consultation with MaineDOT’s MPO coordinator. By limiting the amount of STP money that may be programmed in urban and rural areas in a two-year funding cycle, MaineDOT seeks to distribute STP funding equitably to projects throughout Maine.

❑ Funding schedule

By April 30 of each even-numbered year, MaineDOT’s MPO coordinator provides each MPO with the best estimate to date of federal STP and NHS funding targets for the next biennium. The coordinator periodically updates the information as necessary.

MPOs follow the federal fiscal year, from October 1 to September 30, when programming projects. Federal funds become available after the start of a federal fiscal year.

❑ Obligational authority

Congress caps the amount of federal money that MaineDOT may draw down in a year, across all federal highway sources. This is Maine’s obligational authority, or OA. For the Federal-Aid Highway Program, OA consists of the federally imposed obligation limitation – typically 85 to 90 percent of the full federal apportionment – and any amounts for exempt programs. (Federal transit funds are exempt from obligation limitation.)

Given the federal limit on its ability to draw down federal highway funds, MaineDOT seeks to ensure that federal money is used equitably throughout the federal-aid system. This is a primary reason that MaineDOT manages its funding across all federal sources.

❑ Distribution of federal funds

MaineDOT receives its federal capital improvement funding through reimbursement of eligible expenditures. The Federal Highway Administration (FHWA) regularly notifies MaineDOT of the balance of funds available for its use through its financial management database. MaineDOT “obligates” federal money against this balance, committing those funds to specific projects. MaineDOT commonly initiates projects with state funds, through a process known as advance construction, and later seeks federal reimbursement of eligible costs.

Similarly, MPOs do not receive direct cash grants. Every two years, MaineDOT reserves a share of its federal STP and NHS money for use in MPO areas, using the formulas outlined earlier in this section. Each MPO uses this money to program transportation improvements, with MaineDOT and MPO communities providing matching funds. MaineDOT typically develops the MPO projects and seeks reimbursement for eligible costs from the FHWA and communities. (Project development is addressed in Section 8.)

❑ Holding accounts for MPO funds

If an MPO does not program all of its allocated federal capital improvement and/or state matching funds in a two-year funding cycle, MaineDOT places any unprogrammed money in a holding account with a unique project identification number (PIN). Similarly, if state or federal capital improvement funds remain in a project after completion, an MPO may reprogram those funds. *Note: Money may not be added to or removed from an MPO project without the MPO's written authorization.*

3.3 - MATCHING FUNDS FOR CAPITAL IMPROVEMENTS

MaineDOT provides each MPO with a two-year allocation of state matching funds at a rate of 12.5 percent of its federal highway funding. For every \$1 million that an MPO receives in federal capital improvement money, MaineDOT provides \$125,000. That equates to 10 percent of total project cost, based on a federal share of 80 percent.

MaineDOT caps these state matching funds at the allocated amounts, which means that most MPO projects will require local matching funds to achieve the standard 80 percent federal and 20 percent non-federal breakdown. MPOs may apply these state funds at their discretion to federally eligible projects, with two requirements:

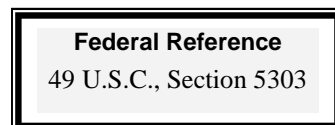
- 1.) The federal share of a federal-aid project must be at least 50 percent and no more than 80 percent of the total cost – consistent with federal regulations and MaineDOT's financial management practices; and
- 2.) The federal share must be matched with state and/or local funds.

MaineDOT encourages MPOs to develop policies requiring matching funds from their member communities. Such policies enable MPOs to supplement their federal and state funds, while providing a strong incentive for municipal participation in the MPO process. It is up to individual MPOs to establish the matching amounts.

3.4 - FEDERAL TRANSIT FUNDS

❑ Section 5303 funding

MPOs receive money from the Federal Transit Administration (FTA) for transit-planning work. The main source of this funding is the Metropolitan Planning Program, known as “Section 5303” after the chapter in federal law that authorizes it. Section 5303 money supports tasks in the federally required MPO unified planning work program (UPWP). This money typically carries an 80 percent federal and 20 percent local funding ratio, with no state match.⁸



⁸ For more information about section 5303 funding, visit the Federal Transit Administration website: http://www.fta.dot.gov/laws/circulars/leg_reg_4123.html

The FTA distributes Section 5303 money to each state, including Maine. The share of Section 5303 funding for each MPO is based on its percentage of FTA Section 5307 funding, minus any money it receives through the Small Transit Intensive Cities program. The MaineDOT urban program administrator, in the Bureau of Transportation Systems Planning, informs each MPO of its allocated Section 5303 funding after federal transit apportionments are published in the *Federal Register*, typically in the early part of every year. (There is no set schedule.)

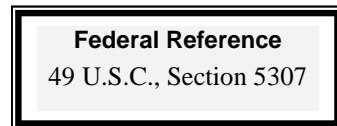
MPOs may use their section 5303 funds for the following types of activities:

- Technical studies of the management, operations, capital requirements, innovative financing, and economic viability of proposed transportation improvements;
- Tasks in preparation for the construction, acquisition or improved operation of transportation systems, facilities and/or equipment;
- Studies of potential enhancements – such as bicycle and pedestrian accommodations and improvements to transit stations – that could make mass transit more inviting to use and thus encourage greater participation; and
- Up to 20 percent of preliminary engineering and design costs.

❑ Section 5307 funding

Public transit service operators in MPO areas receive funding from the FTA’s Urbanized Area Formula Program. The program – known as “Section 5307” after the chapter in federal law that authorizes it – supports transit-related capital, operating and planning activities that are eligible for federal funding. Section 5307 funds typically carry an 80 percent federal and 20 percent local funding ratio for planning, capital and Americans with Disabilities Act operating expenses.⁹

Additionally, state funds may be used for operating expenses and considered as part of the local share to match federal section 5307 operating funding under MaineDOT’s State Funds Only contract.



All projects funded with Section 5307 money must be included in an MPO’s transportation improvement program and in MaineDOT’s federally approved statewide transportation improvement program. Planning projects seeking 5307 assistance must be included in an MPO’s federally approved UPWP.

⁹ For more information about the Urbanized Area Formula Program, visit the Federal Transit Administration website: http://www.fta.dot.gov/laws/circulars/leg_reg_4125.html

PACTS, the MPO for greater Portland, sets aside a portion (currently 7 percent) of its allocated federal highway funding for transit-related improvements. When projects are ready for delivery, the MPO staff submits to MaineDOT's urban program administrator a completed form requesting that these funds be transferred from the Federal Highway Administration (FHWA) to the FTA, which converts them to Section 5307 funds. Agencies may apply directly to the FTA for the money once the transfer is complete.

3.5 - CONSOLIDATED PLANNING GRANT (HIGHWAY AND TRANSIT)

MaineDOT participates in a federal flexible funding program known as the consolidated planning grant. Section 5303 transit-planning funds are transferred from the Federal Transit Administration (FTA) to the Federal Highway Administration (FHWA), where they are combined with FHWA planning funds. Each MPO submits to MaineDOT a single, monthly invoice covering expenditures that are eligible for federal highway and transit funding. FHWA rules apply to the FTA 5303 funds.

The consolidated planning grant process follows these steps:

- 1.) By June 15 of each year, MaineDOT sends a letter to the FTA's Region I office in Cambridge, Mass. The letter requests that Section 5303 funds be transferred from the FTA to the Maine division of the FHWA.
- 2.) Within 30 days, FTA Region 1 requests that FTA headquarters in Washington, D.C., transfer the Section 5303 funds to the FHWA. The FTA Region 1 planner provides a copy of the request to the FHWA Maine division office and to MaineDOT, which notifies the MPO.
- 3.) The FHWA approves each MPO's UPWP. Each MPO, however, continues to submit draft copies of its UPWP to the FTA and FHWA for review and comment.
- 4.) The FHWA provides MaineDOT and each MPO with the formal approval letters for each MPO's UPWP and MaineDOT's concurrent Planning Work Program.
- 5.) The FTA notifies the FHWA and MaineDOT when a transfer of funds has taken place. MaineDOT, in turn, notifies the MPO.
- 6.) FHWA allocates the 5303 funds to Maine as PL funds through the agency's Fiscal Management Information System (FMIS).
- 7.) MaineDOT obligates the FTA and FHWA funds in a Consolidated Planning Grant through a project agreement in FMIS. The FTA funds are obligated as FHWA funds.

3.6 – FEDERALLY INELIGIBLE ACTIVITIES

❑ Ineligible planning activities

If an MPO makes a mistake or takes an action that disqualifies a planning activity from receiving federal funding, the MPO in most cases must cover the ineligible federal amounts. Options for covering ineligible amounts may include:

- Requesting that MaineDOT cover an ineligible amount and reduce the MPO’s future allocation of federal planning funds. Written requests should be sent to the chief of planning in MaineDOT’s Bureau of Transportation Systems Planning.
- Asking member communities to cover the ineligible amounts with local funds.

If MaineDOT makes a mistake or directs an MPO to undertake work that is disqualified from federal reimbursement, MaineDOT covers the ineligible payment.

Examples of federally ineligible planning activities include:

- Incurring expenses before receiving federal and state authorization to proceed;
- Using federal money for an activity not listed in a federally approved or amended unified planning work program (UPWP);
- Violating federal anti-discrimination laws;
- Conducting transit marketing with FTA Section 5303 funds; and
- Lobbying with federal money. (See below.)

❑ Restrictions on lobbying activities

Federal law prohibits the use of federal money to attempt to convince members of Congress or federal employees to award contracts or grants. The ban applies to all recipients of federal money, including MPOs and their contracted consultants.

The law covers “making, with the intent to influence, any communication to or appearance before an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress” in connection with:

- Federal grants, defined as either awards of financial assistance from federal agencies or direct appropriations made by law, including congressional earmarks;
- Federal loans, contacts and cooperative agreements with federal agencies.

❑ Ineligible activities – capital improvement projects

If a municipality or MPO takes an action that disqualifies a project from receiving federal capital improvement funding, then the municipality and/or MPO must cover the ineligible costs. On the other hand, if MaineDOT takes an action that disqualifies a project from federal reimbursement, MaineDOT will cover the ineligible costs with state funds.

MPOs may cover ineligible costs either by tapping their holding accounts for unprogrammed funds or by forfeiting portions of future capital allocations. MPOs must determine how much financial responsibility to place on their member cities and towns. Responsibility for ineligible costs must be delineated in a Three-Party Agreement, signed before any work begins. (See Section 8.5, “Project Agreements,” for details.)

Federally ineligible actions on capital improvement projects may include, for example:

- Canceling a project before construction because of shifting political priorities, insufficient funding or other reasons not supported by technical data;
- Approaching a landowner to negotiate right-of-way acquisition *before* the National Environmental Policy Act process has been completed, or undertaking property acquisition activities not in conformance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- Violating federal anti-discrimination laws, especially Title VI; and
- Using federal money for a project not listed in a federally approved or amended MPO transportation improvement program or statewide transportation improvement program.

3.7 – PROJECT STATUS UPDATES

Six times a year, MaineDOT’s MPO coordinator e-mails each MPO a spreadsheet showing the financial status and schedule of every MPO project. The coordinator generates these summary reports from MaineDOT’s ProjEx database and sends them out in January, March, May, July, September and November. MPOs receive similar listings of MaineDOT projects in their regions.

The status report shows, for all open MPO projects:

- The estimated advertise, construction begin and completion dates;
- The amount of funding available for a project, by federal-state-local source;
- Expenditures to date; and
- Any issues affecting the scope, schedule or funding for a project.

3.8 – SUMMARY OF FUNDING POLICIES

❑ **Metropolitan Planning (PL) funding – See Section 3.1**

MaineDOT distributes federal Metropolitan Planning (PL) funding to the MPOs using the following formula, which is based on the federal method for distributing funds to the states:

Base + [% Pop × ((PL × 0.9) - B_{MPO})] + [% VMT × (PL * 0.1)] where:

- **Base** is the base amount for an MPO – \$90,000 per fiscal year for ATRC, BACTS and PACTS; \$48,000 per fiscal year for KACTS.
- **% Pop** is an MPO’s percentage of Maine’s total population.
- **PL** is the total federal PL apportionment to Maine, after obligation limitations are applied. (Obligation limitations typically range from 85 percent to 90 percent.)
- **B_{MPO}** is the sum of the four MPO base amounts, currently \$318,000.
- **% VMT** is an MPO’s percentage of total vehicle miles of travel in all of Maine’s urbanized areas.

❑ **MaineDOT match for federal planning funds – See Section 3.1**

MaineDOT provides \$18,750 in state match for every \$100,000 an MPO receives in federal Metropolitan Planning (PL) funding, which equates to 15 percent of total project cost. This does not apply to PL funds carried forward from previous biennia.

❑ **Unexpended balances of federal PL funds – See Section 3.1**

MaineDOT tracks each MPO’s balance of unexpended federal PL funding on a spreadsheet maintained by its MPO coordinator. The spreadsheet is provided to MPO directors shortly after the June 30th end of every state fiscal year.

MPOs wanting to carry forward funding for any incomplete tasks in their unified planning work programs (UPWP) should make requests in writing to the director of the MaineDOT’s Bureau of Transportation Systems Planning by January 1 of each even-numbered year.

❑ **MaineDOT-MPO Cooperative Agreements – See Section 3.1**

Before starting work on the tasks in a UPWP or spending federal or state planning funds, an MPO must have in place a cooperative agreement with MaineDOT that spells out the roles and responsibilities of the state and the MPO. Agreements must cover two years and be in place before July 1 of every odd-numbered calendar year. They must be signed by the MPO chair and the chief of MaineDOT’s Bureau of Transportation Systems Planning.

❑ **National Highway System funding – See Section 3.2**

MaineDOT sub-allocates National Highway System (NHS) funding to each MPO for capital improvements using a formula that is based on the federal formula for distributing NHS funds to Maine.

The amount of NHS funding for each MPO is calculated as follows:

$$\text{Maine NHS Funds} \times [(W_t \text{VMT} \times \% \text{MPO VMT}) + (W_t \text{LM} \times \% \text{MPO LM}) + (W_t \text{LM/Pop} \times \% \text{MPO LM/Pop})] \dots \text{where}$$

- **Maine NHS Funds** = Maine’s biennial apportionment of NHS funding, with an obligation limitation applied.
- **W_tVMT** = Weighting factor for vehicle miles traveled (0.50).
- **% MPO VMT** = Percentage of statewide system VMT within an MPO area.
- **W_tLM** = Weighting factor for lane miles (0.36).
- **% MPO LM** = Percentage of statewide non-interstate lane miles within an MPO area.
- **W_tLM/Pop** = A weighting factor for lane miles ÷ population (0.14).
- **% MPO LM/Pop** = Percentage of statewide non-interstate lane miles ÷ MPO population.

❑ **Surface Transportation Program funding – See Section 3.2**

MaineDOT sub-allocates Surface Transportation Program (STP) funding to each MPO using a formula that is based on the federal method for distributing STP funds to each state.

The amount of STP funding for each MPO is calculated as follows:

$$\text{Maine STP Funds} \times [(W_t \text{VMT} \times \% \text{MPO VMT}) + (W_t \text{LM} \times \% \text{MPO LM})] \dots \text{where}$$

- **Maine STP Funds** = Maine’s apportionment of STP funding in a given biennium, with an obligation limitation applied.
- **W_tVMT** = Weighting factor for vehicle miles traveled (0.62).
- **% MPO VMT** = Percentage of statewide system VMT within an MPO area.
- **W_tLM** = Weighting factor for lane miles (0.38).
- **% MPO LM** = Percentage of statewide system lane miles within an MPO area.

❑ **MPO capital funding schedule – See Section 3.2**

By April 30 of each even-numbered year, MaineDOT’s MPO coordinator sends each MPO a letter providing MaineDOT’s best estimate of available federal STP and NHS funding for the next biennium. The coordinator provides updates as necessary to give MPOs the best available funding estimates.

❑ **MPO holding accounts – See Section 3.2**

If an MPO does not program all of its designated federal capital improvement and/or state matching funds in a two-year funding cycle, MaineDOT places any unspent or unprogrammed money in holding accounts for the MPO’s future use.

❑ **State and local capital improvement funds – See Section 3.3**

MaineDOT provides state matching funds at a rate of \$125,000 for every \$1 million that an MPO receives in federal capital improvement funding. State matching funds for each MPO are capped at the allocated amounts, meaning that most projects are likely to require local matching funds. MPOs may apply their allocated state matching funds to projects that are eligible for federal funding, provided that:

- The federal share of an MPO project is no more than 80 percent of the total cost;
- The federal portion of a project’s cost is matched with state and/or local funds.

❑ **Transit funds – See Section 3.4**

MPOs receive money from the Federal Transit Administration (FTA) for planning work. This funding – known as “Section 5303” – is a major source of transit-related money for MPOs. Section 5303 money supports tasks in the federally required MPO unified planning work program.

Additionally, mass transit operators in MPO areas receive funding from an FTA program commonly known as Section 5307, or the Urbanized Area Formula Program. Section 5307 money supports federally eligible capital, operating and planning activities in urbanized areas.

The MPO serving greater Portland, known as PACTS, sets aside 7 percent of its allocated Surface Transportation Program (STP) money for transit-related capital improvements. When projects are ready for delivery, MaineDOT requests a transfer of STP funds from the Federal Highway Administration (FHWA) to the FTA, where they become section 5307 funds.

❑ **Consolidated Planning Grant – See Section 3.5**

MaineDOT participates in a federal program known as the consolidated planning grant. Federal Transit Administration Section 5303 funds are transferred from the FTA to the Federal Highway Administration (FHWA) and combined with MPO Metropolitan Planning (PL) funds. Each MPO submits to MaineDOT a single, monthly invoice for PL and Section 5303 expenses.

❑ **Federally ineligible costs – See Section 3.6**

If either an MPO staff or member municipality makes a mistake or takes improper action that disqualifies a planning activity or capital project from federal reimbursement, the MPO or municipality in most cases must cover the ineligible amounts. MaineDOT covers ineligible payments if it makes a mistake or directs an MPO to undertake work that is later disqualified from federal funding.

❑ **Project status updates – See Section 3.7**

Six times a year, MaineDOT’s MPO coordinator sends each MPO a project status summary generated from MaineDOT’s databases. This report shows each MPO the financial status and schedule of every open project it has programmed. MaineDOT produces these reports in January, March, May, July, September, and November of every year, in time for review by members of MPO staffs and committees.

❑ **Web resources**

Federal Highway Administration publication, *Financing Federal-aid Highways*

<http://www.fhwa.dot.gov/reports/financingfederalaid/index.htm>

Federal Highway Administration publication, *A Guide to Federal-Aid Projects and Programs*

<http://www.fhwa.dot.gov/federalaid/projects.cfm?progProj=allp#c47>

Federal-aid highway funding eligibility – 23 USC, Section 101(a)(5)

[http://frwebgate.access.gpo.gov/cgi-](http://frwebgate.access.gpo.gov/cgi-bin/usc.cgi?ACTION=RETRIEVE&FILE=$$xa$$busc23.wais&start=23581&SIZE=182249&TYPE=TEXT)

[bin/usc.cgi?ACTION=RETRIEVE&FILE=\\$\\$xa\\$\\$busc23.wais&start=23581&SIZE=182249&TYPE=TEXT](http://frwebgate.access.gpo.gov/cgi-bin/usc.cgi?ACTION=RETRIEVE&FILE=$$xa$$busc23.wais&start=23581&SIZE=182249&TYPE=TEXT)

Federal Highway Administration guidance on repayment of funds for withdrawn projects

<http://www.fhwa.dot.gov/federalaid/080626.cfm>

Federal financial terms

<http://www.fhwa.dot.gov/planning/fcdef62805.htm>

Federal Transit Administration guidance for use of Section 5307 funding

http://www.fta.dot.gov/laws/circulars/leg_reg_4125.html

Fiscal constraint guidance

<http://www.fhwa.dot.gov/planning/fcguid62705.htm>

National Highway System

<http://www.fhwa.dot.gov/planning/nhs/index.html>

MaineDOT competitively funded community programs

<http://www.state.me.us/mdot/projects-grant-applications/qcp/index.htm>

Section 4:

MPO Long-Range Transportation Plans

Metropolitan planning organizations (MPO) create federally required long-range transportation plans showing how they intend to invest in their regions over 20 years. These plans identify transportation goals, objectives, needs and performance measures in MPO regions. Long-range plans also provide policy and strategy recommendations for accommodating those needs.

The long-range transportation planning process should address roads, public transit systems, freight needs, intermodal connections, and bicycle and pedestrian needs. Plans must consider short- and long-range strategies that promote the efficient movement of people and goods, support the economic vitality of the metropolitan area, maintain a region's quality of life, and minimize transportation-related air pollution and congestion.

Primary Federal Regulation
23 CFR, part 450.322

4.1 - TIMELINE

MPO long-range plans must cover at least 20 years at the time of approval. They are updated every four years in air quality non-attainment and maintenance areas (the Kittery and greater Portland areas), and every five years in attainment areas (Lewiston-Auburn and greater Bangor.) Updates enable MPOs to confirm that their plans are consistent with current and projected transportation and land-use conditions and trends.

Ending years for long-range plans in air quality non-attainment and maintenance areas should be the same as for MaineDOT's long-range plan to coordinate conformity analyses. MPOs in such areas should provide MaineDOT with at least a 90-day notice before approving long-range plans. See Section 10 for more information about air quality conformity.

4.2 - FEDERAL REQUIREMENTS

MPO long-range plans and plan updates must, by federal regulation:

- Show projections of demand for transportation services over at least 20 years.
- Describe how the MPO will preserve and make the most efficient use of the system. Strategies should strive to relieve congestion and maximize mobility and safety.
- Include a multimodal inventory of regional transportation assets. This listing – covering major roads, mass transit, freight, non-motorized transportation, and intermodal connections – should consider system usage, characteristics and condition.

- ❑ Assess the investments and other measures necessary to: (1) preserve the system; and (2) provide for multimodal capacity increases. Long-range plans should address areas where congestion threatens to hinder the operation of key elements of the system.
- ❑ Address safety, in coordination with MaineDOT’s Strategic Highway Safety Plan.
- ❑ Include facilities that accommodate bicycle and pedestrian transportation.
- ❑ Include air-quality conformity analyses in non-attainment and maintenance areas, which cover the greater Portland and Kittery areas. MPOs in these areas must demonstrate that the mix of projects proposed for their long-range plans will not cause or contribute to new violations of the Clean Air Act, exacerbate existing violations, or hinder the attainment of air quality standards. MPOs conduct conformity analyses in cooperation with MaineDOT and the Maine Department of Environmental Protection. See Section 10 for more information.
- ❑ Contain a financial plan that:
 - ✓ Demonstrates how the MPO long-range plan will be implemented;
 - ✓ Identifies revenues that are reasonably expected to be available; and
 - ✓ Recommends strategies necessary to fund projects and programs identified in the long-range plan.
- ❑ Discuss potential environmental mitigation activities. MPOs should consider ways to avoid, reduce or otherwise address any harmful effects that implementing a long-range plan might have on neighborhoods, businesses, cultural resources, recreational areas, and the natural environment. The discussion may focus on overall policies, programs or strategies. (Environmental mitigation is covered in detail in Section 4.6.)

4.3 - CONSULTATION WITH OTHER AGENCIES

By federal regulation, an MPO must consult as appropriate with agencies responsible for:

- Environmental protection;
- Natural resources conservation;
- Land use management;
- Economic development;
- Airport operations; and
- Freight movements.

Primary Federal Regulations
 23 CFR, part 450.316(b)
 23 CFR, part 450.322(g)

Through the consultation process, agencies exchange information to eliminate or minimize conflicts that might affect transportation. As part of their public participation plans, MPOs develop and document roles, responsibilities and key decision points for consulting with these other agencies.

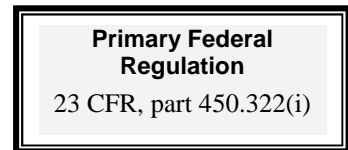
Additionally, MPO staff members should review the long-range plans of MaineDOT and the Maine Turnpike Authority (MTA), just as MaineDOT and MTA staff should study each MPO long-range plan to ensure that concurrence exists.

When the metropolitan planning area includes American Indian lands, an MPO must appropriately involve the tribal government in the development of the long-range plan. This requirement applies to the BACTS area, which covers the Penobscot Indian Nation.

4.4 - PUBLIC PARTICIPATION IN THE LONG-RANGE PLAN

The following transportation stakeholders must have an opportunity to comment on draft long-range plans:

- Citizens;
- Affected public agencies;
- Representatives of users of public transportation;
- Representatives of public transportation employees;
- Freight shippers;
- Providers of freight transportation;
- Privately owned passenger transportation providers;
- Representatives of pedestrians and bicyclists;
- Representatives of people with disabilities; and
- Representatives from Native American Tribal Nations. (This requirement applies to the greater Bangor MPO, which covers the Penobscot Indian Nation.)



Federal regulations specify that MPOs provide “reasonable opportunity” for interested parties to review and comment on draft long-range plans. Most MPOs allow at least 30 days for public review. An MPO must spell out its public involvement procedures in its federally mandated public participation plan, covered in Section 9 of this guide.

4.5 -MAINE'S SENSIBLE TRANSPORTATION POLICY ACT

In 1991, Maine voters adopted the Sensible Transportation Policy Act (STPA) to help reduce the demands on the state's highway system. In 2003 and 2007, the Maine Legislature amended the law to require a better connection between transportation and land-use planning – specifically, between the STPA and Maine's Growth Management Act.¹⁰

When transportation mobility needs arise, the STPA – like federal law – requires an evaluation of a full range of alternatives before choosing to expand highway capacity. It stresses options like managing traffic and providing public transportation, if those options are available and feasible. Additionally, the law requires the integration of land-use planning with transportation planning, and it promotes energy efficiency. Finally, it directs decision-makers to take into account the transportation needs of urban and rural areas, as well as of people of different ages and means.

❑ MPOs and the STPA

MPOs are subject to the same STPA requirements as MaineDOT. In their long-range plans, MPOs should promote access management and address both highways and other modes of transportation – bicycling, walking, mass transit, and ride sharing. MPOs are strongly encouraged to consider municipal or multi-municipal land-use programs within their respective regions.

At a minimum, MPOs should evaluate existing land-use policies and document how they may affect the transportation system. MPO long-range plans may include transportation and land-use policies that guide MPO and MaineDOT capital investment decisions and planning processes. MPO long-range plans also may include recommendations to MaineDOT and MPO-area communities concerning land-use and transportation goals, policies, objectives and strategies that benefit the region's transportation system over the long term.

When an MPO long-range plan includes recommendations for a project that adds new highway capacity, the plan should document existing land-use conditions in the area affected by the planned project and include land-use policy recommendations to communities to preserve the added capacity.

Additionally, MPOs – in cooperation with MaineDOT and their respective regional planning agencies – must develop and maintain an inventory of existing and proposed transportation systems. This inventory, according to the STPA, must be comprehensive and include elements such as system usage, system characteristics and system condition.

¹⁰ The Sensible Transportation Policy Act can be found at Title 23, MRSA, Section 73. The 2003 amendment required MaineDOT to adopt a rule in coordination with the State Planning Office that links transportation and land-use planning processes. The 2007 amendment provided for incentives to adopt local and regional community transportation plans that employ land-use strategies to reduce pressure on state transportation corridors. The Growth Management Act can be found at Title 30-A, MRSA, Chapter 187.

4.6 - ENVIRONMENTAL MITIGATION

Federal regulations require MPOs to consider potential environmental effects when developing or updating their long-range plans. MPOs should review the types of transportation investments in their plans. If proposed improvements would change traffic patterns or enable a transportation facility to handle more traffic, a plan must discuss potential environmental mitigation activities.

MPOs should:

- ❑ Work with appropriate agencies to identify environmentally sensitive areas. These agencies include the Maine Department of Environmental Protection, the Maine Department of Conservation, the State Planning Office, or a regional planning organization. The review should consider the following, where applicable:
 - Water quality;
 - Wetlands;
 - Public recreation areas; wildlife refuges; and historic or archeological sites;¹¹
 - Endangered species;
 - Hazardous waste sites;
 - Air quality;
 - Noise;
 - Property acquisitions and displacements; and/or
 - Changes in accessibility to jobs, recreation, health care or other services.
- ❑ Consult with appropriate resource agencies to define mitigation measures that may be needed in the metropolitan area.
- ❑ Assess the area-wide impacts of implementing the long-range plan.
- ❑ Determine if the identified mitigation could be achieved.
- ❑ Adjust the long-range plan, if necessary, to minimize the need for mitigation.

¹¹ For more information, refer to Section 4(f) of the U.S. Department of Transportation Act of 1966. See also the following link: <http://environment.fhwa.dot.gov/projdev/4fpolicy.asp>

4.7 - APPROVAL AND DISTRIBUTION

Each MPO must have in place a long-range plan that covers at least 20 years. Although the plan does not need the approval of the Federal Highway Administration or Federal Transit Administration, these agencies must endorse an MPO's documentation of air quality conformity in non-attainment and maintenance areas, which affect southern Maine. MPOs must provide copies of their long-range plans to each federal agency and MaineDOT's Bureau of Transportation Systems Planning before the MPO conducts its self-certification.

MPOs must publish their long-range plans or otherwise make them available for public review. Federal regulations encourage MPOs to post public information on their websites.

4.8 - AMENDMENTS

An MPO long-range plan may be amended at any time, resulting from changes in funding availability, the addition of new projects, and changing priorities. The amendment process carries the same requirements as a plan update, including public participation.

Documentation must by federal regulation include: an analysis of how the proposed change(s) might affect the transportation system; documentation of the public involvement process; new maps; documentation and data files of the revised model and/or technique; a revised balancing of project costs against forecasted revenues; and an updated air quality conformity analysis.

4.9. - SUMMARY

The long-range (20-year) Metropolitan Transportation Plan states the ways the region plans to invest in the transportation system. Long-range plans by federal regulation must include "both long-range and short-range program strategies/actions that lead to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods." Plans are updated every five years in air quality attainment areas (Lewiston-Auburn and greater Bangor) and every four years in non-attainment or maintenance areas (greater Portland and the Kittery area.)

MPO long-range plans must be consistent with MaineDOT's long-range transportation plan and the Maine Turnpike Authority's long-range plan, where applicable. MPOs should strive to make their long-range plans consistent with state and local planned growth and economic development patterns. Plans, for example, should consider:

- Projected demand for transportation services over 20 years.
- Policies, strategies, and projects for the future, especially ways in which to relieve congestion and maximize safety and mobility.
- Regional land use, development, housing, and employment goals and plans.
- Ways to preserve and to make efficient use of the existing transportation system.

MPO long-range plans must include financial plans that estimate how much funding will be needed to implement recommended improvements. This includes information on how the MPO reasonably expects to fund the projects in the plan, including anticipated revenues from federal, state, local, and private sources.

Additionally, MPOs should make special efforts to engage interested parties in the development of the plan, and should consult as appropriate with agencies responsible for land use management, environmental protection, natural resources conservation, and economic development.

Finally, in cases where an MPO area is a designated non-attainment or maintenance area for federal air quality standards, the MPO long-range plan must conform to the statewide plan air quality, prepared by the Maine Department of Environmental Protection in cooperation with MaineDOT.

❑ Web resources

Bangor area MPO long-range plan

<http://www.bactsmmpo.org/Files/BACTS%202004%20Long%20Range%20Plan%20Final.pdf>

Kittery area MPO long-range plan

<http://www.smrpc.org/transportation/dm/kacts/Kacts%20Transportation%20Plan%202006-2030.pdf>

Lewiston-Auburn MPO long-range plan

<http://geekteam.dreamhosters.com/BlogFiles/Documents/Long%20Range%20Plan-Final%2012-19-08.pdf>

Portland area MPO long-range plan, *Destination Tomorrow*

http://pactsplan.org/destination_tomorrow/currentdt2006.php

MaineDOT long-range plan, *Connecting Maine*

<http://www.maine.gov/mdot/connectingmaine/plan.htm>

MaineDOT Strategic Highway Safety Plan

<http://www.maine.gov/mdot/safetyoffice/pdf/strategic%20plan%20rev%206.1june2007a.pdf>

Maine Sensible Transportation Policy Act

<http://www.maine.gov/mdot/planning-documents/stpa/index.htm>.

Federal guidance on long-range planning

<http://www.fhwa.dot.gov/planning/statewide/anaswplans.htm>

Section 5:

MPO Unified Planning Work Programs

Metropolitan planning organizations (MPO) every two years produce unified planning work programs (UPWP) that describe their regional planning priorities and document how they intend to spend their allocated federal, state and local planning funds. A UPWP by federal regulation must address:

- **What will be produced?** The document must show the work proposed for the next two-year period, by major activity and/or task, and the resulting products. MPOs must include activities that address the eight federal planning factors listed in Section 1.2, on page 10 of this guide.
- **Who will do the work?** The UPWP must identify the agency responsible for each work task or study – the MPO, MaineDOT, a transit operator, a regional planning agency, or a consultant.
- **When will the work be done?** The document should include a schedule for completing each task.
- **How much will each activity cost?** The MPO should show the proposed funding by activity and task, as well as a summary of total amounts and sources of federal, state and other matching funds.

Primary Federal Regulation
23 CFR, part 450.308(c)

5.1 - ELIGIBLE ACTIVITIES

Each MPO every two years receives federal, state and local money to carry out a continuing, cooperative and comprehensive transportation planning process in its region. What follow are examples of eligible activities:

- Developing a long-range transportation plan, transportation improvement program, and UPWP;
- Conducting inventories of existing federal-aid routes to determine their condition and capacity;
- Determining the types and volumes of vehicles using these routes;
- Predicting the level and location of population, employment and economic growth;

Primary Federal Laws
23 U.S.C., Section 134
49 U.S.C., Section 5303

- Conducting technical studies of the management, operations, capital requirements, innovative financing, and economic viability of proposed improvements;
- Carrying out studies of potential enhancements that could make mass transit more inviting to use and thus encourage greater participation; and
- Undertaking up to 20 percent of preliminary engineering and design costs.

Note: Lobbying activities, by federal law, cannot be conducted with federal money. Additionally, MPOs should avoid lobbying with their state matching funds.

Table 2: Schedule for Development of the UPWP	
November-December (Even-numbered calendar years)	<ul style="list-style-type: none"> ▪ MPOs inform MaineDOT of highway- and transit-related tasks that are unlikely to be completed by the end of the current two-year program. ▪ MaineDOT provides each MPO with the most recent estimates of FHWA Metropolitan Planning (PL) funds and FTA Section 5303 and 5307 funds. ▪ MPOs notify MaineDOT of needs beyond their two-year PL allocations and request authorization to draw down some of their unexpended federal funds from previous years. ▪ MaineDOT reviews MPO requests to draw down unexpended PL funds. ▪ MaineDOT informs MPOs in writing whether it can authorize the release of additional, unexpended PL funds.
January-March (Odd years)	<ul style="list-style-type: none"> ▪ MPOs develop their UPWPs.
April	<ul style="list-style-type: none"> ▪ Each MPO submits a working draft to FHWA, FTA, and MaineDOT for comment by April 30.
May	<ul style="list-style-type: none"> ▪ Reviewing agencies provide comments to MPOs by May 31. ▪ The MaineDOT Bureau of Transportation Systems Planning drafts cooperative agreements spelling out roles and responsibilities during the two-year cycle covered by each MPO UPWP.
June	<ul style="list-style-type: none"> ▪ Final UPWPs approved by FHWA and FTA. ▪ Representatives from each MPO and the Bureau of Transportation Systems Planning sign the cooperative agreements.

5.2 – MAINEDOT-MPO COOPERATIVE AGREEMENTS

Before spending its allocated federal and state planning funds, an MPO must have in place a cooperative agreement with MaineDOT that:

- Shows the total amount of federal Metropolitan Planning (PL), Section 5303 and state money for which the MPO will seek reimbursement from MaineDOT during the two-year period of the UPWP; and
- Lays out the responsibilities and requirements of the state and the MPO.

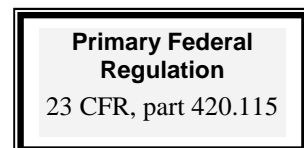
Agreements cover two state fiscal years, from July 1 to June 30. MPO chairs and the chief of MaineDOT’s Bureau of Transportation Systems Planning must sign the agreements before July 1 of every odd-numbered year. Once in place, agreements may be modified to reflect changing conditions and/or funding levels, should actual federal or state funding differ from the estimates used in the agreements. (See *Appendix F* for a sample agreement.)

The Federal Highway Administration (FHWA) regional office in Maine requires MaineDOT to execute these agreements every two years to receive federal PL funding and, in turn, distribute this money to Maine’s four MPOs.

MaineDOT typically drafts agreements in May of each odd-numbered calendar year, in time to provide each MPO with a draft by June 1. This schedule provides each MPO with time to review and comment on the document, so that any revisions can be made in time for it to be signed and in place by June 30.

Below are the steps necessary to execute a planning agreement:

- The FHWA issues letters approving each MPO UPWP and MaineDOT’s two-year Planning Work Program.
- MaineDOT’s Contract Procurement Office signs off on the draft cooperative agreement with each MPO.
- MaineDOT develops and executes an agreement with FHWA, which must give authorization to proceed.
- MaineDOT creates a PIN that holds each MPO’s allocation of planning funds for the biennium.
- Representatives from MaineDOT and each MPO sign the cooperative agreements.
- MaineDOT provides the MPO with a letter of authorization to proceed.



Note: Expenses incurred before all of these steps have been taken are ineligible for state or federal funding. See Section 3.6 for more information about ineligible costs.

5.3 – UPWP AMENDMENTS AND REVISIONS

❑ UPWP amendments

MPOs may amend their UPWPs to meet changing regional needs and priorities. Amendments are modifications that:

- Change the federally approved total planning budget;
- Change the scope(s) of federally approved work tasks; and/or
- Add or delete work tasks.

MPOs submit requests for amendments by e-mail to the MaineDOT MPO coordinator and/or urban program administrator, who review and forward the requests to the Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA) for approval. After review and clarification, the FHWA/FTA usually approves the request by e-mail to the MPO coordinator and/or urban program administrator, with a copy to the requesting MPO director.

Amendment requests should address the following questions, as appropriate:

- What is the proposed change, who is requesting it, and why?
- What are the dollar amounts, and what is the funding source?
- Do the MPO policy committee and MaineDOT support the requested amendment?

❑ UPWP revisions

Simple UPWP revisions do not change the FHWA/FTA approved total planning budget and do not change the scope of the FHWA/FTA funded work task(s). Revisions should be sent by e-mail to the MaineDOT MPO coordinator and/or urban program administrator, as well as the FHWA/FTA division planner for informational purposes.

5.4 – PROGRESS REPORTS

The Federal Highway Administration (FHWA) requires MPOs to submit two progress reports each fiscal year: One covers the first six months, and the second covers the final six months. Under the Consolidated Planning Grant program, reports must include transit-related activities. (See Section 3.5 for more information.) Progress reports must include:

- A one- to two-page summary of accomplishments.
- Progress in meeting product schedules, with explanation of delays.
- Approved UPWP amendments or revisions.

Progress reports are due to the MaineDOT MPO coordinator, urban program administrator, and FHWA regional planner within 30 days of the end of a UPWP six-month quarter: The mid-year report is due by January 31 and the end-of-fiscal year report by July 31. For transit projects, the annual report is due to MaineDOT and FTA by September 30.

5.5 – TRANSPORTATION STUDIES

MPO staffs should develop scopes and cost estimates for planning studies in consultation with MaineDOT staff members, as appropriate. MPO committees, in turn, should review study scopes and budgets before approving them for inclusion in a UPWP. Finally, MPO staffs should oversee all approved studies, in coordination with member communities and MaineDOT, where appropriate.

Before undertaking the studies in their federally approved UPWPs, MPOs should consult with MaineDOT as appropriate to determine the need for and extent of the department’s assistance. MaineDOT in most cases will assign a technical liaison to a study advisory committee to support and assist the MPO.

Roles and responsibilities: MPO-funded studies		
MPO	CITY/TOWN	MaineDOT
<ul style="list-style-type: none"> <input type="checkbox"/> MPO committees review the scopes and budgets of proposed MPO-funded studies. <input type="checkbox"/> Staff members coordinate study schedules and draft requests for proposals in partnership with communities. <input type="checkbox"/> Staff members give appropriate MaineDOT technical staff opportunities to review study scopes and assist study advisory committees. 	<ul style="list-style-type: none"> <input type="checkbox"/> Planning/technical staffs submit a scope, budget, and purpose-and-need for each proposed MPO-funded study. <input type="checkbox"/> Appropriate staff members coordinate study schedules and draft requests for proposals in partnership with MPO staffs. <input type="checkbox"/> The primary city/town contacts for MPO studies make sure that appropriate representatives from the MPO and MaineDOT are involved. 	<ul style="list-style-type: none"> <input type="checkbox"/> MPO coordinator ensures that appropriate staff members are involved with MPO-funded studies. <input type="checkbox"/> Technical staff in planning and/or other appropriate bureaus review proposed study scopes and serve on advisory committees. <input type="checkbox"/> Appropriate technical staff review study data and offer feedback to ensure that conclusions are technically sound.

Note: Before the start of an MPO study that requires MaineDOT’s assistance, representatives of MaineDOT and the MPO must sign an agreement defining the roles of each agency, including financial responsibility. Requests for changes in study scopes or financial support for which MaineDOT is the lead agency must be sent to the study’s MaineDOT project manager, after approval by the MPO policy committee.

5.6. – CONSULTANT SELECTION

MPOs hire consultants to undertake many of the tasks in their UPWPs. In doing so, MPOs must choose consultants based on their qualifications. Price cannot be a factor. For tasks using federal or state money, MPOs should observe MaineDOT’s consultant selection procedures, which comply with applicable federal and state regulations.

❑ Sole-source procurement (up to \$24,999)

If the estimated cost of an activity is less than \$25,000 – *and* it is in the public interest to establish a service quickly and efficiently, with minimal bureaucracy – an MPO may contact a single consultant using a “sole-source” process, as follows:

- 1.) Develop a detailed scope of work and an independent cost estimate.
- 2.) Obtain a formal proposal from the preferred consultant.
- 3.) Produce a short “public interest funding” statement for the project file justifying the decision to seek a service directly from a single consultant.

❑ Request for proposals

An MPO in all cases may issue a public request for proposals (RFP), as follows:

- 1.) Develop a detailed scope of work and independent cost estimate, based upon previous costs for projects with similar scopes of work.
- 2.) Draft and advertise the RFP to obtain a list of interested consultants. (See *Appendix B* for a template.) Each consultant must submit a technical proposal – including qualifications and experience – as well as a completed disadvantage business enterprise (DBE) utilization form and a separate, sealed cost proposal.¹²
- 3.) Review technical proposals and select at least three qualified firms as finalists, whenever possible.
- 4.) Develop selection criteria, such as the makeup of the proposed project team, a consultant’s experience, and a consultant’s approach to the work.
- 5.) Interview and score the finalists. (*Note: Face-to-face interviews are required for contracts of \$50,000 or more.*)
- 6.) Select the best-qualified consultant, open the firm’s sealed price proposal, and negotiate the scope, schedule and cost.

¹² A copy of the disadvantaged business enterprise utilization form is available at the following link:
<http://www.state.me.us/mdot/disadvantaged-business-enterprises/pdf/consultant.pdf>

Note: If an MPO and best-qualified consultant cannot agree on a “fair and reasonable” cost, the MPO may end negotiations and move on to the next most qualified consultant. Once an MPO executes a contract, it must return all sealed cost proposals to the unsuccessful firms.

❑ Simplified qualifications-based process (up to \$99,999)

If the cost of an activity is less than \$100,000, an MPO may use a simplified qualifications-based process, as an alternative to a request for proposals, as follows:

- 1.) Develop a detailed scope of work and an independent cost estimate.
- 2.) Begin with a list of pre-qualified consultants – either by issuing a public request for qualifications (RFQ) or by using MaineDOT’s list of pre-qualified consultants:
<http://www.maine.gov/mdot/aco/aco/home.php#Prequalification>.
- 3.) Invite at least three pre-qualified firms to submit a technical proposal and a separate, sealed price proposal.
- 4.) Develop criteria and percentages for scoring technical proposals. Suggested criteria include the makeup of the proposed project team, the consultant’s experience with similar projects, and the consultant’s approach to the work.
- 5.) Score the technical proposals and conduct interviews, as appropriate. (*Face-to-face interviews are required for contracts of \$50,000 or more.*)
- 6.) Select the best-qualified consultant, open the firm’s sealed price proposal, and negotiate the scope, schedule and cost.

Primary Federal Regulation
48 CFR, part 31

Note: If an MPO and best-qualified consultant cannot agree on a “fair and reasonable” cost, the MPO may end negotiations and move on to the next most qualified consultant. Once the MPO executes a contract, it must return all sealed cost proposals to the unsuccessful firms.

❑ Federal Brooks Act procurement (\$100,000 and greater)

If the estimated cost of a task requiring engineering or design services is \$100,000 or more, the MPO must select a consultant using the federal Brooks Act process. The Brooks Act requires agencies receiving federal highway funds to promote open competition by advertising, ranking, selecting and negotiating contracts based on demonstrated competence and qualifications. Examples of services covered by the law include preliminary engineering, design engineering, feasibility studies, surveying and mapping.¹³

¹³ Guidance on the Brooks Act procurement process may be found at the Federal Highway Administration website: <http://www.fhwa.dot.gov/programadmin/172qa.cfm>

Under the Brooks Act, organizations must observe the following qualifications-based selection process:

- 1.) Develop a detailed scope of work and cost estimate.
- 2.) Prepare a public request for proposals (RFP) or – as an alternative – a request for qualifications (RFQ) to obtain a list of qualified consultants interested in doing the work. MPOs may use MaineDOT’s list of pre-qualified consultants, available at: <http://www.maine.gov/mdot/aco/aco/home.php#Prequalification>.
- 3.) Invite at least three qualified firms to submit a technical proposal and a separate, sealed price proposal.
- 4.) Develop criteria and percentages for scoring technical proposals. Suggested criteria include the makeup of the proposed project team, the consultant’s experience with similar projects, and the firm’s approach to the work.
- 5.) Score the technical proposals and conduct interviews with the qualified finalists.
- 7.) Select the best-qualified consultant, open the firm’s sealed price proposal, and negotiate the scope, schedule and cost.

Primary Federal Regulation
23 CFR, part 172

Note: If the MPO and best-qualified consultant cannot agree on a “fair and reasonable” cost, the MPO may end negotiations and move on to the next most qualified consultant. Once a contract is executed with a qualified firm, sealed cost proposals from all unsuccessful firms must be returned.

5.6 – SUMMARY

The federally required unified planning work program (UPWP) lists the transportation studies and planning tasks to be performed by the MPO staff, a member agency, or a consultant. An activity not listed in a federally approved UPWP is ineligible for federal or state funding.

Maine MPOs produce their UPWPs every two years, during odd-numbered years, in consultation with MaineDOT. UPWPs cover two years, and address:

- What will be produced?
- Who will do the work?
- When will the work be done?
- How much is the work expected to cost?

MPOs may modify their UPWPs to meet changing regional needs and priorities. Requests for amendments or revisions should be directed either to MaineDOT's MPO coordinator (highway) or urban program administrator (transit). The appropriate person will review and forward requests to the Federal Highway Administration or Federal Transit Administration for approval.

❑ Web resources

Federal guidance on the use of federal Metropolitan Planning (PL) funds
http://www.fhwa.dot.gov/federalaid/guide/guide_current.cfm#c47

Federal procurement regulations (Chapter 48, Code of Federal Regulations, Part 31)
http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl

Federal guidance on Brooks Act procurement (\$100,000 and over)
<http://www.fhwa.dot.gov/programadmin/121205.cfm>

Federal Form FHWA-1273 (required provisions of federal-aid contracts)
<http://www.fhwa.dot.gov/programadmin/contracts/1273.cfm>

MaineDOT Contract Procurement Office
<http://www.maine.gov/mdot/aco/acohome.php>

MaineDOT reference materials for consultant selection
http://www.state.me.us/mdot/locally-administrated-projects/documents/07-06-LPAManual-ConsultantSelection_000.pdf

MaineDOT Consultant General Conditions
<http://www.maine.gov/mdot/aco/documents/consultant-general-conditions.pdf>

MaineDOT disadvantaged business enterprise information
<http://www.state.me.us/mdot/disadvantaged-business-enterprises/dbe-home.php#goal>



Section 6:

The Project Selection Process

MaineDOT every five years produces a long-range plan that establishes goals, objectives and strategies for addressing Maine’s transportation needs over a 20-year period. Additionally, two shorter-term plans show the investments that MaineDOT intends to make to meet its long-term goals: the Six-Year Transportation Improvement Plan and the two-year Biennial Capital Work Plan. This section of the guide discusses these two short-term plans and the roles of Maine’s metropolitan planning organizations (MPO) in preparing them.

6.1 – MaineDOT SIX-YEAR PLAN

MaineDOT’s Six-Year Transportation Improvement Plan is the bridge between its 20-year (long-range) plan and its two-year work plan. The six-year plan lists the major policy initiatives and project candidates that MaineDOT reasonably expects to program within six years, or three budget cycles. It is prepared with the help of Maine’s local governments, regional planning agencies and other transportation partners, including the four MPOs.

The schedule varies, but MaineDOT typically updates the six-year plan during off years from the two-year work plan. Early in the process, MaineDOT notifies Maine’s MPO directors of the schedule, important deadlines, and requirements.

❑ Requirements for MPOs

Maine’s four MPOs provide MaineDOT either with lists of proposed projects or with broader categories of improvements – “reconstruction” or “paving” – showing how they intend to invest their transportation funding over the next three work plans. MaineDOT strives to inform each MPO of the requirements for the six-year plan early in the process. MPOs have at least four months to provide MaineDOT with project candidate lists and any other requested information.

Additionally, MaineDOT recognizes that MPOs need flexibility to adjust their project candidates from one six-year plan to another, based on changing priorities and available funding. Even so, MPOs should strive to ensure that their six-year plan submissions form the foundations for the prioritized, financially constrained project lists that become part of the two-year work plan.

6.2 – MAINEDOT TWO-YEAR WORK PLAN

The MaineDOT two-year work plan, formally known as the Biennial Capital Work Plan, is a primary short-term planning tool. MaineDOT drafts the plan during an even-numbered year and submits it to the Legislature by March 30 of the following odd-numbered year, in time for legislators to review MaineDOT’s budget requests. The plan serves dual purposes:

- It reflects the transportation funding that MaineDOT reasonably expects to receive from federal, state and other sources within a two-year budget cycle; and
- It outlines MaineDOT’s strategy for applying this money to improvements throughout the state and across the system – highways, bridges, ferries, railroads, airports, bicycle/pedestrian trails, and mass transit.

MaineDOT develops the work plan in coordination with municipalities, state and federal agencies, and other transportation stakeholders. MPOs program highway and public transit improvements for inclusion in the work plan. (See Section 6.3, “Programming MPO Projects,” for more information.)

As Table 3 on the next page shows, MaineDOT begins developing its work plan at least one year before publication by asking Maine cities and towns to submit for consideration their project priorities outside of MPO areas. At the same time, MPOs develop their candidate projects.

During the process, MaineDOT engineers and technicians conduct field reviews of potential projects and analyze transportation conditions. Because statewide needs typically exceed available money, MaineDOT sets priorities by considering questions such as:

- Does a potential project address a safety issue?
- Does a potential project preserve the existing transportation system?
- Does an investment support modernization and improvement in all modes?
- Does a potential project present cost-effective solutions that improve mobility and/or leverage other dollars, such as private or municipal investment?
- Is there equitable distribution of projects statewide, and the potential for regional and statewide transportation benefits?
- Does a project address metropolitan area and/or regional priorities?
- Are there previous project commitments?

The resulting two-year work plan reflects MaineDOT’s mission to use all available resources to achieve the greatest possible statewide benefit, recognizing the link between a safe, reliable transportation system and Maine’s economic growth.

**Table 3: MaineDOT Two-Year Work Plan Schedule
(Even numbered calendar years)**

January	<ul style="list-style-type: none"> ▪ MPOs and MaineDOT analyze the schedules and cost estimates of existing projects. ▪ MPOs seek new candidate projects from their member communities for the next two-year funding cycle.
February to May	<ul style="list-style-type: none"> ▪ MPO staffs and technical committees develop candidate projects for scoring, cost estimating and field review. ▪ MaineDOT’s Bureau of Transportation Systems Planning sends each MPO a letter with milestone dates and submission requirements for the upcoming two-year work plan. ▪ By April 30, MaineDOT’s Bureau of Transportation Systems Planning sends each MPO a letter with its best estimates to date of available federal Surface Transportation Program (STP), National Highway System (NHS), and state matching funds for the next two-year funding cycle. ▪ MPOs prepare lists of projects for field review.
June-July	<ul style="list-style-type: none"> ▪ MaineDOT and each MPO develop lists of existing projects that will require supplemental funding. ▪ MPO staffs conduct field reviews of candidate projects with MaineDOT planning and project development staff.
August-September	<ul style="list-style-type: none"> ▪ MPOs – with the help of technical consultants, municipal officials and MaineDOT staff – develop final project cost estimates for the work plan. ▪ MPO policy committees receive final recommendations from their advisory committees, and set priorities based on project technical scores and available funding. ▪ MaineDOT, MPO and municipal staffs conduct final reviews of scopes and cost estimates of MPO project candidates. ▪ MPO staffs/municipal representatives complete project identification forms for MaineDOT for each project.
October	<ul style="list-style-type: none"> ▪ By October 31, MPOs approve and submit final project lists to MaineDOT for inclusion in the two-year work plan.

6.3 – PROGRAMMING MPO PROJECTS

MPOs select capital improvements in their regions for MaineDOT’s two-year work plan. The MPO project selection process begins early in an even-numbered year when MaineDOT estimates the amount of federal and state funding available to each MPO for the next two-year budget cycle. (See Section 3.2, “Federal Capital Improvement Funds,” for details.)

After receiving their funding estimates, MPOs identify funding gaps in existing projects and propose new projects that address regional transportation needs, consistent with their long-range plans. The MPO project selection process typically involves these steps:

- ❑ MPO staffs plan and scope projects in cooperation with communities, technical consultants and MaineDOT.
- ❑ Staff members from the MPO and/or a sponsoring municipality draft for each project a purpose-and-need statement explaining why the improvement is being proposed. The document describes the intended benefits.
- ❑ MPO technical advisory committees and/or MPO staffs score the candidates using factors such as traffic volumes, pavement conditions, and accident rates.
- ❑ MPO staffs and municipal representatives conduct with MaineDOT joint field reviews of candidate projects to develop final scopes and cost estimates.
- ❑ MPO staffs complete and provide to MaineDOT a project identification form for each project submitted for inclusion in the two-year work plan. (See *Appendix D*.)
- ❑ MPO policy committees review and approve final, prioritized project lists for submission to the MaineDOT Bureau of Transportation Systems Planning. Approval must take place in time to submit MPO projects to MaineDOT by October 31 of an even-numbered year.
- ❑ MaineDOT staff members review the MPO candidates, compare the cost estimates against projected funding, and enter the candidates into MaineDOT’s databases.

❑ **Recommended steps**

As MPOs program their project candidates, MaineDOT recommends that they:

- ❑ Draft a purpose-and-need statement for each project that describes both the conditions that warrant the improvement *and* the intended benefits.
- ❑ Consult with staff members from MaineDOT’s regional offices, as appropriate, to determine the best treatments to address regional concerns.
- ❑ Review the *Maine Department of Transportation Highway Design Guide*, available through the Bureau of Project Development.

- ❑ Use MaineDOT’s bid pricing history as a financial guide:
http://www.state.me.us/mdot/contractor-consultant-information/contractor_cons.php
- ❑ Consider inflation factors when programming funding for projects. MaineDOT typically builds in 7 percent *annual* inflation for paving projects and 4 percent for other types of projects.

❑ Types of projects

MaineDOT maintains definitions for capital improvements, with the goal of providing clear, concise answers to the question, “What work is being done?” Federally funded projects in MPO areas fall into four primary categories:¹⁴

- 1.) **Development** – The creation or substantial replacement of a highway, bridge, sidewalk, bicycle lane, transit facility or other transportation asset. In MPO areas, this category covers primarily:
 - **Reconstruction**, which calls for removing and replacing the pavement, gravel base and sub-base for more than half of the project length. Reconstruction primarily addresses structural deficiencies, grade problems, and safety concerns, often in order to bring a highway up to modern design standards. Reconstruction may involve substantial drainage work, the addition of travel lanes, and significant alignment changes.
- 2.) **Rehabilitation** – Work designed to restore the pavement, gravel base, and sub-base to a previous level of service. Rehabilitation projects call for more significant improvements to a road’s geometric design and drainage than pavement preservation. In MPO areas, this category covers treatments that add to, replace or improve subordinate elements of a highway, including:
 - **Full-depth reclamation**, which involves pulverizing the existing pavement in place and mixing it with at least 2 inches of aggregate to create a mass that is graded, compacted and overlaid with a new asphalt-wearing course.
 - **Foamed asphalt**, a reclamation process that blends hot, new asphalt and water to create foam that coats the aggregate particles, enhancing the structural integrity of the roadway.
 - **Structural overlay**, which involves laying down at least 2 inches of hot-mix asphalt to strengthen a roadway. A road’s structure – pavement, gravel base and sub-base – receives a rating based on conditions and the type of traffic it handles. A structural overlay boosts a road’s structural rating so that it can withstand wear-and tear from changing conditions, such as higher truck traffic.

¹⁴ For details, consult the *Maine Department of Transportation Highway Design Guide*, Chapter 13, “Pavement Design.” The guide is available through MaineDOT’s Bureau of Project Development, at (207) 624-3400.

3.) Preservation – Work designed to preserve the investment in a road that has been built to modern safety and mobility standards established by MaineDOT and the American Association of State Highway and Transportation Officials (AASHTO). This category includes:

- **Mill & fill**, which calls for grinding out some of the existing pavement and replacing it with new hot-mix asphalt. This treatment removes inconsistent riding surfaces, restores the cross-section, and/or removes a surface layer of worn, oxidized pavement.
- **Resurfacing**, which calls for placing a layer of hot-mix asphalt over existing pavement and, in some cases, performing drainage and shoulder work. Types of preservation overlays include:
 - ✓ *¾ inch overlay* – the first resurfacing of a rebuilt highway, or the next resurfacing after a more intensive resurfacing project.
 - ✓ *1¼ inch overlay* – a resurfacing that involves 1¼-inch depth asphalt. It generally applies when a road requires a more substantial treatment, for structural reasons, than a basic ¾-inch overlay.

Note: The terms *preservation* and *maintenance* are not interchangeable.

Preservation is a capital improvement designed to preserve the investment in a highway. Pavement preservation projects, which extend the life of the pavement, are eligible for federal and state funding on roads that meet operational and safety standards set by MaineDOT and AASHTO.

Maintenance paving serves to hold a deteriorating road together until a more substantial treatment can be applied. Routine maintenance projects on roads in MPO areas cannot receive state or federal capital improvement funding. Such treatments involve thin overlays, typically 5/8 of an inch or less.

4.) Operational and Safety Improvements – Investments intended to optimize the safety and capacity of existing facilities. These efforts include:

- **Intersection improvements**, with and without signals.
- **Addition of turning and bypass lanes**, necessitated by new development.
- **Sidewalk construction**.

Table 4: Capital Improvement Responsibilities, MPOs and MaineDOT

MPO	MaineDOT
<ul style="list-style-type: none"> • Reconstruction, rehabilitation and pavement preservation projects on urban collector highways. • Reconstruction and rehabilitation projects on arterial highways, except for interstates and freeways. • Intersection improvement projects funded outside of the Hazard Elimination Program. • Sidewalks and bicycle transportation improvements funded outside of the federal Transportation Enhancement Program. • Transit-related capital improvements using an MPO’s allocated federal Surface Transportation Program funds. 	<ul style="list-style-type: none"> • Pavement preservation projects on arterial highways in MPO areas. • All types of projects on interstate highways and freeways. • All types of bridge improvements. • Safety improvements funded through the Hazard Elimination Program. • Projects funded under competitive programs, such as the Transportation Enhancement Program. • Passenger and freight transportation improvements, especially air and rail. • Public transit improvements that require funding through the Federal Transit Administration.

❑ Project stages

Capital improvement projects typically have four stages, which MPOs should observe as they assemble their transportation improvement programs:

- **Preliminary Engineering (PE)** covers project design, environmental review and related work done in preparation for construction.
- **Right of Way (ROW)** typically involves:
 - ✓ Preparation of right-of-way plans;
 - ✓ Economic impact analyses and related work;
 - ✓ Approval for parcel acquisition;
 - ✓ Review of appraisals;
 - ✓ Condemnation and acquisition of properties; and
 - ✓ Relocation advisory assistance and other related labor expenses.

<p>Federal Regulations 23 CFR, part 140.203 23 CFR, part 140.703</p>

- **Construction (CON)** covers the construction of a project.
- **Construction Engineering (CE)** covers any of the following activities:
 - ✓ The supervision and inspection of construction activities;
 - ✓ Testing of construction materials, such as asphalt and concrete;
 - ✓ Additional staking functions needed to control the construction operations;
 - ✓ Checking shop drawings; and
 - ✓ Measurements needed for the preparation of pay estimates.

The different stages typically account for the following shares of total project costs:

	PE	ROW	CON	CE
Arterial Highways	12%	5%	70%	13%
Collector Highways	6%	1%	86%	7%

❑ Programming complex projects

MaineDOT recommends completing complex projects in separate biennia by undertaking PE and ROW in one two-year cycle, and CON and CE in a subsequent two-year period. A complex project consists of one or more of the following:

- ✓ Extensive right-of way impacts;
- ✓ Extensive utility impacts and coordination;
- ✓ Extensive environmental impacts; and/or
- ✓ Strong public interest.

6.4 - SCOPING PROJECTS

Before an MPO submits a candidate project to MaineDOT, the MPO must identify the magnitude, potential costs and impacts of that project. This process, known as scoping, helps each MPO to select the most effective projects for the MaineDOT two-year work plan and federally required MPO transportation improvement program (TIP), addressed in Section 7.

Adequate scoping enables each MPO and its member communities to minimize project cost overruns and scope creep. MPOs develop project scopes in consultation with their municipal members, private technical consultants and MaineDOT.

❑ MPO project identification forms

As part of the scoping process, MPO staffs work with cities and towns to complete project identification forms for the improvements submitted to MaineDOT for the two-year work plan. Appropriate representatives from MPO staffs, communities and MaineDOT must sign completed forms *before* design work begins. (For a template, see *Appendix D*.) The forms provide MaineDOT project development teams with fundamental information such as:

- Purpose and need, describing why the MPO selected the project.
 - ✓ A good purpose-and need-statement describes the conditions that warrant a transportation improvement and explains the intended benefits.
- Location and a description (e.g., reconstruction from point A to point B.)
- A preliminary cost estimate and the source that estimate. MPOs should review MaineDOT’s construction bid pricing history, archived on the MaineDOT website: <http://www.state.me.us/mdot/comprehensive-list-projects/BidDocumentsArchive.php>
- Known right-of-way takings, utility relocations, drainage problems, and environmental impacts – including any potential historic preservation or archeological issues.
- Potential public opposition or local concerns.
- Previous studies and current traffic data, such as average annual daily traffic (AADT), turning movement counts, traffic growth trends, and the volumes of trucks with six or more axles. (See *Appendix D* for more information.)

❑ Field reviews

Field reviews help to flag issues that may affect a project’s cost, schedule, or scope of work. Representatives from the MPO staff and the sponsoring municipality ride the routes of candidate projects with MaineDOT scoping engineers and/or project development teams. They assess each site for issues such as drainage problems, possible utility relocations, historic properties, and potential right-of-way takings.

Field reviews usually occur in June, July and August of even-numbered years, as MPOs develop their candidate projects. MPO staffs should arrange for the field reviews, in cooperation with MaineDOT’s MPO coordinator.

❑ Project scope review process

The MPO coordinator at MaineDOT arranges for appropriate planning and project development staff to review completed MPO project identification forms. If the review flags issues with the scope, cost estimate or proposed schedule, MaineDOT, the MPO and the municipality attempt to resolve them using the following process:

- 1.) The MaineDOT project manager and an appropriate staff member from the Bureau of Transportation Systems Planning attempt initially to resolve the issue in partnership with the MPO director or other staff member, and an authorized municipal representative.
- 2.) If these initial discussions fail to resolve a dispute, the issue goes to the next level – involving the appropriate MaineDOT program manager and/or the director of the Bureau of Project Development, the chief of the Bureau of Transportation Systems Planning, the MPO director and/or chair, and city/town manager or other authorized municipal representative.

Note: MaineDOT will not begin design work on a project until all scope and/or cost issues have been resolved to the satisfaction of MaineDOT, the MPO and the municipality.

Roles and Responsibilities: Project Scoping		
MPO	CITY/TOWN	MaineDOT
<ul style="list-style-type: none"> <input type="checkbox"/> Staffs work with consultants, communities and MaineDOT to develop scopes and cost estimates. <input type="checkbox"/> Staffs work with MaineDOT, communities to ensure that scopes meet federal and state standards. <input type="checkbox"/> Staffs arrange project field reviews with MaineDOT and communities. <input type="checkbox"/> Staffs complete and send MaineDOT a Project ID Form for each project approved by the MPO for the work plan. 	<ul style="list-style-type: none"> <input type="checkbox"/> Engineering/public works staffs work with MPO staffs and MaineDOT to develop scopes and cost estimates. <input type="checkbox"/> Technical staffs work with MPO staffs to ensure that scopes meet federal and state standards. <input type="checkbox"/> Technical staffs participate in project field reviews with the MPO staff and MaineDOT. <input type="checkbox"/> Appropriate staff members review and sign a completed Project ID Form for each project approved by the MPO for the MaineDOT work plan. 	<ul style="list-style-type: none"> <input type="checkbox"/> Technical staffs assist MPOs in preparing scopes and cost estimates, making sure applicable design standards are met. <input type="checkbox"/> Appropriate staff members from planning and project development join project field reviews. <input type="checkbox"/> Appropriate staff members review completed Project ID Forms – and work to resolve concerns before signing them.

6.4 – SUMMARY

MaineDOT every two years produces a Biennial Capital Work Plan, commonly known as the “work plan,” listing projects it intends to undertake in a two-year funding cycle. MaineDOT typically drafts the plan during an even-numbered year and submits it to the Legislature by March 30 of the following odd-numbered year.

MPOs program highway and transit improvements for the work plan, within their estimated funding. (See Section 3 of this guide for funding information.) MPO policy committees must approve project lists by October 31 of every even-numbered calendar year.

The selection process typically includes these steps:

- ✓ MPO staffs plan projects with their member communities, technical consultants and MaineDOT.
- ✓ MPO staffs and technical advisory committees score project candidates using factors such as traffic volumes, pavement conditions, and accident rates.
- ✓ MPO staffs conduct project field reviews with MaineDOT and municipalities.
- ✓ MPO policy committees review and approve final project lists for submission to MaineDOT's Bureau of Transportation Systems Planning.

❑ Scoping projects

MPOs must identify the magnitude, potential cost and impact of each of their projects. This process, known as scoping, helps each MPO to select the most effective projects for their capital improvement programs. Before providing MaineDOT with project lists, MPO staffs complete for each candidate a project identification form designed to provide fundamental information to MaineDOT project design teams. (See *Appendix D* for a template.)

❑ Web resources

MaineDOT Biennial Capital Work Plan

http://www.maine.gov/mdot/planning-documents/bcwp2010_2011.php

MaineDOT Six-Year Transportation Improvement Plan

<http://www.maine.gov/mdot/planning-documents/pdf/6yrplanopt.pdf>

MaineDOT construction bid information

http://www.state.me.us/mdot/contractor-consultant-information/contractor_cons.php

MaineDOT traffic counts

<http://www.state.me.us/mdot/traffic-counts/traffic-monitoring.php>

Pavement preservation guidance from the Federal Highway Administration

<http://www.fhwa.dot.gov/pavement/pres.cfm>

Guidance on purpose and need statements from the American Association of State Highway and Transportation Officials (AASHTO)

<http://www.environment.transportation.org/pdf/programs/PG07.pdf>

Section 7:

Transportation Improvement Programs

Every two years, a metropolitan planning organization (MPO) produces a transportation improvement program (TIP) listing the federal-aid projects in its region, consistent with the priorities in its long-range plan. MPOs prepare their TIPs in odd-numbered calendar years, in cooperation with MaineDOT, for the approval of federal transportation agencies.

A TIP by federal law covers four years and includes all improvements within an MPO area that require federal highway or transit money – including those programmed by MaineDOT. Typically, MPOs begin with the two-year project lists prepared for the MaineDOT Biennial Capital Work Plan, and then look out two more years. A project must be in a federally approved TIP to receive federal funding.

7.1 – FEDERAL REQUIREMENTS FOR THE MPO TIP

MPO TIPs are primarily financial planning and scheduling documents for federal transportation agencies. They must be based on reasonable funding estimates and contain:

1.) A prioritized list of projects that will require obligations of federal money during the four-year TIP period, including:

- Enough detail to identify each project – location, beginning and end, length, scope of work, and its state and federal ID numbers;
- The estimated cost of each project; and
- The amount of federal highway and transit funds expected to be drawn down (obligated) in each year.

Primary Federal Regulations
23 CFR, parts 450.324-332

2.) A financial plan that:

- Demonstrates the consistency of proposed investments with current and projected revenue sources, based on realistic funding assumptions.
- Provides estimates of public and private funding sources that are reasonably expected to be available to carry out the TIP.
- Identifies potential revenue gaps and recommends any additional strategies for funding needed projects and programs.

Table 5: MPO Transportation improvement Program Schedule
(Odd numbered years)

<p>January, February, March</p>	<ul style="list-style-type: none"> ▪ MPOs draft their TIPs. Typically, each MPO starts with the two-year project list approved for inclusion in the MaineDOT Biennial Capital Work Plan and then looks out two more years.
<p>April, May, June</p>	<ul style="list-style-type: none"> ▪ MaineDOT produces draft lists of the improvements planned in each MPO area and e-mails them to each MPO. The lists, drawn from MaineDOT’s project tracking databases, cover federally funded projects sponsored by MaineDOT and each MPO.
<p>July</p>	<ul style="list-style-type: none"> ▪ MaineDOT sends to each MPO a copy of the draft statewide transportation improvement program (STIP) for review. The timing varies with each STIP. ▪ Each MPO reviews the draft STIP and inserts into its TIP the project lists for its region, including those sponsored by the MPO and MaineDOT. ▪ MPOs make their draft TIPs available for a 30-day public comment period.
<p>August</p>	<ul style="list-style-type: none"> ▪ MPOs approve their TIPs, after public comment periods. ▪ MPOs send letters to the chief of the Bureau of Transportation Systems Planning stating that they have approved their TIPs and met all associated federal requirements. ▪ By the end of August, MPOs submit their TIPs to MaineDOT, the FHWA and FTA for approval, with copies to the chief of the Bureau of Transportation Systems Planning. ▪ MaineDOT submits its STIP to federal agencies, usually by August 31.
<p>September</p>	<ul style="list-style-type: none"> ▪ Federal agencies review and approve the MaineDOT STIP and each MPO TIP, in time for the October 1 start of the new federal fiscal year.

❑ Fiscal constraint

MPO TIPs must be based on reasonable funding estimates. A project may be included only if the MPO expects full funding to be available within the timeframe considered for completion. The total federal share of projects in the first year of a TIP may not exceed levels of funding committed to the MPO. Similarly, the total federal share of projects in the second, third and fourth years may not exceed levels of funding reasonably expected to be available.

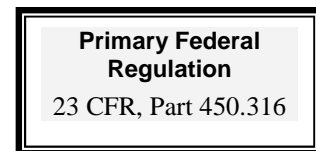
❑ Air quality conformity

MPO TIPs covering air quality non-attainment and maintenance areas must include sufficient detail, including project scopes, for an MPO to undertake an air quality analysis in cooperation with MaineDOT and the Maine Department of Environmental Protection. As part of the TIP approval process, federal transportation agencies must make an air-quality conformity determination in accordance with the Clean Air Act requirements and the U.S. Environmental Protection Agency's transportation conformity regulations. (For more information, see Section 10 of this guide.)

❑ Public involvement

By federal regulation, each MPO must follow a participation process that supports early and continuing public involvement, as described in Section 9 of this guide. MPOs must:

- 1.) Provide reasonable public access to information used to develop the TIP;
- 2.) Hold open meetings as the TIP is developed, with adequate public notice; and
- 3.) Allow a 30-day public comment period before the TIP goes to federal agencies, consistent with federally mandated MPO public participation plans.



7.2 - MPO PROJECTS

MPOs build their TIPs using primarily the two-year project lists previously approved for the MaineDOT Biennial Capital Work Plan. (See Section 6.2 for more information.) Typically, MPOs program the following types of projects:

- Reconstruction, rehabilitation and preservation of urban collectors;
- Reconstruction of arterial highways (except for interstates and freeways);
- Intersection improvements funded outside of the Hazard Elimination Program;
- Transit capital improvements; and
- Bicycle-pedestrian improvements funded outside of the Transportation Enhancement and Safe Routes to School programs.

7.3 – MAINEDOT PROJECTS IN MPO AREAS

MaineDOT shares responsibility with each MPO for programming improvements to the federal-aid systems in each MPO region. The department works with MPOs to ensure that their TIPs include MaineDOT highway and mass transit projects planned in MPO areas.

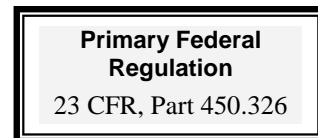
MaineDOT selects projects through consultation with MPOs, transit operators, and other transportation agencies, beginning with the project lists prepared previously for MaineDOT’s Biennial Capital Work Plan. MaineDOT typically programs and administers projects in MPO areas involving:

- Pavement preservation on arterial highways;
- Maintenance and capital improvements on the interstate system, freeways and other limited-access, divided highways (except for the Maine Turnpike);
- Bridge improvements;
- Safety improvements funded through the Hazard Elimination Program;
- Projects funded under MaineDOT competitive programs, such as the Transportation Enhancement Program;
- Passenger and freight transportation improvements; and
- Mass transit projects that require federal transit funding, including 5307, 5316 (JARC – Job Access and Reverse Commute), and 5317 (New Freedoms).

7.4 – TIP AMENDMENTS

MPOs must amend their TIPs as necessary to address any of the following:

- The addition or deletion of a project – or project phase – in a federally designated MPO area; and/or
- Any change in a project budget that affects the overall fiscal constraint of the MPO TIP; and/or
- A change in design or scope that alters the intent of any project in a federally designated MPO area. (Such a change may trigger a public comment period, as determined by an MPO’s public participation plan.)



❑ Amendment Procedures

In Maine, TIP amendments follow a process established by consensus among each MPO, MaineDOT and the appropriate federal transportation agency:

- 1.) An MPO submits to the MaineDOT MPO coordinator or urban transit administrator, as appropriate, a signed letter from the director stating that the MPO has approved a TIP amendment. A description of the change(s) to a project must accompany the letter. For a sample TIP amendment letter, see *Appendix E*.
- 2.) The MPO coordinator/urban transit administrator informs the MaineDOT Office of Capital Resources of the MPO TIP amendment and requests that MaineDOT request a subsequent amendment to its corresponding statewide transportation improvement program (STIP).
- 3.) The MPO coordinator/urban transit administrator forwards the MPO letters to the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) regional offices for review and approval.
- 4.) If an MPO in an air quality non-attainment or maintenance area adds a non-exempt project designed to increase capacity, the MPO must seek a new conformity determination. This applies to PACTS (Portland) and KACTS (Kittery).

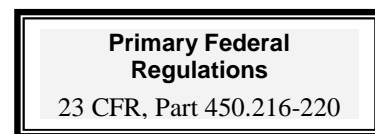
Note: An amendment to an MPO TIP remains incomplete until MaineDOT also has incorporated the change into its corresponding STIP.

❑ Administrative modifications

An MPO may file an administrative modification – instead of a formal amendment – if it seeks only to move money between projects shown in a TIP, with no change in scope or in the overall amount of money programmed. The MPO’s director sends an e-mail for informational purposes to the MaineDOT MPO coordinator or urban program administrator, as appropriate, and to the FHWA regional planner in Maine and/or the FTA regional planner in Cambridge, Mass., depending on the nature of the project.

7.5 – STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM

MaineDOT every two years develops a statewide transportation improvement program (STIP) listing all projects that will require obligations of federal money over a four-year period, including those in MPO areas.



The Bureau of Transportation Systems Planning produces the STIP during odd-numbered calendar years for the approval of the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA). MaineDOT drafts the STIP in coordination with Maine’s four MPOs to ensure that the statewide document and corresponding MPO transportation improvement programs are consistent.

**Table 6: Statewide Transportation Improvement Program Schedule
(Odd numbered years)**

March	<ul style="list-style-type: none"> ▪ MaineDOT submits its Biennial Capital Work Plan to the Legislature. ▪ Financial management staff members begin entering project information into MaineDOT’s financial tracking database, known as PROMIS.
April, May	<ul style="list-style-type: none"> ▪ Project managers update existing projects and set kickoff, advertise, and construction begin dates for new projects. ▪ MaineDOT runs draft STIP reports to ensure that its lists of federal-aid improvements are balanced against available resources, in order to comply with federal requirements for fiscal constraint.
June	<ul style="list-style-type: none"> ▪ MaineDOT produces an initial draft STIP for internal review and then shares draft project listings with each MPO, for review and coordination.
July	<ul style="list-style-type: none"> ▪ MaineDOT sends to each MPO a copy of the draft STIP. The exact date varies with each STIP. ▪ MPOs review the draft STIP and insert into their TIPs the projects in their regions, including MPO-sponsored projects and MaineDOT projects in MPO areas. ▪ MaineDOT makes its draft STIP available for a 30-day public comment period.
August	<ul style="list-style-type: none"> ▪ By the end of August, MaineDOT submits the complete, final STIP to the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) for joint review and approval.
September	<ul style="list-style-type: none"> ▪ Federal agencies review and approve the STIP by September 30.
October	<ul style="list-style-type: none"> ▪ Federal money becomes available for projects listed in the STIP.

❑ STIP schedule

MaineDOT typically generates a draft STIP in July of an odd-numbered year, shortly after the two-year work plan is submitted to the Legislature. The draft is provided to each MPO for review by July 15. MaineDOT submits the final STIP to federal transportation agencies by August 31. For a timeline, see *Table 6* above.

❑ Federal STIP requirements

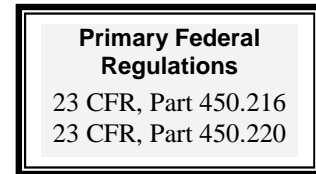
The STIP must:

- Provide sufficient descriptive material to identify each project or phase;
- Show the estimated total cost of each project listed in the document;
- List the amount of federal funds proposed to be obligated in each program year;
- Be fiscally constrained by year and funding source; and
- Be consistent with the MaineDOT long-range plan and public participation plan.

❑ STIP amendments

MaineDOT amends its STIP as needed to address changing needs and federal funding allocations. Amendments involve any of the following:

- The addition or deletion of a federal-aid project – or project phase – including any in MPO areas; and/or
- A change of \$100,000 or more in the funding for a project; and/or
- Any change in the design, concept or scope that alters the original intent of a federal-aid project, including a project in an MPO area.



MaineDOT observes the following steps in handling STIP amendments that also affect projects in MPO areas:

- 1.) Either MaineDOT's MPO coordinator or urban transit administrator, depending on the nature of the project, notifies an MPO that a STIP amendment is needed to reflect a change to a MaineDOT-sponsored project in the MPO area.
- 2.) The MPO policy committee approves the requested amendment and provides the MPO coordinator/urban transit administrator with written notification.
- 3.) The MPO coordinator/urban program administrator forwards the MPO TIP amendment to the FHWA or FTA for review and approval.
- 4.) The MPO coordinator/urban transit administrator informs the MaineDOT Office of Capital Resources of the MPO TIP amendment and requests that MaineDOT proceed with a corresponding amendment to its STIP.

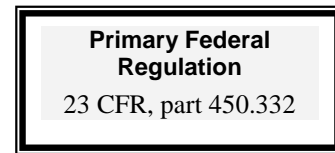
Note: In MPO areas, an amendment to the MaineDOT STIP remains incomplete until the change also has been made to a corresponding MPO TIP.

7.6 - ANNUAL LISTING OF OBLIGATED PROJECTS

MPOs by federal regulation must produce an annual listing of projects for which federal funds were obligated during the previous program year, which corresponds to the October 1 to September 30 federal fiscal year. MPOs must publish or otherwise make their annual listings accessible to the public within 90 calendar days of the end of the program year.

In Maine, MaineDOT provides each MPO with a listing of the highway and mass transit projects in its region for which federal funds have been obligated. MPOs submit requests for projects listings to the MaineDOT MPO coordinator.

By federal law, the annual listing must include all federally funded projects that either were authorized or revised to increase their obligated amounts during the previous program year – including bicycle and pedestrian projects. The annual listing must identify, for each project:



- ✓ The amount of federal funds requested in the TIP;
- ✓ The type of work done;
- ✓ The beginning and end points of the project;
- ✓ The project length, in miles;
- ✓ The federal funding that was obligated during the previous year; and
- ✓ The federal funding remaining and available for subsequent years.

MPOs are encouraged to make their annual listings accessible to the public by posting the information on their websites. MPOs may also make the annual listings available through other means that include printed reports, publication in local newspapers, and newsletters.

Examples

The U.S. Department of Transportation offers selected examples of the approaches that MPOs from throughout the country have taken in preparing the annual listing of projects:

- ❑ Denver Regional Council of Governments (DRCOG), Denver, CO.
<http://www.drcog.org/documents/FY2004ObligatedProjectList.pdf>
 - The annual listing is organized by federal funding category, with the program year corresponding to the federal fiscal year. Pedestrian and bicycle projects are included in the funding categories along with the other projects.
- ❑ Poughkeepsie-Dutchess County Transportation Council, Poughkeepsie, NY.
<http://www.co.dutchess.ny.us/CountyGov/Departments/Planning/2004ProjectObligations.pdf>
 - The MPO organizes its annual listing of obligated projects by federal funding agency (FTA or FHWA). The listing includes the project sponsor and phase of the project being funded and includes reference to bicycle and pedestrian projects.

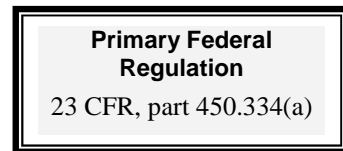
7.7 – METROPOLITAN PLANNING PROCESS CERTIFICATION

MaineDOT and each MPO must regularly certify to the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) that the metropolitan transportation planning process is addressing major issues facing each MPO region and is meeting federal requirements. An MPO’s self-certification statement must be provided to the FHWA and FTA at the same time as the draft TIP, or every odd-numbered year in Maine.

❑ Federal requirements

The MPO certification review seeks to establish that an MPO is conducting its planning process in accordance with the following federal requirements:

- 1.) 49 U.S.C. Section 5303 and 23 U.S.C. 134;
- 2.) In air quality non-attainment and maintenance areas, sections 174 and 176(c) and (d) of the Clean Air Act as amended – 42 U.S.C. 7504, 7506(c) and (d) – and 40 CFR part 93;
- 3.) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;
- 4.) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
- 5.) Section 1101(b) of SAFETEA-LU (Public Law 109-59) and 49 CFR part 26, regarding the involvement of disadvantaged business enterprises in projects funded by the U.S. Department of Transportation;
- 6.) 23 CFR part 230, regarding the implementation of an equal employment opportunity program on federal and federal-aid highway construction contracts;
- 7.) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR parts 27, 37, and 38;
- 8.) The Older Americans Act, as amended (42 U.S.C. 6101) prohibiting discrimination on the basis of age in programs or activities receiving federal financial assistance;
- 9.) Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and
- 10.) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.



7.8 - SUMMARY

❑ MPO transportation improvement program

An MPO produces a federally required transportation improvement program (TIP) that identifies the federal-aid projects it intends to program over four years. The TIP must include all projects in an MPO area requiring obligations of either federal highway or transit money, including those programmed by MaineDOT.

Maine MPOs produce their TIPs every two years, during odd-numbered years, for the approval of the Federal Highway Administration and Federal Transit Administration. MPO TIPs are drafted on the same schedule as MaineDOT's statewide transportation improvement program (STIP). MPO TIPs, by federal regulation:

- Must cover a minimum four-year period of investment.
- Must be realistic in terms of available funding.
- Must meet the state's air-quality conformity plan, in non-attainment and maintenance areas (PACTS and KACTS).
- Must be incorporated into the MaineDOT STIP.

MPOs must amend their TIPs as necessary to address changing regional needs and actual federal funding allocations. (Examples are shown in *Appendix E*.) Amendments involve any of the following:

- The addition or deletion of a project or phase of a project; and/or
- A major change in project cost (typically more than \$100,000); and/or
- A major change in the design concept or scope of a project. Any change in the original intent of a project may trigger a public comment period.

❑ Statewide transportation improvement program

The STIP is a budgetary and scheduling document that identifies federal-aid projects that will require obligations of federal money over a four-year period. It is based on the priorities in MaineDOT's Six Year Transportation Improvement Plan and Biennial Capital Work Plan. MPO-sponsored projects must be incorporated into the STIP.

By federal regulation, the STIP:

- Must be fiscally constrained and should include a financial plan.
- Must be approved by the Federal Highway Administration and Federal Transit Administration. STIP approval must be granted before projects can proceed from the planning stage to the construction stage.

❑ **Web resources**

Auburn-Lewiston MPO transportation improvement program

<http://geekteam.dreamhosters.com/BlogFiles/Documents/ATRC%202008-2011%20TIP%20Final.pdf>

Bangor-area MPO transportation improvement program

<http://www.bactsmpo.org/Files/TIPFinal.pdf>

Kittery-area MPO transportation improvement program

<http://www.smrpc.org/transportation/dm/kacts/KACTS%20TIP%202008-2011%20Final.pdf>

Federal fiscal constraint guidance

<http://www.fhwa.dot.gov/planning/fcguid62705.htm>

Federal Highway Administration, *A Guide to Federal-Aid Projects and Programs*

<http://www.fhwa.dot.gov/federalaid/projects.cfm?progProj=allp#c47>

Portland-area MPO transportation improvement program

<http://pactsplan.org/#TIP>



Section 8:

The Project Development Process

The Bureau of Project Development oversees the design and delivery of the transportation improvements in MaineDOT's two-year work plan, including those selected by metropolitan planning organizations (MPO). The process begins when MaineDOT uploads planned projects into its financial tracking system and assigns project managers to oversee the scopes, schedules and budgets of those projects.

Project managers assemble teams that draw from appropriate technical disciplines that may include, depending on the type of project:

- A designer or design consultant.
- An environmental coordinator.
- A geotechnical expert.
- A right-of-way appraiser and/or mapper.
- A utilities coordinator.
- A surveying crew.
- A landscape designer.
- A contracts coordinator.
- A resident engineer and/or inspector.

8.1 - ROLES AND RESPONSIBILITIES

MaineDOT project managers should communicate periodically with MPO staffs and municipalities as MPO projects are developed. This section describes the responsibilities of MaineDOT, MPOs, communities, and the Federal Highway Administration in this process.

☐ **MaineDOT project managers**

- Discuss projects – before design begins – with appropriate representatives from the MPO and the municipality to ensure that all parties agree on scopes and budgets.

- Notify by e-mail representatives from the MPO and the municipality of major project milestone meetings, especially: 1) project kickoff and/or initial team meeting; and 2) plans, specifications and estimate (PS&E) complete.
- Ensure that all applicable federal and state design standards are met, consistent with the *MaineDOT Highway Design Guide*, and work with the MPO staffs and municipalities to apply appropriate flexibility in project design, where warranted.
- Update project schedules and cost estimates in the ProjEx database, as needed.
- Upon completion of the preliminary design report (PDR), inform the MPO staffs and affected communities of any changes in project cost estimates, scopes or schedules.
- Develop Three-Party Agreements for representatives from MaineDOT, the MPO and municipality to sign before kickoff. The agreements cover roles and responsibilities during development of MPO projects. (See Section 8.5, “Project Agreements,” for more information.)
- Obtain all necessary federal approvals during the project development process.

❑ MPO directors/staffs

- Document all MPO policy decisions affecting project funding. Letters or e-mails must be sent to MaineDOT’s MPO coordinator, with copies to the project manager.
- Work with the MaineDOT project manager and communities to arrange public meetings to explain and receive feedback about MPO-sponsored projects. (This applies to projects with significant right-of-way takings, environmental impacts, or substantial public interest.)
- Review and sign a Three-Party Agreement – involving MaineDOT, the MPO and municipality – before design work begins on an MPO project. (See Section 8.5, “Project Agreements,” for more information.)
- Work with the project manager to ensure that the available funding in a project can cover the MaineDOT engineer’s estimate. (MaineDOT will not advertise a project for construction if available funding cannot cover the estimate.)
- Ensure that the MPO policy committee approves amendments and/or adjustments to the MPO transportation improvement program to reflect budget and/or scope changes in projects.
- Coordinate with the sponsoring municipality any requests for changes in an MPO project’s scope. The MPO staff should direct such requests to the MaineDOT project manager, with a copy to department’s MPO coordinator.

❑ **MaineDOT MPO coordinator**

- Serves as the primary bridge between MaineDOT’s planning and project development staffs, regarding MPO-sponsored projects.
- Initiates transfers of funds between MPO projects, after receiving written authorization from the MPO and informing the MaineDOT project manager. Transfers must be completed by the MaineDOT Office of Capital Resources.
- Coordinates with the Office of Capital Resources any requests for amendments and/or adjustments to the statewide transportation improvement program (STIP) that correspond to changes in an MPO transportation improvement Program (TIP). (See Section 7.5 for more information.)
- Keeps a record of all changes in MPO capital improvement projects, and maintains a record of all correspondence between MPOs and MaineDOT.
- Provides each MPO with bimonthly updates on project schedules, as well as any outstanding issues that need to be resolved.
- Arranges for project managers or other MaineDOT staff to attend MPO meetings, as appropriate.

❑ **Municipality**

- Works with the MPO staff and MaineDOT to ensure that the scope of each project reflects the municipality’s intent and that each project has adequate funding to deliver that scope of work.
- Works with MaineDOT and the MPO staff to convene public meetings to present information about high-profile projects that involve right-of-way takings, environmental impacts and other issues of public concern.
- Directs concerns about a project’s scope and/or requests for scope changes to the MaineDOT project manager, through the MPO staff. The MPO staff should be the primary point of municipal contact.
- Reviews and signs Three-Party Agreements covering the roles and responsibilities of MaineDOT, the MPO and municipality during the development of a project. Starting with projects kicked off in fiscal year 2010, the Three-Party Agreement replaced the standard Municipal/State Project Agreement for MPO projects. (Project agreements are covered in Section 8.5)
- Takes responsibility for covering its share of the cost of a capital project.

❑ Federal Highway Administration

- Executes a Federal-aid Project Agreement before any design work begins.
- Reviews and grants the necessary federal approvals at milestone stages, such as National Environmental Policy Act (NEPA) complete, right-of-way, and construction authorization.
- Reimburses MaineDOT for eligible project costs.

8.2 – PROJECT MILESTONES

MaineDOT’s project development process typically observes these major milestones:¹⁵

❑ **Project kickoff.** The project manager requests that the MaineDOT Office of Capital Resources activate the project and draft a Federal-aid Project Agreement for the approval of federal agencies. For MPO projects, the manager also drafts a Three-Party Agreement for the review and signature of the staffs of the sponsoring MPO and municipality. The project kickoff stage typically involves:

- *Contact with the MPO and the municipality.*
- *Initial contacts with utility companies and/or railroads, when applicable.*
- *Review of existing right-of-way ownership.*
- *Preliminary survey.*
- *Preliminary environmental evaluation.*

❑ **Initial team meeting.** The project manager meets with the project team to review information about the project scope, schedule and budget. Representatives from the MPO and the municipality must be invited. This phase of the process may involve:

- *Basic right-of-way mapping.*
- *Preliminary drainage design.*
- *Preliminary utility coordination.*
- *Preliminary traffic design.*
- *Preliminary alignment design.*
- *Environmental evaluation, in consultation with state and federal agencies.*

¹⁵ For detailed information, see the *Maine Department of Transportation Highway Design Guide*, Chapter 1, “Project Development Team Process.” The *Guide* is available through the Bureau of Project Development.

- ❑ **Preliminary public meeting.** The MaineDOT project manager – in partnership with the municipality and the MPO – shares information and gathers public comments. MaineDOT generally holds formal meetings for projects involving right-of-way takings, environmental impacts, and/or substantial public interest. Otherwise, MaineDOT typically sends an informational letter to a municipality for standard overlays, which involve paving within the existing right-of-way.
- ❑ **Preliminary alignment complete.** The project team selects the alignment and develops a preliminary design and initial right-of-way map.
- ❑ **Preliminary design report (PDR).** The PDR provides details such as the proposed design; the environmental, right-of-way, utility and other coordination activities; the public involvement process; the estimated project budget and schedule; and the results of the preliminary engineering. For projects sponsored by MPOs, the project manager should e-mail or otherwise provide the PDR to the MPO and municipality.
- ❑ **Formal public meeting.** MaineDOT – in partnership with the municipality and MPO – presents details of the project and gives the public a final opportunity to comment on the scope, alignment and major design features. MaineDOT typically holds public hearings for projects that involve involving right-of-way takings, environmental impacts, utility relocations and substantial public interest.
- ❑ **NEPA complete.** The National Environmental Policy Act requires that federally funded projects have minimal impact on natural and cultural resources. Federally funded projects must consider all environmental factors under NEPA. Right-of-way negotiations cannot begin until MaineDOT obtains NEPA sign-off from federal agencies. (See Section 8.3 for details about the NEPA process.)
- ❑ **Midway team meeting.** Final design begins after MaineDOT addresses comments from the formal public meeting. The project manager convenes a midway team meeting, including the MPO and the municipality, and then determines if the project is ready for the final design. This phase typically involves:
 - *Final project design*, based on comments from the public and the team.
 - *Completion of the right-of-way certification, utilities coordination, and environmental permitting processes.*
 - *Development of the final construction estimate.*
 - *Preparation of final plans, specifications and estimate (PS&E).*
 - *Development of Municipal-State Project Agreement.* The agreement covers the current cost estimate and spells out the roles and responsibilities from construction forward. (For MPO projects, the Three-Party Agreement signed at kickoff supersedes this.)

- ❑ **Highway plan impacts complete.** Upon completion of the design, the project manager distributes the 75-80 percent plans to the project team, program management and Federal Highway (on federal-aid projects) for review. This stage may involve:
 - *Right-of-way condemnation and acquisition;*
 - *Final estimate review;*
 - *Final utilities coordination;*
 - *Right-of-way and utilities certification; and/or*
 - *Plans, specifications and estimate (PS&E) complete.*

- ❑ **Contracts package complete.** The project manager submits a package of plans, specifications and cost estimate (PS&E) to the contracts section of the Bureau of Project Development.

- ❑ **Project advertised.** After the PS&E package is approved, MaineDOT seeks bids through notices posted to its website and placed in Maine newspapers.

- ❑ **Project awarded.** MaineDOT has 30 days in which to award a contract after opening bids, typically three weeks after a project is advertised. The Contract Award Committee must discuss any concerns about the bids with the project manager, the MPO and the municipality.

- ❑ **Construction begins.** After MaineDOT awards a construction contract, the project team and contractor discuss plans, specifications and procedures. The previously drafted Municipal-State Project Agreement must spell out how to handle changes that may affect the cost or schedule of a project that is under way.

- ❑ **Construction complete.** After the work is done, the project manager arranges a final inspection team meeting to discuss what went right, what went wrong, and how the process could be improved. Representatives from the MPO staff and the municipality should be invited. The construction complete stage also involves resolution of utility and/or railroad agreements and any right-of-way disputes.

- ❑ **Project complete.** A project is ready to close when utility and railroad agreements are closed out, right-of-way disputes are settled, the available funding is adequate to cover final costs, and MaineDOT has collected any municipal matching shares.

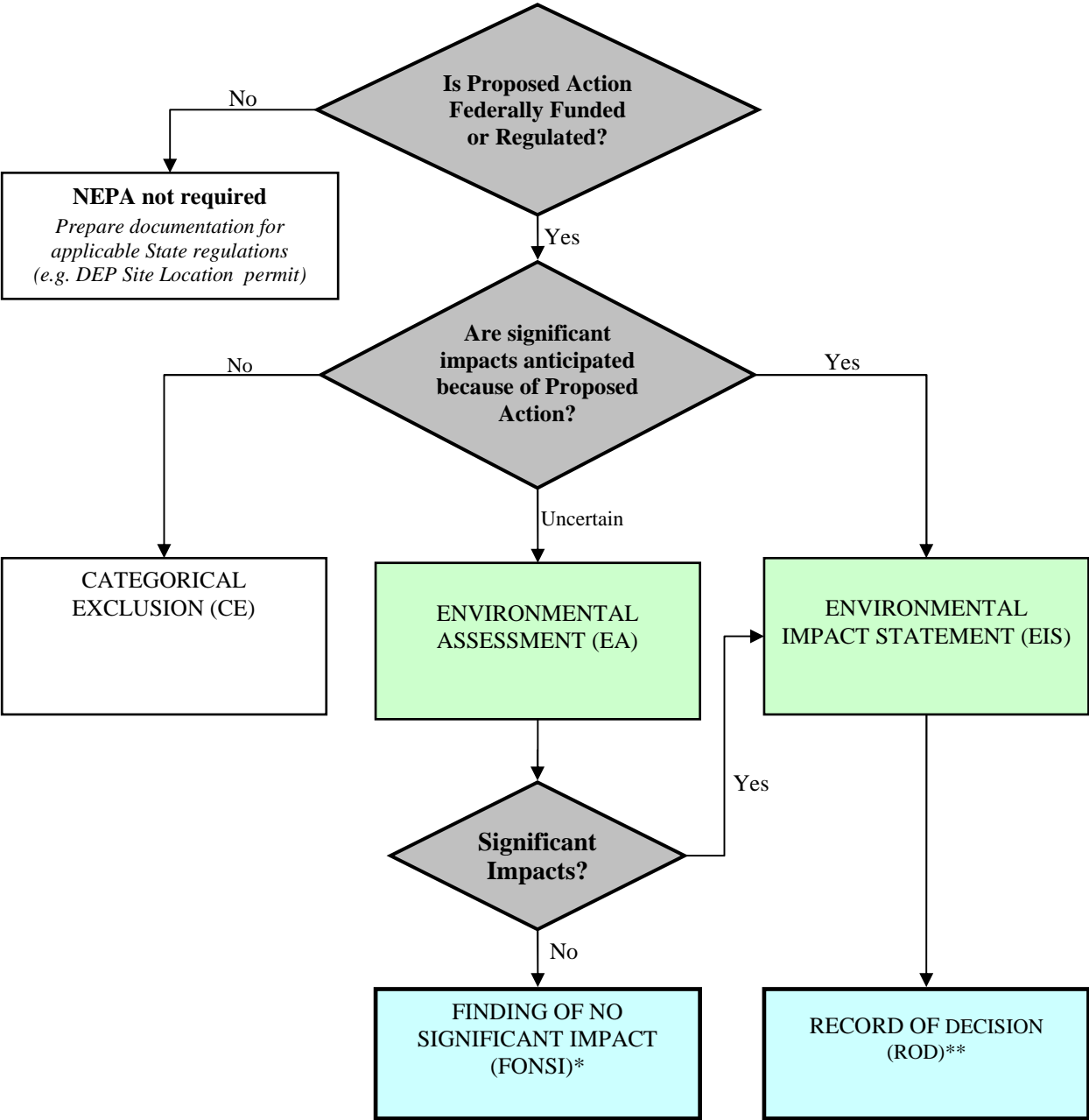
8.3 – NATIONAL ENVIRONMENTAL POLICY ACT

The National Environmental Policy Act of 1969 (NEPA) serves to ensure that federally funded projects have a minimal effect on the natural and social environments. Before moving forward with a federal-aid transportation project, MaineDOT must evaluate the potential effects to natural and/or cultural resources. The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) oversee compliance with the NEPA process for federal-aid projects in Maine.

Different types of transportation projects will have varying degrees of complexity and potential to affect the environment. Under NEPA, the required environmental document depends on the degree of impact. MaineDOT’s Environmental Office, in coordination with federal agencies, prepares one or more of the following documents for each proposed project:

- **Categorical Exclusions (CE)** apply to projects without significant environmental impacts. These projects typically do not involve new roadway alignments, substantial public opposition, hazardous materials, wetlands, or right-of-way takings that would displace or substantially affect neighboring homes or businesses. Examples of such projects in MPO areas include, but are not limited to:
 - ✓ Resurfacing, rebuilding or adding auxiliary lanes to an existing highway (for weaving, turning or climbing traffic.)
 - ✓ Constructing bicycle and pedestrian facilities on existing highways.
 - ✓ Undertaking highway safety or operational improvements.
 - ✓ Repairing, rebuilding or replacing an existing bridge on its current alignment.
- **Environmental assessments (EA)** are prepared for projects where it is not clearly known if there will be significant environmental impacts.
- **Finding of no significant impact (FONSI)** is prepared if the EA review concludes that there is no significant impact from a proposed project.
- **Environmental impact statements (EIS)** are prepared for projects that have a significant impact on the human and natural environment. Draft EIS and Final EIS documents, with input from the public, provide a full description of the proposed project, the existing environment, and the analysis of the beneficial and adverse impacts of all reasonable alternatives. Types of projects that may require an EIS include large-scale projects such as a new controlled access highway and a highway project of four or more lanes on a new location.
- **Record of decision** presents the selected transportation decision analyzed in an EIS, the basis for that decision, and the environmental commitments, if any, to mitigate for project impacts to natural and/or cultural resources. *Note: Negotiations to acquire right-of-way cannot occur until the NEPA process is completed.*

NEPA Process Flow Chart



**Not a separate report but rather a finding from the Environmental Assessment attached to the EA as a separate statement.*

***Separate Environmental Document*

8.4 – PUBLIC INVOLVEMENT

State and federal laws require MaineDOT – either at its discretion or at the request of a municipality – to undertake a public participation process during project design. The process provides citizens and other interested parties with essential information about high-profile projects that may involve property takings, environmental impacts, or substantial public interest. MaineDOT, in partnership with MPOs and communities, must:

- Notify abutters;
- Solicit comments from anyone affected by a project;
- Be available to respond to people affected by a project; and
- Incorporate citizen concerns and suggestions into the design, as appropriate.

As the chart below illustrates, MaineDOT project managers work with MPO staffs and communities to arrange public meetings to discuss MPO-sponsored projects. Typically, the public process explains:

- The scope and schedule of a project, including how the project was selected and the design features that MaineDOT will use;
- The potential impacts of project construction on a community;
- Any mitigation and community enhancements to be used; and
- The process for property acquisitions.

Roles and Responsibilities: Public meetings		
MPO	CITY/TOWN	MaineDOT
<ul style="list-style-type: none"> <input type="checkbox"/> Staff members arrange meetings and notify the public and interested parties, in partnership with MaineDOT and municipality. <input type="checkbox"/> During meetings, the MPO Director or designee explains the MPO process and why a project was selected for the MPO program. 	<ul style="list-style-type: none"> <input type="checkbox"/> Staff members work with MaineDOT and MPO staffs to arrange public meetings and notify citizens and interested parties. <input type="checkbox"/> During meetings, the municipal engineer, public works director, and/or manager explain why the community proposed the project for the MPO program. 	<ul style="list-style-type: none"> <input type="checkbox"/> Project manager notifies the MPO and municipality of the need for a meeting, requesting that the MPO and municipality take the lead. <input type="checkbox"/> During meetings, MaineDOT staff members discuss scopes, schedules and related technical information, including property acquisitions and any community impacts.

8.5 – PROJECT AGREEMENTS

Agreements between federal, state, and local agencies ensure that roles, responsibilities, and expectations are clear before a project begins. Three-Party Agreements and Federal-aid Project Agreements are the most common agreements that apply to MPOs.

☐ Three-Party Agreement

MaineDOT in 2009 developed a new type of standard agreement for projects sponsored by MPOs. Known as a Three-Party Agreement, the document spells out the roles and responsibilities of MaineDOT, the MPO, and the municipality during the project development process. Representatives from MaineDOT, the MPO and the municipality must sign such an agreement before design work begins. The Three-Party Agreement replaces the standard Municipal/State Project Agreement for projects that MaineDOT develops on behalf of an MPO. A template is included as *Appendix G*.

Project managers draft the agreements using standard MaineDOT procedures for contracts with outside organizations, in consultation with MPOs and communities. (*Note: Locally administered projects will continue to have separate agreements, as described in Section 8.7.*)

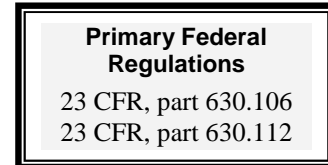
Signed Three-Party Agreements should, at a minimum:

- Spell out the roles that MaineDOT, the MPO, and the municipality will play as the project is developed – including attendance at project milestone meetings and public informational meetings. (See Section 8.1, “Roles and Responsibilities,” for guidance.)
- Discuss how MaineDOT, the MPO, and the municipality will address concerns about a project’s scope, financial status or schedule. Any significant scope changes – as determined by the MPO, municipality or MaineDOT – will require the approval of all three parties. (See Section 8.6, “Resolving Conflicts,” for guidance.)
- Spell out a process for addressing gaps between the MaineDOT engineer’s estimate and the available funding. Ideally, this should be done when MaineDOT prepares a preliminary design report (PDR).
- Establish responsibility for costs incurred to date if MaineDOT, the MPO or the municipality cancels a project before it can be advertised for construction.
- Assign responsibility for federally ineligible costs that are due to procedural errors or improper actions on the part of MaineDOT, an MPO or a municipality.
- After a project is advertised, establish a procedure for reviewing bids and deciding whether to award a construction contract if a bid exceeds the engineer’s estimate.

- Spell out a process for handling change orders and other unforeseen events during construction that may threaten the project’s schedule and/or budget.
- Establish responsibility for post-construction costs that may exceed the available funding, such as right-of-way settlements before the State Claims Commission or incentive payments to a contractor.

❑ Federal-Aid Project Agreement

MaineDOT must obtain authorization from the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) before beginning work on a federally funded project. Such authorization takes the form of an approved Federal-aid Project Agreement. Work done before an agreement is in place is ineligible for federal funding.



The federal authorization process begins when a project manager kicks off a project and requests that it be activated in MaineDOT’s internal project tracking system. The MaineDOT Office of Capital Resources, within the Bureau of Finance and Administration, drafts a Federal-aid Project Agreement that includes:

- A description of the project location, with beginning and end.
- The work covered by the agreement.
- The total project cost and amount of federal funds under agreement, usually expressed as a percentage.

In approving a project agreement, the FHWA or FTA assumes a contractual obligation to pay MaineDOT for the federal share of the cost of a project’s eligible cost. At this point, the federal funds become obligated. Obligation is a key step in federal financing; obligated funds are considered “used” even though no cash is transferred. Once the federal funding is obligated, the percentage of federal participation cannot be changed.

Note: Federal regulations require projects to move either to right-of-way acquisition or construction within 10 fiscal years after a Federal-aid Project Agreement is executed and federal funds made available. Otherwise, the federal share of preliminary engineering costs may have to be repaid.¹⁶

¹⁶ For federal guidance, see the following link: <http://www.fhwa.dot.gov/federalaid/080626.cfm>

8.6 – RESOLVING CONFLICTS

To keep projects moving, MaineDOT, MPOs and communities must establish processes to resolve conflicts. This section offers conflict resolution guidelines.

❑ Project design

MaineDOT project managers must keep MPO staffs, municipal representatives and the MaineDOT MPO coordinator informed of scope, cost or schedule changes. MPO staffs and municipal representatives must be invited to key milestone meetings – especially project kickoff, midway team meeting, and plan impacts completed.

Any time a cost, scope or schedule change arises:

- 1.) The project manager informs the MaineDOT MPO coordinator, municipality and MPO director. If MaineDOT, the MPO staff and the municipality consider the change significant, appropriate representatives from the Bureau of Transportation Systems Planning, the MPO staff, and the municipality attempt to resolve the issue. The MPO coordinator arranges for the discussions.
- 2.) If the initial discussion cannot resolve the issue, it goes to the appropriate MaineDOT program manager, the chief of the Bureau of Transportation Systems Planning, the MPO director and/or chair, and the city/town manager or other authorized municipal representative for final resolution.
- 3.) When the scope or cost changes, project agreements must be adjusted accordingly. Such changes may trigger amendments to the MPO transportation improvement program and MaineDOT statewide transportation improvement program. (See Section 7, “Transportation Improvement Programs,” for more information.)

❑ Project Advertise

MaineDOT awards a construction contract if the lowest responsible bid comes in at or below the engineer’s estimate. When the low bid exceeds the estimate, MaineDOT works with the MPO and the municipality to resolve the issue, as follows:

- 1.) MaineDOT project manager, MPO coordinator and/or other staff member from the Bureau of Transportation Systems Planning consult with representatives from the MPO staff and the municipality, in an attempt to answer two questions:
 - ✓ Was a fair bid process followed?
 - ✓ Is the MPO willing to increase the available funding?
- 2.) If all parties agree that the process was fair, and the MPO is willing to increase the funding, MaineDOT awards the contract after the MPO takes appropriate action. Similarly, if all parties agree the bids are too high, the bids may be rejected.

- 3.) If MaineDOT, the MPO staff and the municipality disagree on whether to award the contract, the issue goes to the appropriate MaineDOT program manager, the chief of the Bureau of Transportation Systems Planning, the MPO director, and the city/town manager or other authorized municipal representative.

❑ Significant change orders during construction

MaineDOT must communicate with the MPO staff and the municipality whenever an issue threatens to halt or delay progress on a project. The project manager usually informs the MaineDOT MPO coordinator, the MPO director and the sponsoring municipality upon learning about an issue that could threaten progress. MaineDOT, the MPO and the municipality should observe the following process to resolve issues:

- 1.) The project manager and representatives from the Bureau of Transportation Systems Planning, MPO staff and municipality initially attempt to resolve the issue. If, after the discussions, all parties agree on a resolution, then either MaineDOT or the MPO takes appropriate action and the project proceeds.
- 2.) If the initial meeting fails to resolve the issue, it is elevated to the next level – involving the MaineDOT program manager, the chief of the Bureau of Transportation Systems Planning, the MPO director, and the city/town manager or other authorized municipal representative.

Note: MPOs require policy committee action to increase the funding in a project. Most MPOs have provisions for emergency e-mail votes.

❑ Project Closeout

MaineDOT must communicate with the MPO staff and the municipality whenever it appears that project costs will exceed the available funding or that certain aspects of a project may be deemed ineligible for federal funding. Typically, the MaineDOT project manager informs the MaineDOT MPO coordinator, the MPO director and the sponsoring municipality that the cost of a project is likely to exceed the available funding – or that a portion of a project might become ineligible for federal funding. In such an event:

- 1.) The project manager and representatives from the Bureau of Transportation Systems Planning, MPO staff, and the municipality initially attempt to resolve the issue. If, after the discussions, MaineDOT, the MPO and the municipality agree on a resolution, then MaineDOT and/or the MPO take appropriate action.
- 2.) If the initial meeting fails to resolve the issue, it is elevated to the next level – involving the MaineDOT program manager, the chief of the Bureau of Transportation Systems Planning, the MPO director, and the city/town manager or other authorized municipal representative.

8.7 – LOCALLY ADMINISTERED PROJECTS

MaineDOT’s Local Project Administration Program enables communities to administer the design and construction of state and/or federal-aid projects with MaineDOT oversight. Before undertaking a locally administered project (LAP), a municipal public works director, engineer or other appropriate official must complete certification training through MaineDOT. This training covers federal and state requirements for transportation projects.¹⁷

LAPs in MPO areas commonly involve:

- Development of sidewalks, bicycle ways and multi-use trails.
- Installation of traffic signals.
- Routine highway resurfacing.
- Highway rehabilitation.

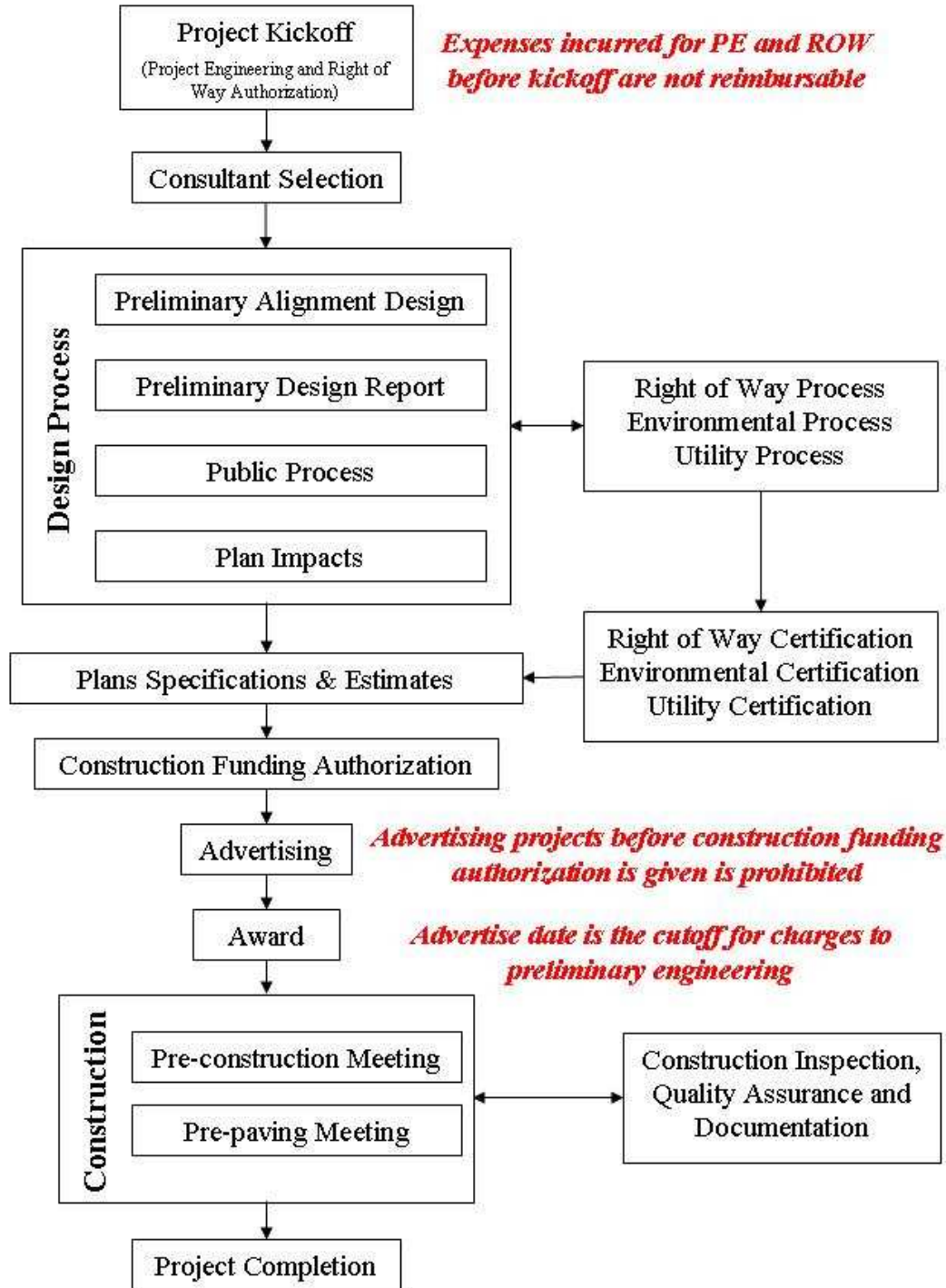
Communities may request authorization to undertake LAPs through MaineDOT’s Bureau of Project Development, which oversees the Local Project Administration Program. MaineDOT project managers work with local officials to determine if local administration is appropriate for particular projects. Each project approved for delivery as an LAP is assigned a MaineDOT project manager, who oversees the project development process, authorizes various stages of project development, and serves as a resource for the municipality.

Communities commonly undertake LAPs for the following reasons:

- A city/town may coordinate a state or federally funded project with local public works projects.
- A city/town may subsidize its engineering staff by charging time spent on an LAP to the project, as a way to absorb part of the municipal matching share.
- A city/town may want greater control over the schedule and cost of a project.
- A city/town may be able to use its public works force to construct the project. Before beginning construction using a so-called “force account” process, a municipality must demonstrate two things:
 - ✓ That the project can be delivered for less than the MaineDOT estimate; and
 - ✓ That the project can be built according to acceptable federal and/or state construction standards and specifications.

¹⁷ For more information about locally administered projects, see the MaineDOT website: <http://www.State.me.us/mdot/locally-administrated-projects/consultant-brochure.php>

Locally Administered Project – Process Flowchart



❑ Roles and responsibilities

The Multimodal Program in the Bureau of Project Development oversees most LAPs. MaineDOT has final authority over whether specific projects may be locally administered. The department makes this determination after reviewing municipal resources and the proposed scopes of work. If MaineDOT authorizes a municipality to undertake an LAP, the municipal sponsor must consult with the MaineDOT project manager periodically through the project development process. In most cases, MaineDOT will undertake any right-of-way takings.¹⁸

Work cannot begin until:

- ✓ The municipality and MaineDOT sign a Local Project Agreement; and
- ✓ The MaineDOT project manager gives the municipality authorization to proceed.

❑ Funding LAPs

MPO-sponsored LAPs are funded through each MPO's two-year allocation of federal capital improvement funds. MaineDOT and communities provide matching shares, as appropriate. Communities should direct requests for additional federal funding for LAPs to the sponsoring MPO.

Communities that undertake LAPs do not receive direct grants. Instead, they are reimbursed for eligible project costs. MaineDOT project managers must approve all costs in advance as either eligible or ineligible for federal funding, and communities submit requests for reimbursement of pre-approved, eligible expenses after they occur.

Eligible project costs include, but are not limited to, the following:

- Design engineering;
- Permitting;
- Right-of-way;
- Utility coordination;
- Advertisement;
- Construction; and
- Construction inspection.

Ineligible project costs include, but are not limited to, the following:

- Municipal administrative costs;
- Costs not accepted by the MaineDOT project manager; and/or
- Any costs that occur before authorization from the MaineDOT project manager.

¹⁸ A complete copy of the MaineDOT *Local Project Administration Manual* is available through the following link: http://www.maine.gov/mdot/locally-administrated-projects/documents/07-00-LPAManual2_000.pdf

Note: Any work done *before* a MaineDOT project manager issues a letter of authorization to proceed and executes a local project agreement is ineligible for federal or state funding. Similarly, advertising a project for construction before a project manager has issued a letter of authorization to advertise also makes a locally administered project ineligible for federal or state funding.

❑ Federal and state requirements

LAPs undertaken with federal funds must meet requirements that include, but are not limited to, the following:

- Qualifications-based selection procurement for consultants.
- Compliance with the National Environmental Policy Act (NEPA).
- MaineDOT's utility coordination policy.
- MaineDOT design and specification standards.
- Right-of-way acquisitions under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, which requires that property owners be offered at least fair market value before negotiations begin. *Note: MaineDOT in most cases will handle the right-of-way process.*
- Sign-off from the Maine Historic Preservation Commission

8.8 - SUMMARY

The MaineDOT Bureau of Project Development delivers the projects in MaineDOT's two-year work plan. MaineDOT assigns a project manager to oversee development of each project, including those sponsored by MPOs.

The project development process observes several major steps:

- Project kickoff.
- Initial team meeting
- Preliminary alignment complete.
- Midway team meeting.
- Plan impacts complete.
- Contracts package complete.
- Project advertise/award.
- Construction begins.
- Construction complete.
- Project complete.

❑ Project agreements

The following agreements govern the project development process:

- 1.) MaineDOT enters into a Federal-Aid Project Agreement with the Federal Highway Administration before a project is formally kicked off.
- 2.) MaineDOT in fiscal year 2010 began using a Three-Party Agreement involving the department, MPO, and municipality. This agreement governs projects sponsored by an MPO but developed by MaineDOT. (It replaced the Municipal/State Project Agreement as the standard agreement for MPO projects.) *The exceptions are locally administered projects, which will continue to have separate agreements.*

❑ Locally administered projects

MPO projects may be administered locally. Before undertaking a locally administered project (LAP), a municipal public works director, engineer or other appropriate official must complete LAP certification training through MaineDOT that covers federal and state requirements for transportation projects.

The Bureau of Project Development oversees MaineDOT's Local Project Administration Program, and a MaineDOT project manager is assigned to each LAP. Any work done before a MaineDOT project manager issues a letter of authorization to proceed, and executes a local project agreement, is ineligible for federal or state funding. Similarly, advertising a project for construction before a MaineDOT project manager has issued a letter of authorization to advertise also makes an LAP ineligible for federal or state funding.

❑ Web resources

Federal Highway Administration Historic Preservation and Archaeology Program
<http://environment.fhwa.dot.gov/histpres/index.asp>

Federal Highway Administration, *A Guide to Federal-Aid Projects and Programs*
<http://www.fhwa.dot.gov/federalaid/projects.cfm?progProj=allp#c47>

Federal Highway Administration guidance on highway design standards
<http://www.fhwa.dot.gov/environment/flex/index.htm>

Federal Highway Administration guidance on repayment of funds for canceled projects
<http://www.fhwa.dot.gov/federalaid/080626.cfm>

MaineDOT construction bid packages
http://www.state.me.us/mdot/contractor-consultant-information/contractor_cons.php

MaineDOT Environmental Office
http://www.state.me.us/mdot/environmental-office-homepage/other_environmental.php

MaineDOT Local Project Administration Program

<http://www.state.me.us/mdot/locally-administrated-projects/consultant-brochure.php>

MaineDOT permits

http://www.state.me.us/mdot/permits/apply_dot_permits.php

MaineDOT project advertising schedule

<http://www.state.me.us/mdot/contractor-consultant-information/rfp-rfq/to-be-advertised.php>

Maine Sensible Transportation Policy Act

<http://www.maine.gov/mdot/planning-documents/stpa/index.htm>.

National Environmental Policy Act

<http://environment.fhwa.dot.gov/projdev/index.asp>

Public involvement

http://www.fhwa.dot.gov/environment/pi_p_d.htm

Real estate acquisitions, federal guidance

<http://www.fhwa.dot.gov/realestate/lpaguide/index.htm>

Survey data, MaineDOT

<http://www.state.me.us/mdot/survey-data/photogrammetry-home.php>

Utilities coordination process, MaineDOT

<http://www.state.me.us/mdot/utilities/utilities-home.php>

Utility rights of way, federal guidance

<http://www.fhwa.dot.gov/realestate/rowutil1.htm>

Section 9:

Public Involvement and Title VI

9.1 - PUBLIC INVOLVEMENT

Transportation affects people's lives. For this reason, metropolitan planning organizations (MPO) must consider the social, economic and environmental consequences of their actions to ensure that transportation programs support community values.

By federal regulation, each MPO must have in place a public participation plan, before approving its long-range plan and transportation improvement program (TIP). This plan must be developed with transportation stakeholders and provide reasonable opportunities for public involvement. MPOs should strive to identify and address the concerns of everyone with an interest in transportation decisions, especially members of the following groups traditionally under-served by the transportation system:

Primary Federal Regulation
23 CFR, part 450.316

- Transit dependent citizens.
- People with disabilities.
- Elderly residents.
- Low-income and minority households.
- People with limited commands of English.

Other interested parties that should be considered in the MPO planning process include:

- Pedestrians and bicyclists.
- Affected public agencies.
- Freight shippers.
- Freight transportation providers.
- Private transportation providers.
- Representatives of users of public transportation.

When the metropolitan planning area includes tribal lands, an MPO must involve tribal governments in the development of its long-range plan and TIP. In Maine, this requirement applies to BACTS, the MPO for greater Bangor, which covers part of the Penobscot Indian Nation.

❑ **Public involvement tools**

MPOs by federal and state law must engage the public as they develop their transportation plans and programs. But how do they do this? What follow are a variety of tools that MPOs should consider using, as appropriate, to raise awareness about what they do.

- **Meetings**
 - ✓ Meetings tend to be the first approach. Keep in mind, however, that many people often are too busy with other demands on their time or have conflicts with meeting times. MPOs, therefore, should develop and maintain contact lists to ensure that interested people are kept informed.
- **Newspaper advertisements**
 - ✓ Notices about meetings and draft plans should be placed in newspapers and posted to MPO websites.
 - ✓ MPOs also should consider using paid display advertisements, as appropriate, to raise awareness of project-specific meetings and other events.
- **News releases and commentaries**
 - ✓ MPOs are encouraged to send news releases to newspapers, television stations and radio outlets to promote important meetings, transportation plans and other activities.
 - ✓ MPOs also should consider submitting letters to the editor and opinion pieces to local newspapers to raise public awareness of meetings or other activities.
- **Website comment boxes**
 - ✓ MPOs should consider using their websites to obtain feedback from the public about plans and programs.
- **Comment cards**
 - ✓ MPOs can place comment cards at meetings for people who might be uncomfortable speaking in public or who may think of a comment or question later on.
- **Brochures and other mass-distribution materials**
 - ✓ Brochures and handouts are relatively inexpensive tools for providing information about policies, programs and other, more specific topics.
- **Newsletters**
 - ✓ Some MPOs regularly publish newsletters to inform citizens, communities, the news media and other interested groups about their activities.
- **Presentations**
 - ✓ Some MPO staffs make presentations to civic and professional groups, including chambers of commerce, to raise awareness about their activities.

- **Workshops, forums and open houses**
 - ✓ MPOs occasionally hold workshops, forums and open houses to provide information to the public, to solicit comments and/or to obtain a sense of public priorities.
- **Public opinion surveys**
 - ✓ Surveys can be used occasionally to obtain specific information. The Portland area MPO, for example, once funded a statistically valid telephone survey to gauge the level of support for regionally significant projects proposed in its region.
- **Databases of interested parties**
 - ✓ Databases identifying potentially interested parties can enhance public involvement activities. The databases should include information such as mailing addresses, affiliations, phone numbers, e-mail addresses and websites.
- **Visual displays**
 - ✓ MPOs are encouraged to use maps, charts and other displays to present information about their plans and programs, since many people can relate better to images than to written text.

☐ **Requirements for public involvement**

Federal regulations require MPOs to make their long-range plans, TIPs and air-quality conformity determinations available for public review. MPOs also should provide transportation stakeholders and other interested parties with reasonable opportunities to comment on proposed long-range plans and TIPs.

MPO public participation plans, by federal regulation, must describe the procedures, strategies and desired outcomes for the following:

- Providing adequate notice of public participation activities and time for public review and comment on proposed long-range plans and TIPs;
- Providing timely notice and reasonable access to information about transportation issues and planning processes;
- Making public information available in electronically accessible formats and means, including the Internet;
- Holding meetings at convenient times and at accessible locations, in compliance with the Americans with Disabilities Act;¹⁹

¹⁹ The U.S. Department of Justice offers guidance on complying with the Americans with Disabilities Act, at the following website: <http://www.usdoj.gov/crt/ada/pcautookit/toolkitmain.htm>

- Demonstrating that an MPO considered and responded to comments from the public during the development of the MPO long-range plan and TIP;
- Periodically reviewing the effectiveness of the procedures and strategies in the MPO public participation plan to ensure that they comply with applicable federal regulations, including 23 CFR, Section 450.210, “Interested parties, public involvement, and consultation,”; and
- Using visual elements to describe long-range plans and TIPs. Examples include models and maps, artist renderings, interactive geographic information systems, GIS-based scenario planning tools, photo manipulation, and computer simulation.

❑ **Public participation plan updates**

MPOs periodically must review their public involvement processes to determine their effectiveness in providing transportation stakeholders and other interested parties with full and open access to their decision-making. They should update their public participation plans as needed to stay current with relevant federal and state regulations.

Triggers for plan updates may include trends that dramatically change community demographics, such as large-scale arrivals of new minority populations. MPOs should strive to ensure that interested parties – and especially members of minority and low-income households – have opportunities for meaningful involvement in the development of regional transportation plans and programs.

After allowing public comment periods of at least 45 days, MPOs must provide their approved or revised public participation plans to the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) for informational purposes. Participation plans, whenever possible, should be posted to MPO websites.

9.2 – TITLE VI and ENVIRONMENTAL JUSTICE

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color or national origin in any program receiving federal money. Additionally, a presidential executive order in 1994 directed every federal agency – including the U.S. Department of Transportation – to make “environmental justice” part of its mission by identifying and addressing the effects of all programs, policies and activities on minority and low-income populations. These requirements apply to agencies receiving federal funds, including MPOs.

Environmental justice requirements seek to do the following:

- Ensure that representatives of low-income and minority groups are involved in decision-making;
- Prevent "disproportionately high and adverse" impacts on low-income and minority groups; and
- Assure that low-income and minority groups share in any benefits.

Primary Federal Regulations

23 CFR, part 200.9

28 CFR, part 42

49 CFR, part 21

MPOs must demonstrate that their plans, programs and projects do not disproportionately affect minority or low-income populations. To that end, the Federal Highway Administration (FHWA) regional office in Maine requires MPOs to maintain plans for complying with the non-discrimination requirements of Title VI and environmental justice. Maine MPOs annually update their compliance plans and submit them to the FHWA for review – with copies to MaineDOT – usually around the October 1 start of a new federal fiscal year.

Federal guidance

The FHWA and the FTA have issued guidelines for incorporating Title VI and environmental justice concerns into transportation planning.²⁰ MPO compliance plans must:

- Document the residential, employment and transportation patterns of low-income and minority populations so that their needs can be identified and addressed, and the benefits and burdens of transportation investments can be fairly distributed.
- Evaluate and – where necessary – improve the public involvement processes, by eliminating participation barriers in order to engage minority and low-income populations in transportation decision making. MPOs should strive through their public involvement processes to encourage meaningful community representation.

In particular, the following questions are important in addressing Title VI and environmental justice issues in the transportation planning process:

- How will the public participation process reach low-income and minority communities? Specifically:
 - ✓ What information will be disseminated?
 - ✓ How and where will information be disseminated?
 - ✓ Where and when will public meetings be held?

²⁰ For more information about Title VI and environmental justice, see the U.S. Department of Transportation website: <http://www.fhwa.dot.gov/environment/ej2.htm>

- ✓ Are other avenues being used to reach minority and low-income communities? Suggestions include having contact with community leaders and/or community advisory boards, and holding forums or surveys.
- ✓ How will the process elicit issues of concern to minority and low-income residents?
- What statistics are being collected about minority/low-income communities, and how are they used to assess possible inequities? Actions to take include:
 - ✓ Evaluating what information is being collected.
 - ✓ Identifying what further information can and should be collected.
 - ✓ Analyzing the data to identify potential inequities.
 - ✓ Developing measures to verify whether there is equitable distribution of the benefits and burdens of transportation services.
- How are information and data incorporated? Questions include:
 - ✓ How are environmental justice and Title VI considered in creating the Metropolitan Long-Range Transportation Plan?
 - ✓ Is additional information needed to consider the impacts of transportation decisions on low-income and minority communities?
 - ✓ How are the specific interests of minority and low-income populations addressed?

□ **MaineDOT responsibilities**

MaineDOT, through its Office of Civil Rights, ensures that its plans, programs and procedures comply with Title VI and environmental justice rules. The FHWA and FTA oversee MaineDOT compliance efforts, which include, but are not limited to, the following:

- Performing Title VI reviews of sub-recipients of federal funds, including MPOs.
- Signing annual assurances of compliance with all applicable laws and regulations.
- Promptly processing, investigating and resolving Title VI complaints.
- Correcting deficiencies.
- Updating Title VI implementation plans.
- Providing Title VI information to the public.
- Delivering training programs.

❑ MPO responsibilities

Title VI applies to all organizations that receive federal money, including MPOs and their contracted consultants. Additionally, Title VI covers all MPO activities, regardless of whether they are federally funded. Just as federal agencies oversee MaineDOT's compliance efforts, MaineDOT must ensure that MPOs comply with Title VI. MPO responsibilities include, but are not limited to, the following:

- Updating Title VI compliance plans each year.
- Signing assurances of compliance with applicable anti-discrimination laws and regulations.
- Ensuring that contracted consultants comply with Title VI, through periodic reviews, and incorporate the requirements of Form FHWA-1273 in all contracts.²¹
- Keeping accurate and complete records needed to determine Title VI compliance.
- Soliciting and considering the views of all groups within the population of the metropolitan area in planning transportation projects. Such information should be included in MPO public participation and Title VI compliance plans.
- Promptly processing, investigating and resolving Title VI complaints, and correcting deficiencies.

9.3 – SUMMARY

❑ Public involvement

MPOs by federal regulation must have in place a public participation plan that describes strategies for addressing the concerns and issues of everyone with a stake in transportation decisions. Public participation plans must provide reasonable opportunities for public involvement, leading to an open and collaborative process that provides meaningful opportunities to influence transportation decisions.

The public includes anyone who lives in, has an interest in, or does business in an area potentially affected by transportation decisions, including individuals and organized groups. MPOs should provide opportunities for the participation of private and public providers of transportation services – the trucking and rail freight industries, passenger rail industry, and transit and paratransit service operators. Additionally, MPOs should encourage the involvement of people traditionally underserved by transportation systems, including those in low-income or minority households, people with limited commands of English, and the elderly.

²¹ Information about Form FHWA-1273 is available on the Federal Highway Administration website: <http://www.fhwa.dot.gov/programadmin/contracts/1273.cfm>

❑ Title VI

MPOs by federal law must ensure that their long-range plans and transportation improvement programs do not disproportionately harm minority or low-income populations. The intent is to ensure that MPOs do not spend public funds in a way that encourages, subsidizes or causes discrimination.

At the heart of this requirement is Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color or national origin in any program receiving federal money. Title VI and environmental justice apply to all organizations that receive federal money, including MPOs and their contracted consultants.

Title VI serves to ensure that services are fairly distributed to all people, regardless of race, national origin or income, and that all people have access to meaningful participation. Compliance with Title VI in transportation programs is achieved through:

- Avoiding, minimizing, or mitigating disproportionately high health and environmental harm to minority and low-income populations.
- Ensuring the full and fair participation in the transportation decision-making process by all potentially affected groups.

❑ Web resources

Americans with Disabilities Act

<http://www.usdoj.gov/crt/ada/pcatoolkit/toolkitmain.htm>

Androscoggin Transportation Resource Center (ATRC), public process

<http://geekteam.dreamhosters.com/BlogFiles/Documents/PUBLIC%20PARTICIPATION%202004.pdf>

Bangor Area Comprehensive Transportation System (BACTS), public process

<http://www.bactsmpo.org/pdf/DraftPubPart.pdf>

Federal guidance on environmental justice

<http://www.fhwa.dot.gov/environment/ej2000.htm>

Federal guidance on public involvement

<http://www.fhwa.dot.gov/environment/pubinv2.htm>

MaineDOT Office of Civil Rights

<http://www.maine.gov/mdot/disadvantaged-business-enterprises/dbe-home.php>

Portland Area Comprehensive Transportation System (PACTS) public process

http://pactsplan.org/organization_committees/TitleVI_PIP.php

Section 10:

Air Quality Conformity

The federal Clean Air Act Amendments of 1990 require that transportation and air quality planning be linked in regions that fail to meet national air quality standards. The U.S. Environmental Protection Agency (EPA) designates such regions as non-attainment areas for transportation-related pollutants – primarily tailpipe emissions such as ozone precursors, carbon monoxide, and particulate matter. The law also applies to maintenance areas, which are regions that formerly violated but now meet federal air quality standards.²² Maintenance areas retain that probationary status for 20 years.

Metropolitan planning organizations (MPO) in non-attainment and maintenance areas must ensure that their proposed transportation investments will neither cause new violations nor affect an area's schedule to attain federal air quality standards. The resulting air-quality conformity process requires regulators to compare estimates of vehicle emissions in the existing transportation system against estimates of emissions with proposed improvements.

The Maine Department of Environmental Protection (MaineDEP) assists MaineDOT in performing conformity analyses on MPO long-range plans and transportation improvement programs (TIP), as well as MaineDOT's long-range plan and statewide transportation improvement program (STIP). MaineDEP, by federal law, produces two documents:

- A state implementation plan that shows how Maine will meet national air quality standards for a variety of pollutants; and
- An emissions budget that sets specific reduction targets for motor vehicle pollution in non-attainment and maintenance areas.

A conformity determination is required whenever an MPO in a non-attainment or maintenance area updates its long-range plan or TIP, and each time MaineDOT produces or amends its long-range plan and STIP. The projected amount of pollution from proposed projects must fall below MaineDEP-established emissions targets. If the additional pollution from new-capacity projects cannot be offset, either:

- New capacity projects should not go forward; or
- Project scopes should be modified to ensure that emissions targets are met.

²² As of 2007, there are no designated non-attainment areas in Maine. PACTS and KACTS have been upgraded from Non-attainment to maintenance status. BACTS and ATRC are Attainment Areas.

10.1 – ROLE of MaineDOT

MaineDOT’s Bureau of Transportation Systems Planning coordinates the development of MPO long-range plans and TIPs with the MaineDEP statewide plan to meet federal air quality targets. MaineDOT:

- Performs conformity analyses – with MaineDEP – on MPO long-range plans and TIPs in non-attainment and maintenance areas. MaineDOT conducts similar analyses on its STIP.
- Convenes quarterly meetings with representatives from MPOs, MaineDEP, U.S. EPA, Federal Highway Administration (FHWA), and Federal Transit Administration (FTA).
- Consults with each MPO and MaineDEP on the design, schedule and funding of research and data collection efforts for the regional transportation model.

Federal Regulations
23 CFR 450.208(b)
23 CFR 450.216(b)

10.2 – ROLE OF THE MPO

MPOs in non-attainment and maintenance areas must decide on a mix of transit and highway investments that, either alone or combined with other measures, will keep emissions within MaineDEP-established targets for tailpipe pollution. A conformity determination is required each time an MPO updates its long-range plan or TIP, except for minor adjustments, and each time MaineDOT amends or releases a new STIP.

Primary Federal Regulations
23 CFR 450.312
23 CFR 450.320 to 450.326

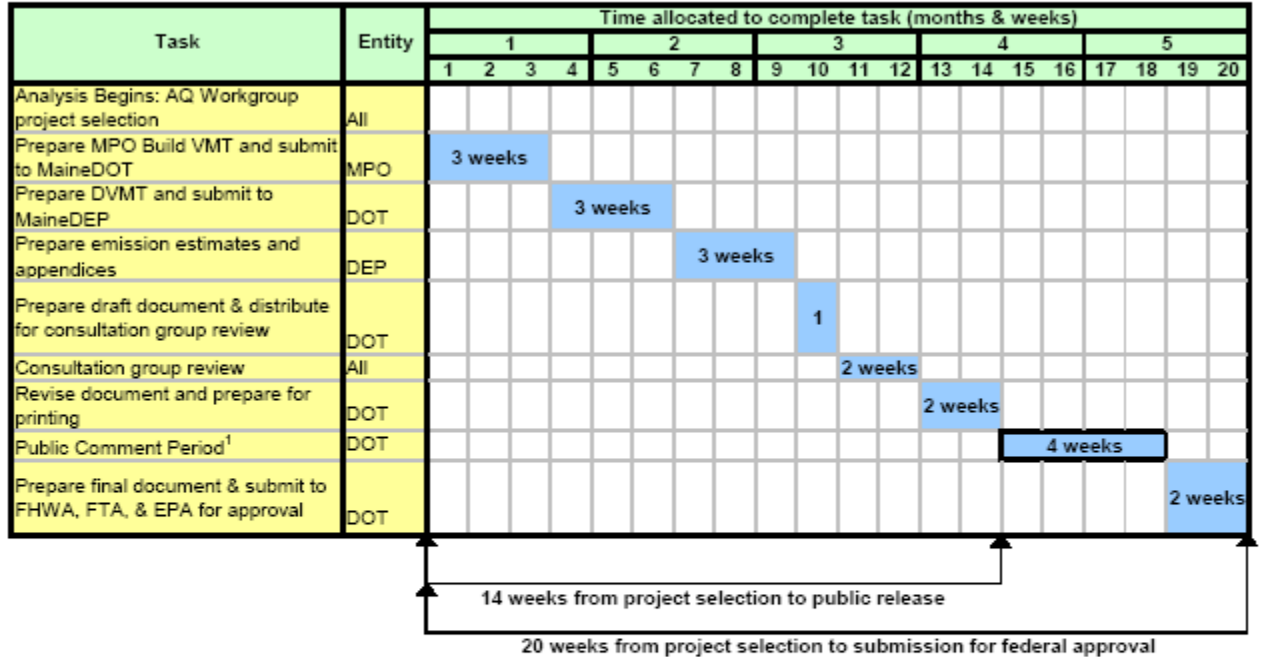
MPO long-range plans, TIPs and associated projects cannot, by federal law:

- Create new violations of the National Ambient Air Quality Standards;
- Increase the frequency or severity of existing violations; or
- Delay the attainment of the standards.

MPO TIPs covering non-attainment and maintenance areas are subject to FHWA and FTA conformity findings before they may be included in the STIP; this requirement applies to the KACTS (Kittery area) and PACTS (greater Portland) MPOs, covering southern Maine.

These MPOs work with MaineDOT to conduct conformity analyses as they develop their long-range plans and TIPs. Once a draft set of project alternatives is chosen, an analysis must be done to ensure that air quality conformity is possible.

Air Quality Conformity Analysis Timeline (draft)



1. Public comment period is 30 days for STIP/TIPs and 45 days for Long Range Plans

Source: Maine Department of Transportation

MaineDOT and MaineDEP complete the conformity analyses for each MPO. (MPOs with populations greater than 200,000, known as Transportation Management Areas, must prepare their own analyses. Maine has no TMAs.)

During the conformity-analysis process, MPOs in non-attainment or maintenance areas must take the following steps:

- Make a good faith effort to provide MaineDOT a complete list of projects that require a conformity analysis within a reasonable amount of time before completion of a TIP/STIP conformity analysis.
- Provide opportunities for the MPO, MaineDOT and MaineDEP to update one another on new regionally significant transportation projects that are reasonably expected to receive funding.
- Maintain and update long-range plans that conform to federal and state laws. MPOs should make good-faith efforts to consult MaineDOT at least 90 days before requiring a conformity analysis supporting a long-range plan update.

10.3 - OPTIONS FOR REDUCING EMISSIONS

MPOs in air quality non-attainment and maintenance areas may adopt policies in their long-range plans and TIPs that help to reduce emissions. Examples include:

- Improving public transit.
- Coordinating signal timing to improve traffic flows and reduce idling times.
- Investing in bicycle and pedestrian accommodations, including bike lanes.
- Supporting access management measures that curb the number of driveways and other access points along major highways.
- Working with MPO-member communities, MaineDOT and the Maine State Planning Office to promote development patterns that encourage walking, bicycling and the use of public transit.

10.4 - SUMMARY

Federal laws require that transportation and air quality planning be integrated in areas that the U.S. Environmental Protection Agency has designated as air quality non-attainment or maintenance. In Maine, this requirement applies to the MPOs serving the Kittery and Portland regions, which are in a designated maintenance area.

The Maine Department of Environmental Protection (MaineDEP) must produce a statewide plan that shows how Maine plans to meet national air quality standards for tailpipe pollution. The agency develops an emissions “budget” that sets vehicle pollution limits. Transportation plans and programs, including those developed by MaineDOT and two of the four MPOs, must meet the targets in the emissions budget.

MPOs should work with MaineDOT to set motor vehicle emissions targets. MPOs in non-attainment and maintenance areas must decide on transit and highway investments that, either alone or combined with other measures, will meet Maine’s established regional targets for tailpipe pollution.

Federal agencies must make an air-quality conformity determination whenever an MPO updates its long-range plan or transportation improvement program (TIP), and each time MaineDOT amends or releases a new statewide transportation improvement program (STIP). MPO long-range plans, TIPs and associated projects cannot:

- Create new violations of federal air quality standards;
- Increase the frequency or severity of existing air quality violations; or
- Delay the attainment of federal air quality standards.

MPOs should participate in air quality planning with MaineDOT and MaineDEP and identify transportation strategies that will help reduce emissions. MPOs in non-attainment and maintenance areas can adopt policies in their long-range plans and TIPs that help to reduce emissions. Examples include:

- Improving public transit.
- Coordinating signal timing to improve traffic flows and reduce idling times.
- Investing in bicycle and pedestrian accommodations, including bike lanes.

❑ Web resources

Federal laws and regulations

http://www.fhwa.dot.gov/environment/conformity/con_laws.htm

MaineDOT air quality conformity and analysis

http://www.state.me.us/mdot/air_quality-noise/air-quaility-noise.php

Maine Department of Environmental Protection (MaineDEP)

<http://www.maine.gov/dep/air/>

Congestion Mitigation and Air Quality Improvement (CMAQ) Program

<http://www.fhwa.dot.gov/environment/cmaqpgs/>

APPENDIX

Appendix A

Definitions

Definitions of Transportation Terms

Advance construction – A Federal Highway Administration financing technique allowing a state to initiate a project without federal funds, while preserving the project’s eligibility for federal-aid funds. MaineDOT uses advance construction as a cash-flow management tool.

Air quality conformity – This process ensures that transportation plans and associated projects are consistent with federal air quality standards. Metropolitan planning organizations that were previously or are currently in non-attainment status with the federal Clean Air Act Amendments of 1990 must demonstrate that their long-range plans, transportation improvement programs and projects conform to Maine’s plan for meeting clean air standards.

Air quality maintenance area – A geographic region previously designated by the Clean Air Act Amendments of 1990 as non-attainment, then upgraded to probationary attainment status subject to continued compliance with national air quality standards. The Portland Area Comprehensive Transportation System (PACTS) and the Kittery Area Comprehensive Transportation Study (KACTS) are in designated maintenance areas.

Air quality non-attainment area – A region that the U.S. Environmental Protection Agency has designated as failing to meet national air quality standards.

Allocation – An administrative outlay of funds for programs that do not have distribution formulas described in law. MaineDOT allocates a portion of its federal capital improvement funds to Maine’s four metropolitan planning organizations.

Amendment – A revision to a long-range transportation plan or transportation improvement program that is significant enough to require public review and comment, a new demonstration of fiscal constraint, and/or an air-quality conformity determination. Examples include the addition or deletion of a project; or a substantial change in the cost, design concept, or scope of a project included in a long-range transportation plan or transportation improvement program.

Apportionment – The distribution of funds using a formula prescribed by law. Federal transportation funds are apportioned to Maine.

Authorization Act – Basic, substantive legislation that establishes or continues federal programs and establishes a limit on the amount of funds for those programs. The current authorization act for surface transportation programs is the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Biennial Capital Work plan – The work plan lists projects proposed through MaineDOT for funding implementation over two years, consistent with MaineDOT’s long-range plan. It is submitted to the Legislature by March 30 of every odd-numbered calendar year in support of MaineDOT’s budget request. Maine’s four metropolitan planning organizations provide project lists to support this document.

Brooks Act – A federal law (Public Law 92-582) that establishes federally mandated procedures for the qualifications-based selection of consultant services for projects of \$100,000 or more.

Capital improvement project – A project that creates a new transportation facility or that increases the value of an existing asset by raising its capacity, improving its efficiency or extending its original useful life.

Clean Air Act Amendments of 1990 – This law, which updates the earlier Clean Air Act, specifically ties clean air improvements to receipt of federal transportation funding and imposes requirements on the transportation sector.

Capacity – A transportation facility’s ability to accommodate a moving stream of people or vehicles in a given time period.

Capital improvement allocation – MaineDOT every two years sets aside a portion of its Surface Transportation Program and National Highway System funding for Maine’s four metropolitan planning organizations. This allocation is based on a formula established by agreement between MaineDOT and each MPO. MPOs are responsible for identifying, selecting and prioritizing a financially balanced, multi-year program of capital improvement projects using this money.

Construction engineering – All project engineering work after the start of construction.

Congestion Mitigation and Air Quality Improvement Program – The CMAQ program funds projects in air quality non-attainment and maintenance areas that are calculated to reduce ozone precursors. This type of funding applies to the greater Portland and Kittery areas.

Coordination – The comparison of the transportation plans, programs and product schedules of one agency with related plans, programs and product schedules of other agencies. The goal is to achieve consistency.

Cooperation – The parties involved in transportation planning, programming and system management work together to achieve a common goal or objective.

Cooperative agreement – Before starting work on the tasks in a unified planning work program or spending federal or state planning funds, a metropolitan planning organization (MPO) must have in place a cooperative agreement with MaineDOT that spells out the roles and responsibilities of the state and the MPO. Cooperative agreements must cover two years – one state biennium – and be in place before July 1 of every odd-numbered calendar year.

Environmental justice – A federal requirement, imposed by Executive Order 12898, that prohibits disproportionately high and adverse impacts on minority and low-income populations, with respect to human health and the environment. The order applies to the planning, programming, and implementation of transportation programs and projects.

Environmental Protection Agency (EPA) – This federal agency implements the provisions of the Clean Air Act Amendments of 1990 at the federal level.

Federal Highway Administration (FHWA) – The federal agency within the U.S. Department of Transportation that administers the Federal-Aid Highway Program.

Federal Transit Administration (FTA) – A branch of the U.S. Department of Transportation that administers programs and funding affecting mass transit.

Fiscal constraint – Making sure that a given program or project can reasonably expect to receive funding within the time set aside for its implementation.

Fiscal year – The accounting period for the budget. The federal fiscal year starts October 1 and ends September 30. The state fiscal year runs from July 1 to June 30.

Functional classification – The process by which public roads are grouped into classes based on the character of service they provide. Urban roads fall into four broad categories: principal arterials, minor arterials, urban collectors, and local roads.

General Consultant Agreement (GCA) – A multi-year agreement between MaineDOT and a consultant setting forth a specific period of time, typically four years, under which future project contracts may be negotiated without repeating the selection process.

Hazard Elimination Program – A federal program that supports transportation safety improvements. Projects under the program are 90 percent federally funded. The program applies to all public highways, including local roads.

Highway improvement – An action taken to bring a highway up to modern standards applicable to the functional class for the road.

Lobbying – Federal regulations define “lobbying” as attempting to influence an officer or employee of a federal agency, a member of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract; the making of any federal grant or loan; or the entering into of any cooperative agreement.

Locally administered project (LAP) – Any MaineDOT project in which a municipality administers the design and/or construction. Cities and towns undertaking LAPs must be certified through the MaineDOT LAP Certification Program. Each LAP necessitates the execution of a Local Project Agreement detailing the project development requirements expected of the municipality and MaineDOT.

Long-range plan – A multimodal transportation plan covering at least 20 years. MaineDOT and Maine’s four metropolitan planning organizations produce long-range plans at least every five years. These plans outline the visions, goals, objectives and strategies for transportation improvements.

Maintenance Surface Treatment – A paving treatment used to keep a failing road operational. It typically consists of a 5/8-inch overlay. MaineDOT does not allow Maine’s four metropolitan planning organizations to use their allocated capital improvement funding for maintenance paving.

Metropolitan Planning Area (MPA) – The geographic area in which the metropolitan transportation planning process is carried out. It is determined by agreement between each metropolitan planning organization (MPO) and the governor. The boundary must encompass the existing urbanized area defined by the U.S. Census Bureau, along with the area expected to become urbanized within the 20-year forecast period of an MPO long-range plan.

Metropolitan planning organization (MPO) – A regional policy-making body that is responsible for carrying out the transportation planning process in an urban area with a population of 50,000 or more, as determined by the U.S. Census Bureau. MPOs work with MaineDOT and other partners to develop transportation plans and programs for their regions. Maine has four MPOs:

- Androscoggin Transportation Resource Center (ATRC)
- Bangor Area Comprehensive Transportation System (BACTS)
- Kittery Area Comprehensive Transportation Study (KACTS)
- Portland Area Comprehensive Transportation System (PACTS)

MPO project – A project selected by a metropolitan planning organization (MPO) for inclusion in the MaineDOT two-year work plan and the MPO four-year transportation improvement program.

Modification – A revision to a long-range plan or transportation improvement program that is not significant enough to require public review and comment, a new demonstration of fiscal constraint, or an air-quality conformity determination. Such modifications, according to the U.S. Department of Transportation, involve minor changes in the costs or initiation dates of transportation plans and programs.

National Ambient Air Quality Standards (NAAQS) – Federal standards that set allowable concentrations and exposure limits for various pollutants. These standards ensure that certain pollutants do not exceed specified levels more than once a year. Regions with levels of transportation-related air pollutants that violate the standards are designated as Non-attainment areas.

National Environmental Policy Act of 1969 (NEPA) – A federal law established to ensure that federally funded projects have a minimal impact on the environment, as well as on natural, cultural and economic resources. MaineDOT is obligated to consider all environmental factors under NEPA for all of its federally funded projects. The MaineDOT Bureau of Transportation Systems Planning is responsible for this aspect of project development.

National Highway System (NHS) – The NHS is a network of nationally significant highways approved by Congress in the National Highway System Designation Act of 1995. The NHS includes the Interstate System and nearly 114,000 miles of arterial and other roads and connectors to major intermodal terminals.

Obligation – The Federal Government’s legal commitment to pay or reimburse states and/or other entities for the federal share of a transportation project’s eligible costs. Once the federal funding in a capital improvement project is obligated, the percentage of federal participation cannot be changed.

Obligational authority – The total amount of funds that may be obligated in a year. For the Federal-Aid Highway Program, this consists of the *obligation limitation* – typically 85 to 90 percent of the federal apportionment – and amounts for programs exempt from the limitation.

Obligation limitation – A cap on the amount of federal funding that may be promised (obligated) during a set period. This is a budgetary control, required by federal law, which does not affect the apportionment or allocation of funds. Rather, it controls the rate at which these funds may be used.

Pavement structure – The pavement, gravel base, and sub-base of a roadway.

Preconstruction engineering (PCE) – The term covers all aspects of project engineering before construction.

Preliminary engineering (PE) – Early project engineering, usually done before the completion of preliminary design plans.

Preservation – Actions taken to preserve the investment in an existing transportation facility. Highway treatments falling under preservation may include repaving and drainage repair.

Project Identification Number (PIN) – A primary means of identifying and tracking projects within programs and information systems. MaineDOT assigns a PIN to all projects.

Project Management Information System (PROMIS) – A mainframe-based financial information system in use since the early 1980s. MaineDOT uses PROMIS as its primary financial information system.

Public involvement – A federal requirement of the transportation planning process. Metropolitan planning organizations must have formal public participation plans that are proactive and that provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement.

Reconstruction – A type of highway treatment that involves constructing a new pavement structure from the subgrade up, for more than half of the project length.

Regionally significant project – Regionally significant projects serve regional transportation needs such as access to and from major activity centers. They would usually be included in the modeling of a metropolitan area’s transportation network.

Rehabilitation – A type of highway treatment that may involve significant improvements to the pavement structure, including a new pavement structure, for up to half the project length.

SAFETEA-LU – The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The federal transportation funding measure became law in August 2005.

Six-year plan – MaineDOT every two years produces a Six-Year Transportation Improvement Plan that shows the projects it intends to undertake over six years, or three biennia. The six-year plan is the bridge between MaineDOT’s long-range transportation plan, which covers 20 years and consists of long-term goals and strategies, and the Biennial Capital Work Plan, which lists the projects MaineDOT will undertake in a two-year period.

Sole-source contract – A contract, without a formal selection procedure, that meets special criteria. Sole-source contracts involve consultant contracts for less than \$25,000, for which it is in the best interest of MaineDOT and/or a metropolitan planning organization to minimize the bureaucracy involved and establish a service in a timely and effective manner. This policy complies with the Federal Highway Administration policy memo of August 2, 1996 concerning the Simplified Acquisition Process.

Subgrade – The material below the “structure” of the road. The structure includes the pavement, the gravel base, and the sub-base.

State Implementation Plan (SIP) – A federally mandated plan that contains procedures to monitor, maintain, and enforce compliance with national air quality standards. Transportation planning in air quality non-attainment and maintenance areas must consider the SIP, which is developed by the Maine Department of Environmental Protection.

Stakeholders – Individuals and organizations involved in or affected by the transportation planning process.

Statewide transportation improvement program (STIP) – A multi-year, intermodal program of federal-aid transportation projects consistent with all other required transportation plans developed in Maine. It lists all projects that MaineDOT intends to undertake with federal transportation funds within a four-year period. The STIP is updated biennially, during odd-numbered calendar years.

Surface Transportation Program (STP) – A federal funding source for transportation projects associated with a public highway segment not functionally classified as rural minor collector or local road. Arterial and major (urban) collector highways qualify for STP funds.

Three-Party Agreement – An agreement involving MaineDOT, a metropolitan planning organization (MPO) and a municipality that is signed before design work on a capital improvement project begins. The agreement covers the roles and financial responsibilities of the three parties during the development of a capital improvement project that is sponsored by an MPO.

Title VI – Title VI of the Civil Rights Act of 1964 prohibits discrimination in any program receiving federal assistance. (See “Environmental Justice.”)

Transportation Enhancement Program – A category of federal funding. Ten percent of Surface Transportation Program funds must be set aside for projects that enhance the compatibility of transportation facilities with their surroundings.

Transportation improvement program (TIP) – A four-year, intermodal program of prioritized transportation improvements. The TIP lists all federally funded transportation projects in each of Maine’s four urbanized areas. Metropolitan planning organizations include projects they intend to program with their federal allocations, and MaineDOT lists the state-selected projects in each MPO area that will receive federal money. An initiative not listed in the TIP cannot receive federal transportation funds.

Transportation Management Area (TMA) – An urban area with a population of at least 200,000, as determined by the U.S. Census Bureau and officially designated by the U.S. Department of Transportation. TMA designation typically is requested by the governor and the affected MPO. Maine currently has no TMAs.

Unified planning work program (UPWP) – A UPWP addresses how a metropolitan planning organization will spend its federal highway and transit planning funds. It identifies the planning priorities and activities to be carried out within the MPO area in a two-year period.

Unbuilt road – A highway that MaineDOT has identified as needing reconstruction or other improvement to meet modern operational and safety standards and adequate structural capacity.

Urban collector – Collector highways in small urban or federally designated urbanized areas.

Urbanized area – A statistical geographic region designated by the U.S. Census Bureau. It consists of a central core and adjacent, densely settled territory that together have a residential population of at least 50,000, generally with an overall population density of at least 1,000 people per square mile. Federal law requires that a metropolitan planning organization (MPO) be designated to carry out the transportation planning process in each official urbanized area.

Vehicle miles traveled (VMT) – A calculation that transportation planners use in a variety of ways. VMT is the sum of distances traveled by all motor vehicles in a specified region. In urbanized areas, VMT is one of several factors that determine each metropolitan planning organization’s share of federal planning and capital improvement funding



Appendix B

Sample Request for Proposals



SAMPLE

Development of Sample Access Management Municipal Ordinances

The Bangor Area Comprehensive Transportation System (BACTS), the Metropolitan Planning Organization (MPO) for the greater Bangor area is soliciting Proposals from qualified consultants to develop a variety of sample access management municipal ordinance language and sample plans (drawings) for the BACTS area. It is expected that these samples can be used by each municipality to pick and choose the language and drawings that would best fit their municipality's unique needs.

PROJECT DEFINITION

As development along major corridors in the BACTS area continues to increase, mobility and safety often suffer. Access management is the careful planning of the location, design, and operation of driveways, median openings, interchanges, and street connections. The purpose of access management is to provide access to land development in a manner that preserves the safety and efficiency of the transportation system. The BACTS Policy Committee is interested having a consultant develop a variety of sample access management municipal ordinance language and plans or drawings. Each BACTS municipality can then use these samples to enhance their own ordinances that encourage constructive access management.

OBJECTIVES

1. Develop sample access management ordinances that communities can customize and adopt locally.
2. Meet with BACTS Committees at joint meetings at least twice; once at the beginning of the study for input and again near the end of the contract at a meeting to discuss the final draft product.

PRODUCTS

Produce sample access management ordinances that communities can customize and adopt locally.

Produce fifteen (15) electronic copies of the final sample ordinances on CD in MS Word 2003 format.

PROPOSAL REQUIREMENTS

Proposals shall include complete descriptions of the consultant's approach and level of effort to accomplish the objectives mentioned above. Any additional tasks which the consultant feels are necessary to fulfill the study's objectives shall also be clearly identified and described.

The cost for performing these tasks should be "LUMP SUM" with a break down by task showing work hours for personnel classification, pay rate, direct cost, overhead, and profit. Proposals will be submitted in ten copies with **one sealed fee statement and Disadvantage Business Enterprise form, under separate cover**, for the work to be performed. The sealed fee statements will not be opened until the preferred consultant has been selected. After the selection and negotiation process is complete, any unopened fee statement will be returned.

The fee and scope of work shall be subject to negotiation. BACTS reserves the right to reject proposals which are non-negotiable and negotiate with the consultant which is, in BACTS' opinion, the most qualified to do the work.

Completion time from the contract approval to final report submittal should not exceed eight months.

Since the selection will occur based on the rating system shown below, the consultant will provide sufficient data to ensure BACTS can determine who will accomplish the work, who will manage the work, what their qualifications are, and when they will be available for the project. The consultant shall also submit information relative to the firm's previous experience with similar studies. Sufficient detail of the approach should be included to develop a contract document between the consultant, MaineDOT, and BACTS.

GENERAL CONDITIONS AND REQUIREMENTS

MDOT General Contract Provisions: The Engineer shall ensure Engineer and Contractor compliance with the required contract provisions for federally funded contracts contained in the current revision of State of Maine Department of Transportation's Consultant General Conditions and related Supplement to these Consultant General Conditions. The Consultant General Conditions may be found at http://www.state.me.us/mdot/contractor-consultant-information/contractor_cons.php.

BACTS, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color, or national origin in consideration for an award.

Disadvantaged Business Enterprise (DBE) form can be found at
<http://www.state.me.us/mdot/disadvantaged-business-enterprises/pdf/consultant.pdf>

BACTS reserves the right to reject any and/or all proposals submitted. Submission of properly developed proposals should eliminate the need for interviews; but in the event that two or more consultants have nearly equal proposals, selection may be made through an interview process.

Responses to this RFP should be addressed to:

BACTS
Attn: Rob Kenerson
40 Harlow Street
Bangor, ME 04401

Responses are due by 3:00 p.m., Friday, March 13, 2009. Comments or questions may be directed to Rob Kenerson at (207) 942-6389 or at the above address.

SELECTION CRITERIA

General Qualifications of the Firm	20 points maximum
Personnel and Resources to be Utilized	20 points maximum
Project Approach	30 points maximum
Experience with Similar Projects	30 points maximum

Appendix C

MaineDOT Project Scope Codes

☐ – Overview	C1
☐ – Highway projects	C2
☐ – Marine, rail and airport projects.....	C4
☐ – Bicycle/pedestrian projects	C5
☐ – Public transportation projects	C5

Work Classifications for MaineDOT Projects

MaineDOT classifies projects based on data structures that will accommodate both Geographic Information Systems and the principles of asset management. Two proposed data hierarchies, for the description of assets and work will provide the answers to these two questions: “What is being worked on?” and “What work is being done?”

Asset Hierarchy

Asset Group = Family of Assets - Highway, Marine, Rail

Asset Type = A member of the Group - Minor Span, Rural Arterial, Passenger Ferry

Asset = Specific Transportation Infrastructure that the public uses - Bridge_ID, Highway Section, Ferry Vessel, Rail Section

Elements = Specific components of an asset that have a distinct lifecycle independent of the Asset - Girder, Pavement, Engine, Ballast

Work Hierarchy

Location = Geographic Qualifier - SOM, County, Town, Senate, House, Poly, Location Reference, Relative Spatial Query

Work Program = The entity that authorizes or allows the work to be completed - administration, work plan, BMAP, demand response, regular work

Work Type = Type of the work to be performed - Construction/Replacement, Rehabilitation, Preservation, Maintenance, Analysis/Study

Scope = The entirety of the work to be completed, the accomplishment when complete - highway reconstruction, bridge superstructure replacement, permit receipt

Existing projects are identified in MaineDOT's Project Express database (ProjEx) using two components of each hierarchy, which MPOs should observe as appropriate when they submit their project requests to MaineDOT:

- ◆ Asset Group
 - Asset Type
 - Work Type
 - Scope

Categories of Projects

- ◆ Highways
 - Interstate
 - Urban Highways
 - Rural Highways
 - Minor Collectors
 - Development
 - New Construction
 - Reconstruction
 - ROW-Early Acquisition
 - Rehabilitation
 - Highway Widening and Overlay
 - Foamed Asphalt
 - Full Depth Reclaim
 - Full Depth Reclaim W/Cement
 - Full Depth Reclaim W/Emulsion
 - Cold-In-Place Recycle
 - PMRAP
 - Structural Overlay
 - Strut Replacement
 - Preservation
 - Mill & Fill
 - Mill & Fill PLUS
 - Crack Sealing
 - Chip Seal
 - ¾ " Overlay
 - ¾ " Overlay PLUS
 - 1 ¼ " Overlay
 - 1 ¼ " Overlay PLUS
 - State PPM 075
 - State PPM 125
 - Microsurfacing
 - Maintenance Surface Treatment-¾ "
 - Maintenance Surface Treatment-Sand Mix
 - Slope Stabilization/Protection
 - Other Highway Maintenance

- Operational and Safety Improvements
 - Intersection Improvements w/ Signal
 - Intersection Improvements w/o Signal
 - Sidewalk Construction
 - Lighting
 - Signing
 - Striping
 - Traffic Signals
 - Flashing Beacon
 - Guard Rail Installation & Replacement
 - Rest Area Construction/Improvements
 - Tourist Information Center Construction
 - Intelligent Transportation Systems
 - OBDS
 - Miscellaneous Safety & Operational Improvements
- Highway Bridges - Extraordinary
- Highway Bridges - Traditional
- Highway Bridges - Minor Spans
 - Development
 - New Construction
 - Bridge Replacement
 - Bridge Deck Replacement
 - Bridge Superstructure Replacement
 - Bridge Culvert Replacement
 - Bridge Culvert Slipline
 - Temporary Bridge
 - Bridge Removal
 - Bridge Widening
 - ROW-Early Acquisition
 - Rehabilitation
 - Bridge Rehabilitation
 - Bridge Substructure Rehabilitation
 - Bridge Culvert Rehabilitation
 - Bridge Deck Rehabilitation
 - Bridge Rail & Curb Improvement
 - Preservation
 - Bridge Wearing Surface Replacement
 - Bridge Painting
 - Heavy Bridge Maintenance

- ◆ **Bicycle/Pedestrian**
 - Trail, On-road
 - Trail, Off-road
 - Bicycle and Pedestrian Bridge
 - Development
 - New Construction
 - Reconstruction
 - Rehabilitation
 - Rehabilitation

- ◆ **Public Transportation**
 - Parking Lots
 - Public Transportation Buildings
 - Intermodal Passenger Facility
 - Development
 - New Construction
 - Reconstruction
 - Rehabilitation
 - Rehabilitation
 - Passenger Transit Services
 - Transit Operations
 - Capital Equipment Purchase
 - Capital-Eligible Maintenance
 - Operating Assistance
 - Administrative Assistance

- ◆ **Rail**
 - Line
 - Siding
 - Freight Platform
 - Passenger Platform
 - Yard
 - Rail Drainage Structures
 - Rail Bridge
 - Rail Buildings
 - Rail/Highway Crossings
 - Development
 - New Construction
 - Reconstruction
 - Signal Improvements
 - Rehabilitation
 - Rehabilitation
 - Surface Reconstruction
 - Operational and Safety Improvements
 - Rail Operational Improvements

◆ **Airports**

- Runway/Taxiway
- Apron
- Airport Buildings
 - Development
 - New Construction
 - Reconstruction
 - Rehabilitation
 - Resurfacing
 - Crack Sealing
- Navigation Aids/Lights
 - Development
 - Lighting
 - Removal of Obstructions

◆ **Marine**

- Piers, Floats & Fenders
- Transfer Bridges
- Breakwaters
- Marine Buildings
- Boat Ramps
- Ferry Vessel
- Channels, Pier Berths
 - Development
 - New Construction
 - Reconstruction
 - Rehabilitation
 - Rehabilitation
 - Dredging

◆ **Freight**

- Freight Buildings
- Freight Monitoring Systems
- Freight Monitoring Facilities
- Intermodal Freight Facility
 - Development
 - New Construction
 - Reconstruction
 - Rehabilitation
 - Rehabilitation

Appendix D

Required Data for Project Scopes

- ❑ – MPO Project Identification FormD1-D4
- ❑ – MOU for projects with local shares D5
- ❑ – Sources of Data Necessary to Design a Project D6



Project Identification Form MPO Project

FY: -

Section 1 – Project Origination

Sponsoring metropolitan planning organization (MPO):

Section 2 – Project Description and Justification

Project Sequence Number (PSN):	Project Identification Number (PIN):
--------------------------------	--------------------------------------

Municipality:	Route Number/Street Name:
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Description of Project Location:

Federal Functional Classification:	Is this project on the NHS?	Urban or rural area?
------------------------------------	-----------------------------	----------------------

AADT (segment):	Total Entering AADT:	Speed Limit (mph):
-----------------	----------------------	--------------------

Preliminary Purpose and Need for this Project:

Description of Proposed Improvement (Scope of Work):

Section 3 – Municipal/Public Involvement

Please provide the following information about the sponsoring municipality:

Municipality Represented:		
Contact Name:	Title:	
Mailing Address:	City:	Zip Code:
Daytime Phone Number:	Fax Number:	
E-mail Address:		

Have any commitments been made to the public, communities, environmental groups, or others? Yes No N/A

If yes, please explain:

Section 4 – Other Project Considerations

Has this project been reviewed in conjunction with other projects in the area, either under design or construction? Yes No N/A

If yes, please identify the person who conducted the review and specify the projects:

Has this project been reviewed for pedestrian/bicycle accommodations? Yes No N/A

If yes, by whom?

Additional Comments:

Has this project been reviewed for crash history or other safety concerns? Yes No N/A

If yes, by whom?

If no, should this project be reviewed before to kickoff? Yes No, explain:

Has this project been reviewed for preliminary environmental impacts? Yes No N/A

If yes, by whom?

If no, should this project be reviewed before kickoff? Yes No, explain:

Has this project been reviewed for traffic data needs, including turning movement counts? Yes No N/A

1. If yes, please identify the person who conducted the review and provide this data to the MaineDOT MPO Coordinator.

2. If no, should this project be reviewed before kickoff? Yes No, explain:

Can this project meet clear zone requirements? (Please consult the *MaineDOT Highway Design Guide* for guidance.) Yes No N/A

If no, please explain:

Are there existing maintenance problems – drainage, pavement flooding, scouring – that should be addressed as part of this project? Yes No N/A

If yes, please describe:

Are there related intersections that should be evaluated for improvement? Yes No N/A

If yes, please list:

For intersection improvements that call for new signals where none currently exist, has a warrant analysis been completed? Yes No

Will the project change the road's horizontal or vertical alignment?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If yes, please describe:			
Are there any obvious right of way impacts or business displacements?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If yes, please identify the person/firm who conducted the review and briefly explain the impacts:			
Are there any utility impacts within the proposed project limits?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If yes, please describe:			
Do you expect that the project will require design exceptions (vertical and horizontal alignment, shoulder/lane widths, and clear zones)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If yes, please explain:			
Have previous engineering and/or technical studies been conducted?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If yes, please: 1.) check all that apply; 2.) identify the responsible firm(s); and 3.) provide a copy to MaineDOT			
<input type="checkbox"/> Planning and Feasibility <input type="checkbox"/> Corridor Report <input type="checkbox"/> Geotechnical <input type="checkbox"/> Hydraulic <input type="checkbox"/> Environmental			
Responsible firm(s)			
Technical documentation attached? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, please explain:			
Section 5 – Programming Costs by Phase and Scheduling (Select each phase of the project for which you are requesting federal funds. Select the fiscal year in which you request that it be scheduled.)			
Phase	Original Estimate	Expected Delivery Year	
<input type="checkbox"/> Preliminary Engineering	\$		
<input type="checkbox"/> Right-of-Way	\$		
<input type="checkbox"/> Construction	\$		
<input type="checkbox"/> Construction Engineering	\$		
<input type="checkbox"/> Other	\$		
Total Cost	\$		
Source of the estimate and contact information, for follow-up:			
Is there a local match or other/private funding involved?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If yes, please describe:			
Is the project intended to be advertised for construction in 2010-2011?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If no, please explain:			

Section 6 – MPO Project Contact

MPO contact for this project:

Phone number:

Form completed by:

Date:

Section 7 – Approval of Project Scope, Schedule and Cost Estimate

I agree with: Scope Schedule Cost Estimate

I disagree with _____ for the following reasons:

MaineDOT Bureau of Transportation Systems Planning

Date

I agree with: Scope Schedule Cost Estimate

I disagree with _____ for the following reasons:

MaineDOT Bureau of Project Development

Date

I agree with: Scope Schedule Cost Estimate

I disagree with _____ for the following reasons:

MPO

Date

I agree with: Scope Schedule Cost Estimate

I disagree with _____ for the following reasons:

Municipality

Date

Sources of Traffic Data Necessary to Design a Project

The MaineDOT Bureau of Project Development typically requires traffic analysis data when design work begins on a capital improvement project. The data requirements consist of the following:

❑ Annual Average Daily Traffic (AADT)

1. The most recent traffic counts that are available.

❑ Traffic Growth

1. Trend analysis of historical traffic counts near project or along corridor of project.
 - Short-term growth analysis (last 5 years.)
 - Medium-term growth analysis (last 10 years.)
 - Long-term growth analysis (last 20 years.)
2. Traffic projections from transportation planning studies and reports.
3. Previous requests for traffic data along the same corridor as project.
4. Impacts of approved developments. (Studies of site development traffic impacts.)
5. Transportation travel demand models – The MDOT has a Statewide Travel Demand Model along with the PACTS MPO (the Portland area) and ATRC MPO (the Lewiston-Auburn area) that predict future growth. The BACTS (Bangor area) hopes to have travel demand model some day.
6. Trend analysis of annual review locations.
7. Judgment taking all of above into consideration.

❑ Design Hour Volumes (DHV)

1. High hour from hourly count card.
2. High hour data from turning movement.
3. 30th High Hour from summaries of annual review locations.

The DHV typically is sometime during the months of July or August. If counts are not made during July or August, there are methods to estimate the DHV. In estimating a DHV turning movement, it is critical to count during the months of July or August. The turns can change significantly for a seasonally affected arterial or recreational route.

❑ % Heavy Trucks (AADT) and (DHV)

1. Turning movement counts
2. Vehicle classification counts

❑ 18 kip or 80kN Equivalent Loadings

Inputs needed:

1. Heavy truck data (Ranked by level of accuracy.)
 - WIM data
 - Vehicle classification (10 heavy truck types)
 - Turning movement (2 heavy truck types.)
 - No heavy truck data available.
2. Average damage factors are developed from weighing-in-motion data by each vehicle classification. (13 locations statewide)

Definitions of terms

Average Daily Traffic (ADT) – The total volume of vehicles counted during a given time period (in entire days), greater than and less than a year, divided by the number of days in the period.

Annual Average Daily Traffic (AADT) – The total yearly volume of vehicles counted divided by the number of days in a year.

Design Hour Volume (DHV) – The hourly volume used by the Bureau of Project Development to design a project. This hour usually is the 30th high hour of the year. **Note:** For the State of Maine, the DHV or 30th high hour is typically a p.m. peak hour found during the summer months of July or August.

Heavy Truck – Any vehicle with 6 tires or more.

18 kip (80 kN) Equivalent – A numerical factor that expresses the relationship of a given load in terms of their effect on the serviceability of a pavement structure. All axle loads are equated in the terms of the equivalent number of repetitions of an 18,000-pound (80 kip) single axle load on the serviceability of the pavement structure.

Further reading on traffic characteristics is available on pages 58 to 66 of *A Policy on Geometric Design of Highways and Streets 2001* – American Association of State highway and Transportation Officials.

Appendix E

Transportation Improvement Program (TIP) Amendment/Adjustment Procedures

- ☐ – Sample TIP Amendment Letter E1
- ☐ – TIP Modification Process for FTA-Funded Projects E2
- ☐ – TIP Process for FTA Funded Projects E4

Sample Amendment Letter

August 24, 2006

John A. Perry
Transportation Planning Engineer
Maine Division Office, FHWA
Room 614, Federal Building
Augusta, ME 04330

Re: ATRC Amendment to the FY 2006-2008 TIP

Dear Mr. Perry:

The ATRC Policy Committee has, at its August 24, 2006 meeting, approved an Amendment to its FY 2006 – 2008 TIP to add the following items:

- **PIN 8850.10**/FHWA Project HP-8850(100.) The project will cover preliminary engineering for the Lewiston/Auburn-MTA Downtown Connector Phase 2 Study. The total funding for this project will be **\$150,000** and the funding will come from the following sources:
 - \$120,000 in Federal High Priority Funds (DEMO ID ME 050)
 - \$ 30,000 in State of Maine Funds

- **PIN 8850.20**/FHWA Project HP-8850(200.) The project will cover the consultant services for the Lewiston/Auburn-MTA Downtown Connector Phase 2 Study. The total funding for the project will be **\$1,000,000** and will come from the following sources:
 - \$400,000 in Federal High Priority Funds (DEMO ID ME 050)
 - \$600,000 in funds from the Maine Turnpike Authority

These projects are consistent with our 20-Year Plan and are within fiscal constraints. If you should have any questions, please feel free to contact Don Craig at (207)783-9186.

Sincerely,

Robert J. Thompson
Chair, ATRC Policy Committee

TIP Modification Process for FTA-Funded Projects

Information on Budget Revisions, Administrative Amendments and Grant Amendments can be found in **FTA Circular 5010.1C** on the FTA website.

TIP information shall be updated annually for transit projects once the *Federal Register* is published. The Federal Register can be located on the FTA website. TIP information shall be updated whenever there is a change in the amount of Federal funds for a project or when a transfer of funds between categories takes place.

❑ FTA TIP Amendments

Each MPO shall submit to the Urban Program Administrator:

1. A list of the following:
 - Agency/Provider
 - Identify Section
 - 5307 (Urban)
 - 5316 (JARC)
 - 5317 (New Freedoms)
 - STIP (Surface Transportation Program)
 - PIN/Grant Number/FFY XXXX (Identify Funding)
 - Category
 - Operating - Fixed Route
 - Operating - ADA
 - Planning
 - Capital
 - Administration (if available)
 - Federal Funds - Previous Amount, Revised Amount and the difference for each category that is being amended.
2. Meeting minutes from the Policy Committee approving the amendment
3. Public comment period (from XX/XX/XXXX to XX/XX/XXXX) in accordance with the MPO Public Participation Policy.
4. A note of whether or not comments were received during the public comment period, and, when applicable, a list of the comments.
5. STIP Amendment is sent to, and approved by, FTA.

☐ FTA TIP Adjustments

The MPO shall submit a request in writing, by either E-mail or a letter, to the Urban Program Administrator, requesting the transfer of funds.

Please include the following:

- Agency/Provider
- Identify the Section
 - 5307 (Urban)
 - 5316 (JARC)
 - 5317 (New Freedoms)
 - STP (Surface Transportation Program)
- Category
 - Operating Fixed Route
 - Operating ADA
 - Planning
 - Capital
 - Administration (if available)
- Federal Funds - Previous Amount, Revised Amount and the difference for each category that is being adjusted.
- PIN/Grant Number/FFY XXXX (Identify Funding)

A budget revision is made in TEAM, and a STIP adjustment is submitted to FTA.

Transportation Improvement Program (TIP) Process for Federal Transit Administration (FTA) Projects

- **Creation of a Four Year TIP:** MPO Executive/Policy Committee approves a four-year TIP with each of the transit provider(s) projects listed by category (Operating, Operating ADA, Capital and Planning) for each program. The STIP is updated at least once every two years by MaineDOT; therefore, MPOs update the TIP in order to be on the same schedule. Upon final approval, an electronic copy of the transit portion of the TIP shall be submitted to the Urban Program Administrator. The MaineDOT Excel workbook format is explained below.
- **Programs in the TIP:** All urban projects for 5307, 5316 (JARC – Job Access and Reverse Commute), 5317 (New Freedoms) and any STP funded projects must be listed in the TIP and STIP.
- **Federal Register:** The Federal Transit Administration (FTA) publishes the *Federal Register* with the annual allocations.
- **MPO Allocation:** MPO Executive/Policy Committee approves a breakdown of 5307 funds by provider and by category, and, where applicable, approves transit related STP funding allocations. For PACTS, each transit provider must provide an annual budget to the MPO, upon the release of the Federal Register, depicting how the provider's allocation of funding will be allocated for each category of funding (Capital, Operating, Operating ADA and Planning). *Note: Reminder, all Planning projects, including those using 5307 or 5316 funds, must be entered in the Unified Planning Work Program (UPWP) for as long as the project is active.* JARC and New Freedoms urban projects must be incorporated by amendment into the MPO TIP once MaineDOT has approved funding for a project.
- **EXCEL Workbook:** The MaineDOT shall provide each MPO an Excel workbook format to be used by the MPO for tracking the TIP and TIP amendments/adjustments for each transit program. Each transit program (5307/STP, JARC and New Freedoms) will have a separate Excel document, and will follow the Federal fiscal year. Each fiscal year, a new workbook will be created by the MPO. The first tab will be the project information as listed in the TIP. Each amendment will be listed in a separate tab in the workbook, and shall be numbered sequentially during each Federal fiscal year. Each adjustment will be listed in a separate tab in the workbook, and shall be numbered sequentially during each Federal fiscal year.
- **Amendments/Adjustments:** The MPO shall use the MaineDOT provided Excel spreadsheet to enter the original TIP information, and then to enter and submit any amendments and/or adjustments. If there is a change to the TIP during the Federal fiscal year, a TIP amendment or adjustment must be e-mailed by the MPO to MaineDOT's Urban Program Administrator after following the MPO process for approval as established by each MPO.

- ***Amendment:*** Examples of amendments, include, but is not limited to, when a line item for the TIP changes more than 20%, when there is a change in the scope of work, adding a new scope of work, increasing funding (i.e. using carryover funding) and when funds are being moved between categories with different matching requirements.
- ***Adjustment:*** An adjustment is usually a change to a line item that is less than 20% or to transfer funds (20% or less) between categories with the same matching requirements.
- **MPO Approval:** The MPO Executive/Policy Committee grants final approval of any amendments and/or adjustments to the TIP.
- **Public Comment:** FTA Circular 9030.1C requires an adequate public comment period (to be determined by the MPO) for the TIP, and any TIP amendments. *Note: TIP adjustments do not require a public comment period.*
- **Submission to MaineDOT:** The MPO shall submit the following to the MaineDOT Urban Program Administrator:
 - **Amendment:** A written request, via E-mail, to include:
 - The Excel TIP amendment/adjustment document;
 - The meeting minutes that depict MPO Executive/Policy Committee approval; and
 - Dates of the public comment period and whether or not public comments were received during that time. If comments were received by the MPO, the comments must be submitted to MaineDOT, with any MPO response(s).

Information will not be entered into the STIP until this information is received by the MaineDOT Urban Program Administrator from the MPO.

- **Adjustment:** A written request, via E-mail, to include:
 - The Excel TIP amendment/adjustment document.

Appendix F

Sample Cooperative Agreements

- ☐ – Sample MPO cooperative agreement..... F1-F8
- ☐ – Agreement modification form..... F9
- ☐ – Sample Letter of Authorization to Proceed F10

SAMPLE

COOPERATIVE AGREEMENT

**BETWEEN THE
STATE OF MAINE DEPARTMENT OF TRANSPORTATION
AND
THE BANGOR AREA COMPREHENSIVE TRANSPORTATION SYSTEM
FOR
CARRYING OUT TRANSPORTATION PLANNING ACTIVITIES DEFINED IN THE
APPROVED MPO UNIFIED PLANNING WORK PROGRAM FOR 2010-2011**

This AGREEMENT made and entered into this _____day of _____, in the year _____, by and between the State of Maine, by and through its Department of Transportation, hereinafter called "MaineDOT"; and the Bangor Area Comprehensive Transportation System, hereinafter called the "MPO"; all parties being legally established State or Local governmental agencies.

WITNESSETH, that whereas Section 104(f) of Title 23, United States Code, requires that Federal Metropolitan Planning funds apportioned to a state, under Section 104(F)(2) of Title 23, shall be made available by MaineDOT to the Metropolitan Planning Organization designated by the State as being responsible for carrying out the provisions of Section 134 of Title 23; and,

WHEREAS, the MPO Policy Committee has been designated by the Governor of the State of Maine, and accepted by the Federal Highway Administration and Federal Transit Administration, as the organization responsible for carrying out the provisions of Section 134, Title 23, in the greater Bangor urbanized area; and,

WHEREAS, the MPO Policy Committee, in cooperation with the State and the operators of publicly owned transit services, shall be responsible for carrying out the metropolitan transportation planning process as required by 23 U.S.C. and 49 U.S.C. within the Metropolitan Planning Area.

WHEREAS, the MPO Policy Committee each biennium develops and endorses a Unified Planning Work Program that sets forth the planning studies and tasks to be undertaken with Federal Metropolitan Planning (PL) and Section 5303 funds, and that describes how and by whom such work is to be performed; and,

WHEREAS, MaineDOT also commits state funds to aid in the accomplishment of the Unified Planning Work Program; and,

WHEREAS, MaineDOT is a full voting member of the MPO Policy Committee.

Now, THEREFORE, the parties agree as follows:

**SECTION 1:
Funding**

- 1.) The MPO, in partnership with MaineDOT and local agencies, agrees to perform professional transportation planning and other services set forth in the federally approved 2010-2011 Unified Planning Work Program (“UPWP,”) which defines the MPO’s funding needs as follows:

MPO 2010-2011 Unified Planning Work Program

Authorized Funding Applicable to this Agreement

FHWA PL Funds, FY 2010-2011	\$ 539,700
FHWA PL Carryover Funds	\$ 26,985
FTA 5303 Funds, FY 2010-2011	\$ 145,694 (FY 2010, \$71,070; FY 2011, \$74,624)
FTA 5303 Carryover Funds	\$ 21,544
State Highway Fund	\$ 91,075

Total Funds Applicable to Agreement:	\$ 824,998
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Other Funding for the MPO UPWP, not applicable to this Agreement

MPO In-Kind Services	\$ 41,810
<u>Local Funds</u>	<u>\$ 50,596</u>
Total Other Funding for UPWP	\$ 92,406

UPWP Total Budget, All Fund Sources \$ 917,404

Current PL Carryover Fund Balance

- 2.) In addition to the FY 2010-2011 apportionments of federal Metropolitan Planning (“PL”) funds, each MPO has accumulated a balance of unspent, unobligated PL funding from previous fiscal years. The MPO PL fund balance, through FY 2008, is \$473,499.
- 3.) At this time, MaineDOT can authorize federal PL spending up to the limit set in this agreement, or \$566,685. That represents the estimated PL funding for 2010-2011 of \$539,700, plus \$26,985 drawn from the MPO’s unexpended, unobligated PL fund balance.
- 4.) MaineDOT will continue to maintain records indicating the unspent unobligated balances to the MPO if and until such time that MaineDOT is provided sufficient overall obligation authority to eliminate the MPO obligation limit.

**SECTION 2:
Scope of Work**

- 1.) The MPO Policy Committee is responsible for ensuring that the transportation planning process is adequately maintained in the “Metropolitan Planning Area” for the Bangor Urbanized Area, as defined by 23 CFR, Part 450. The MPO accomplishes this by biennially assessing the transportation planning process in the Bangor Urbanized Area and by developing a two-year, multimodal planning document, known as the MPO Unified Planning Work Program (“UPWP,”) to be kept on file at MaineDOT and at the MPO.
- 2.) The federally approved UPWP is the Scope of Work to be accomplished by the MPO with the applicable federal, state and other funds, as outlined in Section 1.1 of this Agreement.

**SECTION 3:
Time of Beginning and Completion**

- 1.) This Agreement is effective July 1, 2009 through June 30, 2011, subject to a federally approved MPO UPWP for fiscal years 2010 and 2011, and subject to the availability of federal and state funds.
- 2.) The parties agree not to begin the work, as described in the Scope of Work in Section 2, before this Agreement is been fully executed by all of the parties. The parties will make every effort to complete all work described in the Scope of Work by June 30, 2011.

**SECTION 4:
Basis of Payment**

- 1.) Compensation to the agencies responsible for carrying out the services in the Scope of Work will be a total fee not to exceed \$824,998, as outlined in Section 1.1 of this Agreement.
- 2.) MaineDOT will reimburse the MPO for approved expenditures through monthly progress payments. The MPO shall submit invoices monthly to MaineDOT’s MPO Coordinator, in a format acceptable to MaineDOT, summarizing costs by UPWP task and fund source. The MPO shall provide supporting documentation upon request.
- 3.) Each payment will be made directly to the MPO and applied to MaineDOT PIN 2163.11. The amount to be paid shall not exceed the actual cost of services performed as shown in properly documented invoices. Allowable costs will be determined in accordance with federal cost principles contained in 48 CFR, Chapter 1, part 31, Federal Acquisition Regulation. All work products must be acceptable to the MPO Policy Committee, MaineDOT, the Federal Highway Administration (“FHWA”) and Federal Transit Administration (“FTA.”)

- 4.) MaineDOT will process approved payments within 30 days of receipt of an acceptable invoice. Unacceptable invoices will be promptly returned for corrections. If any part of the invoice is termed unacceptable, the entire invoice will be returned and no partial payment will be made.
- 5.) MaineDOT will be held harmless for payment of any portion of the work performed by the MPO that is found to be ineligible for federal funding that was not directed/approved by MaineDOT, the FHWA or FTA. Any work directed by MaineDOT that is, or becomes, ineligible for federal participation will be reimbursed by MaineDOT.

**SECTION 5:
Modifications to this Agreement**

- 1.) Proposed modifications to this Agreement will be made in writing and may originate from any of the signatory agencies to this Agreement.
- 2.) Proposed modifications relating to changes in funding or the Scope of Work in the approved UPWP shall be approved in writing by all the parties to this Agreement.
- 3.) Any changes to this Agreement or to the transportation planning requirements covered by this Agreement will be subject to Modification by MaineDOT.
- 4.) This Agreement and any approved modifications entered into by the signatory agencies are binding on their successors.
- 5.) The following outlined procedure provides guidance on how the Revisions and Amendments to the federally approved MPO UPWP will be processed by the FHWA, the FTA, MaineDOT and the MPO:

UPWP Revisions are modifications that:

- Change the budgets for one or more individual tasks in the approved UPWP; but
- Do not change the total FHWA PL or FTA Section 5303 budgets in the UPWP; and
- Do not change the scopes of the FHWA or FTA funded task(s).

Revisions will be forwarded by e-mail to MaineDOT's MPO Coordinator, who will submit them to the FHWA Division Planner and the FTA Region I Planner, as appropriate, for their information.

UPWP Amendments are modifications that:

- Change the FHWA / FTA approved final total PL / Section 5303 budget; and/or
- Change the scope of the FHWA / FTA work task(s); and/or
- Add or delete a work task or tasks.

The MPO will submit amendment requests and supporting material by e-mail to MaineDOT's MPO Coordinator for review. The MPO Coordinator will forward the amendment request – as well as any comments and a statement of support for the requested change(s) – to FHWA and FTA (if applicable) for approval. After reviewing and clarifying any questions, FHWA and/or FTA will approve the request by e-mail to MaineDOT and the MPO. The MPO will not sign contracts or otherwise initiate activities relative to an Amendment without receiving written Amendment approval from the FHWA and/or FTA (if applicable.) Should an Amendment change the overall amount of authorized funding applicable to this Agreement, then a fully executed modification to this Agreement must be in place before the MPO may sign contracts or otherwise proceed with activities relating to the Amendment.

SECTION 6: Miscellaneous Provisions

A. Compliance with Regulations

- a. The parties to this Agreement are assumed to be familiar with and at all times shall observe and comply with all federal and state laws, local ordinances and regulations in any manner affecting the conduct of the work.

B. Subcontracting

- a. Subcontracts – with the exception of contracts for specialized services incidental to the study operations, such as printing and computer services – must be approved by the MPO. All contracts entered into by the MPO shall contain an itemized description of the work in the contract, applicable terms and conditions including Form FHWA 1273, and those applicable provisions which are required in the Federal Highway Program Manual, Volume 1, Chapter 7, Section 2, Subsection 6, as it pertains to contracts with MPOs.

C. Termination or Abandonment

- a. Either party may postpone, suspend, abandon or otherwise terminate this Agreement for any reason upon at least thirty (30) days' written notice, and in no event shall any such action be deemed a breach of contract.
- b. A signatory agency shall have the right to terminate a task in the federally approved UPWP, and such action shall in no event be deemed a breach of contract. Amendments shall have the previous approval of FHWA and FTA, as appropriate, and acknowledgement from MaineDOT's MPO Coordinator.

D. Inspection of Work

- 1.) The parties to this Agreement shall authorize the review and inspection of their study activities by MaineDOT and the FHWA and FTA. Such reviews and inspections by the FHWA and FTA will be arranged as necessary through MaineDOT.

E. Civil Rights

- 1.) All subcontracting and other procurements conducted under this Agreement shall comply with state and federal regulations, including procurement of services, equal employment opportunities and disadvantaged business enterprises. Vendor and/or consultant selection shall be done in accordance with Part 172 of Title 23 in the U.S. Code of Federal Regulations (CFR) and with 48 CFR, Part 31 (Federal Acquisition Regulations.) The use of sole-source vendors must meet federal and state procurement regulations.
- 2.) The MPO will comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in federally-assigned programs of the U.S. Department of Transportation (Title 49 Code of Federal Regulations, Part 21, hereinafter referred to as “the Regulations”) which are herein incorporated by reference.
- 3.) The MPO – regarding work performed under this Agreement – will not discriminate on the grounds of race, color, religion, national origin, disability, gender and age in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The MPO will not participate either directly or indirectly in discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the MPO UPWP covers a program set forth in Appendix B of the Regulations.
- 4.) In all solicitations either by competitive bidding or negotiation, made by the MPO for work to be performed under subcontract, each potential subcontractor or supplier shall be notified by the MPO of the MPO’s obligation under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, religion, national origin, disability, gender and age.
- 5.) The MPO will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereon, and will permit access to its book, records, accounts, other sources of information and its facilities as may be determined by MaineDOT or the FHWA or FTA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required to the MPO is in the exclusive possession of another who fails or refuses to furnish this information the MPO shall certify to MaineDOT or the FHWA and the, as appropriate, and shall set forth what effort it has made to obtain the information.

- 6.) In the event of the MPO's noncompliance with the nondiscrimination provision of this Agreement, MaineDOT shall impose such Agreement sanctions as it or the FHWA or the FTA may determine to be appropriate including, but not limited to:
 - a. Withholding of payments to the MPO Policy Committee under this Agreement until the MPO Policy Committee complies, and/or
 - b. Cancellation, termination or suspension of this Agreement, in whole or in part.
- 7.) The MPO will include the provisions contained under Paragraph E(1) through E(6) in every subcontract, including procurements of material and leases of equipment, unless exempt by the Regulations, order or instructions issues pursuant thereto.

F. Set-Off Rights

- 1.) The MaineDOT shall have all of its common law, equitable and statutory rights of Set-Off. These rights shall include but not be limited to, the option to withhold, for the purposes of set-off, any monies due to the MPO under this Agreement up to any amounts due and owed to the MaineDOT with regard to this agreement or any agreement with the MaineDOT, including any agreement with a term commencing prior to the term of this Agreement. The MaineDOT shall exercise its Set-Off rights in accordance with normal State practices including cases related to a MaineDOT Audit.

G. Travel and Subsistence

- 1.) Mileage considered essential to the effective conduct of the work by the parties to the Agreement shall be reimbursed at the rate of the claiming agency, so long as the rate does not exceed that of the Federal Highway Administration (FHWA.) Reimbursements for subsistence shall not exceed that allowed by MaineDOT for travel by its own employees, with the exception of out-of-state travel, which cannot exceed the maximum rate established for federal employees.

By signing this Agreement, the MPO certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. The MPO shall promptly notify MaineDOT if it or its principals become debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

IN WITNESS WHEREOF, the parties, for themselves, their successors and assigns, hereby execute three original copies of this Cooperative Agreement and thereby bind themselves to all covenants, terms, and obligations contained herein *effective on the latter of July 1, 2009 or the date last signed*.

State of Maine Department of Transportation

Kat Fuller, Chief
Bureau of Transportation Systems Planning

Date Signed _____

Bangor Area Comprehensive Transportation System

William Reed, Chair

Date Signed _____

SAMPLE

MODIFICATION TO COOPERATIVE AGREEMENT

MaineDOT PROGRAM / DIVISION / OFFICE: _____

MaineDOT Contact Person: _____

Type of Services: _____

Project Location: _____

State P.I.N. #: _____

Federal P.I.N. #: _____

Appropriation #: _____

Vendor Customer #: _____

Original Agreement Maximum Amount: _____

Original Agreement Expiration Date: _____

Modified Agreement Maximum Amount: _____

Modified Agreement Expiration Date: _____

This Modification hereby amends a **Cooperative Agreement** that was executed by the Department on _____, 200__ with _____ for _____ services for the above referenced project as follows:

1. The Expiration Date of the Cooperative Agreement shall be extended from _____ to _____ due to _____.
2. The services to be provided under this Cooperative Agreement shall be modified by _____.
3. The maximum amount of the Cooperative Agreement shall be increased by: \$ _____ from \$ _____ to \$ _____ due to a change in scope of work as provided in Appendix ____ to this Modification.

All other terms and conditions of the original Project Agreement shall remain in effect. The Department and _____ by their duly authorized representatives, have executed this modification to said original Project Agreement on the date last signed below.

{ **AGENCY/MUNICIPALITY NAME HERE**}

MAINE DEPARTMENT OF TRANSPORTATION

By: _____

(Signature)

(Typed Name and Title)

(Date Signed)

By: _____

(Signature)

(Typed Name and Title)

(Date Signed)

Sample Letter of Authorization to Proceed

June 29, 2007

Mr. Robert Thompson, Chairman
Androscoggin Transportation Resource Center
125 Manley Road
Auburn, Maine 04210

SUBJECT: FY08-09 Consolidated Planning Grant (FHWA "PL" and FTA "5303")
AUTHORIZATION TO PROCEED

Dear Mr. Thompson:

I am pleased to inform you that the Androscoggin Transportation Resource Center (ATRC) Unified Planning Work Program (UPWP) endorsed by the Policy Committee has been reviewed and approved by the Federal Highway Administration (FHWA), Federal Transit Administration (FTA) and Maine Department of Transportation (MaineDOT). You are hereby authorized to proceed with the tasks defined in the UPWP and covered by our June 29, 2007 Cooperative Agreement, effective as of July 1, 2007 and continuing through June 30, 2009. A copy of the FHWA approval letter is enclosed for your information.

It is required that you notify MaineDOT in writing of any revision to the scope of work or budget in the UPWP so that required federal and state approval are obtained prior to any work being performed on new tasks.

We look forward to working closely with you over the next biennium on the many interesting planning activities you will undertake.

Sincerely,

Dale Doughty, Acting Director
Bureau of Planning

Enclosure: FHWA Approval Letter

Appendix G

Sample Three-Party Agreement



SAMPLE

THREE-PARTY AGREEMENT

BETWEEN THE

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION**

THE

**PORTLAND AREA COMPREHENSIVE TRANSPORTATION
SYSTEM (PACTS) - METROPOLITAN PLANNING
ORGANIZATION**

AND THE

TOWN OF FREEPORT

REGARDING

PROPOSED SIDEWALK CONSTRUCTION ON ROUTE 1

FEDERAL AID PROJECT NO. [CM-1309\(600\)X](#)
STATE PROJECT IDENTIFICATION NUMBER (PIN) [013096.00](#)

This **AGREEMENT** is entered into on this day _____, 2009 by and between the State of Maine Department of Transportation (hereafter the **DEPARTMENT**), the Portland Area Comprehensive Transportation System (PACTS) - Metropolitan Planning Organization (hereafter the **MPO**) and the Town of Freeport, a municipal corporation located in the County of Cumberland (hereafter the **MUNICIPALITY**) regarding the planning, development, design, right of way, permitting, construction, construction engineering, cost sharing and reimbursement for a Project (hereafter **PROJECT**) to construct a new shoulder and sidewalk on Route 1.

- A. The **Department** will develop plans and specifications for the **Project**, following the **Department's** Project Development Process. Plans and specifications shall conform to the standards used by the **Department** as set forth in the most recent version of its "*Highway Design Guide*" and "*Standard Details for Highways and Bridges*", "*Standard Specifications*", "*Best Management Practices Manual*", "*Right of Way Manual*" and *The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act)* , comply with the Department's utility accommodation policy as set forth in its "*Policy On Above Ground Utility Locations*", and all applicable Federal or State processes and procedures. The Department will administer a construction contract (hereafter **CONTRACT**) as necessary to complete the **Project** with a scope of work as detailed in Attachment A to this **AGREEMENT** and more particularly in accordance with the approved plans and specifications by the **Department**, the **MPO** and the **Municipality** developed through the project development process.
- B. The **Department** *estimates* the cost of the **Project** to be \$XX. The actual costs of the **Project** will be shared by the **Department**, the **MPO** and the **Municipality** as specified below:
1. The **DEPARTMENT** agrees:
 - i. To fund XX% as its share of the total cost of the **Project** cost as allocated by the MPO; this share is estimated to be \$XX.
 - ii. To administer and deliver the **Project** for the **MPO** and **Municipality** with optimum federal participation and adherence to all federal and state regulations.
 - iii. To involve the **MPO** and **Municipality** in the project team process, which shall include:
 1. Notification of important project milestones.
 2. Invitations to all project team meetings.
 - iv. To assist in the coordination and scheduling of public hearings with the **MPO** and **Municipality**.
 - v. To participate in public hearings by providing information to the public covering the following:
 1. Design;
 2. Environmental permitting;
 3. Utility coordination;
 4. Right-of-way acquisition and appraisal process
 - vi. To notify the **MPO** and **Municipality** before adjusting the scope and/or budget of the **Project**.
 - vii. To invite the **MPO** and **Municipality** to bid openings and inform them of any bid related issues.
 - viii. To consult with the **MPO** and **Municipality** before accepting or rejecting the low bid.
 - ix. To include additional work in said **Contract** – beyond the MPO-sponsored portion of the project – as requested by the Municipality, approved through the **MPO**, at the **Municipality's** sole expense. Such additional work – outside

of the **MPO** portion of the project – will be based upon plans, specifications and estimates furnished by the **Municipality**, through the **MPO**, in accordance with the provisions of paragraphs B.3.vii. and E. below, or as developed by the **Department**, provided the **Municipality** meets all of the conditions and stipulations set forth under Paragraph F. below. In addition, any such additional work shall be incorporated into Attachment A of this **AGREEMENT**, with the understanding that the **Municipality** agrees to provide any needed supplemental funding for such additional work.

- x. To incur the entire federal share of **Project** cost, in the event of federal non-participation due to procedural error or improper action by the **Department**.
 - xi. The **Department** agrees to have all construction related change orders reviewed and signed by the **Municipality** and **MPO**.
2. The **MPO** agrees;
- i. To fund 80%, through its allocated federal funds, for the first \$ 75,000, as its share of the total cost of the **Project**; this share is estimated to be \$XX. To fund 80% through its allocated State funds after the first \$ 75,000 as described above, in amount not to exceed \$140,736.00. The MPO has set a maximum project obligation comprised of Federal, State and Local funding sources at \$ 215,736.00.
 - ii. With the **Project** scope as outlined in Attachment A to this **AGREEMENT** and will act in accordance with the policies outlined in the latest version of the MaineDOT “*Administrative Guide to Metropolitan Planning Organizations.*”
 - iii. To submit any requests for changes or additional work, whether from the **MPO** or the **Municipality**, to the **Department** in writing. This document must include an explanation of how the **MPO** and/or **Municipality** will fund any additional expenses.
 - iv. To provide guidance to the **Department** regarding changes in scope related to concerns of either the **MPO** or **Municipality**. All requests for scope changes should be put forth by the **MPO**, in coordination with the **Municipality**.
 - v. To provide direction to the **Department** on how to address budget issues that arise should the engineer’s estimate be greater than the amount programmed by the **MPO**.
 - vi. To provide the **Department** with guidance and assistance in locating additional resources in the event that the **Project** requires additional funding.
 - vii. To incur the entire federal share of **Project** cost in the event of federal non-participation due to procedural error or improper action by the **MPO**. This may be achieved by reducing a future **MPO** capital improvement allocation. Such a procedural error may include – but is not limited to – sponsoring a project for which negotiations to acquire right-of-way have taken place before the National Environmental Policy Act process has been completed.
 - viii. That once the **Project** has been officially kicked off, if the **Project** is withdrawn, canceled, postponed, or placed on hold by the **MPO**, the **MPO** will incur 100% of both federal and state expenditures of the **Project**. This may be achieved by the **Department** reducing a future **MPO** capital improvement allocation.

- ix. To attend / moderate public hearings, as coordinated under B.1.v of this **AGREEMENT**. The **MPO** shall be responsible for informing the public of the planning efforts, project selection, funding, and overall responsibility of the **MPO**. Respond to public questions and comments relevant to Sections B.1.v.a, B.1.v.b, B.1.v.c, and B.1.v.d of this agreement.
 - x. To be engaged in the project development process when invited to do so.
 - xi. Notify the **Department** in writing of any **Project** changes (i.e. limits, scope, financial, cancellation, etc).
3. The **Municipality** agrees;
- i. To fund 15% as its share of the total costs **of the Federal funds** applied to the **Project** as allocated by the **MPO**; this share is estimated to be \$XX. To also fund 20% as its share of the total costs of the Project of the State funds applied to the Project as allocated by the MPO.
 - ii. To fund all actual expended costs over the MPO project allocation, final **Municipal** payment obligations will be determined by actual expended **Project** costs after construction and final financial closeout is complete.
 - iii. To pay the **Department**, \$XX as an initial payment upon signing this **AGREEMENT** and receipt of an invoice.
 - iv. That following the award of the **Contract** and upon receipt of an invoice, to pay the **Department** payments as outlined in the payment schedule attached of its local share toward the awarded cost of the **Project**, exclusive of any extra work to be funded solely by the **Municipality** outside of the federal-aid process. The invoice amount will be calculated using updated cost information generated from actual expenditures (PE, ROW, and CE) including the awarded **Contract** total. Invoicing for payments as outlined in the payment schedule at the identified milestones, will be submitted to the Municipality for their local share toward the actual expended costs of the project.
 - v. That following **Project** closeout and upon receipt of an final invoice, to reimburse the **Department** for its share, as established by the **MPO** allocation, to provide all funding required for successful closeout beyond the allocated total established by the **MPO**, of any additional amounts due, after all quantities are final and verified, and any required adjustments have been made. The final invoice shall be determined by the actual contract prices, completed final quantities of all work items, adjustments for bonus, escalator, or deductions for appropriate work items, ROW settlements, and total expenditures for engineering functions.
 - vi. To pay **Department** invoices within 30 days of the invoice date.
 - vii. With the Project scope as outlined in Attachment A to this **AGREEMENT** and to act in accordance with the policies outlined with the latest version of the MaineDOT MPO Guide.
 - viii. To notify the **Department** and the **MPO** before adjusting the scope and/or budget of the **Project**, and to make any requests for such changes through the **MPO**.
 - ix. That in the event of a change in scope, change order, and/or general overruns, to be responsible for its applicable share of the additional cost.

- x. If the **Project** is withdrawn, canceled, postponed, or placed on hold by the **Municipality**, after being officially commenced, the **Municipality** will pay 100% of both Federal and State expenditures of the **Project**.
 - xi. To attend / lead public hearings, as coordinated in Section B.1.v of this **AGREEMENT**. and to outline and explain the reason for the **Project** and the rationale for the scope as outlined in Attachment A of this **AGREEMENT**.
 - xii. To be engaged in the project development process.
 - xiii. To incur 100% of all **Project** costs in the event of federal non-participation due to procedural error or improper action by the **Municipality**.
- C. Upon completion of the Preliminary Design Report (PDR), the **Department** shall provide the **MPO** and the **Municipality**, a copy of the approved PDR, including a written revised total estimated cost of the **Project**, and (if applicable), including any extra work requested and funded solely by the **Municipality**.
- 1. If at that time the total estimated cost of the **Project** exceeds the original estimate, the **Department**, **MPO**, and **Municipality** will consult and develop a **Project** funding plan that is agreeable to all 3 parties before proceeding further with the **Project** development process. Any such plan that changes **Project** funding as detailed in Attachment A hereto must be shown in a signed modification to this **AGREEMENT**.
 - 2. If the parties are unable to agree to such a **Project** funding plan, the **Department** reserves the right to postpone, suspend, abandon or otherwise terminate this **AGREEMENT** as set forth in Paragraph Q.
 - 3. Shared costs will be determined based upon all **Project** costs incurred to date in accordance with **Project** funding as outlined in Attachment A to this **AGREEMENT**.
- D. Before the **Department** solicits bids for construction, the **Department** will provide in writing, a final cost estimate used in the Project Specifications and Estimate (PS&E) package for the **MPO** and **Municipality** to review prior to said solicitation for bids.
- 1. If at that time the total estimated cost of the **Project** exceeds the available funding, the **Department**, **MPO**, and **Municipality** will consult and develop a **Project** funding plan that is agreeable to all 3 parties before proceeding with the solicitation of bids for the **Project**. Any such changes to the **Project** funding as detailed in Attachment A hereto must be shown in a signed modification to this **AGREEMENT**. A modification to this **AGREEMENT** will then be prepared by the **Department**, reflecting any changes in the **Project** estimate and the payment schedule or amounts, for signature by all three parties.
- E. The **Municipality** may request changes through the **Department** for additional work that will be funded solely by the **Municipality**, outside of the federal-aid process. The **MPO** must be notified of any such changes. The **Municipality** agrees to furnish all

related plans, specifications and estimates, and pay all associated costs, in accordance with the requirements below.

1. All plans and specifications shall conform to the standards used by the **Department** as set forth in the latest version of its *"Highway Design Guide" and "Standard Details for Highways and Bridges"*, *"Standard Specifications"*, *"Best Management Practices Manual"*, *"Right of Way Manual"*, *The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act)*, shall comply with the Department's utility accommodation policy as set forth in its *"Policy On Above Ground Utility Locations"*, and shall comply with any and all applicable Federal or State processes and procedures.
 2. All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
 3. All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in the **Department's** bid book.
 4. The **Municipality** shall provide a detailed engineer's estimate of the cost of such additional work figured in a manner acceptable to the **Department** and allow for bidding as hereinafter provided. The **Municipality** agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
 5. The **Municipality** shall obtain all permits, licenses, releases and approvals necessary or incidental to such additional work.
 6. The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals as hereinbefore prescribed shall be done in such a timely manner as not to unreasonably delay the **Department's** schedule for soliciting bids to construct the **Project**.
 7. The **Municipality** shall have all final plans, estimates, and associated required engineering documents stamped by a Registered Maine Professional Engineer prior to final submission
- F. Upon acceptance of any plans, specifications and estimates submitted by the **Municipality** through the **MPO** for extra work to be funded solely by the **Municipality**, the **Department** shall solicit competitive bids for the **Project** including the additional work.
1. If, upon the opening of bids received as a result of such solicitation, the bid price for such additional work does not exceed the detailed estimate submitted by the **Municipality** by more than _____%, all decisions pertaining to acceptance of bids and award of any **Contract** shall be made at the sole discretion of the **Department**.

2. If, upon the opening of bids received as a result of such solicitation, the bid price for such additional work exceeds the detailed estimate submitted by the **Municipality** by more than _____%, the **Municipality**, with concurrence of the **MPO**, shall have the right to refuse to accept such bid by notifying the **Department** in writing of such refusal within five (5) business days of the opening of such bids. Otherwise, all decisions pertaining to acceptance of bids and award of any **Contract** shall be made at the sole discretion of the **Department**.
 3. If, upon the opening of such bids, the bid price for the extra work to be funded solely by the **Municipality** as bid is acceptable to the **Municipality**, the **Municipality** will pay to the **Department** within ten (10) business days of the opening an amount equal to the actual awarded cost of the extra work. A modification to this **AGREEMENT** will then be prepared by the **Department**, reflecting any changes in the **Project** scope and the payment schedule or amounts, for signature by all three parties.
 4. Upon acceptance of the bid to construct the **Project** and fulfillment of all terms set forth in Paragraph F.3 above, the **Department** shall award a **Contract** including the additional work. All decisions pertaining to the administration of such a **Contract** and all payments thereunder shall be the sole discretion of the **Department**.
 5. Parties agree that any additional payment or any refund necessary to adjust the amount of a payment or deposit made by the **Municipality** pursuant to the provisions of subparagraph 3 above. Any reallocation of **MPO** funds needed because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be made upon determination of final quantities, or upon any determination by the **Department** that the actual cost of such additional work is expected to differ measurably from the amount of such prior payment or allocation due to changes in quantities placed or work performed during the period of construction.
 6. Parties agree that any payments or refunds that arise from differences between the estimated and actual cost of the **Project** will be included with and calculated as part of the **Project** closeout as outlined in B.3.iv. Additionally, parties agree that any such payments or refunds will be based upon any determination by the **Department** that the actual cost of such additional work is expected to differ measurably from the amount of such previous payment or allocation due to changes in quantities placed or work performed during the period of construction.
- G. During the period of construction the **Municipality**, through the **MPO**, may request that changes be made or work added to the **Project**. Such requested change orders shall be reviewed by the **Department**, if made in accordance with Paragraphs B. vii, viii and xii above. The **MPO** and the **Municipality** must agree in writing to allocate any additional funds and to pay any additional cost, based upon the cost of

construction plus compensation to the Department in an amount not to exceed ten percent (10%) of such actual construction cost to cover all necessary engineering, inspection and administrative expenses associated therewith, unless specified otherwise. All such requests shall be subject to approval by the **Department**. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share of such cost.

- H. The **Municipality** and the **MPO** agrees to grant the **Department's** staff the authority to administer the construction of the **Contract**, including authority to implement field adjustments to any phase of the construction as deemed necessary to address: unacceptable or unauthorized work; potential contractor claims; safety; traffic management; maintenance; differing site conditions; utility / private facilities conflicts; materials and the testing of materials; and, implementation / enforcement of the most recent Department's Standard Specifications.
- I. The **Municipality** agrees to allow the **Department's** contractor to control all traffic through the work areas on the **Project** as necessary to permit construction thereof in the manner specified in a Traffic Control Plan approved by the **Department** and **Municipality**.
- J. The **Municipality** agrees to alter, move, relocate or remove any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, which might become necessary to permit construction of the **Project**, which has not otherwise been provided for during the development of the **Project**, without any cost to the **Project** whatsoever. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- K. The **Municipality** agrees to assure proper adjustment, relocation, or repair of any portion of a service that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the **Project**. The **Municipality** agrees to hold the **Department** harmless from any claims for damages occurring as a result thereof.
- L. The **Municipality** agrees to prohibit the excavation of the highway within the limits of the **Project** for a period of at least five (5) years after completion of the **Project**, except for any emergency, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the **Project** shall be regulated and controlled in the manner specified by the Department in its *"Rules, Regulations and Policies for Highway Openings"*, to which reference is hereby made.
- M. The **Municipality** agrees to maintain all improvements and fixtures constructed, installed or furnished as a part of the **Project** in such a manner as is necessary to preserve the use and function thereof as intended by the **Project**.

N. The **Municipality** agrees to keep the right-of-way of the **Project** inviolate from all encroachments and agrees to remove, or cause to be removed, any private installation, advertising sign, device or fixture which may encroach thereon.

O. **The Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.**

P. The **Municipality** agrees to limit all on-street parking along the project limits to the parking spaces as designed and constructed under the **Project** and prohibit all other such parking along the remainder of said street within the limits of the **Project**.

Q. The **Department** reserves the right to postpone, suspend, abandon or otherwise terminate this **AGREEMENT** upon thirty (30) days written notice to the **MPO** and the **Municipality**, and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the **Department** or specifically as the result of any failure by the **MPO** and/or **Municipality** to perform any of the services required under this **AGREEMENT** to the satisfaction of the **Department**.

R. Designated contact persons for purposes of administering and/or modifying this **AGREEMENT** are:

1. **Department** -

(Name) *(Title)* *(Tel)*
E-mail:

2. **MPO** -

(Name) *Policy Committee Chair* *(Tel)*
E-mail:

3. **Municipality** -

(Name) *(Title)* *(Tel)*

S. The **MPO** and **Municipality** certify, by signing this **AGREEMENT**, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the **MPO** and/or **Municipality** are unable to certify to this statement, it shall attach an explanation to this **AGREEMENT**, and, at the **Department's** option, the **Department** may void this Agreement. The **MPO** and/or **Municipality** shall promptly notify the **Department** if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

T. The **MPO, Municipality** and the **Department** agree to function within all applicable laws, statutes, regulations, MUTCD, OSHA standards, and **AGREEMENT** provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this **AGREEMENT**.

IN **WITNESS WHEREOF**, the parties hereto have executed this **AGREEMENT** in duplicate effective on the day and date first above written.

MUNICIPALITY

Vendor Customer Code: _____

Signed By: _____

Printed/Typed:

[Name, Title & Date]

MPO

Vendor Customer Code: _____

Signed By: _____

Printed/Typed:

[Name, Policy Committee Chair, Date]

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION**

Signed By: _____

Printed/Typed:

[Name, Title & Date]

ATTACHMENT A

THREE-PARTY AGREEMENT

MaineDOT / Portland Area Comprehensive Transportation System
(PACTS) - Metropolitan Planning Organization

TOWN OF FREEPORT

REGARDING

PROPOSED NEW SHOULDER AND SIDEWALK CONSTRUCTION ON
ROUTE 1

FEDERAL AID PROJECT NO. CM-01309(600)X
STATE PROJECT IDENTIFICATION NUMBER (PIN) 013096.00

**Project Scope: Construct new shoulder with drainage improvements and
sidewalk on RTE 1 from Mallet Drive to Kendall St.**

Work Element	Municipal Share	State Share	Federal Share		Total Cost
			MPO Portion	MaineDOT Portion	
Preliminary Engineering					
Right-of-Way (ROW)					
Construction					
Construction Engineering					

Payment Schedule:

Entity Name	Payment Amount	Estimated Invoice Date
Town of Freeport	TBD	TBD
Town of Freeport	TBD	TBD
Town of Freeport	TBD	TBD

– END OF DOCUMENT –