

Technical Memorandum 22-01REV-1 Office of Policy Planning



FROM: Office of Policy Planning

DATE: July 21, 2023

SUBJECT: Unified Planning Work Program (UPWP) Revision Thresholds

Purpose

The Office of Policy Planning has prepared Technical Memorandum 22-01 to foster a discussion of UPWP revisions with our federal planning partners – the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA).

The 27 Florida metropolitan planning organizations (MPOs) are seeking relief from the number of *significant* UPWP revisions needed each year as they “report deviations from budget or project scope or objective.” Since the UPWPs list the transportation planning activities and products that will be implemented over a two-year period, several revisions may be needed each year. This technical memorandum provides directions to the MPOs and the Metropolitan Planning Organization Advisory Council (MPOAC) in the processing of both modifications and amendments to the UPWP.

Revising the UPWP

There may be instances during the two-year UPWP cycle that will require the MPO to revise the UPWP. The type of UPWP revision would depend on whether the revision exceeds the UPWP Amendment threshold as defined in [2 CFR 200.308](#) and [49 CFR 18.30](#). Revisions may be budgetary, programmatic, or both; and may be major or minor in scale. Minor UPWP revisions would be processed by the MPO as a Modification, whereas more significant or major UPWP revisions would be processed by the MPO as an Amendment. *A significant change is defined as a change to the UPWP that alters the original intent of the project or the intended project outcome.*

The following section further clarifies the actions necessitating UPWP Amendments, which are thereby defined as significant changes.

1. Amendments

UPWP Amendments are required for the following actions per [2 CFR 200.308](#) and [49 CFR 18.30](#):

- a. Any revision resulting in the need to increase the UPWP budget ceiling by adding new funding or reducing overall approved funding;
- b. Adding new or deleting tasks/subtasks;
- c. Change in the scope or objective of the program/task even if there is no associated budget revision (this also applies to when a task scope changes);
- d. A transfer between tasks/sub-tasks that exceeds a combined amount equal or greater than \$100,000 OR 10 percent of the total budget, *whichever is more restrictive*;
- e. Reducing the budget of a task/sub-task more than 50 percent, or to the point a task/sub-task could not be accomplished as it was originally approved;
- f. Change in key person;
- g. Extending the period of performance past the approved work program period (i.e., no-cost time extension);
- h. Sub awarding, transferring, or contracting out any of the activities in the UPWP;
- i. The disengagement from a project for more than 3 months, or a 25 percent reduction in time devoted to the project by the approved project director or principal investigator,
- j. The inclusion of costs that require prior approval (e.g. capital and equipment purchases \$5,000 and above per unit cost)

2. Modifications

UPWP changes that do not fall into the above categories may be processed as a Modification.

3. Key Person

One question that has arisen is who is considered “key person”? Based upon our review of [2 CFR 200.308](#) and [49 CFR 18.30](#) a key person is specified in the in the application or federal award. For the UPWP, we define a key person as the MPO’s staff director.

Supplement to Technical Memorandum 22-01

This supplement to Technical Memorandum 22-01 provides questions asked during the April 2022 Florida Metropolitan Planning Partnership (FMPP) meeting and the responses given to those questions. The questions are all related to UPWP amendments and modifications.

Question 1

Q: Why does there need to be an amendment to the scope if there is a project that does not have final approval?

A: The Federal Highway Administration (FHWA) reviews scopes when a task was not approved because there is not enough information in the original UPWP to approve that task. UPWP approval letters request that scopes be provided so that FHWA can approve projects.

Question 2

Q: Does the UPWP need to state if a consultant is doing a task?

A: Yes. In the past, some MPOs have stated that they are doing all tasks, even if some of the work is being done by consultants. If FHWA is unsure of who is doing a task, they will note this in the final UPWP letters.

Question 3

Q: What is an example of a situation that could lead to disengaging from a project for more than 3 months or by 25%?

A: One example is if a staff member working on a project leaves the MPO and the project is put on hold for over 3 months or 25% until a staff replacement is made and the project is continued.

Question 4

Q: Is an amendment required if an MPO finishes a project 3 month earlier than originally intended?

A: The rule refers to disengaging from a project, so an amendment would only be required for a delay.

Question 5

Q: Does the 25% rule for disengaging from a project refer to a dollar threshold or a time threshold?

A: This refers to a time threshold – a 25% reduction in time devoted to the project.

Question 6

Q: An MPO has requested funding but has not received any formal documentation stating that they have received funds. In this scenario, should the MPO include this funding in the draft UPWP?

A: The MPO must provide documentation showing that the funds are going to be programmed in the Tentative Work Program. The MPO must work with their Liaison to ensure that this funding is being programmed. If this funding is not included, a UPWP Amendment will need to occur.

Question 7

Q: An MPO makes a capital purchase (a purchase of over \$5,000). Some of this capital purchase occurs in the first year. This part of the purchase is under the \$5,000 threshold. The remainder of the purchase is made in the second year, which is also under the \$5,000 threshold. In this scenario, does the MPO need to get approval from FHWA and send a scope since the overall purchase is over the \$5,000 threshold?

A: Yes. The rule for capital purchase is broken down by UPWP, not by year.

Question 8

Q: A project is identified in the UPWP, but the MPO does not work on this project during the UPWP period due to a shortage in staffing. Does this project need to be removed from the UPWP?

A: Yes.

Question 9

Q: For the 25% rule, is the commencement date of a project the date when it goes to the MPO board for approval?

A: The UPWP should spell out a timeline for the project. If the project gets 3 months or 25% behind the set timeline, a UPWP amendment will need to occur. This amendment will need to show where the funding originally provided for that project will go and a revised project timeline will need to be provided.

Question 10

Q: If a key person, for example a staff director, changes, what kind of amendment is being triggered in the UPWP?

A: Federal requirements state that an amendment must occur with the change of a key person. The key person was identified for the purposes of this guidance to be the MPO director. Since federal requirements do not provide specificity on how the key person is defined, consideration was given to a definition that would minimize the anticipated number of amendments for an MPO resulting from this requirement. The identification of the MPO director as the key person was to limit the definition to a single person within the organization, thereby limiting resulting amendments to a change in staffing in only one position.

Financial v. Non-Financial Amendments

Both financial and non-financial amendments can occur to the UPWP. Financial amendments can change the total amount of UPWP funding and/or the transfer of funds between tasks, while non-financial amendments will not change funding amounts. Examples of non-financial amendments include the following:

- a. Change in the scope or objective of the program or task;
- b. Change in key person;
- c. Extension of the period of performance past the approved work program period;
- d. Sub awarding, transferring, or contracting out any of the activities in the UPWP;
- e. Disengaging from a project for more than 3 months, or a 25 percent reduction in time devoted to the project by the approved project director or principal investigator;
- f. Including costs that require prior approval (e.g. capital and equipment purchases \$5,000 and above per unit cost)