

## NEGOTIATED CAPITAL PROGRAMMING IN NEW JERSEY

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The process of capital programming in any state or urbanized area must necessarily reflect the history, geography, governmental organization, and political culture of the area as well as its transportation needs. To understand how New Jersey's brand of capital programming came into being, it is necessary to understand something about the state. Some of the most important factors are:

1. New Jersey is an urbanized state, the most densely populated in the nation.
2. Because of the state's population density and the dispersed character of employment, transportation is a major issue and a major topic of discussion among citizens, in the newspapers, and in political circles.
3. New Jersey has a strong, centralized Department of Transportation (NJDOT).
4. New Jersey has a statewide transit agency, the New Jersey Transit Corporation (NJ Transit), which operates the great majority of public transportation services in the state, including an extensive commuter rail system and both commuter and transit-type buses. Although established as an independent public corporation, NJ Transit has the Commissioner of Transportation as its chairman.
5. New Jersey is entirely divided up into three metropolitan planning organization areas.
6. New Jersey has a large 100% state funded transportation capital program. This is due in part to a large Transportation Trust Fund and in part to New Jersey's use of the "soft match" provision of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).
7. Most of the state is classified as a severe air quality "nonattainment" area.
8. NJDOT has historically been the project sponsor of federal-aid projects on local roadways.
9. NJDOT has consistently advocated and implemented a philosophy of flexibility in the use of available funding sources. NJDOT has also resisted the concept of rigid division of funding categories into "MPO" and "state" categories, pursuing the philosophy that the objective of the programming process is an agreed upon capital program and that reaching that objective may require negotiations concerning a variety of funding categories.

As is probably the case in most states, New Jersey's capital programming process has been in a state of constant evaluation since the passage of

ISTEA. No year's experience has been quite like the one that preceded it or followed it. This paper will describe the process as it occurred in one capital programming round, the development of the Fiscal 1996-Fiscal 2000 regional Transportation Improvement Programs and Statewide Transportation Improvement Program. To maintain a reasonable focus, this account will refer mainly to the process of negotiating a TIP with the state's largest MPO, the North Jersey Transportation Planning Authority.

The process as it occurred from the fall of 1994 through the summer of 1995 can be discussed under three basic phases: *screening*, *prioritization*, and *negotiation*.

The NJDOT project *screening* process for the FY 96 capital programming round began on September 1, 1994. The screening process is used to determine which projects are candidates to be included in the TIP and what the schedules, scope of work, and costs of those projects are. The screening process was developed at NJDOT about three years ago as a way of improving the reliability of capital programs through rigorous scrutiny of project status. Both NJDOT and the MPOs had agreed, independent of federal legislation, that TIPs should be restricted to real, deliverable projects with high likelihood of implementation according to projected schedules and costs. The threshold for "graduation" from Study and Development to TIP was defined as approval of the basic environmental document. The normal rule for entry into the TIP is that the environmental document be approved at the *beginning* of the fiscal year for which TIP entry for final design is sought.

The screening process begins with circulation of a draft "project pool" consisting of all projects identified by capital programming staff as likely TIP candidates. These are mainly projects continued from the previous TIP, together with projects which appear to be likely to "graduate" from Study and Development. In the autumn of 1994, project managers were asked to send back updated schedules and costs, together with any additions to the pool they wished to put forward. The draft project pool listings were then reviewed at four screening meetings in late September, organized around the four NJDOT geographical regions. Beginning in 1993, MPO staff has also attended these meetings. Inclusion of non-NJDOT staff in these meetings reflects a real cultural change in the department toward more open decision making.

At the screening meetings, projects are reviewed one at a time. Each project manager is asked for key milestone dates and information concerning project delays and unresolved problems. These are cross-checked with staff from specialized project support units, particularly environmental and right-of-way. Although the meetings are conducted in an informal and—usually—friendly manner, there is a good deal of give-and-take and frank discussion of project problems. It is not uncommon, for instance, for project managers to have a rosier view of project schedules than specialized supporting staff does. Decisions are normally made on the spot as to (1) which projects are really “Tippable” and which must remain on the Study and Development list and (2) what are the most reasonable schedule years for programming for final design, right-of-way acquisition, and construction.

The work product of these screening meetings and the follow-up research that follows them is a “revised project pool” which lists all NJDOT project which are considered eligible for the TIP, together with their best, reasonable schedules and cost estimates. In the FY 96 round, the revised project pool was shared with the state's three MPOs in late November in hard copy reports and on disk as a database file.

Similar screening procedures are carried out by NJ Transit and by each of the three MPOs, for local sponsorship projects. The information contained in the NJDOT project pool has rarely if ever been challenged by the MPOs, in large part because of the obvious rigor and openness of the process.

The *prioritization* process begins with delivery of the revised project pool. Each of the three MPOs has its own prioritization system. The NJTPA “Project Selection Criteria and Methodology,” as used in the FY 96 programming round, consisted of quantifiable performance standards established to measure each of the six goals from the draft long-range plan. The project ranking system assigns a numeric point value to each potential project based on the degree to which it satisfies the various criteria. Much of the scoring is done using automated databases that provide information on such items as pavement ratings, bridge sufficiency ratings, project location, VMT generation, and truck traffic. The result of the process was a set of prioritized project lists.

NJDOT also has a project prioritization methodology. This methodology is used as a staff tool for evaluating projects and helping to put together a draft program. It is clearly and explicitly used as a staff tool only and not as a final decision maker. The NJDOT system is keyed to project types, based on the belief that comparing, say, bridge projects to highway widenings using quantitative methods is not useful. For some classes of projects, priority analysis is used sparingly or not at all. For another class of projects—those termed “highway operational

improvements”—priority analysis proved very helpful. Projects classified as highway operational improvements are mainly low-cost improvements aimed at relieving bottlenecks or improving operations on the state highway system.

The next product that NJDOT prepared for MPOs, however, was not a project list but a draft program. NJDOT capital programming staff prepared a draft program based on a number of factors, including:

1. *State policies and objectives.* Since adoption of the 1989 long-range plan, NJDOT had embraced a resource allocation strategy based on the plan's long-term goals. The heart of this strategy is to give priority to system preservation projects over system expansion projects. This strategy was often looked to to guide project selection decisions.

2. *Project priorities.* As also discussed above, within certain categories individual project priority analysis data was used to select projects to be deferred. Both NJDOT and MPO priority scores were examined, and projects with consensus low scores were liable for deferral.

3. *Construction timing needs.* Capital programming staff looked to construction management staff for guidance as to which projects could not be safely deferred, which projects should be deferred to avoid unnecessary maintenance of traffic problems because of conflicts with other projects, and which projects should be deferred or held to their schedule for orderly sequencing of projects in a corridor.

4. *Department commitments.* In the course of doing business in a democratic political system, the Governor, the Commissioner of Transportation, and department executives sometimes make commitments to project schedules to state legislators, citizens groups, and others. These commitments need to be honored.

5. *Funding categories.* NJDOT staff matches funding categories to projects to meet several objectives including use of federal demonstration funds, addressing federal backlogs, and those with special constituencies or review agencies.

When the internal staff and management reviews were done, NJDOT presented to the MPOs on January 30 a fully constrained “staff working draft” five-year program, with funding categories, for FY 96 through FY 2000. This constituted a *proposed* capital program, subject to further review and negotiation. The project pool which had emerged from the screening process was moderately beyond anticipated resources for the first year (FY 96), substantially beyond resources in the second and third years, and well below resources in the fourth and fifth years.

The phase of *negotiations* began with delivery of the staff working draft program to the MPOs on January 26, 1995. NJDOT, the three MPOs, and NJ

Transit had previously agreed to a very tight timetable for these negotiations because of the increasing complexity of air quality analyses and reviews. The other scheduling factor that needed to be considered was the state approval process. Under New Jersey law, the Legislature not only approves the annual capital program, it actually incorporates each project as an appropriations item in the budget.

NJTPA, as the largest MPO, had meanwhile established a structure for carrying on negotiations. For the new (FY 96) round, the MPO established a committee of the policy board which was specifically empowered to prepare a draft TIP for board approval, including conducting whatever negotiations were required with NJDOT and other project sponsors.

The committee held its first meeting on February 6. At that point, MPO staff reported the results of their comparison of the NJDOT "staff working draft" with the MPO priority list and reported that the two were "over 98%" in agreement. This large measure of congruence was due in part to a large degree of consistency between NJDOT and MPO priorities and in part to the fact that NJDOT staff took MPO priorities into consideration in preparing the draft program. A large factor in reducing potential conflicts, however, was the fact that the annual state Transportation Trust Fund appropriation was planned to increase from \$565 million to \$880 million annually.

There were, nonetheless, some significant differences—projects which received high priority scores in the MPO rating system but which had been delayed from their project pool year in favor of other projects in the NJDOT draft.

As a result of further negotiations, and similar ones involving the state's other two MPOs, the proposed annual capital program which was submitted to the Legislature on March 1 carried the endorsement that it was "... the product of extensive deliberations and outreach ...". The draft TIPs prepared by the MPOs used the same basic project list.

It will be recalled that the scheduling information used to draw up the project pool, which in turn was used to negotiate the project lists, had been developed the previous October. Both the MPOs and NJDOT realized that a more comprehensive review was needed to avoid having a "stale" TIP adopted. The mechanism that was agreed to was a "midcourse correction" review in April.

As events unfolded, an additional review proved to be needed. In enacting amendments to the state's Trust Fund Act, the Legislature established an annual appropriations level of \$700 million from the Trust Fund rather than the \$880 million the Governor had requested. Given the late date, it was determined to be too late to reopen TIP negotiations or to consider the federal-aid side of the program at all. Accordingly, all the reductions had to be taken on the state side. Most of these involved statewide program-type expenditures rather than specific construction projects.

All the major parties to the capital program process appeared to be satisfied that the process had been successful and that the program that emerged was a product of full and open participation by the major actors, full use of both technical and policy information, and solid, businesslike scheduling.