

**MEMORANDUM OF UNDERSTANDING RELATING TO THE
COMPREHENSIVE, CONTINUING AND COOPERATIVE
TRANSPORTATION PLANNING PROCESS IN THE BOSTON
METROPOLITAN AREA**

**Approved by the Boston Region Metropolitan Planning Organization
July 7, 2011**

Massachusetts Department of Transportation

Massachusetts Bay Transportation Authority

Advisory Board to the MBTA

Massachusetts Port Authority

Metropolitan Area Planning Council

City of Boston

City of Newton

City of Somerville

Town of Bedford

Town of Braintree

Town of Framingham

Town of Hopkinton

Effective November 1, 2011

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**Memorandum of Understanding Relating to the
Comprehensive, Continuing and Cooperative
Transportation Planning Process in the
Boston Metropolitan Area**

1. INTRODUCTION

WHEREAS, the Massachusetts Department of Transportation (MassDOT), formerly the Executive Office of Transportation and Construction, has the statutory responsibility, under Chapter 25 of the Acts of 2009, An Act Modernizing the Transportation Systems of the Commonwealth, to conduct comprehensive planning for and to coordinate the activities and programs of the state transportation agencies and, under Chapter 161A of the General Laws, to prepare the capital investment program and plans of the MBTA in conjunction with other transportation plans and programs; and its Highway Division, formerly the Massachusetts Highway Department, has the statutory responsibility under this Chapter for the construction, maintenance and operation of state roads and bridges, and also has the responsibility under this Chapter for the ownership, administration, control, operation, and responsibility for maintenance, repair, reconstruction, improvement, rehabilitation, finance, refinance, use, and policing of the Massachusetts Turnpike and the Metropolitan Highway System in the vicinity of Boston and the surrounding metropolitan area; and

WHEREAS, the Massachusetts Bay Transportation Authority (“MBTA”) under the provisions of Chapter 161A of the General Laws, has the statutory responsibility to design and construct transit development projects, to determine the character and

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extent of services and facilities to be furnished, as well as to operate the public transportation system for the area constituting the MBTA; and

WHEREAS, the Advisory Board to the MBTA (“Advisory Board”) established under Chapter 161A of the General Laws is composed of the chief elected official, or designee, from each of the 175 cities and towns within the MBTA district, and is the body authorized by statute to review and advise the MBTA on its annual operating budget and the Program for Mass Transit; and

WHEREAS, the Metropolitan Area Planning Council (“MAPC”) comprises representatives from each of the 101 cities and towns in the Boston Metropolitan Region, gubernatorial appointees, and representatives of various state, regional, and City of Boston agencies; has statutory responsibility for comprehensive regional planning under MGL Chapter 40B; is the designated Economic Development District under Title IV of the Public Works and Economic Development Act of 1965; and promotes smart growth and regional collaboration in order to implement the current regional plan, *MetroFuture: Making a Greater Boston Region*; and

WHEREAS, the Massachusetts Port Authority (“Massport”) has the statutory responsibility, under St. 1956, c. 465 (Appendix to Chapter 91 of the General Laws), to plan, construct, own, and operate transportation and related facilities (including Logan Airport, Hanscom Field, Black Falcon Cruise Terminal, and the Conley Terminal), as may be necessary for the development and improvement of commerce in Boston and the surrounding metropolitan area; and

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WHEREAS, the municipalities in the Region, including the City of Boston, as the central city in the Region, and all other municipal governments, have an essential role in transportation planning and programming decisions; and

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); or its successors and Federal Highway Administration (“FHWA”) / Federal Transit Administration (“FTA”) joint planning regulations (23 CFR Part 450 and 49 CFR Part 613) require metropolitan areas to have a comprehensive, continuing, and cooperative transportation planning process (“3-C”) that results in plans and programs that consider all transportation modes and supports metropolitan community development and social goals. These plans and programs shall lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods;

WHEREAS, the Objectives of the 3-C Process are:

- a comprehensive, continuing, and cooperative transportation planning process resulting in plans, programs and operations consistent with the planning objectives of the metropolitan area.
- Comprehensive, including the effective integration of the various stages and levels of transportation planning and programming for the entire Region and examining all modes so as to assure a balanced planning effort. There is simultaneous analysis of various related non-transportation elements, such

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as land use, economic and residential development, demographics, sustainability, and equity within a total planning process.

- Continuing, affirming the necessity to plan for the short and long range needs of the regional transportation system, emphasizing the iterative character of the progression from systems planning to project planning, programming, operations and implementation. Frequent updating and re-evaluation of data and plans is necessary.
- Cooperative, requiring effective coordination among public officials at all levels of government, and inviting the wide participation of all parties, public or private, at all stages of the transportation planning process. A key objective of the process is to resolve issues and controversies by providing a forum for negotiation and consensus building. At the same time, the process is not intended to operate, and cannot operate, to dilute the ultimate authority or responsibility of those state, regional, or local public officials who, pursuant to statute or under contract, review and/or implement transportation plans, programs, and projects.
- Intermodal, and are intended to help provide the Boston region with the ability to maintain, manage and operate a multimodal transportation system that provides a high level of mobility and safety for people and freight, consistent with fiscal and environmental resources;

WHEREAS, in response to the FHWA/FTA Transportation Planning Certification Review Final Report of April 2004; and

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WHEREAS, the Signatories recognize that transportation planning and programming must be conducted as an integral part of and consistent with the comprehensive planning and development process, and that the process must involve the fullest possible participation by state agencies, regional entities, local governments, private institutions and other appropriate groups;

NOW, THEREFORE, the Signatories hereto jointly agree as follows:

2. COMPOSITION AND ROLES OF THE BOSTON REGION METROPOLITAN PLANNING ORGANIZATION (MPO)

The Boston Region MPO consists of the following entities:

- Massachusetts Department of Transportation, with three representatives appointed by the Secretary, at least one of which is from its Highway Division
- Massachusetts Bay Transportation Authority
- Advisory Board to the MBTA
- Massachusetts Port Authority
- Metropolitan Area Planning Council
- City of Boston, with two representatives
- Twelve other municipalities elected from the Boston Region:
 - four at-large (two cities and two towns), and

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- eight (no city or town designation) from, respectively, each of the eight Metropolitan Area Planning Council subregional groups, and
- The Regional Transportation Advisory Council

In addition, the Federal Highway Administration and the Federal Transit Administration are ex-officio, non-voting members.

Each elected municipality shall be represented by its chief elected official or their designee. The terms of office of the elected municipalities shall be three-years, except, in the initial implementation phase, for six members who will have one four year term (as specified in the Updated MPO Membership election Process, dated 6/30/11). The 101 municipalities of the Boston Region will elect the elected municipalities. Permanent member entities of the MPO are not eligible to run for an elected membership.

A. Officers

The Chair of the Boston Region MPO shall be the Secretary of MassDOT or the Secretary's designee. The Vice Chair shall be a municipal representative or an official of one of the two regional agencies and shall be elected to a one-year term by the MPO members by majority vote. This election shall take place at the first meeting after the election of Boston Region MPO elected municipal representatives.

The Chair or his/her official designee shall: set agenda with the advice and input of the Vice Chair; call meetings; preside at meetings; and disseminate timely information to members. The Vice Chair or his/her official designee

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shall preside at meetings in the absence of the Chair or his/her official designee.

B. Records

The Central Transportation Planning Staff (CTPS) shall be the official custodian of the Boston Region MPO records. These records will be prepared and maintained by the CTPS, and shall be accessible in a central location.

C. Municipal Membership

The City of Boston is a permanent member. The process for nominating and electing the twelve other municipal members shall be approved by the Boston Region MPO to fulfill the objective of having a diverse membership. The municipal nomination and election process shall be administered by MAPC working jointly with the Advisory Board to the MBTA.

Election procedures should allow all municipalities an opportunity to be elected to the Boston Region MPO. Any changes to the election procedures shall be presented to the Boston Region MPO for approval.

D. The Regional Transportation Advisory Council (Advisory Council)

To accomplish the objectives of the 3-C process, the Boston Region MPO has established a special advisory committee, known as the Regional Transportation Advisory Council (Advisory Council). The Boston Region MPO shall support the Advisory Council by providing financial and staff support through the Boston Region MPO staff. The members of the Boston

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Region MPO shall support the Advisory Council individually by rendering institutional support and also by attending the Advisory Council meetings, as practical.

In setting policy and work priorities for said staff, the Boston Region MPO shall be advised by the Advisory Council and, subject to overall work priorities, shall provide information and analysis to the Advisory Council to assist the Advisory Council in advising on issues arising out of the 3-C process.

The principal mission of the Advisory Council is to foster broad and robust participation in the transportation planning process by bringing together concerned citizens, community-based organizations, Environmental Justice populations, business and institutional leaders, representatives of cities and towns, and state agencies.

The Advisory Council will best serve the Boston Region MPO and the public by acting as a primary mechanism for public input to the transportation planning process. To accomplish the Advisory Council mission, the Boston Region MPO acknowledges that:

- the Advisory Council is defined as a principal public outreach and education arm of the Boston Region MPO;
- The Chair of the Advisory Council will also chair any Public Participation Committee of the Boston Region MPO; and

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- The Advisory Council shall assist with the implementation of the public participation plan in cooperation with the agencies and staffs as designated in the Unified Planning Work Program (UPWP).

Boston Region MPO staff will provide ongoing support to the Advisory Council Chair to:

- Implement the Public Participation Plan and
- Further educate members of the public regarding activities of the Boston Region MPO and critical transportation issues generally.

Any additional specific revised functions, duties, and membership of the Advisory Council, proposed by the Boston Region MPO, shall be determined in cooperation with the Advisory Council.

E. Voting Rules

Votes of the Boston Region MPO on all certification documents and amendments to these documents shall be a two-thirds majority vote of those present and voting, provided that a quorum, at least twelve member representatives, is present. Other votes will be by majority, and require a quorum

3. FUNCTIONS AND ROLES OF THE BOSTON REGION MPO AND ITS COMMITTEES

A. Overview

The Boston Region MPO shall perform all functions as required by federal or state law including jointly adopting an annual unified transportation planning

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work program for the region, as well as such transportation plans, programs and conformity determinations as may from time to time be required of the Boston Region MPO by federal and state laws and regulations.

The Boston Region MPO shall be the forum for cooperative decision making by principal elected officials of general purpose governments in the Boston region, and shall endeavor to provide the federal government the views of “responsible local officials” of the Region where called for under federal law with respect to the initiation of certain transportation programs and projects.

In the resolution of basic regional transportation policy, the Boston Region MPO shall seek and consider the advice of the Advisory Council. In so doing, the Boston Region MPO shall provide the Advisory Council with information and analysis in the form of reports, briefings, and discussion concerning their plans, programs, and priorities so that the Advisory Council can carry out its functions in a timely fashion.

In addition to the advice of the Advisory Council, the MPO shall seek the involvement of members of the public and the many entities and organizations with interests and views relative to the Boston Region’s planning and programming. To facilitate this, the Boston Region MPO will post on its website, at least 48 hours in advance of meetings, all materials related to meeting action items, unless waived by unanimous consent of the Boston Region MPO. The Boston Region MPO will also meet quarterly at locations outside of the City of Boston.

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The Boston Region MPO will consider geographic and demographic equity a goal when approving all certification documents. This means that after other factors, such as need, are used in evaluating and selecting projects, a final view toward geographic and demographic balance and fairness over the span of the document will be applied.

B. Planning and Programming

The Boston Region MPO is responsible for planning and programming financial resources for a multi-modal transportation system for the Boston region by conducting the federal metropolitan planning process (3C Process) for the region, as referenced in Section 1 of this Memorandum. This includes preparation of the fiscally constrained certification documents (Long-Range Transportation Plan, Unified Planning Work Program, and Transportation Improvement Program), and the Congestion Management Program and other studies supporting MPO decision-making.

The Unified Planning Work Program identifies the transportation planning studies conducted in the region, along with their funding amounts and sources, during a given federal fiscal year.

The Long Range Transportation Plan is the comprehensive transportation planning document for the MPO. It defines transportation visions, establishes goals and policies, and allocates projected revenue to regionally significant programs and projects.

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The Transportation Improvement Program lists projects programmed and expected to be funded over the immediate four-year period. It is developed annually.

The Signatories agree to the arrangements outlined in Section 4 for the allocation of federal and state funds. Nothing in this document shall preclude the Boston Region MPO's ability to use the provisions of SAFETEA-LU (and successors) to transfer funds between highway and transit uses.

C. Establishment of Committees and Task Forces

The Boston Region MPO shall appoint committees it determines necessary and task forces to accomplish its business and assign duties to them.

D. Central Transportation Planning Staff (CTPS)

The Boston Region MPO agencies shall contribute resources in the form of funds, staff, and other contributions, to support a unified inter-agency transportation planning staff, known as the Central Transportation Planning Staff ("CTPS"), to assist in carrying out the Region's 3-C process under the policy control of the Boston Region MPO.

CTPS shall provide planning services to the Boston Region MPO. From time to time, other parties may provide additional resources through the state planning program and through other resources. All work undertaken for the Boston Region MPO shall be in an approved UPWP. All work funded through federal financing for metropolitan transportation planning under 23 USC 104(f) and 49 USC 5338(g)(1) shall be approved by the Boston Region MPO

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in accordance with applicable rules provided that the cities and towns shall have a substantial role in the development of the UPWP particularly in the activities specified for metropolitan planning funds.

Since CTPS is not an agency, the Boston Region MPO retains a fiduciary agent for all of the Boston Region MPO's financial resources. MAPC is currently the fiduciary agent. While the CTPS staff shall be defined legally as employees of the fiduciary agent, they shall be administered according to policies established by the Boston Region MPO subject to applicable federal, state and local laws and regulations and to the availability of funds

At any time during which the fiduciary agent is a member of the Boston Region MPO, the role and actions of the fiduciary agent are distinguished from its role and actions as a policy member of the Boston Region MPO in that the fiduciary agent shall be limited to implementing actions of the Boston Region MPO subject to the applicable federal, state and local laws, and regulations and to the availability of funds.

The Boston Region MPO shall indemnify and hold the fiduciary agent harmless from liabilities occurring out of actions taken under its normal administration of the Boston Region MPO's activities. The Boston Region MPO and the fiduciary agent shall enter into an agreement detailing the financial and legal obligations of each party as determined by the Boston Region MPO.

All work not subject to federal transportation rules governing metropolitan planning funds must be approved by the Boston Region MPO for inclusion in the UPWP. CTPS may be selected by the sponsoring agency or other parties to deliver transportation planning services using these funds. The Boston Region MPO shall approve such requests provided it determines that: 1) CTPS has sufficient resources to complete such work in a capable and timely manner; and 2) by undertaking such work, CTPS neither delays completion nor reduces the quality of other work in the UPWP.

4. TRANSPORTATION IMPROVEMENT PROGRAM (TIP)

A. Overview

The Boston Metropolitan Region, made up of urban, suburban and rural communities, requires a balanced approach to transportation investment. The Boston Region MPO shall endorse annually a multi-year spending plan for federal highway and transit funding. This Transportation Improvement Program (TIP) shall reflect a multi-modal transportation program that responds to the needs of the region.

The TIP shall be the result of a cooperative, open, and informed process that balances local, regional, and state input and priorities and applies established Boston Region MPO policies and priorities in a fiscally constrained document. TIP development and programming shall be in full compliance with federal regulations and guidance. The TIP may include projects and programs addressing needs on the Interstate and National Highway Systems, repair of deficient bridges, support of inter- and intra-

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regional mobility, community projects, multi-modal facilities, bicycle and pedestrian infrastructure, transportation enhancements, clean air and mobility, operations and management, and all forms of transit. The state, regional, and municipal members of the Boston Region MPO shall work in a unified, timely, and cooperative manner to develop and establish priorities for the TIP.

The Boston Region MPO shall maintain two lists of unfunded projects: a First Tier Projects list and a Universe of Projects list. These lists shall be compiled by the Boston Region MPO for information purposes and shall be included annually in an appendix to the TIP.

B. Establishment of Financial Constraint and Development of TIP Targets

Development of the statewide federal aid and non-federal aid highway funding estimate shall be cooperative and shall be discussed with a statewide group representing regional planning agencies and other MPOs; currently the Massachusetts Association of Regional Planning Agencies (MARPA) is this group.

An initial step in the financial constraint and TIP target development process shall be timely transmission to MARPA of federal funding information on obligation authority. In each TIP year, the state will propose its priorities for non-High Priority Projects, mega-projects, statewide infrastructure, change orders, planning, statewide CMAQ expenditures, and other items as needed. The estimated cost of these will be subtracted from the estimates of federal obligation authority of the state to show the estimated amount available for

federal funding for MPO targets in the state. This amount and the state match for this funding will be allocated among the MPOs based on the MARPA formula. The Boston Region MPO share of available federal and non-federal aid has provided the Boston Region MPO with 42.97% of available funds since 1991. This will be termed the TIP Target. The resulting targets, federal and state funding levels, and projects and programs and their cost estimates will be discussed with the Boston Region MPO and other members of MARPA at a meeting early in the TIP development process of each year. Boston Region MPO Staff shall accompany MAPC to these MARPA consultation meetings. The state will be responsible for explaining the derived targets and providing additional information as requested.

The Boston Region MPO shall use these numbers as the estimate of available funding. The Boston Region MPO's portion of federal and non-federal aid will be programmed in its constrained TIP and MassDOT shall seek to advertise projects in the region in that amount.

C. Prioritization Criteria

The Boston Region MPO has developed criteria to be used to evaluate projects considered for programming. These criteria are a means to inform the MPO's decisions for all elements of the TIP. These criteria are consistent with and advance the visions and policies adopted for the latest Long-Range Transportation Plan. The criteria shall be reviewed each year and updated and improved as needed.

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MassDOT and other member entities implementing federally-funded transportation projects shall consider MPO priorities when setting their priorities.

D. Transit

It is the responsibility of the Boston Region MPO, working with the MBTA, MassDOT Rail and Transit Division, and other transit providers in the region, to coordinate regional transit planning and funding with other transportation modes within the Boston region. This work shall be conducted in full compliance with federal and state regulations. It shall include programming for all federally-funded transit modes and programs, including the federal Job Access and Reverse Commute and New Freedom Programs.

The MBTA's authorizing legislation directs that every five years the MBTA shall prepare and submit to the Massachusetts General Court its Program for Mass Transportation (PMT), a long-range, fiscally unconstrained plan that outlines a vision for regional mass transit and a process for prioritizing infrastructure investments. Implementation of this plan is through the five-year fiscally constrained Capital Investment Program (CIP), which is updated annually.

Boston Region MPO regulatory requirements call for development every four years of a 25-year fiscally constrained Long-Range Transportation Plan (LRTP) that defines a comprehensive plan and vision for the region's surface transportation network. Implementation of the LRTP with federal

transportation funds is through the Boston Region MPO's fiscally constrained TIP.

The Boston Region MPO and MassDOT and the MBTA will coordinate the parallel planning activities of the PMT/CIP and the LRTP/TIP and provide consistency between planned outcomes. This includes mutual consideration of visions and priorities articulated in each entity's transportation planning documents and project selection process. The MassDOT Rail and Transit Division will coordinate RTA investment with the MPO when setting priorities for programming.

E. Highway, Bridge, Bicycle, and Pedestrian

The TIP shall contain the Boston region's portion of all federal and state aid for each of the TIP's four federal fiscal years. It shall be prepared in accordance with federal regulation. It shall include programming for all roadway, bridge, bicycle, pedestrian projects and programs in the region, including costs for the Central Artery/Tunnel and the Accelerated Bridge Program. It shall include projects and programs that address the needs of truck and rail freight movement in the region.

1. Central Artery/Tunnel Project

The Boston Region MPO shall detail future federal aid payments for the Central Artery/Tunnel Project through FFY 2014 or until federal aid obligations to the project have been met.

2. Accelerated Bridge Program

The Boston Region MPO shall be informed of the commitments to Accelerated Bridge Program funding. All bridges leveraging federal aid via this program shall be listed in the appropriate TIP element. There shall continue to be a section in the TIP that details the amount of federal aid returning to the federal government for payment on this program until such time as full obligation repayment is received.

3. Road and Bridge Program

The Boston Region MPO shall have the ability to program projects for federal and non-federal aid. The ability to include non-federal funds in a TIP does not in any respect imply the application of federal standards, regulations or related requirements to state-funded projects, programs or initiatives. The fiscal year shall be from October 1st to September 30th for both federal and non-federal aid.

MassDOT Highway Division shall be responsible for administering the road and bridge elements of the TIP, which includes meeting the requirements for implementing them. These requirements include acquiring right of way, obtaining necessary permits and completing design review before or during the federal fiscal year in which projects are programmed so that they can be advertised in the federal fiscal year in which they are programmed.

F. Improvement of TIP-Related Information

1. Overview

All members of the Boston Region MPO recognize the importance of delivering timely, accurate and reliable information on projects and on the levels of transportation funding expected to be available to the region. This information is critical for the development of the financially constrained TIP. This information also provides a valuable resource for planning by the cities and towns in the region as future funding levels help inform local decision making about whether, or when, to invest local resources in project design and development.

At the same time, the Boston Region MPO recognizes that funding levels may be affected by circumstances beyond its control, such as changes in state or federal authorizations or appropriations; increased need for emergency or security-related expenditures; legislative requirements; or other unanticipated events. While the Boston Region MPO recognizes these contingencies may affect funding, it nonetheless needs to deliver a regional transportation program based on good project information and a realistic assessment of available funds.

2. TIP Project Information and Dissemination

The implementing agencies shall keep the Boston Region MPO informed of project status on a regular basis to support MPO planning and programming and to enable the Boston Region MPO to notify

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project sponsors of the outstanding issues that could cause the project to be deferred to a subsequent fiscal year. At least quarterly and on request, the implementing agencies shall submit this information to the Boston Region MPO Chair and staff for coordination and for distribution to the MPO members. This information shall include project status and other issues of interest to the MPO members and shall be compiled from all available resources, including municipalities, regional entities, state transportation agencies, and other sources. Boston Region MPO members shall provide needed and relevant information to Boston Region MPO staff for dissemination to the full Boston Region MPO. Staff shall utilize appropriate and up-to-date information systems for maintaining, processing, analyzing, and reporting information.

At the end of the federal fiscal year, the state agencies shall offer a full summary of how projects fared in the previous fiscal year before asking the Boston Region MPO to vote on the new TIP.

Boston Region MPO staff shall have primary responsibility for informing local governments regarding transportation funding and for collecting local input to the Boston Region MPO. All members of the Boston Region MPO, however, shall have a role in informing local governments about transportation aid and the programming process and in considering local input to the Boston Region MPO.

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The Boston Region MPO shall discuss and decide on the TIP development process for the upcoming TIP in the first quarter of each federal fiscal year. The process shall be documented in the TIP Development Memorandum to the MPO. The process shall provide for the collection of current information about projects to be considered for programming; review and possible revision of TIP project-selection criteria; application of the criteria in project evaluations; and maintenance of certain lists of projects, such as the set in use at the signing of this Memorandum of Understanding, the “First Tier” set of projects. (The First Tier Project List is in addition to the set of programmed projects and serves as the first resource pool from which to identify projects for programming. This list is comprised of projects that earn a high score based on the evaluation criteria but that might not meet fiscal-constraint standards or immediate-readiness factors.)

5. OPERATIONS PLAN

The Boston Region MPO shall adopt a revised operations plan, which shall detail the operations of the transportation planning system and the preparation of all certification documents for the Boston Region MPO. The Boston Region MPO shall be responsible for fully complying with all federal and state regulations governing the 3-C transportation planning process in the Boston metropolitan area.

The plan should, at a minimum, address the following functional areas:

- Administration and Finance;

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- Programming;
- Policy; and
- Technical Products

6. REVIEW OF THIS DOCUMENT

This document shall be reviewed every year, beginning in April, by the Signatories. Upon execution of this Memorandum of Understanding and in an effort to enhance municipal understanding of the Boston Region MPO process, the Boston Region MPO shall circulate this document to the municipalities of the Boston Region MPO. Proposed amendments will be circulated to the public prior to consideration by the Boston Region MPO.

7. EFFECT OF MEMORANDUM

This Memorandum follows from: the Memorandum dated January 1973 and its Supplement dated March 1974; the Memorandum dated June 1976 and its Supplement dated May 1984; and the Memorandum dated November 1982; the Memorandum dated January 1997; and the Memorandum dated December 2001. However, in the event of any conflicts between this Memorandum and any previous Memoranda, this Memorandum shall prevail.

This Memorandum shall be effective as of November 1, 2011. Elected Municipal Signatories as of the date of the approval of this Memorandum shall serve in the new appropriate at-large or subregional designations established by this memorandum, until the end of their current term.