



U.S. DEPARTMENT OF TRANSPORTATION

**Federal Highway Administration
New Jersey Division
840 Bear Tavern Road, Suite 310
West Trenton, New Jersey 08628-1019**

**Federal Transit Administration
Region 2
One Bowling Green, Room 429
New York, New York 10004-1415**

October 14, 2005

**IN REPLY REFER TO:
HPL-NJ
TRO-2**

Mr. John F. Lettiere
Commissioner
New Jersey Department of Transportation
1035 Parkway Avenue
P.O. Box 600
Trenton, NJ 08625-0600

Dear Commissioner Lettiere:

The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) have determined that the proposed FY 2006-2008 New Jersey State Transportation Improvement Program (STIP) submitted by your October 7, 2005, letter meets the federal fiscal constraint requirement in accordance with 23 CFR §450. We are making this determination based on the information provided in your letters dated July 22, 2005, September 23, 2005, and September 26, 2005. This determination is based on the agreement reached at the meeting with USDOT Headquarters on September 9, 2005 (enclosure).

As agreed at the September 9th meeting and consistent with federal law, our fiscal constraint determination applies only to federally funded highway and transit projects and regionally significant non-federal projects, while the existing system is adequately maintained and operated, although we recognize that your overall state program encompasses a broader range of requirements.

We did not examine the financial viability of the overall New Jersey transportation program, notably the state or locally funded projects that are not regionally significant. We understand that state legislative action will be required to ensure that adequate state resources are available to meet the requirements of those non-federal projects but the responsibility for their financial viability rests with the state of New Jersey.



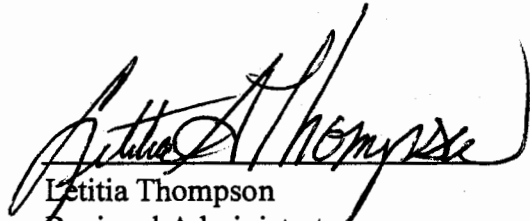
The FHWA and FTA have also determined, based on the conformity reports submitted by the Department for each of the Metropolitan Planning Organizations, and in consultation with the Environmental Protection Agency, that the Regional Transportation Plans and FY 2006-2008 Transportation Improvement Programs for the NJTPA, SJTPO, and DVRPC meet the transportation conformity requirements of the Clean Air Act Amendments of 1990.

Based on the above, the FY 2006-2008 New Jersey STIP is approved, and we find that the plans for NJTPA, SJTPO, and DVRPC are in conformity.

Sincerely,



Dennis L. Merida, P.E.
Division Administrator
Federal Highway Administration
New Jersey Division



Letitia Thompson
Regional Administrator
Federal Transit Administration
Region II

Enclosure

cc: Tim Chelius, SJTPO
John Coscia, DVRPC
Joel Weiner, NJTPA



Agreement for Fiscal Constraint Analysis for FY06-08 New Jersey STIP

This agreement reflects established FHWA/FTA regulations and guidance on fiscal constraint and does not reflect any exceptions to the standard requirements. FHWA, FTA, and NJDOT agree to work together to establish fiscal constraint for New Jersey 's FY06-08 STIP based on the following:

- The NJ STIP will continue to include both Federal and state-only projects, but the Federal fiscal constraint test will be applied only to (a) Federally funded highway and transit projects and (b) regionally significant nonfederal projects.
- This result is based on the NJDOT's explanation that STIPs in New Jersey include all projects, both those receiving Federal assistance and those that do not. Federal fiscal constraint requirements apply only to projects proposed for Federal assistance and other regionally significant projects. Thus, in considering the STIP for approval, Federal review need only focus on the two portions of the STIP list in the foregoing paragraph.
- In establishing fiscal constraint for the STIP, the supporting financial plan will identify the following costs:
 - Federally funded highway and transit projects, by year;
 - Regionally significant highway and transit projects, by year; and
 - Estimated costs for maintaining and operating the system as a whole. (23CFR450.216(a)(5))
- The state will identify the revenue sources, by year, to meet the preceding costs.
- For FY06 and FY07, the revenue sources must be "available or committed" (per 23CFR450.216(a)(5)). "Available or committed" revenue sources may include:
 - a continuing stream of revenue from existing state or local taxes, including expected appropriations from state or local General Funds at historic levels or funds derived from an existing source of funds dedicated to or historically used for transportation purpose; and
 - federal funding for New Jersey based on an extrapolation of historic authorizations, or based on actual authorizations in SAFETEA-LU, whichever is higher.
- Federal revenues may not be "double-encumbered" - - i.e., they may not be shown twice as a source of revenue, e.g., both for AC and for non-AC projects.
- For FY08 and beyond, revenue sources must be "reasonably available," which may include proposed new revenue sources, as long as the assumptions or projections about their availability are reasonable. As provided in 23CFR450.216(a)(5), "In the case of proposed funding sources, strategies for ensuring their availability shall be identified." In the case of funds controlled by the State, approval of the TIP by the Governor will be considered a commitment of funds to implement projects in the TIP.
- NJDOT will identify those projects where it chooses to use "Advance Construction" (AC). For AC projects, NJDOT will identify the Federal revenues to be used, by year, to pay AC project costs. FHWA agrees that NJDOT does not have to identify a nonfederal source of funds for AC projects, as long as NJDOT can establish there will be available Federal revenues in the year of Federal project authorization. This recognizes that "projects" may be identified and authorized separately for Design, vs. ROW acquisition, vs. multiple construction phases, so that Federal revenues do not have to be identified in aggregate in a single authorization year.

FHWA, FTA, and NJ DOT will move forward expeditiously to establish fiscal constraint for the FY06-08 NJ STIP as soon as possible.