



Metropolitan Planning Organization Roles and Responsibilities and Related Agreements

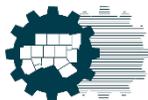
Ken Kirkpatrick | General Counsel

Regional Transportation Council Workshop

March 12, 2026

Workshop Materials (Provided in Agenda Packet)

1. March 12, 2026, Workshop Presentation
2. Annotated Version of January 22, 2026, Executive Board and February 12, 2026, RTC Presentation on MPO Roles and Responsibilities Presentation (Cross-Referenced to Legal Brief - #3 below).
3. February 11, 2026, Legal Brief on MPO Roles and Responsibilities
4. MPO Planning Memorandum of Understanding (not included in Legal Brief)
5. September 13, 2018, RTC Presentation on MPO Planning Agreement
6. August 9, 2012, RTC Presentation on MPO Planning Agreement
7. Executive Board Orientation from the Transportation Director



1. Scope of RTC Requested Legal Review

January 12, 2026, RTC Meeting: Item 6.

“NCTCOG General Counsel is being requested to review key statutory provisions, agreements, and foundational documents related to the responsibilities of the Regional Transportation Council as the MPO Policy Committee for the Dallas-Fort Worth Metropolitan Area, including but not limited to the following:

Title 23, United States Code, Section 134 (Highways – Metropolitan Planning)

Title 49, United States Code, Section 5303 (Transit – Metropolitan Planning)

Corresponding federal regulations impacting MPO responsibilities (e.g., 23 CFR Part 450)

Review of applicable State statutes and regulations impacting MPO responsibilities

MPO Planning Agreement between TxDOT, NCTCOG, and RTC

MPO Planning MOU between RTC, NCTCOG, and Public Transportation Operators

Documents related to the Governor’s MPO Designation

General Counsel shall provide a written report and presentation regarding RTC roles and responsibilities to the RTC and Executive Board.”



2. Activities Since January 12, 2026 RTC Request

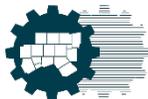
January 22, 2026: NCTCOG Executive Board Presentation on MPO Roles and Responsibilities (Item 14)

Judge Jenkins requested presentation be annotated and provided to the Executive Board and RTC

February 12, 2026: Regional Transportation Council Presentation on MPO Roles and Responsibilities (Item 7)

February 25, 2026: Annotated MPO Roles and Responsibilities Presentation and Supporting Legal Brief (dated February 11) Provided to the NCTCOG Executive Board (Judge Jenkins request)

March 6, 2026: Workshop Materials Provided in RTC Agenda Packet



3. Statutory Foundation: Metropolitan Planning Organization Designation

23 United States Code Section (U.S.C.) §134 – Metropolitan Transportation Planning

Metropolitan Planning Organization (MPO)

Defined as “the policy board of an organization established as a result of the designation process” in §134(d)

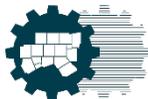
Responsible for carrying out the transportation planning process required by §134

MPO Designation: 23 USC §134(d)(1)

An MPO must be designated as follows:

for each urbanized area greater than 50,000 based on the latest U.S. Census

by agreement between Governor and general purpose local governments representing at least 75% of the affected population (including the largest city) or in accordance with applicable state or local law



Metropolitan Planning Organization Structure

23 United States Code Section (U.S.C.) §134 – Metropolitan Transportation Planning

MPO Policy Committee Structure: 23 USC §134(d)(2)

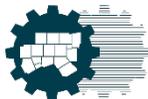
Local elected officials

Officials of major public transportation modal operators, including representation by providers of public transportation

Appropriate state officials

MPO Policy Committee Representation: 23 USC §134(d)(3)

Selection of officials for the MPO Policy Board is determined according to the bylaws or enabling statute of the organization



4. Historical Foundation: MPO Designation in Dallas-Fort Worth Region

Original MPO Designation

April 12, 1974 – NCTCOG designated by Governor Briscoe as the MPO for the DFW urbanized area subject to two conditions:

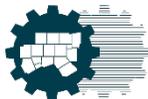
- 1) local governments concur (“signatories to Urban Transportation Planning agreements with the State”)
- 2) NCTCOG agrees that the Steering Committee* approve the use of Section 112 funds (i.e., metropolitan transportation planning funds)

Local Government Concurrence (April – August, 1974)

Arlington	Garland	Lake Dallas	Dallas County
Dallas	Grand Prairie	Mesquite	Tarrant County
Fort Worth	Irving	Richardson	

NCTCOG Designated as MPO for Denton-Lewisville urbanized area (1992) and McKinney urbanized area (2002), now known as the McKinney-Frisco urbanized area (2022)

* The Steering Committee was reconstituted as the Regional Transportation Council in 1978



MPO Designation in Dallas-Fort Worth Region

1992 – As result of the 1990 Census, Denton-Lewisville was identified as a separate urbanized area
Cities of Denton and Lewisville concurred that NCTCOG serve as the MPO for the Denton-Lewisville urbanized area

Updated MPO designation reflected in 1992 MPO Agreement

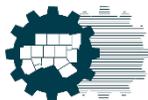
2002 - As a result of the 2000 Census, McKinney was identified as a separate urbanized area

City of McKinney concurred that NCTCOG serve as the MPO for the McKinney urbanized area

Updated MPO designation reflected in 2006 MPO Agreement

2022 – As a result of the 2020 Census, the McKinney urbanized area was expanded and renamed the McKinney-Frisco urbanized area

Cities of McKinney and Frisco concurred that NCTCOG, in conjunction with the RTC, to serve as the MPO for the McKinney-Frisco urbanized area



MPO Policy Committee Structure in Dallas-Fort Worth Region

1974- Initial MPO Policy Committee Structure Composed of Policy Advisory Committee and Steering Committee

1978 – MPO Policy Committee Structure Revisited

Policy Advisory Committee dissolved (by their own action)

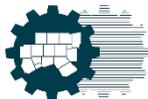
Steering Committee reconstituted as the Regional Transportation Council

Initial Bylaws and Operating Procedures of the RTC

Restates that NCTCOG is designated as the MPO with the proviso that the Steering Committee (reconstituted as the RTC) serve as the policy group for cooperative transportation decision-making by principal elected officials of general purpose local governments

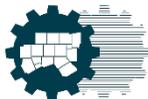
Restates that NCTCOG's responsibility is to ensure transportation planning is coordinated and integrated with other comprehensive planning activities

Current – RTC Bylaws Reviewed every four years (2026, next review)



5. Agreements Related to MPO Roles and Responsibilities: MPO Designation in Dallas-Fort Worth Region

1. MPO Designation Agreement (Brief, Attachments 5 and 6)
2. MPO Planning Agreement (Brief, Attachment 7)
3. MPO Planning Memorandum of Understanding (Workshop Materials)
4. Other RTC-Related Agreements



MPO Designation Agreement

MPO Designation Agreement (1974-Present)

Parties: NCTCOG, Governor's Office

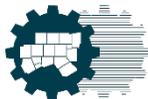
Term: Initially one-year terms

1988 - agreement made effective until MPO designation changes

Formalizes the Governor's Designation of NCTCOG as the MPO

The MPO shall:

- 1. Develop or assist in a multi-modal transportation planning process and obtain Steering Committee (RTC) approval for use of planning funds**
- 2. Ensure that transportation planning is integrated and coordinated with other comprehensive planning occurring in the NCTCOG region**
- 3. Use the Steering Committee (RTC) established pursuant to §134 as the MPO's policy committee**



MPO Planning Agreement

MPO Planning Agreement (1974- Present)

Parties: TxDOT, NCTCOG, and RTC

2006 – RTC became a party to the MPO Agreement

Term: Initially one-year terms, now six-year terms with TxDOT option to extend

Current Term: Expires September 30, 2027 (no further option years)

Current agreement executed in September 2018

Purpose: Defines the roles of each party and serves as the mechanism by which NCTCOG/RTC receive formula metropolitan transportation planning funds to carry out MPO functions

TxDOT

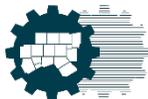
NCTCOG as the MPO and Fiscal Agent

RTC as the MPO Policy Committee

Transportation Planning Director

Geographic Scope: Dallas-Fort Worth Metropolitan Area (12 Counties)

Covers the three urbanized areas



MPO Planning Agreement Key Provisions

Division of Responsibilities between NCTCOG/RTC Stem from Governor's Original Designation

NCTCOG – MPO, Fiscal Agent (Articles 3, 5)

- Integrate and coordinate transportation planning with other comprehensive planning

- Assemble and maintain competent staff to perform all MPO activities

- Provide human resource, fiscal, staff support services for MPO activities

- Exercise sole responsibility to hire, supervise, evaluate, and terminate the MPO Transportation Planning Director

RTC – MPO Policy Committee (Article 4)

- Establish overall transportation policy for the MPO

- Develop and adopts MTP, TIP, UPWP

- Provide policy direction to the MPO Transportation Planning Director

MPO Transportation Planning Director (Article 6)

- Develop and present required planning and programming documents to MPO Policy Committee

- Take policy direction from and be responsible to the MPO Policy Committee

- Oversee and direct all MPO transportation planning work activities



MPO Planning Memorandum of Understanding

Required by 23 CFR Part 450.314

The MPO, State, and providers of public transportation shall cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process

Must include specific provisions related to development of financial plans that support the development of the MTP and TIP

Current MPO Planning MOU

Executed in 2018, Perpetual Term

2018 Agreement incorporated responsibilities for transportation performance data, targets, and reporting required by federal transportation legislation reauthorization

Parties: NCTCOG, RTC, TxDOT Districts, Operators of Public Transportation (DART, Trinity Metro, DCTA, Arlington, McKinney, Mesquite, Grand Prairie), Toll road Authorities (NTTA, CCTRA) and DFWIA

Describes NCTCOG and RTC “serving together as the Dallas-Fort Worth MPO”

Refers to 1978 Governor designation of NCTCOG, as the MPO in Dallas and Tarrant Counties, as having a role in air quality transportation planning activities for the State Air Quality Plan



Other RTC-Related Agreements (Examples)

Parties: RTC, Local Government/State Partner

MOU with Texas Transportation Commission on Regional Toll Revenue

MOUs with Local Governments Regarding Project Funding Strategies, Commitments of RTC Programming Authority (e.g., TIP MOUs)

Parties: NCTCOG, RTC, Local Government/Transportation Authority Partners

NCTCOG/RTC/Local Government ILAs Regarding Project Funding Strategies (Federal/Local Swaps, Advances of RTC Programming Authority, Financial Backstops)

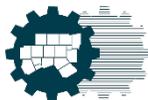
Party: NCTCOG, State or Federal Funding Agency

Grant Agreements for RTC-Related Programs and Initiatives

Federal or State Funds (e.g, STBG, CMAQ, RTR) Awarded by the RTC to NCTCOG

Competitive Federal Funds Applied for by NCTCOG at the direction of RTC

NCTCOG Agreements as MPO Fiscal Agent carrying out RTC-Related Programs and Initiatives (e.g., consultants, contractors, rebate recipients, subrecipients)





Item 14: Metropolitan Planning Organization Roles and Responsibilities

Ken Kirkpatrick | General Counsel

NCTCOG Executive Board

January 22, 2026

February 2026 Update:

Slides have been annotated and cross-referenced to the Brief on Metropolitan Planning Organization Roles and Responsibilities between the North Central Texas Council of Governments and the Regional Transportation Council ("MPO Brief") dated February 11, 2026

Metropolitan Planning Organization Designation

23 United States Code Section (U.S.C.) §134 – Metropolitan Transportation Planning

Metropolitan Planning Organization (MPO)

Defined as “the policy board of an organization established as a result of the designation process” in §134(d) ¹

Responsible for carrying out the transportation planning process required by §134 ²

MPO Designation: 23 USC §134(d)(1) ³

An MPO must be designated as follows:

for each urbanized area greater than 50,000 based on the latest U.S. Census

by agreement between Governor and general purpose local governments representing at least 75% of the affected population (including the largest city) or in accordance with applicable state or local law



¹ MPO Brief, Attachment 2, Page 2.1; Attachment 3, Page 3.2

² MPO Brief, Attachment 2, Page 2.1; Attachment 3, Page 3.2

³ MPO Brief, Attachment 2, Page 2.1, 2.2; Attachment 3, Page 3.2

MPO Designation in Dallas-Fort Worth Region

Original MPO Designation

April 12, 1974 – NCTCOG designated by Governor Briscoe as the MPO for the DFW urbanized area subject to two conditions: ⁴

- 1) local governments concur (“signatories to Urban Transportation Planning agreements with the State”) ⁵
- 2) NCTCOG agrees that the Steering Committee* approve the use of Section 112 funds (i.e., metropolitan transportation planning funds) ⁶

Local Government Concurrence (April – August, 1974) ⁷

Arlington	Garland	Lake Dallas	Dallas County
Dallas	Grand Prairie	Mesquite	Tarrant County
Fort Worth	Irving	Richardson	

NCTCOG Designated as MPO for Denton-Lewisville urbanized area (1992) and McKinney urbanized area (2002), now known as the McKinney-Frisco urbanized area (2022) ⁸

* The Steering Committee was reconstituted as the Regional Transportation Council in 1978 ⁹



⁴ MPO Brief, Attachment 4, Page 4.1

⁵ MPO Brief, Attachment 4, Page 4.3, 4.4

⁶ MPO Brief, Attachment 4, Page 4.3, 4.4

⁷ MPO Brief, Page 3 (footnote 14).

⁸ MPO Brief, Page 3.4

⁹ MPO Brief, Page 5 (footnote 23)

MPO Designation in Dallas-Fort Worth Region

MPO Designation Agreement (1974- Present)¹⁰

Parties: NCTCOG, Governor's Office

Term: Initially one year terms

1988 - agreement made effective until MPO designation changes ¹¹

Formalizes the Governor's Designation of NCTCOG as the MPO

The MPO shall: ¹²

1. Develop or assist in a multi-modal transportation planning process and obtain Steering Committee (RTC) approval for use of planning funds
2. Ensure that transportation planning is integrated and coordinated with other comprehensive planning occurring in the NCTCOG region
3. Use the Steering Committee (RTC) established pursuant to §134 as the MPO's policy committee



¹⁰ MPO Brief, Attachment 5

¹¹ MPO Brief, Attachment 6, Page 6.4

¹² MPO Brief, Attachment 5, Page 5.2, Attachment 6, Page 6.3

MPO Planning Agreement

MPO Planning Agreement (1974- Present) ¹³

Parties: TxDOT, NCTCOG, and RTC ¹⁴

2006 – RTC became a party to the MPO Agreement

Term: Initially one year terms, now 6-year terms with TxDOT option to extend

Current Term: Expires September 30, 2027 (no further option years) ¹⁵

Current agreement executed in September 2018

Purpose: Defines the roles of each party and serves as the mechanism by which NCTCOG/RTC receive formula metropolitan transportation planning funds to carry out MPO functions

TxDOT ¹⁶

NCTCOG as the MPO and Fiscal Agent ¹⁷

RTC as the MPO Policy Committee ¹⁸

Transportation Planning Director ¹⁹

Geographic Scope: Dallas-Fort Worth Metropolitan Area (12 Counties)
Covers the three urbanized areas



¹³ MPO Brief, Page 6

¹⁴ MPO Brief, Page 7

¹⁵ MPO Brief, Attachment 7, Page 7.1

¹⁶ MPO Brief, Attachment 7 (Article 2), Pages 7.3, 7.4, 7.5

¹⁷ MPO Brief, Attachment 7 (Articles 3, 5), Page 7.3, 7.5, 7.6

¹⁸ MPO Brief, Attachment 7 (Article 4), Pages 7.3, 7.6

¹⁹ MPO Brief, Attachment 7 (Article 6), Pages 7.6, 7.7

Key Provisions

Division of Responsibilities between NCTCOG/RTC Stem from Governor's Original Designation

NCTCOG – MPO, Fiscal Agent ²⁰

Integrate and coordinate transportation planning with other comprehensive planning

Assemble and maintain competent staff to perform all MPO activities

Provide human resource, fiscal, staff support services for MPO activities

Exercise sole responsibility to hire, supervise, evaluate, and terminate the MPO Transportation Planning Director

RTC – MPO Policy Committee ²¹

Establish overall transportation policy for the MPO

Develop and adopts MTP, TIP, UPWP

Provide policy direction to the MPO Transportation Planning Director

MPO Transportation Planning Director ²²

Develop and present required planning and programming documents to MPO Policy Committee

Take policy direction from and be responsible to the MPO Policy Committee

Oversee and direct all MPO transportation planning work activities



²⁰ MPO Brief, Attachment 7, (Articles 3, 5), Page 7.5, 7.6

²¹ MPO Brief, Attachment 7, (Article 4), Page 7.6

²² MPO Brief, Attachment 7, (Article 6), Page 7.6, 7.7

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**Brief on Metropolitan Planning Organization Roles and Responsibilities between the
North Central Texas Council of Governments and the Regional Transportation Council**

February 11, 2026

Submitted by

Ken Kirkpatrick
NCTCOG General Counsel

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Attachments

Attachment 1: Presentation Slides from Agenda Item 14, January 22, 2026, NCTCOG Executive Board Meeting on MPO Roles and Responsibilities

Attachment 2: 23 U.S.C. §134

Attachment 3: 49 U.S.C. §5303

Attachment 4: Governor's Designation Letter and Procedures for MPO Designation April 1974

Attachment 5: MPO Designation Agreement, 1974

Attachment 6: MPO Designation Agreement, 1988

Attachment 7: MPO Planning Agreement, 2018

Statutes

23 U.S.C. §134(b)(2)

23 U.S.C. §134(d)(1)

23 U.S.C. §134(d)(2)

23 U.S.C. §134(d)(3)

23 U.S.C. §134(d)(5)

23 U.S.C. §134(k)(1),(2)

49 U.S.C. §5303(b)(2)

49 U.S.C. §5303(d)(1)

49 U.S.C. §5303(d)(2)

49 U.S.C. §5303(d)(3)

49 U.S.C. §5303(d)(5)

49 U.S.C. §5303(k)(1),(2)

Table of References (cont'd)

Regulations

23 C.F.R. Part 450

43 Tex. Admin. Code §16.2(18)

43 Tex. Admin. Code §16.51

43 Tex. Admin. Code §16.52

Other References

Policy Advisory Committee Bylaws and Operating Procedures, 1974

Initial RTC Bylaws and Operating Procedures, 1978

Letter from John Roark, Direction of Transportation to the Texas Air Control Board, May 10, 1978

Letter from Dallas County Commissioner Roy Orr, Policy Advisory Committee Chair, to Dallas City Councilmember Richard Smith, Steering Committee Chair, December 5, 1977.

I. Introduction

This brief was prepared at the request of the North Central Texas Council of Governments (NCTCOG) Executive Board at its January 22, 2026 meeting, to annotate¹ the presentation provided to the Executive Board in Item 14 on Metropolitan Planning Organization roles and responsibilities, which is included in Attachment 1. This brief provides the statutory and historical foundation as well as the current context for Metropolitan Planning Organization (MPO) roles and responsibilities with respect to the division of labor between the NCTCOG Executive Board and Regional Transportation Council. This brief does not address the functional responsibilities of the metropolitan transportation planning process (e.g., the requirements for developing the Metropolitan Transportation, Transportation Improvement Program, Unified Planning Work Program, and other federal and state required MPO activities.

II. Statutory Foundation: Metropolitan Planning Organization Designation and Structure under Federal Law

Metropolitan transportation planning requirements, including requirements and responsibilities for metropolitan planning organizations to carry out the transportation planning process, are outlined in 23 United States Code (U.S.C.) §134 and 49 U.S.C §5303,² which are included as Attachments 2 and 3, respectively.

A. MPO Definition and Designation Requirements

MPOs are defined as the “policy board of an organization established as a result of the designation process”³ in §134(d). An MPO must be designated for each urbanized area with a population of more than 50,000 individuals.⁴ MPO designation requires agreement between the

¹ During the Executive Board meeting, Dallas County Judge Jenkins specially requested that the presentation material be annotated with the statutory language and foundational documents to assist Executive Board and Regional Transportation Council members in reviewing their respective responsibilities related to the MPO function.

² Title 23 of the United States Code addresses Highways, Title 49 of the United States Code addresses Transportation (i.e., Transit). The provisions under 49 U.S.C. §5303 mirrors the metropolitan transportation planning provisions of 23 USC §134. The implementing regulations of §134 and §5303 are found in 23 Code of Federal Regulations (CFR) Part 450.

³ 23 U.S.C. §134(b)(2); 49 U.S.C. §5303(b)(2).

⁴ Id. §134(d)(1); §5303(d)(1).

Governor and units of general purpose local governments that together represent at least 75 percent of the affected population, including the largest incorporated city by population, or in accordance with applicable state or local law.⁵ Urbanized areas greater than 200,000 in population are defined as “transportation management areas” and have additional planning requirements.⁶ Further, the designation of an MPO remains in effect until the MPO is redesignated by agreement of the Governor and units of general purpose local governments representing 75 percent of the affected population.⁷

B. MPO Structure

The structure of MPOs are also outlined in §134. Specifically, an MPO (i.e., the policy board or MPO Policy Committee) that serves transportation management areas shall consist of 1) elected officials, 2) officials of public agencies that operate major modes of transportation, and 3) appropriate state officials.⁸ Representation on the MPO Policy committee is determined according the bylaws or enabling statute of the organization.⁹

III. Historical Foundation: MPO Designation, Structure, and Designation Agreements in the Dallas-Fort Worth Region

A. MPO Designation in the Dallas-Fort Worth Metropolitan Area

In the Dallas-Fort Worth Metropolitan Area, the North Central Texas Council of Governments was designated as the Metropolitan Planning Organization with the provision that the Regional Transportation Council¹⁰ serve as the MPO Policy Committee responsible for establishing overall transportation policy for the MPO.

⁵ Id. §134(d)(1)(A), (B); §5303(d)(1)(A), (B). The administrative rules adopted by the Texas Transportation Commission as codified in 43 Tex. Admin. Code §16.2(18), 16.51 refer back to the designation requirements under §134 and §5303.

⁶ 23 U.S.C. §134(k)(1),(2); §5303(k)(1),(2).

⁷ Id. §134(d)(5); §5303(d)(5).

⁸ Id. §134(d)(2); §5303(d)(2).

⁹ Id. §134(d)(3); §5303(d)(3).

¹⁰ The Regional Transportation Council was originally known as the Steering Committee, which was reconstituted as the Regional Transportation Council in 1978.

1. 1974 Governor's Designation for Dallas-Fort Worth Urbanized Area

On April 12, 1974, Governor Dolph Briscoe designated NCTCOG as the MPO for the Dallas-Fort Worth Metropolitan Area¹¹ subject to two conditions: 1) concurrence from local governments who were receiving urban transportation planning funds through the State, and 2) that NCTCOG agrees that the Steering Committee ("RTC") approves the use of transportation planning funds.¹² The Governor's Designation Letter and Procedures for MPO Designation is attached as Attachment 2. The Governor's Designation Procedures required a resolution from the MPO accepting such designation and resolution or other formal document from all requisite local governments concurring with the designation.¹³ NCTCOG agreed to the MPO designation and received concurrence from the requisite local governments.¹⁴ As result of the 1990 United States Census, the Dallas-Fort Worth urbanized area was renamed the Dallas-Fort Worth-Arlington urbanized area.

2. Denton-Lewisville Urbanized Area (1992)

As a result of the 1990 United States Census, Denton-Lewisville was identified as a separate urbanized area of greater than 50,000 requiring an MPO Designation under §134. In 1992, NCTCOG was designated as the MPO with the RTC serving as the MPO Policy Committee for the Denton-Lewisville urbanized area.¹⁵

3. McKinney Urbanized Area (2002)

As a result of the 2002 United States Census, McKinney was identified as a separate

¹¹ The original designation documents use "Metropolitan Area" and "urbanized area" interchangeably. Metropolitan Area likely meant "Metropolitan Planning Area" which under federal law means the geographic area determined by agreement between the Governor and MPO, while urbanized area refers to areas presently urbanized and designated as such after each Decennial Census.

¹² See Attachment 4, Governors Designation Letter, April 1974, (third paragraph) and Section IV of the Governor's Procedures for Designation of Single Metropolitan Planning Organizations for Transportation Planning (page 2 of Procedures).

¹³ Attachment 4, Governor's Procedures, page 2.

¹⁴ NCTCOG accepted the designation on April 18, 1974, and the following local governments concurred by resolution between April and August 1974 with the MPO Designation: Cities of Arlington, Dallas, Fort Worth, Garland, Grand Prairie, Irving, Lake Dallas, Mesquite, Richardson and Dallas and Tarrant Counties.

¹⁵ The Denton-Lewisville designation was reflected in the 1992 MPO Planning Agreement between TxDOT and NCTCOG.

urbanized area of greater than 50,000 requiring an MPO Designation under §134. Since the McKinney urbanized area was within the existing Dallas-Fort Worth Metropolitan Planning Area, the MPO designation occurred by operation of law under §134(e)(3).

4. McKinney-Frisco Urbanized Area (2022)

As a result of the 2020 United States Census, the McKinney urbanized area was expanded and renamed the McKinney-Frisco urbanized area. Since the McKinney-Frisco urbanized area was within the existing Dallas-Fort Worth Metropolitan Planning Area, the MPO designation occurred by operation of law under §134(e)(3). The Cities of McKinney and Frisco concurred with NCTCOG and the RTC continuing to carry out the MPO function.

B. Original MPO Structure for the Dallas-Fort Worth Urbanized Area

The Original MPO structure and policy making function was carried out through two committees: 1) the Policy Advisory Committee and 2) the Steering Committee. The Policy Advisory Committee (PAC) was responsible for “final review and decision on the transportation plan.”¹⁶ The PAC had 154 members, with 102 city and county elected officials, 7 U.S. House of Representatives members, 9 Texas State Senators, and 36 Texas State Representatives.¹⁷ The Steering Committee was responsible for “representing the Policy Advisory Committee in the day-to-day transportation planning activities...and provid[ing] guidance on the transportation planning process.”¹⁸ The Steering Committee had 20 members, with 16 elected officials from the original local governments concurring in the MPO Designation process (with the exception of Lake Dallas), and 2 Texas Highway Department officials, and 2 Technical Committee Chairs.¹⁹

In 1978, the PAC and Steering Committee dual structure was revisited due the poor

¹⁶ Bylaws and Operating Procedures: Policy Advisory Committee, Section 2, paragraph A. (1973).

¹⁷ Supra, Section 3, paragraph A

¹⁸ Supra, Section 2, paragraph B .

¹⁹ Supra, Section 4, paragraph A .

attendance, quorum, and proxy representation issues.²⁰ The geographical representation of the PAC was misaligned with the narrow eligibility for transportation planning funds.²¹ The PAC was dissolved by their own motion and the Steering Committee was reconstituted as the Regional Transportation Council to consolidate the MPO policy function into one body, noting that the Governor had recognized the Steering Committee as the policy group for the MPO.²²

The NCTCOG Executive Board was briefed on these matters and provided staff support, but did not take any action related to adoption of the initial Bylaws and Operating Procedures of the RTC. The Bylaws and Operating Procedures of the RTC adopted by the RTC in 1978 reiterate the fundamental principle in the Governor's Designation, with local government concurrence, that NCTCOG serve as the MPO

“with the proviso that the Steering Committee (Regional Transportation Council) serve as the decision-making policy group for the Dallas-Fort Worth urbanized area. As the designated Metropolitan Planning Organization, the Executive Board of the North Central Texas Council of Governments will be responsible to insure transportation planning in the urbanized area is successfully coordinated and integrated with other comprehensive planning in the [region].”²³

C. MPO Designation Agreement (1974-Present)

Upon satisfaction of the two conditions for MPO designation, (i.e., local government concurrence and approval of transportation planning funds by the Steering Committee), the Governor's office formalized the MPO Designation in July 1974 through an MPO Designation Agreement, which is included as Attachment 5. The MPO Designation Agreement specified that NCTCOG “shall be the Metropolitan Planning Organization (MPO) for transportation planning for

²⁰ May 10, 1978 Letter from John Roark, Direction of Transportation to the Texas Air Control Board.

²¹ December 5, 1977 Letter from Dallas County Commissioner Roy Orr (Chair the Policy Advisory Committee), to Dallas City Councilmember Richard Smith, Chair of the Steering Committee.

²² *Supra*, Commissioner Orr Letter, Page 2.

²³ Bylaws and Operating Procedures of the Regional Transportation Council, page 2-3, (April 1978).

the Dallas-Fort Worth urbanized area.”²⁴ Further, the agreement specified that the MPO shall:

- 1) develop or assist in the development of a multimodal transportation planning process, prepare a Unified Planning Work Program and submit the Unified Planning Work Program to the Steering Committee for approval;
- 2) insure that transportation planning in the urbanized area is successfully coordinated and integrated with other comprehensive planning in the region;²⁵ and
- 3) use the Steering Committee (“RTC”) established pursuant to 23 U.S.C. §134, as the MPO’s Policy Committee.²⁶

The Parties to the MPO Designation Agreement are NCTCOG and the Governor’s Office. From 1974 to 1988, the MPO Designation Agreement was executed on an annual basis. The 1988 MPO Designation Agreement (Attachment 6) was made effective until such time as NCTCOG is no longer the designated MPO. The 1998 MPO Designation Agreement maintained the same requirements for the Steering Committee (“RTC”) as the “group responsible for giving the MPO overall transportation policy guidance.”²⁷

IV. Current MPO Planning Agreement in the Dallas-Fort Worth Region

A. MPO Planning Agreement (1975-Present)

In addition to the MPO Designation Agreement described above, NCTCOG and the State (through the State Department of Highways and Public Transportation) entered into an MPO Planning Agreement in 1975. The MPO Planning Agreement is the mechanism whereby transportation planning funds are made available on a reimbursement basis to NCTCOG to support MPO functions carried out through the policy direction of the Regional Transportation

²⁴ MPO Designation Agreement, 1974, Section 1, page 2.

²⁵ The integration of transportation planning with comprehensive planning is consistent with NCTCOG’s authority under Local Government Code Chapter 391 to assist local governments in developing studies and plans to guide the unified, far-reaching development of the region, eliminate duplication, and promote economy and efficiency in the coordinated development of the region. Texas Local Government Code §391.001(b).

²⁶ MPO Designation Agreement, 1974, Section 1, page 2.

²⁷ MPO Designation Agreement, 1998, Section 1(A)(C), page 2.

Council.²⁸ The MPO Planning Agreement was executed on an annual basis until 1992, with the practice since that time being a six year term, with the State having optional extensions on a limited basis. MPO Planning Agreements were executed in 1998, 2006, 2012, and 2018. The RTC first became a party the MPO Planning Agreement in 2006.

B. 2018 MPO Planning Agreement

The current MPO Planning Agreement (Attachment 7) was executed in September 2018, with an initial term through September 2024. TxDOT has extended the current agreement through September 30, 2027 with no optional extensions remaining. The 2018 MPO Planning defines the roles and responsibilities of TxDOT, NCTCOG as the MPO and Fiscal Agent, and the RTC as the MPO Policy Committee,²⁹ largely following the format of previous MPO Planning Agreements.

1. TxDOT Responsibilities

The 2018 MPO Planning Agreement defines TxDOT's responsibilities in assisting the region in carrying out the MPO responsibilities and functions under §134.³⁰ TxDOT is responsible to assist in the development of the Unified Planning Work Program (UPWP), approve the UPWP format and schedule, and monitor the MPO's activities and expenditures. TxDOT is required to make available to the MPO its share of metropolitan transportation planning funds and provide the non-federal match. TxDOT distributes the transportation planning funds based on a formula developed by TxDOT in consultation with the MPOs. TxDOT is required to provide the MPO technical assistance as needed for collection and forecasting of socio-economic data needed for travel demand forecasts, plans, and programs. TxDOT is responsible to jointly promote the development of the intermodal transportation

²⁸ 1975 MPO Planning Agreement between NCTCOG and the State Department of Highways and Public Transportation

²⁹ MPO Planning Agreement, 2018, Articles 2-6.

³⁰ TxDOT's primary responsibilities under the 2018 MPO Planning Agreement are defined in Article 2, Paragraphs A-G, pages 2-3.

system within the metropolitan area, share information and information sources concerning transportation planning. TxDOT is required to cooperatively develop and share information related to transportation performance data, including the selection of and reporting of performance targets related to critical outcomes for the MPO region, and collection of data for the National Highway System.

2. NCTCOG Responsibilities as the MPO

The 2018 MPO Planning Agreement also defines NCTCOG's responsibilities as the MPO.³¹ The MPO is the organization created to ensure that existing and future expenditures on transportation projects and programs are based on a continuing, cooperative, and comprehensive process. NCTCOG is required to document planning activities in the UPWP, including who will perform the work, schedule, and products produced. The UPWP is required to be developed on an annual or bi-annual basis. NCTCOG is required to prepare and submit to TxDOT an annual performance and expenditure report. NCTCOG must use funds to maintain a comprehensive regional transportation planning program that complies with 23 U.S.C. §134, 49 U.S.C. §5303, and 43 Texas Administrative Code §16.52. The MPO is required to develop³² an MTP, TIP, and UPWP required by §134. NCTCOG is responsible for assembling and maintaining an adequate and competent staff to perform all MPO activities required by law. NCTCOG is responsible to forecast, collect, and maintain appropriate socio-economic, roadway, and travel data and share information and information sources with TxDOT, prepare all required reports in a timely manner. NCTCOG as the MPO exercises sole responsibility to hire, supervise, evaluate, and terminate the MPO Transportation Planning Director.

³¹ NCTCOG's responsibilities as the MPO under the 2018 MPO Planning Agreement are defined in Article 3, Paragraphs A-I, pages 3-4.

³² "develop" in this context refers to the staffing support function of the MPO as the RTC as the MPO Policy Committee is required to make the approvals of the MTP, TIP, and UPWP and other required planning documents under §134.

3. RTC's Responsibilities as the MPO Policy Committee

The 2018 MPO Planning Agreement defines the RTC's responsibilities as the MPO Policy Committee.³³ The agreement specifies that the MPO Policy Committee (RTC) is the policy body that is the forum designated under §134 with the responsibility for establishing overall transportation policy for the MPO and making required approvals and is comprised of those governmental agencies identified in the original designation agreement and those subsequently added. The responsibilities of the MPO acting through the MPO Policy Committee (RTC) are as follows. The RTC is required to ensure that the metropolitan transportation planning requirements of 23 U.S.C. §134 and 49 U.S.C. §5303 are carried out. The RTC is required to use funds to maintain a comprehensive regional transportation planning program that complies with 23 U.S.C. §134, 49 U.S.C. §5303. The RTC is responsible for developing and adopting the MTP, TIP, and UPWP as required by required by §134 and any other planning documents and reports that may be required by law. The RTC provides planning policy direction to the MPO Transportation Planning Director.

4. NCTCOG's Responsibilities as the MPO Fiscal Agent

The 2018 MPO Planning Agreement defines NCTCOG's responsibilities as the MPO Fiscal Agent.³⁴ The Fiscal Agent for the MPO is the entity responsible for providing fiscal, human resource, and staff support services to the MPO. As the Fiscal Agent, NCTCOG is responsible for maintaining required accounting records for state and federal funds. It must provide all appropriate funding, as identified by fiscal year in the UPWP, to allow the MPO staff to effectively and efficiently operate the program. The Fiscal Agent provides human resource services to the MPO and benefits for the MPO staff that are the same as the Fiscal Agent normally provides its own employees. NCTCOG as the Fiscal Agent establishes procedures

³³ RTC's responsibilities as the MPO Policy Committee under the 2018 MPO Planning Agreement are defined in Article 4, Paragraphs A-E, page 4.

³⁴ NCTCOG's responsibilities as the MPO Fiscal Agent under the 2018 MPO Planning Agreement are defined in Article 5, Paragraphs A-E, page 4.

and policies for procurement and purchasing.

5. The Responsibilities of the MPO Transportation Planning Director

The 2018 MPO Planning Agreement defines the responsibilities of the MPO Transportation Planning Director (“MPO Staff Director”).³⁵ The MPO Staff Director shall serve in a full-time capacity and shall take planning policy direction from and be responsible to the designated MPO Policy Committee (RTC) and shall administer the UPWP. The MPO Staff Director oversees and directs all MPO transportation planning staff work performed using MPO funds and acts as a liaison to TxDOT relevant to TxDOT’s transportation planning activities. The MPO Staff Director is responsible to ensure the preparation and submittal of all required plans, programs, reports, data, and certifications in a timely manner. The MPO Staff Director develops and presents to the MPO Policy Committee (RTC) the MTP, TIP, UPWP and other required planning documents and reports required by law for approval and shares information and information sources with TxDOT.

V. Summary

The key provisions of the current MPO Planning Agreement between TxDOT, NCTCOG, and the RTC derive and flow from the original 1974 Governor’s MPO Designation of NCTCOG as the MPO, but placing the MPO policy decision-making and approvals with the Regional Transportation Council. NCTCOG’s role as the MPO was associated with NCTCOG’s larger responsibility under state law to assist local governments with comprehensive planning for the unified development of the region across many disciplines and to ensure that the transportation planning process was integrated and coordinated with that overarching process. NCTCOG provides staffing and fiscal services to support the policy functions of the RTC. The MPO Transportation Planning Director takes transportation policy direction from the RTC, but is employed by the NCTCOG as MPO and Fiscal Agent.

³⁵ The MPO Transportation Planning Director’s responsibilities under the 2018 MPO Planning Agreement are defined in Article 6, Paragraphs A-F, page 4-5.



Item 14: Metropolitan Planning Organization Roles and Responsibilities

Ken Kirkpatrick | General Counsel

NCTCOG Executive Board

January 22, 2026

Metropolitan Planning Organization Designation

23 United States Code Section (U.S.C.) §134 – Metropolitan Transportation Planning

Metropolitan Planning Organization (MPO)

Defined as “the policy board of an organization established as a result of the designation process” in §134(d)

Responsible for carrying out the transportation planning process required by §134

MPO Designation: 23 USC §134(d)(1)

An MPO must be designated as follows:

for each urbanized area greater than 50,000 based on the latest U.S. Census

by agreement between Governor and general purpose local governments representing at least 75% of the affected population (including the largest city) or in accordance with applicable state or local law



MPO Roles and Responsibilities

MPO Designation in Dallas-Fort Worth Region

Original MPO Designation

April 12, 1974 – NCTCOG designated by Governor Briscoe as the MPO for the DFW urbanized area subject to two conditions:

- 1) local governments concur (“signatories to Urban Transportation Planning agreements with the State”)
- 2) NCTCOG agrees that the Steering Committee* approve the use of Section 112 funds (i.e., metropolitan transportation planning funds)

Local Government Concurrence (April – August, 1974)

Arlington	Garland	Lake Dallas	Dallas County
Dallas	Grand Prairie	Mesquite	Tarrant County
Fort Worth	Irving	Richardson	

NCTCOG Designated as MPO for Denton-Lewisville urbanized area (1992) and McKinney urbanized area (2002), now known as the McKinney-Frisco urbanized area (2022)

* The Steering Committee was reconstituted as the Regional Transportation Council in 1978



MPO Roles and Responsibilities

MPO Designation in Dallas-Fort Worth Region

MPO Designation Agreement (1974- Present)

Parties: NCTCOG, Governor's Office

Term: Initially one year terms

1988 - agreement made effective until MPO designation changes

Formalizes the Governor's Designation of NCTCOG as the MPO

The MPO shall:

- 1. Develop or assist in a multi-modal transportation planning process and obtain Steering Committee (RTC) approval for use of planning funds**
- 2. Ensure that transportation planning is integrated and coordinated with other comprehensive planning occurring in the NCTCOG region**
- 3. Use the Steering Committee (RTC) established pursuant to §134 as the MPO's policy committee**



MPO Planning Agreement

MPO Planning Agreement (1974- Present)

Parties: TxDOT, NCTCOG, and RTC

2006 – RTC became a party to the MPO Agreement

Term: Initially one year terms, now 6-year terms with TxDOT option to extend

Current Term: Expires September 30, 2027 (no further option years)

Current agreement executed in September 2018

Purpose: Defines the roles of each party and serves as the mechanism by which NCTCOG/RTC receive formula metropolitan transportation planning funds to carry out MPO functions

TxDOT

NCTCOG as the MPO and Fiscal Agent

RTC as the MPO Policy Committee

Transportation Planning Director

**Geographic Scope: Dallas-Fort Worth Metropolitan Area (12 Counties)
Covers the three urbanized areas**



MPO Roles and Responsibilities

Key Provisions

Division of Responsibilities between NCTCOG/RTC Stem from Governor's Original Designation

NCTCOG – MPO, Fiscal Agent

- Integrate and coordinate transportation planning with other comprehensive planning
- Assemble and maintain competent staff to perform all MPO activities
- Provide human resource, fiscal, staff support services for MPO activities
- Exercise sole responsibility to hire, supervise, evaluate, and terminate the MPO Transportation Planning Director

RTC – MPO Policy Committee

- Establish overall transportation policy for the MPO
- Develop and adopts MTP, TIP, UPWP
- Provide policy direction to the MPO Transportation Planning Director

MPO Transportation Planning Director

- Develop and present required planning and programming documents to MPO Policy Committee
- Take policy direction from and be responsible to the MPO Policy Committee
- Oversee and direct all MPO transportation planning work activities



MPO Roles and Responsibilities

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MPO Roles and Responsibilities

to respond to unique local circumstances and implement the most efficient solutions; and

“(3) reforms of the program to promote flexibility will enhance State and local control over transportation decisions.”

REFERENCES TO SURFACE TRANSPORTATION PROGRAM

Pub. L. 114-94, div. A, title I, §1109(c)(7), Dec. 4, 2015, 129 Stat. 1344, provided that: “Any reference in any other law, regulation, document, paper, or other record of the United States to the surface transportation program under section 133 of title 23, United States Code, shall be deemed to be a reference to the surface transportation block grant program under such section.”

DIVISION OF STP FUNDS FOR AREAS OF LESS THAN 5,000 POPULATION

Pub. L. 105-178, title I, §1108(f), June 9, 1998, 112 Stat. 141, as amended by Pub. L. 110-244, title I, §113(a), June 6, 2008, 122 Stat. 1606, provided that:

“(1) SPECIAL RULE.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated under [former] section 133(d)(3)(B) of such title for each of fiscal years 1998 through 2009 may be obligated on roads functionally classified as minor collectors.

“(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) if the Secretary determines that paragraph (1) is being used excessively.”

ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS

Pub. L. 105-178, title I, §1108(g), June 9, 1998, 112 Stat. 141, provided that: “The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform appropriate transportation enhancement activities under chapter 1 of title 23, United States Code.”

§ 134. Metropolitan transportation planning

(a) POLICY.—It is in the national interest—

(1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight, foster economic growth and development within and between States and urbanized areas better connect housing and employment,¹ and take into consideration resiliency needs while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

(b) DEFINITIONS.—In this section and section 135, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term “metropolitan planning area” means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

¹So in original. Probably should be “urbanized areas, better connect housing and employment.”

(2) METROPOLITAN PLANNING ORGANIZATION.—The term “metropolitan planning organization” means the policy board of an organization established as a result of the designation process under subsection (d).

(3) NONMETROPOLITAN AREA.—The term “non-metropolitan area” means a geographic area outside designated metropolitan planning areas.

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term “nonmetropolitan local official” means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term “regional transportation planning organization” means a policy board of an organization established as the result of a designation under section 135(m).

(6) TIP.—The term “TIP” means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(7) URBANIZED AREA.—The term “urbanized area” means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 per-

cent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) **STRUCTURE.**—Not later than 2 years after the date of enactment of MAP-21, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) **REPRESENTATION.**—

(A) **IN GENERAL.**—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

(B) **PUBLIC TRANSPORTATION REPRESENTATIVE.**—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(C) **POWERS OF CERTAIN OFFICIALS.**—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

(D) **CONSIDERATIONS.**—In designating officials or representatives under paragraph (2) for the first time, subject to the bylaws or enabling statute of the metropolitan planning organization, the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area.

(4) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(5) **CONTINUING DESIGNATION.**—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (6).

(6) **REDESIGNATION PROCEDURES.**—

(A) **IN GENERAL.**—A metropolitan planning organization may be redesignated by agreement between the Governor and units of gen-

eral purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

(B) **RESTRUCTURING.**—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

(7) **DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.**—More than 1 metropolitan planning organization may be designated within an existing urbanized area (as defined by the Bureau of the Census) only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the area make designation of more than 1 metropolitan planning organization for the area appropriate.

(e) **METROPOLITAN PLANNING AREA BOUNDARIES.**—

(1) **IN GENERAL.**—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) **INCLUDED AREA.**—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) **IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.**—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) **EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.**—

(A) **IN GENERAL.**—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA-LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

(B) **EXCEPTION.**—The boundaries described in subparagraph (A) may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(6).

(5) **NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.**—In the case of an urbanized area designated after the date of enactment of the SAFETEA-LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within an urbanized area (as defined by the Bureau of the Census) or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of title 49, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, housing, tourism, natural disaster risk reduction, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(i) recipients of assistance under chapter 53 of title 49;

(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(iii) recipients of assistance under section 204.

(4) COORDINATION BETWEEN MPOS.—If more than 1 metropolitan planning organization is designated within an urbanized area (as defined by the Bureau of the Census) under subsection (d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand.

(5) SAVINGS CLAUSE.—Nothing in this subsection requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and non-motorized users;

(C) increase the security of the transportation system for motorized and non-motorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth, housing, and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system;

(I) improve the resiliency and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation; and

(J) enhance travel and tourism.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title and the general purposes described in section 5301 of title 49.

(B) PERFORMANCE TARGETS.—

(1) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c), where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d) of title 49.

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed under chapter 53 of title 49 by providers of public transportation, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

(B) FREQUENCY.—

(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

(I) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

(ii) OTHER AREAS.—In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transpor-

tation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

(D) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(III) recommends any additional financing strategies for needed projects and programs.

(ii) INCLUSIONS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure, provide for multimodal capacity increases based on regional priorities and needs, and reduce the vulnerability of the existing transportation infrastructure to natural disasters.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in non-

attainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(4) OPTIONAL SCENARIO DEVELOPMENT.—

(A) IN GENERAL.—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) RECOMMENDED COMPONENTS.—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

(i) potential regional investment strategies for the planning horizon;

(ii) assumed distribution of population and employment;

(iii) assumed distribution of population and housing;

(iv) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(v) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

(vi) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

(vii) estimated costs and potential revenues available to support each scenario.

(C) METRICS.—In addition to the performance measures identified in section 150(c), metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) CONSULTATION.—

(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

(B) ISSUES.—The consultation shall involve, as appropriate—

(i) comparison of transportation plans with State conservation plans or maps, if available; or

(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus oper-

ators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, affordable housing organizations, and other interested parties with a reasonable opportunity to comment on the transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

(i) shall be developed in consultation with all interested parties; and

(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(D) USE OF TECHNOLOGY.—A metropolitan planning organization may use social media and other web-based tools—

(i) to further encourage public participation; and

(ii) to solicit public feedback during the transportation planning process.

(7) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(E).

(j) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the metropolitan planning area that—

(i) contains projects consistent with the current metropolitan transportation plan;

(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

(iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).

(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The TIP shall be—

(i) updated at least once every 4 years; and

(ii) approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The TIP shall include a priority list of proposed Federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

(i) demonstrates how the TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are

proposed for funding under chapter 1 of this title and chapter 53 of title 49.

(B) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of Federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

(i) by—

(I) in the case of projects under this title, the State; and

(II) in the case of projects under chapter 53 of title 49, the designated recipients of public transportation funding; and

(ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illus-

trative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

(3) CONGESTION MANAGEMENT PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction (including intercity bus operators, employer-based commuting programs such as a carpool program, van-pool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects, and operational management strategies.

(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization serving

a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and nonprofit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.

(4) HOUSING COORDINATION PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section may address the integration of housing, transportation, and economic development strategies through a process that provides for effective integration, based on a cooperatively developed and implemented strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49.

(B) COORDINATION IN INTEGRATED PLANNING PROCESS.—In carrying out the process described in subparagraph (A), a metropolitan planning organization may—

(i) consult with—

(I) State and local entities responsible for land use, economic development, housing, management of road networks, or public transportation; and

(II) other appropriate public or private entities; and

(ii) coordinate, to the extent practicable, with applicable State and local entities to align the goals of the process with the goals of any comprehensive housing affordability strategies established within the metropolitan planning area pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and plans developed under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c-1).

(C) HOUSING COORDINATION PLAN.—

(i) IN GENERAL.—A metropolitan planning organization serving a transportation management area may develop a housing coordination plan that includes projects and strategies that may be considered in the metropolitan transportation plan of the metropolitan planning organization.

(ii) CONTENTS.—A plan described in clause (i) may—

(I) develop regional goals for the integration of housing, transportation, and economic development strategies to—

(aa) better connect housing and employment while mitigating commuting times;

(bb) align transportation improvements with housing needs, such as housing supply shortages, and proposed housing development;

(cc) align planning for housing and transportation to address needs in relationship to household incomes within the metropolitan planning area;

(dd) expand housing and economic development within the catchment areas of existing transportation facilities and public transportation services when appropriate, including higher-density development, as locally determined;

(ee) manage effects of growth of vehicle miles traveled experienced in the metropolitan planning area related to housing development and economic development;

(ff) increase share of households with sufficient and affordable access to the transportation networks of the metropolitan planning area;

(II) identify the location of existing and planned housing and employment, and transportation options that connect housing and employment; and

(III) include a comparison of transportation plans to land use management plans, including zoning plans, that may affect road use, public transportation ridership, and housing development.

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All Federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(6) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(1) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(I) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection.

(2) REPORT.—Not later than 5 years after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area with a population of 200,000 or less and their ability to carry out the requirements of this section.

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made

available in electronically accessible formats and means, including on the Internet.

(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

(o) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

(p) FUNDING.—Funds apportioned under section 104(b)(6) or section 5305(g) of title 49 shall be available to carry out this section.

(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under that Act.

(r) BI-STATE METROPOLITAN PLANNING ORGANIZATION.—

(1) DEFINITION OF BI-STATE MPO REGION.—In this subsection, the term “Bi-State MPO Region” has the meaning given the term “region” in subsection (a) of Article II of the Lake Tahoe Regional Planning Compact (Public Law 96-551; 94 Stat. 3234).

(2) TREATMENT.—For the purpose of this title, the Bi-State MPO Region shall be treated as—

(A) a metropolitan planning organization;
 (B) a transportation management area under subsection (k); and
 (C) an urbanized area, which is comprised of a population of 145,000 in the State of California and a population of 65,000 in the State of Nevada.

(3) SUBALLOCATED FUNDING.—

(A) PLANNING.—In determining the amounts under subparagraph (A) of section 133(d)(1) that shall be obligated for a fiscal year in the States of California and Nevada under clauses (i), (ii), and (iii) of that subparagraph, the Secretary shall, for each of those States—

- (i) calculate the population under each of those clauses;
- (ii) decrease the amount under section 133(d)(1)(A)(iii) by the population specified in paragraph (2) of this subsection for the Bi-State MPO Region in that State; and
- (iii) increase the amount under section 133(d)(1)(A)(i) by the population specified in paragraph (2) of this subsection for the Bi-State MPO Region in that State.

(B) STBGP SET ASIDE.—In determining the amounts under paragraph (2) of section 133(h) that shall be obligated for a fiscal year in the States of California and Nevada, the Secretary shall, for the purpose of that subsection, calculate the populations for each of those States in a manner consistent with subparagraph (A).

(Added Pub. L. 87-866, §9(a), Oct. 23, 1962, 76 Stat. 1148; amended Pub. L. 91-605, title I, §143, Dec. 31, 1970, 84 Stat. 1737; Pub. L. 95-599, title I, §169, Nov. 6, 1978, 92 Stat. 2723; Pub. L. 102-240, title I, §1024(a), Dec. 18, 1991, 105 Stat. 1955; Pub. L. 102-388, title V, §502(b), Oct. 6, 1992, 106 Stat. 1566; Pub. L. 103-429, §3(5), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104-59, title III, §317, Nov. 28, 1995, 109 Stat. 588; Pub. L. 105-178, title I, §1203(a)-(m), (o), June 9, 1998, 112 Stat. 170-179; Pub. L. 105-206, title IX, §9003(c), July 22, 1998, 112 Stat. 839; Pub. L. 109-59, title VI, §6001(a), Aug. 10, 2005, 119 Stat. 1839; Pub. L. 110-244, title I, §101(n), June 6, 2008, 122 Stat. 1576; Pub. L. 112-141, div. A, title I, §1201(a), July 6, 2012, 126 Stat. 500; Pub. L. 114-94, div. A, title I, §1201, Dec. 4, 2015, 129 Stat. 1371; Pub. L. 117-58, div. A, title I, §11201(a), (d), Nov. 15, 2021, 135 Stat. 516, 517.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of MAP-21, referred to in subsecs. (d)(2) and (I)(2), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title.

The Clean Air Act, referred to in subsecs. (e)(4)(A), (5)(D), (g)(1), (i)(3), (m)(2), and (n)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the SAFETEA-LU, referred to in subsec. (e)(4)(A), (5), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

The National Environmental Policy Act of 1969, referred to in subsec. (q), is Pub. L. 91-190, Jan. 1, 1970, 83

Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117-58, §11201(d)(1), inserted “better connect housing and employment,” after “urbanized areas”.

Subsec. (d)(3)(D). Pub. L. 117-58, §11201(a)(1)(A), added subpar. (D).

Subsec. (d)(7). Pub. L. 117-58, §11201(a)(1)(B), substituted “an existing urbanized area (as defined by the Bureau of the Census)” for “an existing metropolitan planning area” and “the area” for “the existing metropolitan planning area”.

Subsec. (g)(1). Pub. L. 117-58, §11201(a)(2)(A), substituted “an urbanized area (as defined by the Bureau of the Census)” for “a metropolitan area”.

Subsec. (g)(3)(A). Pub. L. 117-58, §11201(d)(2), inserted “housing,” after “economic development.”

Subsec. (g)(4), (5). Pub. L. 117-58, §11201(a)(2)(B), added pars. (4) and (5).

Subsec. (h)(1)(E). Pub. L. 117-58, §11201(d)(3), inserted “, housing,” after “growth”.

Subsec. (i)(4)(B)(iii) to (vii). Pub. L. 117-58, §11201(d)(4)(A), added cl. (iii) and redesignated former cls. (iii) to (vi) as (iv) to (vii), respectively.

Subsec. (i)(6)(A). Pub. L. 117-58, §11201(d)(4)(B), inserted “affordable housing organizations,” after “disabled,”.

Subsec. (i)(6)(D). Pub. L. 117-58, §11201(a)(3), added subpar. (D).

Subsec. (k)(4) to (6). Pub. L. 117-58, §11201(d)(5), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (p). Pub. L. 117-58, §11201(a)(4), substituted “section 104(b)(6)” for “paragraphs (5)(D) and (6) of section 104(b) of this title”.

2015—Subsec. (a)(1). Pub. L. 114-94, §1201(1), substituted “people and freight,” for “people and freight and” and inserted “and take into consideration resiliency needs” after “urbanized areas,”.

Subsec. (c)(2). Pub. L. 114-94, §1201(2), substituted “, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers” for “and bicycle transportation facilities”.

Subsec. (d)(3), (4). Pub. L. 114-94, §1201(3)(A), (B), added par. (3) and redesignated former par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 114-94, §1201(A), (C), redesignated par. (4) as (5) and substituted “paragraph (6)” for “paragraph (5)”. Former par. (5) redesignated (6).

Subsec. (d)(6), (7). Pub. L. 114-94, §1201(3)(A), redesignated pars. (5) and (6) as (6) and (7), respectively.

Subsec. (e)(4)(B). Pub. L. 114-94, §1201(4), substituted “subsection (d)(6)” for “subsection (d)(5)”.

Subsec. (g)(3)(A). Pub. L. 114-94, §1201(5), inserted “tourism, natural disaster risk reduction,” after “economic development,”.

Subsec. (h)(1)(I), (J). Pub. L. 114-94, §1201(6)(A), added subpars. (I) and (J).

Subsec. (h)(2)(A). Pub. L. 114-94, §1201(6)(B), substituted “and the general purposes described in section 5301 of title 49” for “and in section 5301(c) of title 49”.

Subsec. (i)(2)(A)(i). Pub. L. 114-94, §1201(7)(A)(i), substituted “public transportation facilities, intercity bus facilities,” for “transit,”.

Subsec. (i)(2)(G). Pub. L. 114-94, §1201(7)(A)(ii), substituted “, provide” for “and provide” and inserted “, and reduce the vulnerability of the existing transportation infrastructure to natural disasters” before period at end.

Subsec. (i)(2)(H). Pub. L. 114-94, §1201(7)(A)(iii), inserted before period at end “including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-

2008—Subsec. (a)(10). Pub. L. 110-244 substituted “charter, sightseeing,” for “charter.”

2005—Subsec. (a). Pub. L. 109-59, § 3004(a), substituted “Except as otherwise specifically provided, in this chapter” for “In this chapter” in introductory provisions.

Subsec. (a)(1)(A), (F). Pub. L. 109-59, § 3002(b)(4), substituted “public transportation” for “mass transportation”.

Subsec. (a)(1)(G). Pub. L. 109-59, § 3004(b)(1), inserted “construction, renovation, and improvement of intercity bus and intercity rail stations and terminals,” after “public transportation facility,” in introductory provisions.

Pub. L. 109-59, § 3002(b)(4), substituted “public transportation” for “mass transportation” wherever appearing in introductory provisions.

Subsec. (a)(1)(G)(ii). Pub. L. 109-59, § 3004(b)(2), inserted “(other than an intercity bus station or terminal)” after “commercial revenue-producing facility”.

Pub. L. 109-59, § 3002(b)(4), substituted “public transportation” for “mass transportation”.

Subsec. (a)(1)(H). Pub. L. 109-59, § 3002(b)(4), substituted “public transportation” for “mass transportation”.

Subsec. (a)(1)(J) to (L). Pub. L. 109-59, § 3004(b)(3)-(5), added subpars. (J) to (L).

Subsec. (a)(4). Pub. L. 109-59, § 3002(b)(4), substituted “public transportation” for “mass transportation” in introductory provisions and subpar. (A).

Subsec. (a)(5). Pub. L. 109-59, § 3004(c), substituted “Individual with a disability” for “Handicapped individual” in heading and “individual with a disability” for “handicapped individual” in text.

Pub. L. 109-59, § 3002(b)(4), substituted “public transportation” for “mass transportation” in two places.

Subsec. (a)(7). Pub. L. 109-59, § 3004(d), amended heading and text of par. (7) generally. Prior to amendment, text read as follows: “The term ‘mass transportation’ means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.”

Subsec. (a)(9). Pub. L. 109-59, § 3002(b)(4), substituted “public transportation” for “mass transportation” in subpars. (A) and (B).

Subsec. (a)(10). Pub. L. 109-59, § 3004(e), amended heading and text of par. (10) generally. Prior to amendment, text read as follows: “The term ‘public transportation’ means mass transportation.”

Subsec. (a)(14) to (16). Pub. L. 109-59, § 3002(b)(4), substituted “public transportation” for “mass transportation” wherever appearing.

Subsec. (a)(17). Pub. L. 109-59, § 3004(f), reenacted heading without change and amended text of par. (17) generally. Prior to amendment, text read as follows: “The term ‘urbanized area’ means an area—

“(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

“(B) designated as an urbanized area within boundaries fixed by State and local officials and approved by the Secretary.”

Subsec. (b). Pub. L. 109-59, § 3004(g), substituted “Individual With a Disability” for “Handicapped Individual” in heading and “individual with a disability” for “handicapped individual” in text.

1998—Pub. L. 105-178, § 3003(a), formerly § 3003, as renumbered by Pub. L. 105-206, § 9009(a)(1), amended section generally, revising and restating existing definitions and adding new pars. defining additional terms.

Subsec. (a)(1)(G)(i). Pub. L. 105-178, § 3003(b), as added by Pub. L. 105-206, § 9009(a)(2), substituted “daycare or” for “daycare and”.

1997—Subsec. (a)(1)(B), (C). Pub. L. 105-102 made technical correction to directory language of Pub. L. 104-50, § 333(a). See 1995 Amendment notes below.

1996—Subsec. (a)(1). Pub. L. 104-287 made technical correction to directory language of Pub. L. 103-331, § 335A. See 1994 Amendment note below.

1995—Subsec. (a)(1)(B). Pub. L. 104-50, § 333(a)(1), as amended by Pub. L. 105-102, § 3(a)(1), struck out “that extends the economic life of a bus for at least 5 years” after “rehabilitating a bus”.

Subsec. (a)(1)(C). Pub. L. 104-50, § 333(a)(2), as amended by Pub. L. 105-102, § 3(a)(2), struck out “that extends the economic life of a bus for at least 8 years” after “remanufacturing a bus”.

1994—Subsec. (a)(1). Pub. L. 103-331, § 335A, as amended by Pub. L. 104-287, inserted “payments for the capital portions of rail trackage rights agreements,” after “rights of way,”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-102, § 3(a), Nov. 20, 1997, 111 Stat. 2214, provided that the amendment made by section 3(a) is effective Nov. 15, 1995.

Amendment by Pub. L. 105-102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105-102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-287, § 6(c), Oct. 11, 1996, 110 Stat. 3398, provided that the amendment made by section 6(c) is effective Sept. 30, 1994.

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-50, title III, § 333(b), Nov. 15, 1995, 109 Stat. 457, provided that: “The amendments made by this section [amending this section] shall not take effect before March 31, 1996.”

§ 5303. Metropolitan transportation planning

(a) **POLICY.**—It is in the national interest—

(1) to encourage and promote the safe and efficient management, operation, and development of resilient surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas and better connect housing and employment, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State

departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

(b) DEFINITIONS.—In this section and section 5304, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term “metropolitan planning area” means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

(2) METROPOLITAN PLANNING ORGANIZATION.—The term “metropolitan planning organization” means the policy board of an organization established as a result of the designation process under subsection (d).

(3) NONMETROPOLITAN AREA.—The term “nonmetropolitan area” means a geographic area outside designated metropolitan planning areas.

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term “nonmetropolitan local official” means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term “regional transportation planning organization” means a policy board of an organization established as the result of a designation under section 5304(l).

(6) TIP.—The term “TIP” means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(7) URBANIZED AREA.—The term “urbanized area” means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as determined by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, each metropolitan planning organization that serves an area designated as a transportation management area shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

(C) appropriate State officials.

(3) REPRESENTATION.—

(A) IN GENERAL.—Designation or selection of officials or representatives under paragraph (2) shall be determined by the metropolitan planning organization according to the bylaws or enabling statute of the organization.

(B) PUBLIC TRANSPORTATION REPRESENTATIVE.—Subject to the bylaws or enabling statute of the metropolitan planning organization, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(C) POWERS OF CERTAIN OFFICIALS.—An official described in paragraph (2)(B) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (2).

(D) CONSIDERATIONS.—In designating officials or representatives under paragraph (2) for the first time, subject to the bylaws or enabling statute of the metropolitan planning organization, the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area.

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(5) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (6).

(6) REDESIGNATION PROCEDURES.—

(A) IN GENERAL.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as determined by the Bureau of the Census) as appropriate to carry out this section.

(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (2) without undertaking a redesignation.

(7) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing urbanized area (as defined by the Bureau of the Census) only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the area make designation of more than 1 metropolitan planning organization for the area appropriate.

(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (2), except as provided in subparagraph (B), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA-LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained.

(B) EXCEPTION.—The boundaries described in subparagraph (A) may be adjusted by

agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(6).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA-LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within an urbanized area (as defined by the Bureau of the Census) or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded under this chapter or title 23, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible

for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, housing, tourism, natural disaster risk reduction, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.

(B) REQUIREMENTS.—Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(i) recipients of assistance under this chapter;

(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(iii) recipients of assistance under section 204 of title 23.

(4) COORDINATION BETWEEN MPOS.—If more than 1 metropolitan planning organization is designated within an urbanized area (as defined by the Bureau of the Census) under subsection (d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand.

(5) SAVINGS CLAUSE.—Nothing in this subsection requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and non-motorized users;

(C) increase the security of the transportation system for motorized and non-motorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth, housing, and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation;

(H) emphasize the preservation of the existing transportation system; and

(I) improve the resiliency and reliability of the transportation system.

(2) PERFORMANCE-BASED APPROACH.—

(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of title 23 and the general purposes described in section 5301.

(B) PERFORMANCE TARGETS.—

(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in section 150(c) of title 23, where applicable, to use in tracking progress towards attainment of critical outcomes for the region of the metropolitan planning organization.

(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Selection of performance targets by a metropolitan planning organization shall be coordinated, to the maximum extent practicable, with providers of public transportation to ensure consistency with sections 5326(c) and 5329(d).

(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 180 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes, as well as any plans developed by recipients of assistance under this chapter, required as part of a performance-based program.

(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraphs (1) and (2) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update a

transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

(B) FREQUENCY.—

(i) IN GENERAL.—The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

(I) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(II) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

(ii) OTHER AREAS.—In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, nonmotorized transportation facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

(ii) FACTORS.—In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as the factors relate to a 20-year forecast period.

(B) PERFORMANCE MEASURES AND TARGETS.—A description of the performance measures and performance targets used in assessing the performance of the transportation system in accordance with subsection (h)(2).

(C) SYSTEM PERFORMANCE REPORT.—A system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2), including—

(i) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports; and

(ii) for metropolitan planning organizations that voluntarily elect to develop

multiple scenarios, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies and investments have impacted the costs necessary to achieve the identified performance targets.

(D) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(E) FINANCIAL PLAN.—

(i) IN GENERAL.—A financial plan that—

(I) demonstrates how the adopted transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan; and

(III) recommends any additional financing strategies for needed projects and programs.

(ii) INCLUSIONS.—The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(iii) COOPERATIVE DEVELOPMENT.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(F) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(G) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure, provide for multimodal capacity increases based on regional priorities and needs, and reduce the vulnerability of the existing transportation infrastructure to natural disasters.

(H) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities, including consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(3) **COORDINATION WITH CLEAN AIR ACT AGENCIES.**—In metropolitan areas that are in non-attainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(4) **OPTIONAL SCENARIO DEVELOPMENT.**—

(A) **IN GENERAL.**—A metropolitan planning organization may, while fitting the needs and complexity of its community, voluntarily elect to develop multiple scenarios for consideration as part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

(B) **RECOMMENDED COMPONENTS.**—A metropolitan planning organization that chooses to develop multiple scenarios under subparagraph (A) shall be encouraged to consider—

(i) potential regional investment strategies for the planning horizon;

(ii) assumed distribution of population and employment;

(iii) assumed distribution of population and housing;

(iv) a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(v) a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

(vi) revenue constrained scenarios based on the total revenues expected to be available over the forecast period of the plan; and

(vii) estimated costs and potential revenues available to support each scenario.

(C) **METRICS.**—In addition to the performance measures identified in section 150(c) of title 23, metropolitan planning organizations may evaluate scenarios developed under this paragraph using locally-developed measures.

(5) **CONSULTATION.**—

(A) **IN GENERAL.**—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

(B) **ISSUES.**—The consultation shall involve, as appropriate—

(i) comparison of transportation plans with State conservation plans or maps, if available; or

(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

(6) **PARTICIPATION BY INTERESTED PARTIES.**—

(A) **IN GENERAL.**—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight

transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, affordable housing organizations, and other interested parties with a reasonable opportunity to comment on the transportation plan.

(B) **CONTENTS OF PARTICIPATION PLAN.**—A participation plan—

(i) shall be developed in consultation with all interested parties; and

(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

(C) **METHODS.**—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(D) **USE OF TECHNOLOGY.**—A metropolitan planning organization may use social media and other web-based tools—

(i) to further encourage public participation; and

(ii) to solicit public feedback during the transportation planning process.

(7) **PUBLICATION.**—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(8) **SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.**—Notwithstanding paragraph (2)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(E).

(j) **METROPOLITAN TIP.**—

(1) **DEVELOPMENT.**—

(A) **IN GENERAL.**—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the metropolitan planning area that—

- (i) contains projects consistent with the current metropolitan transportation plan;
 - (ii) reflects the investment priorities established in the current metropolitan transportation plan; and
 - (iii) once implemented, is designed to make progress toward achieving the performance targets established under subsection (h)(2).
- (B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).
- (C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.
- (D) UPDATING AND APPROVAL.—The TIP shall be—
- (i) updated at least once every 4 years; and
 - (ii) approved by the metropolitan planning organization and the Governor.
- (2) CONTENTS.—
- (A) PRIORITY LIST.—The TIP shall include a priority list of proposed Federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.
- (B) FINANCIAL PLAN.—The TIP shall include a financial plan that—
- (i) demonstrates how the TIP can be implemented;
 - (ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;
 - (iii) identifies innovative financing techniques to finance projects, programs, and strategies; and
 - (iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.
- (C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.
- (D) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.
- (3) INCLUDED PROJECTS.—
- (A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this sub-

section for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of Federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

- (i) by—
 - (I) in the case of projects under title 23, the State; and
 - (II) in the case of projects under this chapter, the designated recipients of public transportation funding; and
- (ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for

a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

(i) IN GENERAL.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review.

(ii) REQUIREMENT.—The listing shall be consistent with the categories identified in the TIP.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

(3) CONGESTION MANAGEMENT PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), job access projects, and operational management strategies.

(B) SCHEDULE.—The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

(C) CONGESTION MANAGEMENT PLAN.—A metropolitan planning organization serving a transportation management area may develop a plan that includes projects and strategies that will be considered in the TIP of such metropolitan planning organization. Such plan shall—

(i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households;

(ii) identify existing public transportation services, employer-based commuter programs, and other existing transportation services that support access to jobs in the region; and

(iii) identify proposed projects and programs to reduce congestion and increase job access opportunities.

(D) PARTICIPATION.—In developing the plan under subparagraph (C), a metropolitan planning organization shall consult with employers, private and non-profit providers of public transportation, transportation management organizations, and organizations that provide job access reverse commute projects or job-related services to low-income individuals.

(4) HOUSING COORDINATION PROCESS.—

(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section may address the integration of housing, transportation, and economic development strategies through a process that provides for effective integration, based on a cooperatively developed and implemented strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23.

(B) COORDINATION IN INTEGRATED PLANNING PROCESS.—In carrying out the process described in subparagraph (A), a metropolitan planning organization may—

(i) consult with—

(I) State and local entities responsible for land use, economic development, housing, management of road networks, or public transportation; and

(II) other appropriate public or private entities; and

(ii) coordinate, to the extent practicable, with applicable State and local entities to align the goals of the process with the goals of any comprehensive housing affordability strategies established within the metropolitan planning area pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and plans developed under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c-1).

(C) HOUSING COORDINATION PLAN.—

(i) IN GENERAL.—A metropolitan planning organization serving a transportation management area may develop a housing coordination plan that includes projects

and strategies that may be considered in the metropolitan transportation plan of the metropolitan planning organization.

(i) CONTENTS.—A plan described in clause (i) may—

(I) develop regional goals for the integration of housing, transportation, and economic development strategies to—

(aa) better connect housing and employment while mitigating commuting times;

(bb) align transportation improvements with housing needs, such as housing supply shortages, and proposed housing development;

(cc) align planning for housing and transportation to address needs in relationship to household incomes within the metropolitan planning area;

(dd) expand housing and economic development within the catchment areas of existing transportation facilities and public transportation services when appropriate, including higher-density development, as locally determined;

(ee) manage effects of growth of vehicle miles traveled experienced in the metropolitan planning area related to housing development and economic development;

(ff) increase share of households with sufficient and affordable access to the transportation networks of the metropolitan planning area;

(II) identify the location of existing and planned housing and employment, and transportation options that connect housing and employment; and

(III) include a comparison of transportation plans to land use management plans, including zoning plans, that may affect road use, public transportation ridership and housing development.

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All Federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(6) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation

management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(7) REPORT ON PERFORMANCE-BASED PLANNING PROCESSES.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report on the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the requirements of this subsection.

(2) REPORT.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

(A) the overall effectiveness of performance-based planning as a tool for guiding transportation investments;

(B) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section;

(C) the extent to which metropolitan planning organizations have achieved, or are currently making substantial progress toward achieving, the performance targets specified under this section and whether metropolitan planning organizations are developing meaningful performance targets; and

(D) the technical capacity of metropolitan planning organizations that operate within a metropolitan planning area with a population of 200,000 or less and their ability to carry out the requirements of this section.

(3) PUBLICATION.—The report under paragraph (2) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

(m) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

(o) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.

(p) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 or section 5305(g) shall be available to carry out this section.

(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under that Act.

(r) BI-STATE METROPOLITAN PLANNING ORGANIZATION.—

(1) DEFINITION OF BI-STATE MPO REGION.—In this subsection, the term “Bi-State Metropolitan Planning Organization” has the meaning given the term “region” in subsection (a) of Article II of the Lake Tahoe Regional Planning Compact (Public Law 96-551; 94 Stat. 3234).

(2) TREATMENT.—For the purpose of this title, the Bi-State Metropolitan Planning Organization shall be treated as—

(A) a metropolitan planning organization;
(B) a transportation management area under subsection (k); and

(C) an urbanized area, which is comprised of a population of 145,000 and 25 square miles of land area and 25 square miles of land area¹ in the State of California and a population of 65,000 and 12 square miles of land area and 12 square miles of land area¹ in the State of Nevada.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 788; Pub. L. 104-287, §5(10), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105-102, §2(4), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105-178, title III, §§3004, 3029(b)(1)-(3), June 9, 1998, 112 Stat. 341, 372; Pub. L. 105-206, title IX, §9009(b), July 22, 1998, 112 Stat. 852; Pub. L. 109-59, title III, §3005(a), Aug. 10, 2005, 119 Stat. 1547; Pub. L. 110-244, title II, §201(b), June 6, 2008, 122 Stat. 1609; Pub. L. 112-141, div. B, §20005(a), July 6, 2012, 126 Stat. 628; Pub. L. 114-94, div. A, title III, §3003(a), Dec. 4, 2015, 129 Stat. 1447; Pub. L. 114-322, title III, §3603(f)(3), Dec. 16, 2016, 130 Stat. 1789; Pub. L. 115-31, div. K, title I, §192, May 5, 2017, 131 Stat. 756; Pub. L. 117-58, div. C, §30002, Nov. 15, 2021, 135 Stat. 890.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5303(a)	49 App.:1607(a) (2d-last sentences).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(a) (2d-last sentences)-(g), (n); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2098, 2104.
5303(b)	49 App.:1607(f).	
5303(c)(1)	49 App.:1607(b)(1).	
5303(c)(2)	49 App.:1607(b)(2).	
5303(c)(3)	49 App.:1607(b)(6).	
5303(c)(4)	49 App.:1607(b)(4).	
5303(c)(5)	49 App.:1607(b)(5).	
5303(c)(6)	49 App.:1607(b)(3).	
5303(d)	49 App.:1607(c).	
5303(e)	49 App.:1607(d), (e).	
5303(f)	49 App.:1607(g).	
5303(g)	49 App.:1607(n).	
5303(h)	49 App.:1607(p).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(p); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2105; Oct. 6, 1992, Pub. L. 102-388, §502(h), 106 Stat. 1566.

In this section, the word “together” is omitted as surplus. The words “Secretary of Commerce” are substituted for “Bureau of the Census” because of 15:1511(e).

In subsection (b)(2), the word “applicable” is omitted as surplus.

In subsection (b)(3), the words “where it does not yet occur” are omitted as surplus.

In subsection (b)(4), the words “the provisions of all applicable” are omitted as surplus.

In subsection (c)(4), before clause (A), the words “whether made under this section or other provisions of law” are omitted as surplus.

¹So in original.



ATTACHMENT 4

OFFICE OF THE GOVERNOR
STATE CAPITOL
AUSTIN, TEXAS 78711

DOLPH BRISCOE
GOVERNOR

APR 12 1974

The Honorable Tom Todd, President
North Central Texas Council of Governments
Denton County Courthouse
Denton, Texas 76201

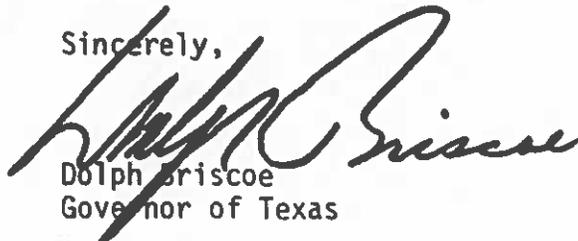
Dear Judge Todd:

Section 112 of the Federal-Aid Highway Act of 1973 earmarks 1/2% of all Federal Highway Funds for strengthening the existing Section 134 highway transportation planning process. The State is charged with designating Metropolitan Planning Organizations for receipt of these funds.

In a November 19, 1973 letter, the Administrators for the Department of Transportation's operating agencies asked that we consider certain criteria when making our designation. After consulting with representatives of all the interested parties, my staff prepared a designation procedure which would allow (1) maximum local government participation both in the designation process and in transportation planning, (2) the use of areawide planning agencies which are responsible for conducting comprehensive planning, and (3) minimum duplication of effort by utilizing existing planning efforts and capabilities. A copy of this designation procedure is attached for your use.

Subject to the two conditions listed in Section IV of the attached procedural guideline, I am designating the North Central Texas Council of Governments as the Metropolitan Planning Organization for the Dallas-Fort Worth Metropolitan Area. If you have any questions concerning the conditions of the designation or the procedures we're asking you to follow, please contact James M. Rose, Director of my Division of Planning Coordination at 475-2427.

Sincerely,



Dolph Briscoe
Governor of Texas

DB:sws
Enclosures
cc: William J. Pitstick, Executive Director

RECEIVED

APR 15 1974

NORTH CENTRAL TEXAS

Page 4.1

PROCEDURES FOR DESIGNATION OF SINGLE
METROPOLITAN PLANNING ORGANIZATIONS FOR TRANSPORTATION PLANNING

- I. Purpose
- II. Authority
- III. Definition
- IV. Conditions for Designation
- V. Procedure
- VI. Administration
- VII. Recision

PROCEDURES FOR DESIGNATION OF SINGLE
METROPOLITAN PLANNING ORGANIZATIONS FOR TRANSPORTATION PLANNING

I. Purpose

To provide guidelines for the Governor in designating Metropolitan Planning Organizations (MPO) pursuant to the Department of Transportation operating agency administrators' letter dated November 12, 1973. The guidelines should allow for (1) maximum local government participation both in the designation process and in transportation planning, (2) the use of areawide planning agencies which are responsible for conducting comprehensive planning, and (3) minimum duplication of effort through the utilization of existing planning efforts and capabilities.

II. Authority

The authority for this designation procedure rests in Section 112 of the Federal-Aid Highway Act of 1973. Section 112 states in part that: "funds apportioned to any State...be made available by the State to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of Section 134...."

Section 134 of Chapter 1 of Title 23, United States Code, requires each state to establish and maintain in its urban areas a continuing comprehensive transportation planning process carried on cooperatively by States and local communities. Section 134 was added to Title 23 by the Federal-Aid Highway Act of 1962 and has been a requirement for receipt of Federal Highway Funds since 1966.

III. Definitions

The following definitions will apply to the designation process:

A. Signatory members - Local units of government which are signatory members to the Urban Transportation Planning Agreements established by the Texas Highway Department pursuant to Section 134 of Chapter 1 of Title 23, United States Code.

B. Steering committee - A committee composed principally of elected officials, formed in accordance with the Urban Transportation Planning agreements established by the Texas Highway Department pursuant to Section 134 of Chapter 1 of Title 23, United States Code. The committee provides routine guidance to the planning process and coordination between transportation modes.

C. Regional council of governments - A voluntary association of local governments established under State enabling legislation to make studies and plans to guide the unified, far-reaching development of an area.

IV. Conditions for Designation

A. The regional council of governments in each State Planning Region will be designated as the single metropolitan planning organization subject to the following conditions:

1. All signatory members must concur with the Governor's designation.
2. The regional council of governments agree that the Steering Committee will approve the use of Section 112 funds.

Section 112 of the 1973 Federal-Aid Highway Act authorizes additional funds for the purpose of carrying out the provisions of Section 134 of Chapter 1, of Title 23, U.S.C. Therefore, first consideration for the distribution of Section 112 funds should be given to existing planning efforts being conducted by cities, counties and regional councils of government who are assigned responsibility for basic elements of the Urban Transportation Study Agreements established by the Texas Highway Department pursuant to Section 134 of Chapter 1 of Title 23 U.S.C.

B. If these conditions are not met in any metropolitan area, then the signatory members will recommend to the Governor the appropriate agency to be designated as the single metropolitan planning organization.

V. Procedure

A. The Division of Planning Coordination (DPC) will notify the chairmen of the regional councils of governments of their designation as an MPO subject to the conditions as set forth in Section IV. The regional councils will have until May 15, 1974, to accept or reject the MPO designation. Acceptance of the designation will be accomplished when the regional councils of governments transmits to the DPC:

1. A resolution from the governing body of the regional council accepting the designation.
2. A resolution or other formal document concurring with the MPO designation from all signatory members.

B. After receipt of the resolution from a regional council accepting the designation offer and the resolutions or minute orders from the signatory members approving the designation offer, a two-party agreement will be negotiated between the regional council of governments and the DPC. The agreement will establish the terms under which the Section 112 funds can be used.

C. If a regional council declines the offer for designation or does not receive ratification from the signatory members, the signatory members will be responsible for recommending to the Governor's Office, by May 31, 1974, an alternative agency to serve as the MPO for that metropolitan area. The DPC will then negotiate an agreement with the recommended agency.

VI. Administration

A. The DPC will represent the Governor and provide overall coordination in the designation process pursuant to Section 112 of the Federal-Aid Highway Act of 1973.

B. The DPC will prepare the notification for designation offers, develop designation agreements, insure close coordination between all affected and interested parties to the MPO designation, and monitor the transportation planning conducted by the MPO.

C. Every effort will be made to gain approval of the Secretary of the Department of Transportation for excluding the MPO and their local governments from the matching requirements for Section 112 funds if the requirement will cause them to decline the designation.

D. This agreement shall in no way establish any activity or process that would infringe upon or interfere with the statutory obligation of the Texas Highway Department.

VII. Rescission of the MPO Designation

The Governor retains the right to designate or redesignate the MPO at any time if, in the Governor's opinion, it is necessary to do so. The Governor's decision to rescind an MPO's designation shall be administratively final. The DPC will notify all affected parties that the agreement for MPO designation is void.

Governor's Designation of MPO

AGREEMENT

STATE OF TEXAS |
 COUNTY OF TRAVIS |

THIS AGREEMENT made this 18th day of April, A.D., 1974,
 by and between the Texas Office of the Governor, acting by and through the Director
 of the Division of Planning Coordination, Party of the First Part, and the
North Central Texas Council of Governments, Party of the Second Part:

WITNESSETH

WHEREAS, the Federal-Aid Highway Act of 1973 in Section 112 allocates, for
 the first time, planning funds to Metropolitan Planning Organizations to support
 the urban transportation planning process; and

WHEREAS, the Federal Highway Administration (in accordance with Section 112
 of the Federal-Aid Highway Act of 1973) and the Urban Mass Transportation
 Administration (in accordance with Section 9 of the Urban Mass Transportation
 Act of 1964, as amended) intend to fund the same designated metropolitan planning
 organization in each metropolitan area; and

WHEREAS, the Federal Aviation Administration intends to consider this agency
 for the receipt of airport system planning funds under Section 13 of the Airport
 and Airway Development Act of 1970; and

WHEREAS, the State of Texas has a statewide network of Regional Planning
 Commissions established under State enabling legislation (Article 1011m, V.A.C.S.,
 as amended) and charged "...to make studies and plans to guide the unified,
 far-reaching development of the area..." and "...make plans for the development
 of the area which may include recommendations on major thoroughfares, streets,
 traffic and transportation studies, bridges, airports..."; and

WHEREAS, it is the desire of the parties that urban transportation planning
 be integrated to the maximum extent possible with other areawide planning in the
 metropolitan area; and

WHEREAS, the successful implementation of urban transportation planning
 requires the assistance and concurrence of all local governments in the
 metropolitan area.

NOW THEREFORE, it is hereby agreed that the use of funds made available under Section 112 of the Federal-Aid Highway Act of 1973 shall be governed by the organization and responsibilities as set out in the following paragraphs:

I. Organization

The North Central Texas Council of Governments

shall be the Metropolitan Planning Organization (MPO) for transportation planning in the Dallas-Fort Worth urbanized area.

The MPO shall:

- A. Develop or assist in the development of a multi-modal transportation planning process. Prepare a Unified Work Program which would specify the use of Section 112 funds or in those regions where a Unified Work Program is not required, prepare a plan for the use of these monies, and submit the Unified Work Program or plan for approval to the Steering Committee established pursuant to Section 134 of Chapter 1 of Title 23 United States Code (U.S.C.).
- B. Insure that transportation planning in the urbanized area is successfully coordinated and integrated with other comprehensive planning in the State Planning Region.
- C. Use the Steering Committee established pursuant to Section 134 of Chapter 1 of Title 23 U.S.C. as the MPO's Transportation Policy Advisory Committee.

II. Section 112 of the 1973 Federal-Aid Highway Act authorizes additional funds for the purpose of carrying out the provisions of Section 134 of Chapter 1, of Title 23 U.S.C. Therefore, first consideration for the distribution of Section 112 funds will be given to existing planning efforts being conducted by cities, counties and regional councils of government who are assigned responsibility for basic elements of the Urban Transportation Study Agreements established by the Texas Highway Department pursuant to Section 134 of Chapter 1 of Title 23 U.S.C.

III. This agreement shall in no way establish any activity or process that would infringe upon or interfere with the statutory obligation of the Texas Highway Department.

IV. The MPO will contract with the Texas Highway Department for Section 112 Planning Funds. The expense involved in urban transportation planning will be assumed by the Metropolitan Planning Organization or agencies with which the

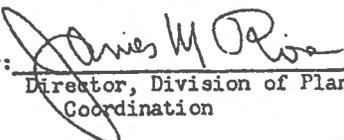
MPO has sub-contracted to accomplish work identified in the approved Unified Work Program or plan for the use of Section 112 funds. Vouchers for completed work under the annual Unified Work Program or plan for use of Section 112 will be audited and approved by the Texas Highway Department according to federal and State requirements. Reimbursement will be made on a periodic basis.

V. This agreement may be renegotiated as necessary to meet changing conditions or terminated by either party.

VI. This agreement will be subject to renegotiation one (1) year from the date of designation, unless terminated earlier. Then by mutual agreement in writing this agreement may be renewed for a two (2) year period within ninety (90) days of termination.

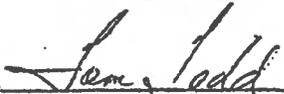
IN WITNESS WHEREOF, the Parties have hereunto affixed their signatures on the dates indicated.

Party of the First Part
TEXAS GOVERNOR'S OFFICE

By: 
Director, Division of Planning
Coordination

Date: July 2, 1974

Party of the Second Part
NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS

By: 
President, North Central Texas Council
of Governments
County Judge, Denton County

Date: April 18, 1974

RECOMMENDED FOR EXECUTION:

Title

Attachments:

1. A resolution from the governing body of each regional council accepting the designation.
2. A resolution or formal document from each local unit of government which is a signatory member to the Urban Transportation Planning Agreement established pursuant to Section 134 of Chapter 1 of Title 23 U.S.C.



STATE OF TEXAS
OFFICE OF THE GOVERNOR
AUSTIN, TEXAS 78711

WILLIAM P. CLEMENTS, JR.
GOVERNOR

MEMORANDUM

TO: Metropolitan Planning Organization Points of Contact

FROM: Allan Rutter, Governor's Office of Budget and Planning

DATE: August 30, 1988

SUBJECT: Returned Copies of Signed MPO Designation Agreements

Enclosed you will find your copy of the signed agreement which designates your group as the Metropolitan Planning Organization for your urbanized area. Keep this in a safe place, since this will be the last time we have to perform this particular task.

I appreciate your patience and cooperation with this final iteration of the MPO redesignation process. Please continue to send me copies of MPO documents and products which you think would be of interest. Do not hesitate to contact me if you need to revise or change these agreements at any point in the future.

Thanks,
Allan Rutter

AGREEMENT

STATE OF TEXAS
COUNTY OF TRAVIS

THIS AGREEMENT Made this 26th day of August, A.D., 1988, by and between the Office of the Governor, State of Texas, acting by and through the Office of Budget and Planning, Party of the First Part, and the NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS _____, Party of the Second Part:

WITNESSETH

WHEREAS, the Federal-Aid Highway Act of 1973 in Section 112 allocates planning funds to Metropolitan Planning Organizations to support the urban transportation planning process; and

WHEREAS, the Federal Highway Administration (in accordance with Section 112 of the Federal-Aid Highway Act of 1973) and the Urban Mass Transportation Administration (in accordance with Section 8 of the Urban Mass Transportation Administration Act of 1964, as amended) intend to fund the same designated metropolitan planning organization in each metropolitan area; and

WHEREAS, The Federal Aviation Administration intends to consider this agency for the receipt of airport system planning funds under Section 13 of the Airport and Airway Development Act of 1970 as amended; and

WHEREAS, it is the desire of the parties that urban transportation planning be integrated to the maximum extent possible with other areawide planning in the metropolitan area; and

WHEREAS, the successful implementation of urban transportation planning requires the assistance and concurrence of all local governments in the metropolitan area.

NOW THEREFORE, it is hereby agreed that the use of funds made available under Section 112 of the Federal-Aid Highway Act of 1973 shall be governed by the organization and responsibilities as set out in the following paragraphs:

I. Organization

The NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS
shall be the Metropolitan Planning Organization for transportation
planning in the DALLAS-FORT WORTH
urbanized area.

The Metropolitan Planning Organization shall:

- A. Develop or assist in the development of a multi-modal transportation planning process. Prepare a Unified Work Program which would specify the use of Section 112 funds or in those regions where a Unified Work Program is not required, prepare a plan for the use of these monies, and submit the Unified Work Program or plan for approval to the Committee established pursuant to Section 134 of Chapter 1 of Title 23 United States Code.
- B. Insure that transportation planning in the urbanized area is successful, coordinated, and integrated with other comprehensive planning in the State Planning Region.
- C. Use the Committee structure established pursuant to Section 134 of Chapter 1 of Title 23 U. S. C. as the group responsible for giving the Metropolitan Planning Organization overall transportation policy guidance.

II. Section 112 of the 1973 Federal-Aid Highway Act authorizes additional funds for the purpose of carrying out the provisions of Section 134 of Chapter 1, of Title 23 U. S. C. Therefore, first consideration for the distribution of Section 112 funds will be given to planning efforts being conducted by cities, counties, and regional councils of governments who are assigned responsibility for basic elements of the urban Transportation Study Agreements established by the State Department of Highways and Public Transportation pursuant to Section 134 of Chapter 1 of Title 23 U. S. C.

III. This agreement shall in no way establish any activity or process that would infringe upon or interfere with the statutory obligation of the State Department of Highways and Public Transportation.

- IV. The Metropolitan Planning Organization will contract with the State Department of Highways and Public Transportation for Section 112 Planning Funds. The expense involved in urban transportation planning will be assumed by the Metropolitan Planning Organization or agencies with which the Metropolitan Planning Organization has subcontracted to accomplish work identified in the approved Unified Work Program or plan for the use of Section 112 funds. Vouchers for completed work under the annual Unified Work Program or plan utilizing Section 112 funds will be audited and approved by the State Department of Highways and Public Transportation according to federal and state requirements. Reimbursement will be made on a periodic basis.
- V. This agreement may be renegotiated as necessary to meet changing conditions or terminated by either party upon 30 days notice.
- VI. This agreement will remain in full force and effect until such time as the NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS is no longer the designated Metropolitan Planning Organization or unless terminated as provided in Item V above.

IN WITNESS WHEREOF, the Parties have hereunto affixed their signatures on the dates indicated.

Party of the First Part
OFFICE OF THE GOVERNOR
STATE OF TEXAS

BY: H.P. Clements

Date: August 26, 1988

Party of the Second Part

BY: William J. Pistick
William J. Pistick
Executive Director, NCTCOG

Date: August 8, 1988

RECOMMENDATION FOR EXECUTION:

Title: Gordon A. Shunk
Gordon A. Shunk
Director of Transportation
and Energy, NCTCOG



125 E 11th St | Austin, Texas 78701
512.463.8588
txdot.gov

June 18, 2025

Mr. Michael Morris,
Director of Transportation
North Central Texas Council of Governments
616 Six Flags Drive
Arlington, TX 76011

Dear Mr. Morris,

I am writing to inform you that the Texas Department of Transportation (TxDOT) intends to extend the existing Planning agreement with North Central Texas Council of Governments for two years.

This decision is in accordance with Article 1, Section B of the current agreement, which stipulates the option for an extension and the necessary procedures involved. Attached to this letter is the existing agreement for reference. Consequently, the updated expiration date for these agreements will now be September 30, 2027.

TxDOT has collaborated with Texas MPOs over the last year to revise the current agreements. This process revealed a need for additional review and evaluation to develop an agreement that will support administration of the TPF program and coordination with the MPOs. We will continue to coordinate this effort with the MPO community over the coming months. If you have any questions, please contact Casey Wells at casey.wells@txdot.gov.

Sincerely,

Signed by:

Humberto Gonzalez Jr. P.E.

F7C3A305BFEB4F2

Humberto "Tito" Gonzalez, Jr., P.E., M.B.A.
Director, Transportation Planning and Programming Division

Attachments:

Current MPO Planning Agreement, effective September 28, 2018

CC: Todd Little, Executive Director, North Central Texas Council of Government
Casey Wells, Transportation Planning and Programming Division, Systems Planning Section Director
Travis Campbell, Director, Transportation Planning & Development, Dallas District
Ricardo Gonzalez, Director, Transportation Planning & Development, Fort Worth District
Dan Perry, Director, Transportation Planning & Development, Paris District
Shannon Hawkins, Planner, Transportation Planning and Programming Division
Karrie Boedeker, Transportation Planning and Programming Division, TPP Operations Section Director

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May 23, 2024

Mr. Michael Morris
Director of Transportation
North Central Texas Council of Governments
616 Six Flags Drive
Arlington, Texas 76011

Dear Mr. Morris:

I am writing to inform you that the Texas Department of Transportation (TxDOT) intends to extend the existing planning agreement with the North Central Texas Council of Governments (NCTCOG) Metropolitan Planning Organization (MPO) for one year.

This decision is pursuant to Article 1 Section B of the current agreement, which stipulates the option for an extension and the necessary procedures involved. Attached to this letter is the existing agreement for reference. Consequently, the updated expiration date for this agreement will now be September 30, 2025.

Over the next year, TxDOT will be revising the existing agreements to better support coordinated planning with MPOs. We will be in touch with you on proposed revisions later this year. If you have any questions, please contact Phillip Tindall, Metropolitan Planning Branch Manager, at Phillip.tindall@txdot.gov.

Sincerely,

DocuSigned by:
Humberto Gonzalez Jr
F7C3A305BFEB4F2...

Humberto Gonzalez, Jr., P.E., M.B.A.
Director, Transportation Planning and Programming Division

Attachments:

Current MPO Planning Agreement, Effective September 28, 2018

cc: Mike Eastland, Executive Director, North Central Texas Council of Governments
Casey Wells, Transportation Planning and Programming Division, Systems Planning Section Director, TxDOT
Phillip R. Tindall, Transportation Planning and Programming Division, Metropolitan Planning Branch Manager, TxDOT
Todd Gibson, Transportation Planning and Programming Division, Planner, TxDOT

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STATE OF TEXAS §

COUNTY OF TRAVIS §

AGREEMENT WITH METROPOLITAN PLANNING ORGANIZATION

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the "Department," the Regional Transportation Council as the Metropolitan Planning Organization (MPO) Policy Committee, called the "MPO Policy Committee", and the North Central Texas Council of Governments which has been designated by the Governor of the State of Texas as the MPO of the Dallas-Fort Worth Arlington, Denton-Lewisville, and McKinney urbanized areas", called the "MPO", which also serves as the Fiscal Agent for the MPO.

WITNESSETH

WHEREAS, 23 United States Code (USC) §134 and 49 USC §5303 require that MPOs, in cooperation with the Department and transit agencies, develop transportation plans and programs for urbanized areas of the State; and

WHEREAS, 23 Code of Federal Regulations (CFR) 450.314 requires the MPO, State, and public transportation operators within each metropolitan planning area to enter into a written agreement to clearly identify the responsibilities of the parties in carrying out the metropolitan planning process; and

WHEREAS, 23 USC §104(d) authorizes Metropolitan Planning funds and 49 USC §5305 authorizes funds to be made available to MPOs designated by the Governor to support the urban transportation planning process; and

WHEREAS, the Department participates in the Consolidated Planning Grant program in which federal transit planning funds authorized under 49 USC §5305 are transferred to the Federal Highway Administration, combined with additional federal funds, and distributed to the state as a single distribution; and

WHEREAS, the federal share payable for authorized activities using the Consolidated Planning Grant funds is eighty percent (80%) of allowable costs; and

WHEREAS, Texas Transportation Code §221.003 authorizes the Department to expend federal and state funds for improvements to the state highway system; and

WHEREAS, Texas Transportation Code §201.703 authorizes the Department to expend federal funds and to provide state matching funds for allowable costs necessary for the improvement of roads not in the state highway system; and

WHEREAS, this agreement outlines the requirements and responsibilities of the parties for federal reimbursement using Consolidated Planning Grant funds and other federal

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transportation funds that may be used for planning (e.g., Surface Transportation Program, National Highway System, Congestion Mitigation and Air Quality, etc.); and

WHEREAS, the Governor of the State of Texas and the North Central Texas Council of Governments have executed an agreement pursuant to the MPO designation; and

WHEREAS, an area equal to or larger than the above-mentioned urbanized area has been delineated in accordance with federal and state guidelines where required metropolitan transportation planning activities may take place; and

WHEREAS, 23 Code of Federal Regulations (CFR) §420.117(a) requires that in accordance with 49 CFR §18.40, the Department shall monitor all activities performed by its staff or by sub-recipients with Federal Highway Administration (FHWA) planning and research funds to assure that the work is being managed and performed satisfactorily and that time schedules are being met; and

NOW THEREFORE, it is agreed as follows:

A G R E E M E N T

Article 1. Agreement Period

- A. This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed. The Department shall not continue its obligation to the MPO under this agreement if the Governor's designation of the MPO is withdrawn; if federal funds cease to become available; or if the agreement is terminated as provided below.
- B. This agreement expires on September 30, 2024. No fewer than one hundred and twenty (120) days before the expiration date, the Department may, at its sole discretion, exercise in writing an option to extend the agreement by a period of no more than two years. The Department may exercise this option no more than two times. If all terms and conditions of this agreement remain viable and no amendment to the existing agreement or new agreement is required, a letter from the Department to the MPO shall constitute renewal of this agreement subject to all terms and conditions specified in this agreement. However, an amendment or a new agreement may be executed, if necessary.

Article 2. Responsibilities of the Department

The responsibilities of the Department are as follows:

- A. Assist in the development of the Unified Planning Work Program (UPWP), approve the format of work programs submitted by the MPO, and, where required by federal law or regulation, monitor the MPO's performance of activities and expenditure of funds under a UPWP. Where monitoring is not required, the Department is responsible for reviewing the MPO's activities and expenditure of funds, and will comment on and make suggestions relating to those activities and expenditures.
- B. Develop a time line for development of the UPWP by the MPO; and in consultation with the MPOs, shall develop a standard UPWP format to be used by all MPOs.
- C. Make available to the MPO its share of all federal metropolitan planning funds and provide the required non-federal match as authorized by the Texas Transportation Commission.

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The Department will distribute federal transportation planning funds to the MPO based on a formula developed by the Department, in consultation with the MPOs, and approved by FHWA, the Federal Transit Administration (FTA), and other applicable federal agencies.

- D. Provide to the MPO, as appropriate, technical assistance and guidance for the collection, processing, and forecasting of socio-economic data needed for the development of traffic forecasts, plans, programs, and planning proposals within the metropolitan area, including collecting, processing, and forecasting vehicular travel volume data in cooperation with the MPO, as appropriate.
- E. Jointly promote the development of the intermodal transportation system within the metropolitan area by identifying points in the system where access, connectivity, and coordination between the modes and inter-urban facilities would benefit the entire system.
- F. Share with the MPO information and information sources concerning transportation planning issues that relate to this agreement.
- G. Cooperatively develop and share information with the MPO related to transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO, and the collection of data for the State asset management plan for the National Highway System (NHS).

Article 3. Responsibilities of the MPO

The MPO is an organization created to ensure that existing and future expenditures on transportation projects and programs are based on a continuing, cooperative, and comprehensive planning process. The responsibilities of the MPO are as follows:

- A. Document planning activities in a UPWP to indicate who will perform the work, the schedule for completing it, and all products that will be produced. In cooperation with the Department and public transportation operators as defined by 23 CFR Part 450, the MPO must annually or bi-annually develop a UPWP that meets federal requirements.
- B. Prepare and submit to the Department an annual performance and expenditure report of progress no later than December 31 of each year. A uniform format for the annual report will be established by the Department, in consultation with the MPOs.
- C. Use funds provided in accordance with 43 Texas Administrative Code (TAC) §16.52 and Article 2 (Responsibilities of the Department) of this agreement to develop and maintain a comprehensive regional transportation planning program in conformity with the requirements of 23 USC §134, 49 USC §5303, and the Texas Comptroller of Public Accounts Uniform Grant Management Standards (UGMS).
- D. Develop a Metropolitan Transportation Plan (MTP), a Transportation Improvement Program (TIP), and a UPWP for the Metropolitan Planning Area (MPA), all of which are consistent with the Statewide Long-Range Transportation Plan (SLRTP), as required by the state and federal law. At a minimum, the MPO shall consider in their planning process the applicable factors outlined in 23 USC §134.
- E. Assemble and maintain an adequate, competent staff with the knowledge and experience that will enable them to perform all appropriate MPO activities required by law.
- F. Forecast, collect, and maintain appropriate socio-economic, roadway, and travel data on a timely basis, in cooperation with the Department.
- G. Prepare all required plans, programs, reports, data, and obtain required certifications in a timely manner.

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- H. Share information with the Department and information sources concerning transportation planning issues.
- I. Exercise sole responsibility to hire, supervise, evaluate, and terminate the MPO Transportation Planning Director.

Article 4. Responsibilities of the MPO Policy Committee

The MPO Policy Committee is the policy body that is the forum designated under 23 USC §134 with the responsibility for establishing overall transportation policy for the MPO and for making required approvals. The MPO Policy Committee is comprised of those governmental agencies identified in the original designation agreement and those agencies or organizations subsequently added to the membership of the committee. The responsibilities of the MPO, acting through its Policy Committee, are as follows:

- A. Ensure that requirements of 23 USC §§134 and 135 and 49 USC, Chapter 53, are carried out.
- B. Use funds provided in accordance with Article 2 (Responsibilities of the Department) of this agreement to develop and maintain a comprehensive regional transportation planning program in accordance with requirements of 23 USC §134 and 49 USC §5303.
- C. Develop and adopt an MTP for the MPA that is consistent with the SLRTP required by state and federal laws; a TIP and a UPWP; and other planning documents and reports that may be required by state or federal laws or regulations.
- D. Provide planning policy direction to the MPO Transportation Planning Director.

Article 5. Responsibilities of the Fiscal Agent

The Fiscal Agent for the MPO is the entity responsible for providing fiscal, human resource, and staff support services to the MPO. The responsibilities of the Fiscal Agent are as follows:

- A. Maintain required accounting records for state and federal funds consistent with current federal and state requirements.
- B. Provide all appropriate funding, as identified by fiscal year in the UPWP, to allow the MPO staff to effectively and efficiently operate the program.
- C. Provide human resource services to the MPO.
- D. Provide benefits for the MPO staff that shall be the same as the Fiscal Agent normally provides its own employees; or as determined through an agreement between the MPO and the Fiscal Agent. Costs incurred by the Fiscal Agent for these benefits may be reimbursed by the MPO.
- E. Establish procedures and policies for procurement and purchasing, when necessary, in cooperation with the MPO.

Article 6. Responsibilities of the MPO Transportation Planning Director

The responsibilities of the MPO Transportation Planning Director are as follows:

- A. Administer the MPO's UPWP. The Director shall serve in a full-time capacity and shall take planning policy direction from and be responsible to the designated MPO Policy Committee.
- B. Act as a liaison to the Department, relevant to the Department's transportation planning activities.
- C. Oversee and direct all MPO transportation planning staff work performed using MPO funds.
- D. Prepare and submit all required plans, programs, reports, data, and certifications in a timely manner.

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- E. Develop and present to the MPO Policy Committee an MTP for the MPA that is consistent with the SLRTP required by state and federal laws; a TIP and a UPWP; and other planning documents and reports that may be required by state or federal laws or regulations.
- F. Share with the Department information and information resources concerning transportation planning issues.

Article 7. Unified Planning Work Program

- A. Each year the MPO shall submit to the Department a program of work that includes goals, objectives, and tasks required by each of the several agencies involved in the metropolitan transportation planning process. This program of work is to be called the Unified Planning Work Program (UPWP), or any successor name. The UPWP shall be approved by the MPO Policy Committee, in accordance with 23 CFR §450.314.
- B. The UPWP will be prepared for a period of one (1) year or two (2) years unless otherwise agreed to by the Department and the MPO. The UPWP shall reflect only that work that can be accomplished during the time period of the UPWP, in accordance with TAC §16.52.
- C. The UPWP shall reflect transportation planning work tasks to be funded by federal, state, or local transportation, or transportation related (e.g. air quality) planning funds. The budget and statement of work will be included in the UPWP. The MPO may not incur costs until final approval of the UPWP is granted. The maximum amount payable will not exceed the budget included in the UPWP.
- D. The effective date of each UPWP will be October 1st of the initial year or the date of approval from the appropriate oversight agency, whichever occurs later. On that date, the UPWP shall constitute a new federal project and shall supersede the previous UPWP.
- E. The UPWP shall comply with all applicable federal and state requirements and will describe metropolitan transportation and transportation-related planning activities anticipated in the area.
- F. The use of federal metropolitan transportation planning funds shall be limited to transportation planning activities affecting the transportation system within the boundaries of a designated metropolitan planning area. If an MPO determines that data collection and analysis activities relating to land use, demographics, or traffic or travel information, conducted outside its boundaries, affects the transportation system within its boundaries, then those activities may be undertaken using federal planning funds, if the activities are specifically identified in an approved UPWP. Any other costs incurred for transportation planning activities outside the boundaries of a designated metropolitan planning area are not eligible for reimbursement.
- G. Travel outside the State of Texas by MPO staff and other agencies participating in the MPO planning process must be approved by the Department if funded with federal transportation planning funds. The MPO must receive approval prior to incurring any costs associated with the actual travel (e.g., registration fee). This provision will not apply if the travel is at the request of the Department. Travel to the State of Arkansas by the Texarkana MPO staff and travel to the State of New Mexico by the El Paso MPO staff shall be considered in-state travel.
- H. The cost of travel incurred by elected officials serving on the MPO Policy Committee is eligible for reimbursement with federal transportation planning funds in accordance with 43 TAC §16.52.

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- I. The use of federal transportation planning funds is limited to corridor/subarea level planning or multimodal or system-wide transit planning studies. Major investment studies and environmental studies are considered corridor level planning. Unless otherwise authorized by federal law or regulation, the use of such funds beyond environmental document preparation or for specific project level planning and engineering (efforts directly related to a specific project instead of a corridor) is not allowed.
- J. Failure to adhere to the time line developed by the Department may result in a delay in the authorization to the MPOs to proceed in incurring costs.
- K. A UPWP will not be approved if it is submitted in a format other than the standard format developed by the Department. The UPWP and subsequent amendments may be submitted electronically.
- L. The MPO shall not incur any costs for work outlined in the UPWP or any subsequent amendments (i.e., adding new work tasks or changing the scope of existing work tasks) prior to receiving approval from the Department. Any costs incurred prior to receiving Department approval are not eligible for reimbursement from federal transportation planning funds.
- M. Costs incurred by the MPO shall not exceed the total budgeted amount of the UPWP without prior approval of the MPO Policy Committee and the Department. Costs incurred on individual work tasks shall not exceed that task budget by 25 percent without prior approval of the MPO Policy Committee and the Department. If the costs exceed 25 percent of the task budget, the UPWP shall be revised, approved by the MPO Policy Committee, and submitted to the Department for approval.
- N. The MPO Policy Committee must approve the UPWP and any subsequent revisions, and shall not delegate the approval authority, except for corrective actions. Corrective actions do not change the scope of work, result in an increase or decrease in the amount of task funding, or affect the overall budget. Examples include typographical, grammatical, or syntax corrections.
- O. Should any conflict be discovered between the terms of this agreement and the UPWP, the terms of this agreement shall prevail.
- P. The MPO is not authorized to request payment for any work it may perform that is not included in the current UPWP.

Article 8. Compensation

The Department's payment of any cost incurred under this agreement is contingent upon all of the following:

- A. Federal funds are available to the Department in a sufficient amount for making payments.
- B. The incurred cost is authorized in the UPWP. The maximum amount payable under this agreement shall not exceed the total budgeted amount outlined in the UPWP in accordance with 43 TAC §16.52.
- C. The cost has actually been incurred by the MPO and meets the following criteria:
 - 1. Is verifiable from MPO records;
 - 2. Is not included as match funds for any other federally-assisted program;
 - 3. Is necessary and reasonable for the proper and efficient accomplishment of program objectives;
 - 4. Is the type of charge that would be allowable under 2 CFR 200 Revised, "Cost Principles for State, Local, and Indian Tribal Governments" and the state's UGMS; and

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5. Is not paid by the Department or federal government under another assistance program unless authorized to be used as match under the other federal or state agreement and the laws and regulations to which it is subject.
- D. After October 1st of each year, the Department will issue a work order to the MPO establishing the effective date of work and the total funds authorized. If the UPWP is subsequently revised, necessitating a revision to the original work order, or the Department deems a revision necessary, a revised work order may be issued at any time throughout the fiscal year. If the amount in the UPWP differs from the amount in the work order, the amount in the work order prevails.
- E. The MPO is authorized to submit requests for payment of authorized costs incurred under this agreement on a semi-monthly basis, but no more than twenty four (24) times a year and no less than monthly as expenses occur. Each request for payment shall be submitted in a manner acceptable to the Department, which includes, at a minimum, the following information:
 1. UPWP budget category or line item;
 2. Description of the cost;
 3. Quantity;
 4. Price;
 5. Cost extension; and
 6. Total costs
- F. The MPO shall submit the final bill from the previous fiscal year to the Department no later than December 31st of the calendar year in which that fiscal year ended. Any bills submitted after December 31 for a fiscal year in which the funds have been de-obligated will be processed against the current year's UPWP.
- G. Payment of costs is contingent upon compliance with the terms of Article 3 (Responsibilities of the MPO) of this agreement. Noncompliance may result in cancellation of authorized work and suspension of payments after a thirty (30) day notification by the Department to the MPO.

Article 9. Reporting

To permit program monitoring and reporting, the MPO shall submit reports as required in Article 3 (Responsibilities of the MPO) of this agreement. If task expenditures overrun or underrun a budgeted task amount by twenty-five percent (25%) or more, the annual performance and expenditure report must include an explanation for the overrun or underrun.

Article 10. Indemnification

- A. To the extent possible under state law, the MPO shall save harmless the Department and its officers and employees from all claims and liability that are due to activities of the MPO, its agents, or its employees performed under this agreement and that are caused by or result from error, omission, or negligent act of the MPO or of any person employed by the MPO.
- B. To the extent possible under state law, the MPO shall also save harmless the Department from any and all expense, including but not limited to, attorney fees that may be incurred by the Department in litigation or otherwise resisting claims or liabilities that may be imposed on the Department as a result of the activities of the MPO, its agents, or its employees.

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Article 11. Inspection of Work and Retention of Documents

- A. The Department and, when federal funds are involved, the U. S. Department of Transportation (USDOT), and their authorized representatives shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this agreement and the premises on which it is being performed.
- B. If any inspection or evaluation is made on the premises of the MPO or a subcontractor, the MPO shall provide or require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in a manner that will not unduly delay the work.
- C. The MPO agrees to maintain all books, documents, papers, computer generated files, accounting records, and other evidence pertaining to costs incurred and work performed under this agreement, and shall make those materials available at its office during the time period covered and for seven (7) years from the date of final payment under the UPWP. Those materials shall be made available during the specified period for inspection by the Department, the USDOT, and the Office of the Inspector General of the USDOT and any of their authorized representatives for the purpose of making audits, examinations, excerpts, and transcriptions.
- D. The state auditor may conduct an audit or investigation of any entity receiving funds from the Department directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit under the state's UGMS.

Article 12. Work Performance

All work performed under this agreement shall be carried out in a professional and orderly manner, and the products authorized in the UPWP shall be accurate and exhibit high standards of workmanship.

Article 13. Disputes

The MPO shall be responsible for the settlement of all contractual and administrative issues arising out of procurement entered into in support of work under this agreement. In the event of a dispute between the Department and the MPO concerning the work performed under this agreement in support of the urban transportation planning process, the dispute shall be resolved through binding arbitration. Furthermore, the arbiter shall be mutually acceptable to the Department and the MPO.

Article 14. Non-Collusion

The MPO shall warrant that it has not employed or retained any company or person, other than a bona fide employee working for the MPO, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. If the MPO breaches or violates this

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warranty, the Department shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of the fee, commission, brokerage fee, gift, or contingent fee.

Article 15. Subcontracts

- A. Any subcontract for services rendered by individuals or organizations not a part of the MPO's organization shall not be executed without prior authorization and approval of the subcontract by the Department and, when federal funds are involved, the USDOT. All work in the subcontract is subject to the state's UGMS. If the work for the subcontract is authorized in the current approved UPWP, and if the MPO's procurement procedures for negotiated contracts have been approved by the Department either directly or through self-certification by the MPO, the subcontract shall be deemed to be authorized and approved, provided that the subcontract includes all provisions required by the Department and the USDOT.
- B. Subcontracts in excess of \$25,000 shall contain all required provisions of this agreement.
- C. No subcontract will relieve the MPO of its responsibility under this agreement.

Article 16. Termination

- A. The Department may terminate this agreement at any time before the date of completion if the Governor withdraws his designation of the MPO. The Department or the MPO may seek termination of this agreement pursuant to Article 13 (Disputes) if either party fails to comply with the conditions of the agreement. The Department or the MPO shall give written notice to all parties at least ninety (90) days prior to the effective date of termination and specify the effective date of termination.
- B. The Department may terminate this agreement for reasons of its own, subject to agreement by the MPO.
- C. The parties to this agreement may terminate this agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the parties shall agree upon the termination conditions.
- D. Upon termination of this agreement, whether for cause or at the convenience of the parties, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc., prepared by the MPO shall, at the option of the Department, be delivered to the Department.
- E. The Department shall reimburse the MPO for those eligible expenses incurred during the agreement period that are directly attributable to the completed portion of the work covered by this agreement, provided that the work has been completed in a manner satisfactory and acceptable to the Department. The MPO shall not incur new obligations for the terminated portion after the effective date of termination.

Article 17. Force Majeure

Except with respect to defaults of subcontractors, the MPO shall not be in default by reason of failure in performance of this agreement in accordance with its terms (including any failure by the MPO to progress in the performance of the work) if that failure arises out of causes beyond the control and without the default or negligence of the MPO. Those causes may include but are not limited to acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In every case, however,

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the failure to perform must be beyond the control and without the fault or negligence of the MPO.

Article 18. Remedies

- A. Violation or breach of agreement terms by the MPO shall be grounds for termination of the agreement. Any costs incurred by the Department arising from the termination of this agreement shall be paid by the MPO.
- B. This agreement shall not be considered as specifying the exclusive remedy for any dispute, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

Article 19. Gratuities

- A. Employees of the Department or the MPO shall not accept any benefits, gifts, or favors from any person doing business with, or who may do business with the Department or the MPO under this agreement.
- B. Any person doing business with, or who may do business with the Department or the MPO under this agreement, may not make any offer of benefits, gifts, or favors to Department or the MPO employees. Failure on the part of the Department or the MPO to adhere to this policy may result in termination of this agreement.

Article 20. Compliance with Laws

The parties to this agreement shall comply with all federal and state laws, statutes, rules, and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the MPO shall furnish the Department with satisfactory proof of its compliance.

Article 21. Successors and Assigns

No party shall assign or transfer its interest in this agreement without written consent of the other parties.

Article 22. Debarment Certifications

The MPO is prohibited from making any award or permitting any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. By executing this agreement, the MPO certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The MPO shall require any party to a subcontract or purchase order awarded under this agreement as specified in 49 CFR Part 29 (Debarment and Suspension) to certify its eligibility to receive federal funds and, when requested by the Department, to furnish a copy of the certification.

Article 23. Equal Employment Opportunity

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The parties to this agreement agree to comply with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor Regulations (41 CFR §60).

Article 24. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

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Article 25. Nondiscrimination on the Basis of Disability

The MPO agrees that no otherwise qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under this agreement. The MPO shall ensure that all fixed facility construction or alteration and all new equipment included in the project comply with applicable regulations regarding Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, set forth in 49 CFR Part 27, and any amendments to it.

Article 26. Disadvantaged Business Enterprise (DBE) Program Requirements

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The MPO shall adopt, in its totality, the State's federally approved DBE program.
- C. The MPO shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The MPO shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each MPO contract with a subprovider. The MPO shall be responsible for documenting its actions.
- D. The MPO shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The MPO shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The MPO shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the MPO of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the MPO signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

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Article 27. Procurement and Property Management Standards

- A. The parties to this Agreement shall adhere to the procurement standards established in Title 49 CFR §18.36, to the property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the MPO's procurement procedures for purchases to be eligible for state or federal funds.
- B. The MPO agrees to comply with applicable Buy America requirements set forth in the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599) §401 and the FTA's Buy America regulations in 49 CFR Part 661.
- C. The MPO agrees to comply with the cargo preference requirements set forth in 46 USC §55305 and Maritime Administration regulations set forth in 46 CFR Part 381.

Article 28. Environmental Protection and Energy Efficiency

- A. The MPO agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act, 42 USC §7602; Section 508 of the Clean Water Act 33 USC §1368; Executive Order 11738 and Title 40 CFR, "Protection of Environment." The MPO further agrees to report violations to the Department.
- B. The MPO agrees to recognize standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

Article 29. Federal Reimbursement

The MPO shall be responsible for any funds determined to be ineligible for federal reimbursement, and shall reimburse the Department the amount of those funds previously provided to it by the Department.

Article 30. Control of Drug Use

The MPO agrees to comply with the terms of the FTA regulation, "Prevention of Alcohol Misuse and Prohibited Drug Use in Mass Transit Operations," set forth in 49 CFR Part 655.

Article 31. Lobbying Certification

In executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee 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, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the

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- signatory for the MPO shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Article 32. Amendments

Any change to one or more of the terms and conditions of this agreement shall not be valid unless made in writing and agreed to by the parties before the change is implemented.

Article 33. Distribution of Products

- A. The MPO shall provide a number of copies to be specified by the Department of all information, reports, proposals, brochures, summaries, written conclusions, graphic presentations, and similar materials developed by the MPO and financed, in whole or in part, as provided in this agreement. All reports published by the MPO shall contain the following prominent credit reference to the Department, USDOT, FHWA, and FTA:
Prepared in cooperation with the Texas Department of Transportation and the U.S. Department of Transportation, Federal Highway Administration, and Federal Transit Administration.
- B. Upon termination of this agreement, all documents prepared by the MPO or furnished to the MPO by the Department, shall be delivered to the Department. All documents, photographs, calculations, programs, and other data prepared or used under this agreement may be used by the Department without restriction or limitation of further use.

Article 34. Legal Construction

In case any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provisions and this agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

Article 35. Sole Agreement

This agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this agreement.

Article 36. Copyrights

The Department and the USDOT shall, with regard to any reports or other products produced under this agreement, reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for government purposes.

Article 37. Federal Funding Accountability and Transparency Act Requirements

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- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms:
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>
- B. The MPO agrees that it shall:
1. Obtain and provide to the Department a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides for more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR web-site at <https://www.sam.gov/portal/public/SAM/>;
 2. Obtain and provide to the Department a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website at <http://fedgov.dnb.com/webform>; and
 3. Report the total compensation and names of its top five (5) executives to the Department if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

Article 38. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the MPO must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the MPO's fiscal year, the MPO must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the MPO will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

Article 39. Notices

All notices to any party by the other parties required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to the party at the following addresses:

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CFDA Title:	
CFDA No.:	20.205/20.505
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MPO/Fiscal Agent:	Mike Eastland, Executive Director North Central Texas Council of Governments 616 Six Flags Drive Arlington, Texas 76011
MPO Policy Committee:	Michael Morris, P.E. Director of Transportation 616 Six Flags Drive Arlington, Texas 76011
Department:	Director, Transportation Planning & Programming Division Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

All notices shall be deemed given on the date delivered or deposited in the mail, unless otherwise provided in this agreement. Any party may change the above address by sending written notice of the change to the other parties. Any party may request in writing that notices shall be delivered personally or by certified U.S. mail and that request shall be honored and carried out by the other parties.

Article 40. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the Department, the North Central Texas Council of Governments as the MPO and Fiscal Agent and the Regional Transportation Council as the MPO Policy Committee in triplicate.

REGIONAL TRANSPORTATION COUNCIL



Signature

Michael Morris P.E.

Director of Transportation

Title

9/28/18

Date

NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS



Signature

Mike Eastland

Executive Director

9/28/18

Date

Contract No.:	50-19XF0006
Federal Highway Administration:	
CFDA Title:	
CFDA No.:	20.205-20.505
Not Research and Development	

 THE DEPARTMENT

Signature

Peter Smith

Typed or Printed Name

Director, Transportation Planning and
Programming Division, Texas Department of
Transportation

Title

9/24/2018

Date

**MEMORANDUM OF UNDERSTANDING
AMONG
THE DALLAS-FORT WORTH METROPOLITAN PLANNING ORGANIZATION (“MPO”),
THE TEXAS DEPARTMENT OF TRANSPORTATION (“TXDOT”),
PUBLIC TRANSPORTATION OPERATORS, AND OTHER TRANSPORTATION AGENCIES**

WHEREAS, the Fixing America's Surface Transportation Act (FAST Act) promulgated regulations 23 Code of Federal Regulations (CFR) 450.314, and

WHEREAS, the MPO, the State and the Public Transportation Operators are required by 23 CFR 450.314 to cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process, and

WHEREAS, these responsibilities shall be clearly identified in written agreements among the MPO, the State and the Public Transportation Operators serving the Metropolitan Planning Area (MPA), and

WHEREAS, to the extent possible, a single agreement between all responsible parties should be developed, and

WHEREAS, the federal regulations require the written agreement include specific provisions for cooperatively developing and sharing information related to the development of financial plans that support the metropolitan transportation plan (MTP), the metropolitan Transportation Improvement Program (TIP), and development of the annual listing of obligated projects, and

WHEREAS, the MPO and the designated air quality planning agency entered into a written agreement on May 12, 1978, followed by a letter from the Governor of Texas to the United States Environmental Protection Agency dated July 24, 1978, describing their respective roles and responsibilities for air quality-related transportation planning. The agreement and letter were submitted as part of a revision to the State Implementation Plan that was approved by the United States Environmental Protection Agency on March 29, 1982, effective May 28, 1982. The roles and responsibilities for air quality-related transportation planning were subsequently codified in Title 30 Texas Administrative Code Chapter 114, Subchapter G Transportation Planning, which was approved into the State Implementation Plan on November 8, 1995, effective January 8, 1996, and

WHEREAS, the federal regulations require that the MPO, State DOT, and the Public Transportation Operators shall jointly agree upon and develop specific written procedures

for cooperatively developing and sharing information related to transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO, and the collection of data for the State asset management plan for the National Highway System (NHS), and

WHEREAS, other transportation agencies in the MPA desire to cooperate in transportation planning related to the MPA, as set forth in below.

NOW THEREFORE, the parties agree as follows:

1. **Purpose.** It is the purpose of this Memorandum of Understanding (MOU) to make provision for cooperative mutual responsibilities in carrying out the Metropolitan Planning Process and Performance Based Planning and Programming in the Dallas-Fort Worth MPA and to provide a single agreement between the State of Texas acting through the Texas Department of Transportation (TxDOT), the Regional Transportation Council, as the transportation policy body of the North Central Texas Council of Governments, serving together as the Dallas-Fort Worth MPO, and Dallas Area Rapid Transit, Denton County Transportation Authority, Fort Worth Transportation Authority, City of Arlington, City of Grand Prairie, City of McKinney, and City of Mesquite (“Public Transportation Operators”), and, Collin County Toll Road Authority, North Texas Tollway Authority, Dallas Fort Worth International Airport (“Other Transportation Agencies”) in accordance with current Federal Legislation and as required by 23 CFR 450.314.

2. **Responsibilities of all parties.**

All parties will:

- a. Cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process in a performance based planning format and final form, and decide upon and adopt performance targets for this planning process in accordance with Federal and State requirements and guidance.
- b. Make provisions for cooperatively developing and sharing information related to the development of financial plans that support the Metropolitan Transportation Plan (MTP) and TIP.

- c. Cooperatively develop a listing of projects that comprehensively address the transportation system within the MPO boundaries. Identified projects shall include both roadway and transit initiatives, including but not limited to investments in pedestrian walkways and bicycle transportation facilities for which federal funds were obligated in the preceding fiscal year.
- d. Endeavor to ensure that the Unified Planning Work Program (UPWP) required to be developed by the MPO will detail and document these responsibilities, deliverables and associated costs. Each party will bear its own costs for activities required by this MOU, unless the MPO allocates funding for such activity and it is reflected in the UPWP.

3. Performance Based Planning and Programming

- a. Developing transportation performance data
 - i. TxDOT will provide the MPO with a subset for their MPA of the state performance data used in developing statewide targets.
 - ii. If an MPO chooses to develop their own target for any measure, they will provide TxDOT with any supplemental data it they utilize in association with the target-setting process.
- b. Selection of transportation performance targets
 - i. TxDOT will develop draft statewide federal performance targets in coordination with the applicable MPO. Coordination may include in-person meetings, web meetings, conference calls, and/or email communication. MPOs shall be given an opportunity to provide comments on statewide targets one month prior to final statewide targets adoption.
 - ii. If the MPO chooses to adopt their own target for any measure, it will develop draft MPO performance targets in coordination with TxDOT. Coordination methods will be at the discretion of the MPO, but TxDOT shall be provided an opportunity to provide comments on draft MPO performance targets prior to final approval.

c. Reporting of performance targets

- i. TxDOT performance targets will be reported to the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), as applicable. The MPO will be notified when TxDOT has reported final statewide targets.
- ii. MPO performance targets will be reported to TxDOT.
 1. For each target, the MPO will provide the following information no later than 180 days after the date TxDOT or the Public Transportation Operator establishes performance targets, or the date specified by federal code:
 - a. Written agreement to plan and program projects so that they contribute toward the accomplishment of TxDOT or Public Transportation Operator performance target, or;
 - b. Written notification that the MPO will set a quantifiable target for that performance measure for the MPO's planning area.
 - i. If a quantifiable target is set for the MPO planning area, the MPO will provide any supplemental data used in determining any such target.
 - c. Documentation of the MPO's target or support of the statewide or relevant public transportation provider target will be provided in the form of the MPO's resolution or meeting minutes.
- iii. TxDOT will include information outlined in 23 CFR 450.216 (f) in any statewide transportation plan amended or adopted after May 27, 2018, and information outlined in 23 CFR 450.218 (q) in any statewide transportation improvement program amended or adopted after May 27, 2018.

- iv. The MPO will include information outlined in 23 CFR 450.324 (f) (3-4) in any MTP amended or adopted after May 27, 2018, and information outlined in 23 CFR 450.326 (d) in any TIP amended or adopted after May 27, 2018.
 - v. Reporting of targets and performance by TxDOT and the MPO shall conform to 23 CFR 490, 49 CFR 625, and 49 CFR 673.
- d. Reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO
- i. TxDOT will provide the MPO with an update of the subset for their MPA of the state performance data used in developing statewide targets including prior performance data.
- e. The collection of data for the State asset management plans for the NHS
- i. TxDOT will be responsible for collecting bridge and pavement condition data for the State asset management plan for the NHS.

4. Responsibilities of the MPO

The MPO will:

- a. Work in consultation with Public Transportation Operators, Other Transportation Agencies, and TxDOT in developing the financial plan for the MTP.
- b. Work in consultation with Public Transportation Operators, Other Transportation Agencies, and TxDOT in developing the financial plan for the TIP.
- c. Conduct Technical Committee and Policy Board meetings as required and necessary.
- d. In consultation with Public Transportation Operators, Other Transportation Agencies, and TxDOT, update the MTP and TIP in accordance with State and Federal laws.

- e. Invite Public Transportation Operators and Other Transportation Agencies to participate in all public participation processes.
- f. Conduct comprehensive, cooperative and continuous transportation planning for the Dallas-Fort Worth MPA.
- g. Establish necessary transportation performance targets, share information related to the performance data, and document the reporting of performance to be used in tracking progress toward attainment of critical outcomes within the MPO MPA, if the MPO elects to develop quantifiable targets for performance measures for the MPO's planning area.

5. Responsibilities of the Public Transportation Operators and Other Transportation Agencies

The Public Transportation Operators and Other Transportation Agencies will:

- a. Work in consultation with the MPO in developing short-range and long-range plans for transit or other projects for inclusion in the MTP.
- b. Assist in validation of data used as input into the transportation plan.
- c. Work in consultation with the MPO and TxDOT in developing the financial plan for the MTP.
- d. Work in consultation with the MPO and TXDOT in developing the financial plan for the TIP.
- e. Provide the MPO with the annual list of transit or other obligated projects with federal funds.
- f. Serve on the MPO Technical Committee and Policy Board as applicable.
- g. Notify the MPO of changes to projects that would affect the MTP or TIP.
- h. Invite the MPO to participate in all public participation processes.

- i. Each Public Transportation Operator shall establish transit asset management performance targets and share them with the MPO and other interested parties.

6. Responsibilities of TxDOT.

- a. Work in consultation with Public Transportation Operators, Other Transportation Agencies, and the MPO in developing the financial plan for the TIP and MTP.
 - b. Assist in the validation of data used as input into the transportation plan.
 - c. Provide the MPO with the annual list of obligated projects.
 - d. Serve on the MPO Technical Committee and Policy Board.
 - e. Notify the MPO of changes to projects that would affect the MTP or TIP.
 - f. In consultation with the MPO, Public Transportation Operators, and Other Transportation Agencies, update the MTP and TIP in accordance with State and Federal laws.
 - g. Work in consultation with the MPO, Public Transportation Operators, and Other Transportation Agencies in developing short-range and long-range plans for transit for inclusion in the MTP and TIP.
7. **Term.** This Memorandum shall remain in full force and effect until such time it is terminated in writing by a party, at which time the terminating party's rights and obligations shall cease. Termination by a single party will not terminate the Memorandum as to the remaining parties.
8. **Validity and Enforceability.** If any current or future legal limitations affect the validity or enforceability of a provision of this MOU, then the legal limitations are made a part of this MOU and shall operate to amend this MOU to the minimum extent necessary to bring this MOU into conformity with the requirements of the limitations, and so modified, this MOU shall continue in full force and effect.

9. **Governing Law and Venue.** This MOU shall be governed by the laws of the State of Texas. Venue for an action arising under this MOU shall lie exclusively in Travis County, Texas.

10. **Severability.** If a provision contained in this MOU is held invalid for any reason, the invalidity does not affect other provisions of the MOU and can be given effect without the invalid provision, and to this end the provisions of this MOU are severable.

(SIGNATURE PAGES TO FOLLOW)

EXECUTED by the parties hereto, each respective entity acting by and through its duly authorized official as required by law.

METROPOLITAN PLANNING ORGANIZATION

Regional Transportation Council

DocuSigned by:

Michael Morris _____

393DC67A7AFA414...
Michael Morris, P.E., Director of Transportation

Date: 6/15/2018

North Central Texas Council of Governments

DocuSigned by:

Mike Eastland _____

A4E72C1BEF0F42B...
MIKE EASTLAND, Executive Director

Date: 6/15/2018

PUBLIC TRANSPORTATION OPERATORS

Dallas Area Rapid Transit

DocuSigned by:

Gary C. Thomas _____

8F4FBFA358D648A...
Gary C. Thomas, President/Executive Director

Date: 6/11/2018

Denton County Transportation Authority

DocuSigned by:

James C. Cline, Jr. _____

29E3CD1C81B544D...
James C. Cline, Jr., P.E. President

Date: 6/15/2018

Fort Worth Transportation Authority

DocuSigned by:

Paul J. Ballard _____

864E0DFA8AEA413...
Paul J. Ballard, President and Chief Executive Officer

Date: 6/8/2018

City of Arlington

DocuSigned by:

Jim Parajon

D24A9C2D6550480...

Jim Parajon, Deputy City Manager

Date: 6/15/2018

City of Grand Prairie

DocuSigned by:

Tom Hart

8938F8B9451642C...

Tom Hart, City Manager

Date: 6/15/2018

City of McKinney

DocuSigned by:

Paul Grimes

487F8E42C872437...

Paul Grimes, City manager

Date: 6/12/2018

City of Mesquite

DocuSigned by:

Cliff Keheley

5587DAC84BA8451...

Cliff Keheley, City Manager

Date: 6/8/2018

OTHER TRANSPORTATION AGENCIES

Collin County Toll Road Authority

DocuSigned by:

Keith Self

2CA231E3D43D477...

The Honorable Keith Self, President

Date: 6/8/2018

North Texas Tollway Authority

DocuSigned by:

Gerry Carrigan

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Gerry Carrigan, CEO/Executive Director

Date: 6/11/2018

Dallas/Fort Worth International Airport Board

DocuSigned by:

Sean Donohue

516B5D9BF6C943D...
Sean Donohue, Chief Executive Officer

Date: 6/11/2018

STATE OF TEXAS, THROUGH THE DEPARTMENT OF TRANSPORTATION

Texas Department of Transportation

DocuSigned by:

Mohamed K. Bur

E2527853E8DE475...
Mohamed "Mo" K. Bur, P.E., District Engineer
TxDOT Dallas District

Date: 6/11/2018

DocuSigned by:

Loyi Busseil

ED934AC20CA641C...
Loyi Busseil, P.E., District Engineer
TxDOT Fort Worth District

Date: 6/8/2018

DocuSigned by:

Noel Paramanathan

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Noel Paramanathan, P.E., District Engineer
TxDOT Paris District

Date: 6/11/2018



MPO PLANNING AGREEMENT

REGIONAL TRANSPORTATION COUNCIL

SEPTEMBER 13, 2018

KEN KIRKPATRICK

COUNSEL FOR TRANSPORTATION

MPO PLANNING AGREEMENT

MAJOR PROVISIONS

Term: Six years (October 1, 2018 to September 30, 2024)

Responsibilities of the State:

Provide federal funding and in-kind match to NCTCOG

Provide appropriate technical assistance to support data collection, travel forecasts, and plan development

Jointly promote development of the intermodal transportation system with State emphasis on connectivity and continuity of the systems

Share information to support the metropolitan planning process

MPO PLANNING AGREEMENT

MAJOR PROVISIONS

Responsibilities of NCTCOG as the MPO:

Use funds in accordance with State and federal regulations and requirements to develop and maintain a comprehensive regional transportation planning program

Assemble and maintain staff capable of performing all of the MPO activities required by law

Collect and forecast socio-economic, roadway, and travel data

Prepare all required plans, programs, reports, and obtain required certifications

Exercise sole responsibility to hire, supervise, evaluate and terminate the MPO Planning Director

MPO PLANNING AGREEMENT

MAJOR PROVISIONS

Responsibilities of the MPO Policy Committee

(Regional Transportation Council):

Ensure the federal requirements of the metropolitan planning process are fulfilled to develop and maintain a comprehensive regional transportation planning program in accordance with federal laws and regulations

Develop and adopt a Metropolitan Transportation Plan, Transportation Improvement Program, Unified Planning Work Program, Congestion Management Process, and Conformity Analysis for the MTP and TIP

Provide planning policy direction to the MPO Transportation Planning Director

MPO PLANNING AGREEMENT

MAJOR PROVISIONS

Responsibilities of NCTCOG as the Fiscal Agent:

Maintain required accounting records for State and federal funds

Provide all appropriate funding as identified by fiscal year in the UPWVP to allow MPO staff to effectively and efficiently operate the program

Provide personnel services

Provide benefits for staff

Establish and maintain procedures and policies for procurement and purchasing

MPO PLANNING AGREEMENT

Responsibilities of the MPO Transportation Planning Director:

- Administer the UPWP through planning policy direction provided by the MPO policy committee
- Act as a liaison with the Texas Department of Transportation
- Oversee and direct all MPO transportation planning staff
- Prepare and submit all required plans, programs, reports and certifications
- Develop and present to the MPO policy committee the Metropolitan Transportation Plan, Transportation Improvement Program, Unified Planning Work Program, Congestion Management Process, and Conformity Analysis and other planning documents as required

MPO PLANNING AGREEMENT

SIGNATORIES TO THE AGREEMENT

Transportation Director, on behalf of the MPO Policy Committee

NCTCOG Executive Director, on behalf of NCTCOG Executive Board as the
designated MPO/Fiscal Agent

Director, Transportation Planning and Programming Division, Texas Department of
Transportation

TXDOT MPO PLANNING AGREEMENT

REQUESTED ACTION

Approve MPO Planning Agreement

Authorize Michael Morris, P.E., Director of Transportation, to execute on behalf of the Regional Transportation Council

TxDOT/MPO Planning Agreement



**PRESENTED TO:
REGIONAL TRANSPORTATION COUNCIL
AUGUST 9, 2012**

**Dan Kessler
Assistant Director of Transportation**



TxDOT/MPO Planning Agreement



Reiteration of Legislative Authority

- Title 23 United States Code (USC) §134 and 49 USC §5301 requires that MPOs, in cooperation with the State and transit agencies, develop transportation plans and programs for urbanized areas.
- Title 23 USC §104(f) authorizes funds for MPOs to support the urban transportation planning process.
- Texas Transportation Code § 221.002 and 201.703 authorizes the State to expend federal and state funds for improvements to the highway system.
- Title 49 USC §5303 authorizes the use of other federal transportation funds (STP-MM, CMAQ) to be used in conjunction with work conducted under the terms of this agreement.
- Title 23 CFR 420.117(a) requires the State to monitor all activities performed by sub-recipients using FHWA planning and research funds.

TxDOT/MPO Planning Agreement



Articles of Agreement

- **Length: Six years (October 1, 2012 to September 30, 2018)**
- **Responsibilities of the State:**
 - Provide federal funding and in-kind match to NCTCOG
 - Provide appropriate technical assistance to support data collection, travel forecasts, and plan development
 - Jointly promote development of the intermodal transportation system with State emphasis on connectivity and continuity of the systems
 - Share information to support the metropolitan planning process

TxDOT/MPO Planning Agreement



Articles of Agreement

- **Responsibilities of NCTCOG as the MPO:**
 - Use funds in accordance with State and federal regulations and requirements to develop and maintain a comprehensive regional transportation planning program
 - Assemble and maintain staff capable of performing all of the MPO activities required by law
 - Collect and forecast socio-economic, roadway, and travel data
 - Prepare all required plans, programs, reports, and obtain required certifications
 - Exercise sole responsibility to hire, supervise, evaluate and terminate the MPO Planning Director

TxDOT/MPO Planning Agreement



Articles of Agreement

- **Responsibilities of the MPO Policy Committee (Regional Transportation Council):**
 - Ensure the federal requirements of the metropolitan planning process are fulfilled to develop and maintain a comprehensive regional transportation planning program in accordance with federal laws and regulations
 - Develop and adopt a Metropolitan Transportation Plan that is consistent with the Statewide Long-range Transportation Plan, Transportation Improvement Program, Unified Planning Work Program, Congestion Management Process, and Conformity Analysis for the MTP and the TIP
 - Provide planning policy direction to the MPO Transportation Planning Director

TxDOT/MPO Planning Agreement



Articles of Agreement

- **Responsibilities of NCTCOG as the Fiscal Agent:**
 - Maintain required accounting records for State and federal funds
 - Provide all appropriate funding as identified by fiscal year in the UPWP to allow MPO staff to effectively and efficiently operate the program
 - Provide human resources services
 - Provide benefits for staff
 - Establish and maintain procedures and policies for procurement and purchasing

TxDOT/MPO Planning Agreement



Articles of Agreement

- **Responsibilities of the MPO Transportation Planning Director:**
 - Administer the UPWP, through planning policy direction provided by the MPO policy committee
 - Act as a liaison with the Texas Department of Transportation
 - Oversee and direct all MPO transportation planning staff
 - Prepare and submit all required plans, programs, reports and certifications
 - Develop and present to the MPO policy committee the Metropolitan Transportation Plan, Transportation Improvement Plan, Unified Planning Work Program, Congestion Management Process, and Conformity Analysis for the MTP and TIP, and other planning documents required by State or federal regulations

TxDOT/MPO Planning Agreement



Signatories to the Agreement

- **Transportation Director, on behalf of the MPO Policy Committee**
- **NCTCOG Executive Director, on behalf of NCTCOG Executive Board as the designated MPO Fiscal Agent**
- **Director, Transportation Planning and Programming Division, Texas Department of Transportation**

TxDOT/MPO Planning Agreement



Requested Regional Transportation Council Actions

- Approval of the TxDOT/MPO Planning Agreement
- Authorize Michael Morris, Director of Transportation, to execute the TxDOT/MPO Planning Agreement on behalf of the Regional Transportation Council serving as the MPO Policy Committee for the Dallas-Fort Worth Metropolitan Area

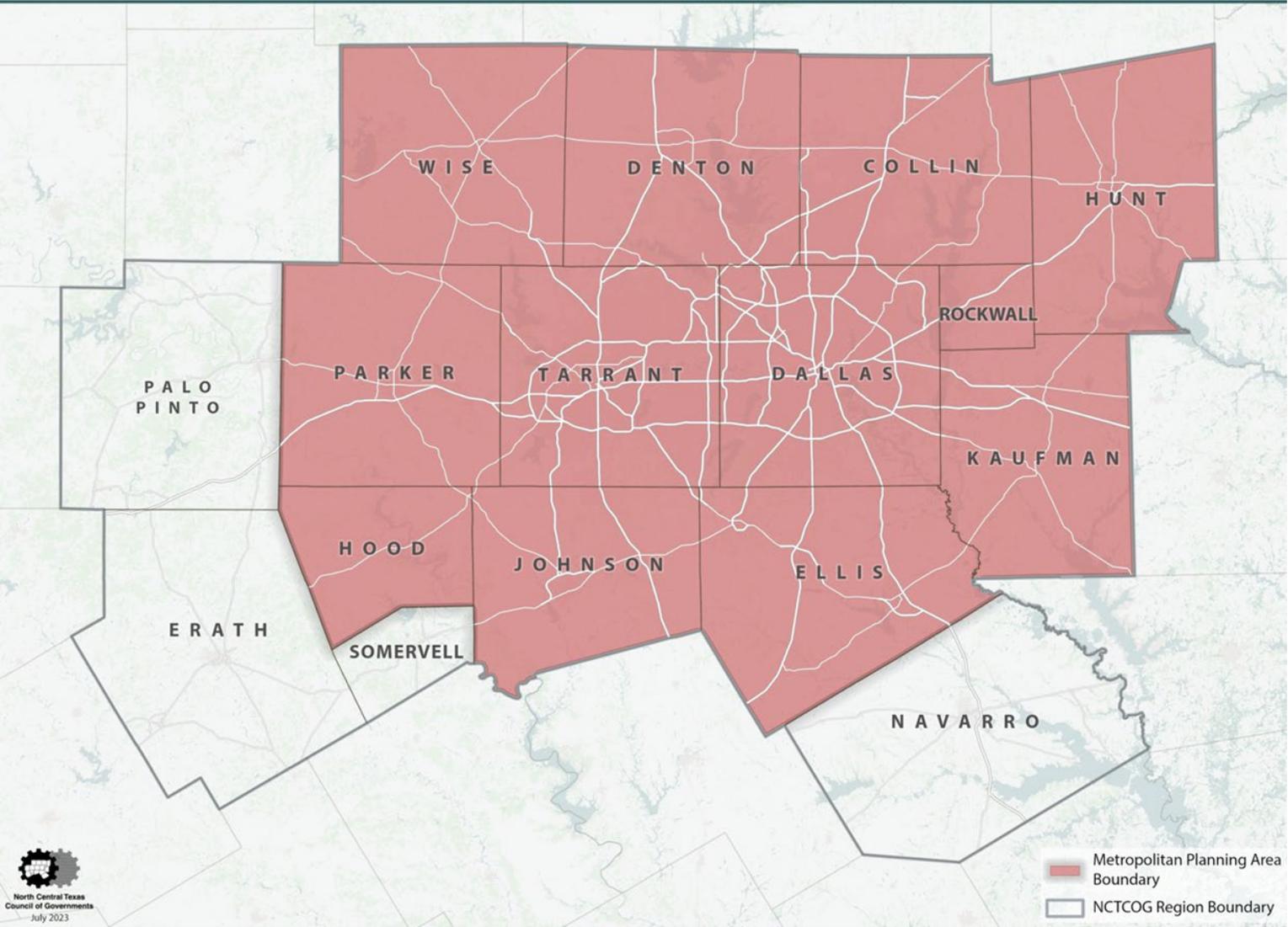


EXECUTIVE BOARD ORIENTATION
TRANSPORTATION DEPARTMENT

November 20, 2025

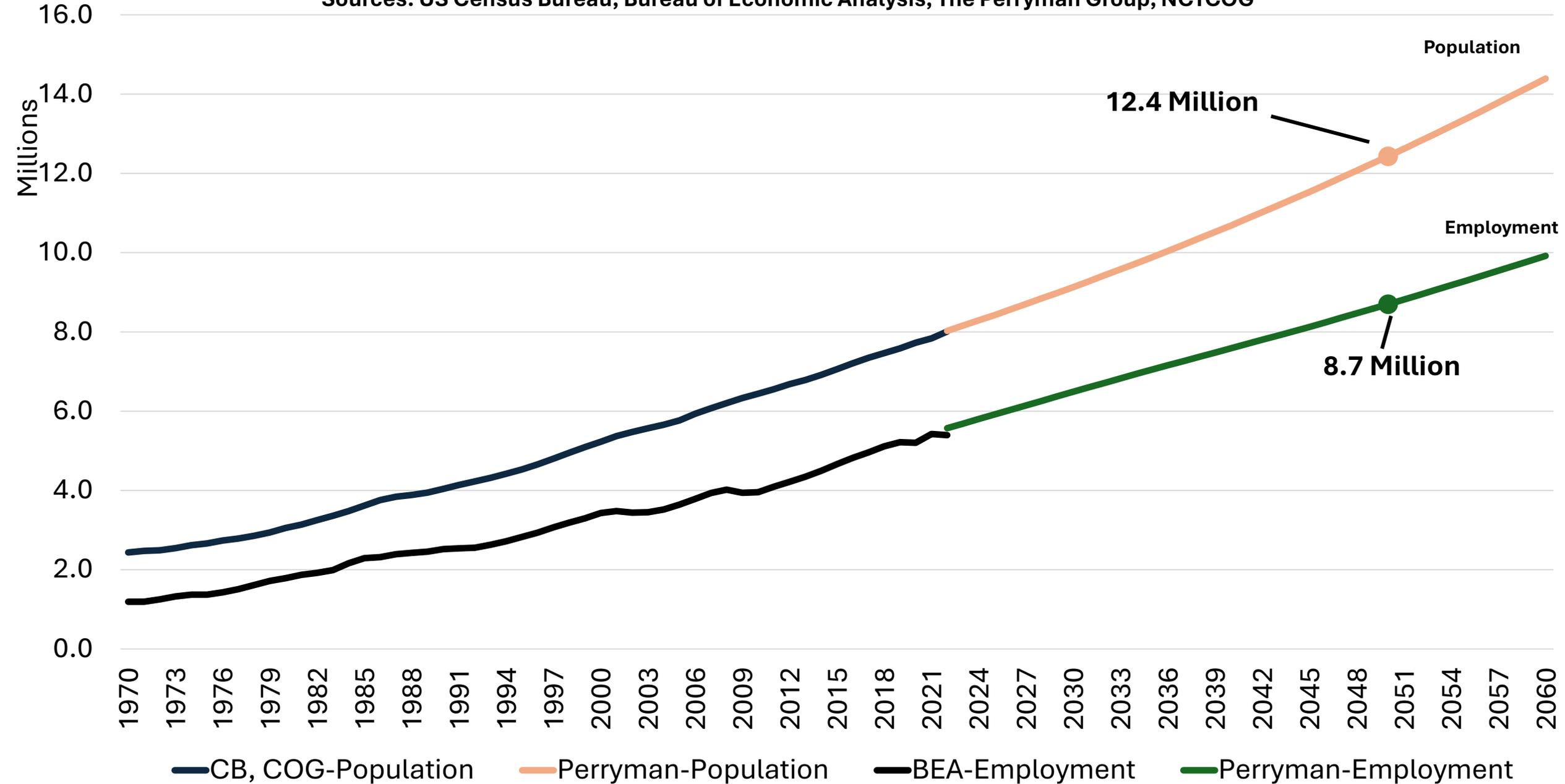
**The Role of the Regional
Transportation Council and the
Executive Board**

Metropolitan Planning Area



Historical and Projected Total Population and Employment – MPA

Sources: US Census Bureau, Bureau of Economic Analysis, The Perryman Group, NCTCOG



Forecast 2050 Population by County

County	2026	2050	2026-2050 Change	2026-2050 Percent Change
Collin	1,271,000	2,155,000	884,000	70%
Dallas	2,728,000	3,071,000	343,000	13%
Denton	1,104,000	1,878,000	774,000	70%
Ellis	241,000	442,000	201,000	83%
Hood	72,000	114,000	42,000	60%
Hunt	119,000	206,000	87,000	74%
Johnson	215,000	370,000	155,000	72%
Kaufman	177,000	403,000	226,000	127%
Parker	190,000	375,000	185,000	97%
Rockwall	133,000	246,000	113,000	84%
Tarrant	2,258,000	2,867,000	609,000	27%
Wise	88,000	172,000	84,000	95%
Total MPA	8,595,000	12,297,000	3,702,000	43%

RTC BYLAWS

MEMBERSHIPS

Cities	28	(1 Seat = 256,473 persons)
Counties	10	Semi-weighted Voting
Transportation Organizations	7	All Voting (3 Transportation Authorities, 2 TxDOT Districts, NTTA, and DFW Airport)
TOTAL	45	

East/West Funding Split
Technical Committees
Regular Bylaw Updates



REGIONAL TRANSPORTATION COUNCIL POLICY FOUNDATION

Federal Rules and Regulations

Committee Structure

Public Grass Roots Support

Technical Foundation: Data and Model Simulations



NCTCOG TRANSPORTATION DEPARTMENT

Regional Transportation Council: Transportation Actions

Transportation Outcomes: Projects, Programs, and Systems

Financial Equity

Approving “Projects and Programs”

Executive Board: Efficiency

Fiduciary Agent of Department and NCTCOG “Projects and Programs”

“Comprehensive Policy Development” Chapter 391



EXECUTIVE BOARD: “COMPREHENSIVE POLICY DEVELOPMENT”

Land Use/Transportation Interface

Information/Data

Training

Money Management

Risk Assessment



SUMMARY OF TOTAL FUNDING: TWO YEARS

(FY2026 and FY2027)

Source	Total	Percent of Total Funds
Transportation Planning Funds	\$36,396,237	11.6%
Congestion Mitigation and Air Quality Improvement Program	\$7,450,000	2.4%
US Department of Defense	\$3,478,000	1.1%
US Department of Energy	\$1,271,000	<1.0%
US Environmental Protection Agency	\$38,125,000	12.2%
Federal Highway Administration	\$37,587,000	12.0%
Federal Railroad Administration	\$141,000	<1.0%
Federal Transit Administration (includes FTA Section 5307 funds)	\$50,892,000	16.2%
Local	\$59,429,985	18.8%
NCTCOG Local	\$143,800	<1.0%
North Texas Tollway Authority	\$33,000	<1.0%
Regional Toll Revenue	\$15,271,000	4.9%
Surface Transportation Block Grant Program	\$61,778,100	19.7%
Texas Commission on Environmental Quality	\$382,000	<1.0%
Texas Department of Transportation	\$530,000	<1.0%
Texas Water Development Board	\$1,331,000	<1.0%
TOTAL	\$314,239,122	100.00%

Pass-Through Analysis

Funding to Subrecipients	40%
Funding to Competitive Procurements	22%
Total Pass-Through	62%
MPO/NCTCOG Planning & Operations	38%
	100%



EXECUTIVE BOARD/RTC OVERLAP

Member	Executive Board	RTC
Carlos Flores	✓	✓
T.J. Gilmore	✓	✓
Clay Lewis Jenkins	✓	✓
Cara Mendelsohn	✓	✓
Bobbie Mitchell	✓	Alternate



IMPORTANT DELIVERABLES

AGENDA	PRODUCTS
A. RTC Policy Foundation	RTC Bylaws: Federal Process Public Involvement Procedures Technical Software NCTCOG Strategic Plan
B. Planning	Metropolitan Transportation Plan: Mobility 2050
C. Project and Program Delivery	Transportation Improvement Program Air Quality Conformity Congestion Management Process
D. Fiscal Discipline	Unified Planning Work Program Risk Management Procedures



Unified Planning Work Program for Regional Transportation Planning

Required by the Infrastructure Investment and Jobs Act (IIJA)

Summarizes Annual MPO Funding

Addresses Regional and Local Issues

Inventories Planning and Programming Activities

Allocates Available Funds to Specific Tasks

WHAT IS THE METROPOLITAN TRANSPORTATION PLAN?



Represents a **blueprint** for the region's multimodal transportation system for all users



Covers at least a **20-year** timeframe



Responds to region's goals



Identifies policies, programs, and projects for continued development, consistent with federal/state air quality goals



Guides the expenditure of federal and state funds, demonstrates **financial constraint**



Final Financial Plan

Full matrix of costs and revenues available
in the draft Financial Chapter at
www.nctcog.org/planinprogress.

	Mobility 2050 (25 years)	Mobility 2045 Update ³ (23 years)	Δ New - Previous
Infrastructure Maintenance¹	\$29.8	30.7	- 0.9
Management & Operations	25.7	17.9	+7.8
Strategic Policy Initiatives²	6.4	5.3	+1.1
Rail & Bus	57.9	44.9	+13.0
Freeways/Tollways, Managed Lanes, and Arterials	97.5	49.5	+48.0
Total, Actual \$, Billions	\$217.3 B	148.3 B	+69.0 B

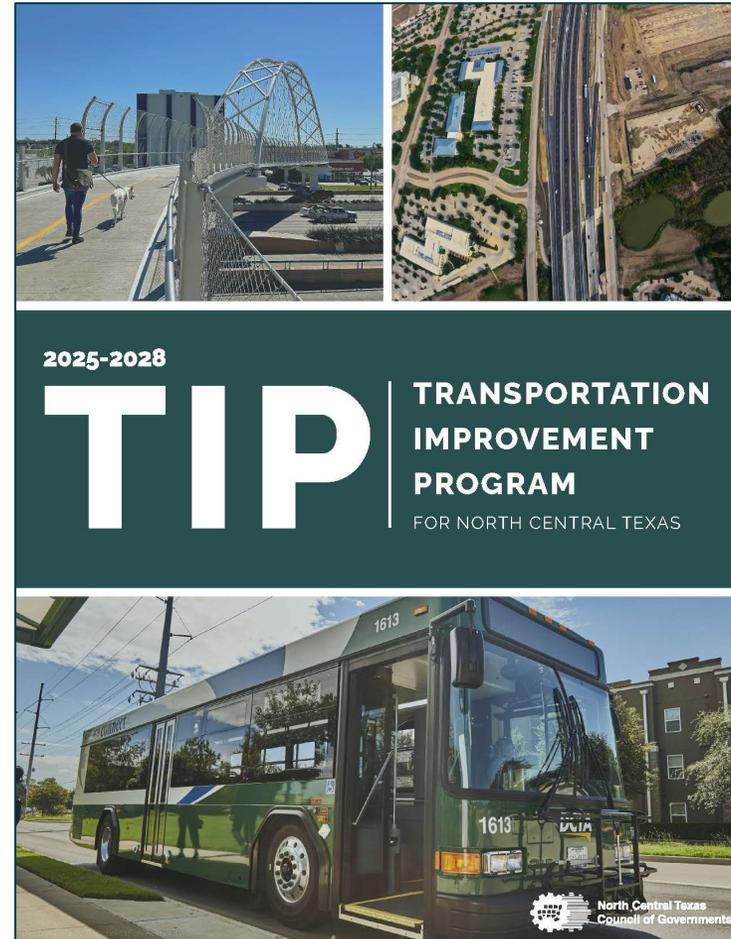
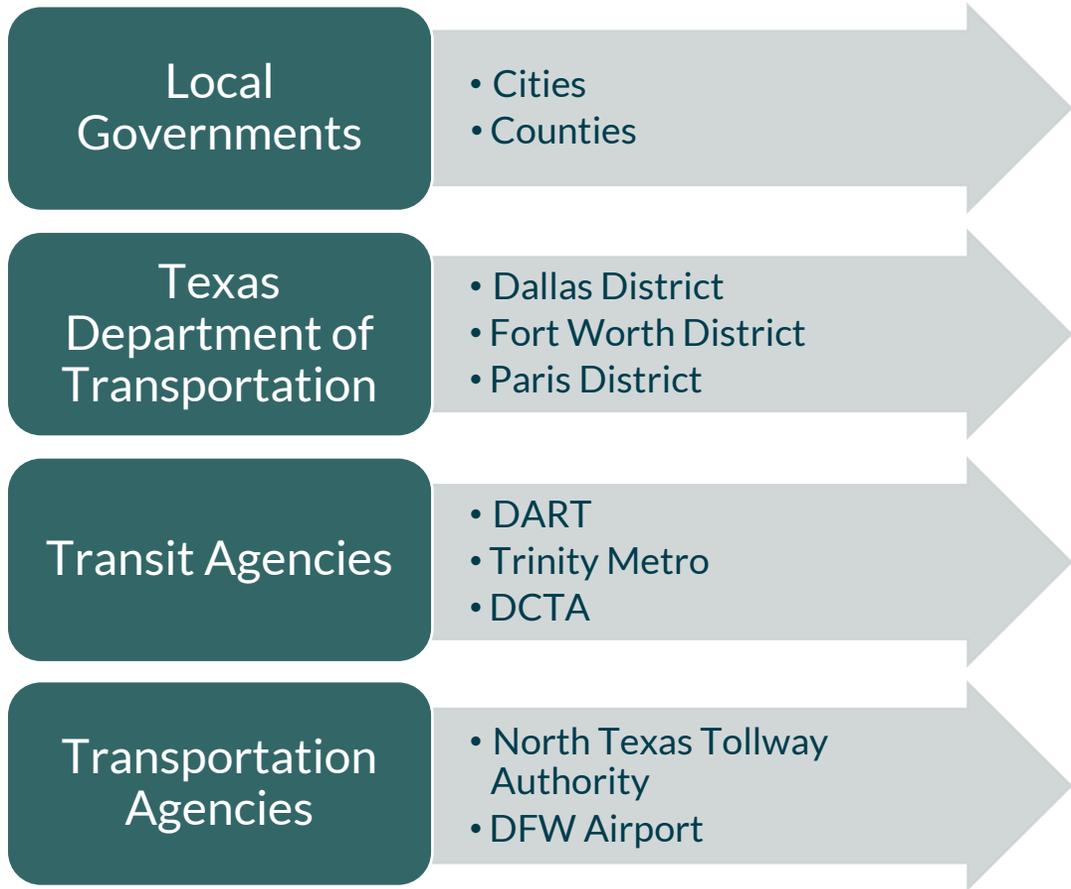
Values may not sum due to independent rounding

¹ Infrastructure Maintenance now includes both transit and roadway. Transit operations and maintenance is assumed to be comprised of 50% maintenance.

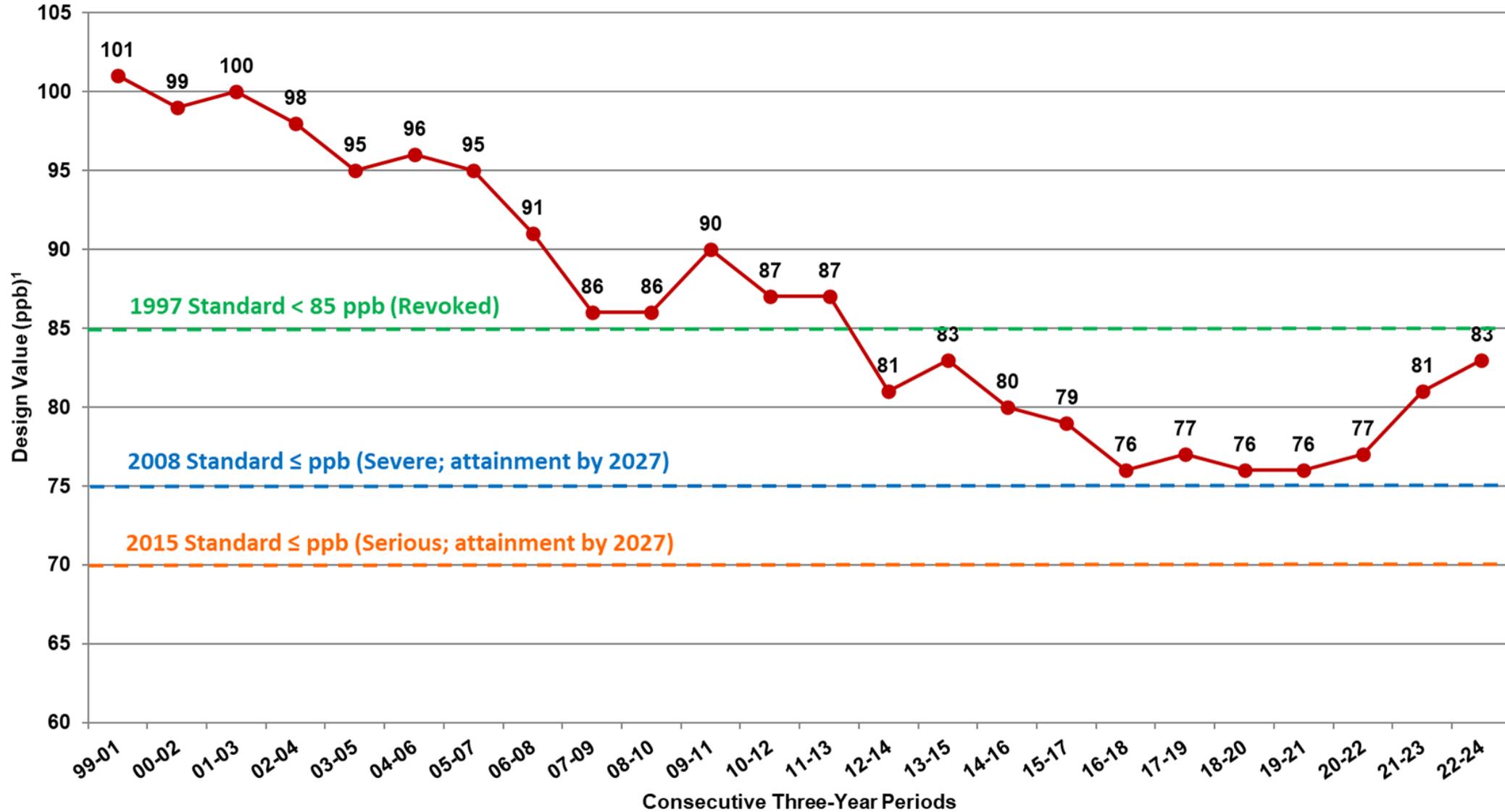
² Strategic Policy Initiatives include programs and policy priorities for safety, technology, air quality, sustainable development, and other policy initiatives.

³ The Mobility 2045 Update comparison figures have been reorganized for comparison purposes into the Mobility 2050 categories.

TRANSPORTATION FUNDING AND PROJECT IMPLEMENTATION: A COOPERATIVE EFFORT



Dallas-Fort Worth Ozone Design Value Trends



¹Attainment Goal - According to the US EPA National Ambient Air Quality Standards, attainment is reached when, at each monitor, the *Design Value* (three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration) is equal to or less than 70 parts per billion (ppb).



EXAMPLES OF LOCAL AIR QUALITY PROJECTS



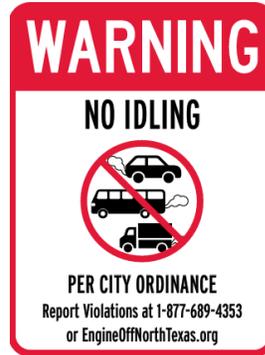
Rideshare. Record. Reward.



Dallas-Fort Worth
CLEAN CITIES



NATIONALLY DISTINGUISHED. LOCALLY POWERED.



FREIGHT NORTH TEXAS



Saving Money and Reducing Truck Emissions



Cooperative Planning Agreement

Memorandum of Understanding Among the Dallas-Fort Worth Metropolitan Planning Organization, the Texas Department of Transportation, Public Transportation Operators, and Other Transportation Agencies

***Metropolitan Planning Organization (Regional Transportation Council
with the North Central Texas Council of Governments)***

Texas Department of Transportation Dallas, Fort Worth, and Paris Districts

Dallas Area Rapid Transit

Trinity Metro

Denton County Transportation Authority

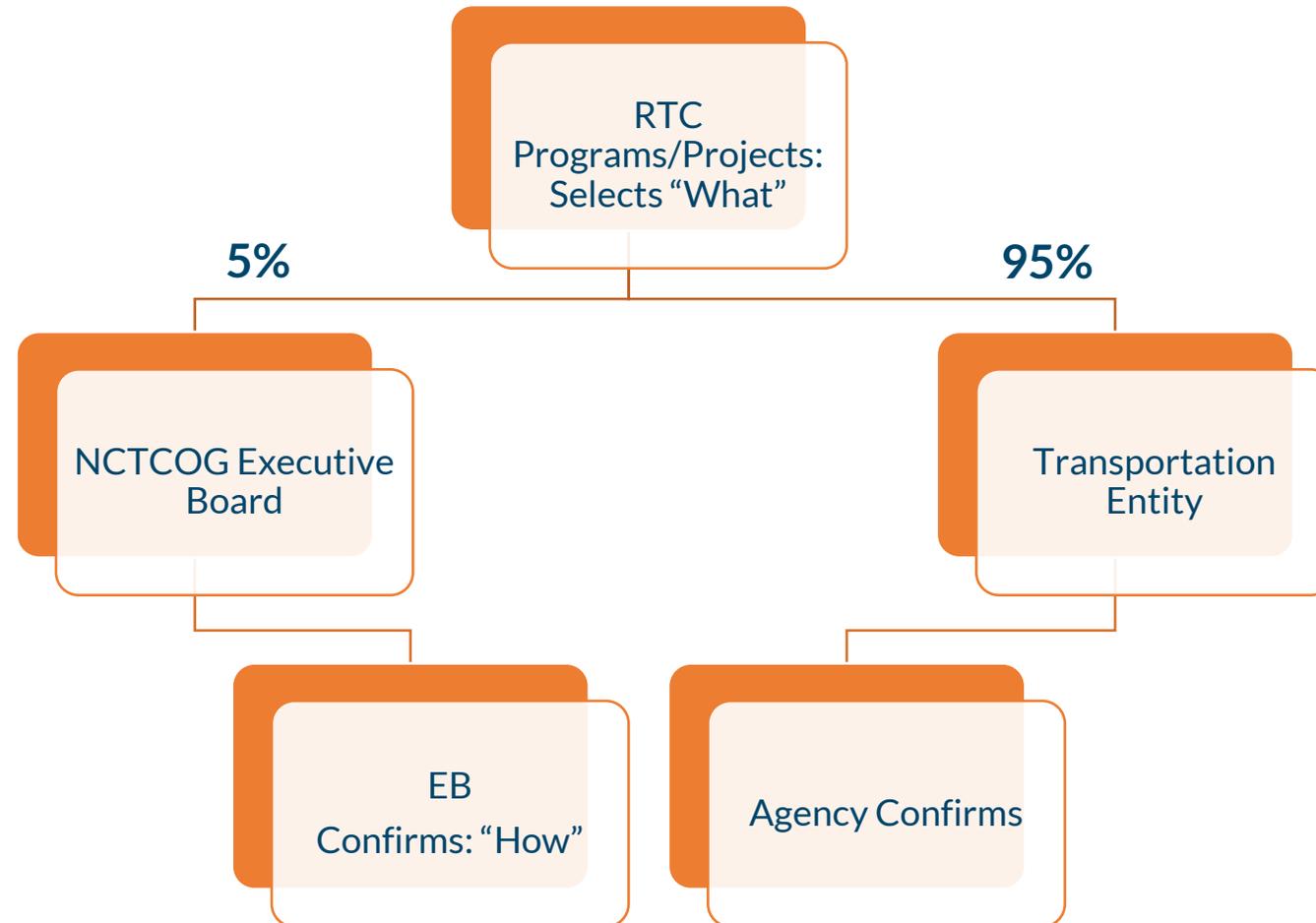
North Texas Tollway Authority

Collin County Toll Road Authority

Dallas Fort Worth International Airport

Cities of Arlington, Grand Prairie, McKinney and Mesquite

Executive Board as Fiscal / Fiduciary Agent



BENEFITS TO NCTCOG

RTC Programs / Projects

Economies of Scale in Multi-Functional COG

Increased Revenue Lowering Indirect Rate for All
Departments

Advancing Bench Strength Aiding Entire Agency

Increasing NCTCOG Capabilities Across All
Departments



Potential Problems RTC Is Trying to Prevent

