

1 SUBCHAPTER D. TRANSPORTATION FUNDING

2 §16.152. Cash Flow Forecasts [~~Forecast~~].

3 (a) Planning cash flow forecast [~~Forecast~~]. On or before
4 September 1 of each year, the department's chief financial
5 officer will issue a planning cash flow forecast for each source
6 of funding that covers a period of not less than the 20 years
7 following the date the forecast is issued and is based on the
8 funding assumptions developed under §16.151 of this subchapter
9 (relating to Long-Term Planning Assumptions).

10 (b) Base cash flow forecast. On or before September 1 of
11 each year, the department's chief financial officer will issue a
12 base cash flow forecast for each source of funding to guide the
13 development of the letting schedule that covers a period of not
14 less than two years following the date the forecast is issued.

15 (c) Requirements. Each [~~The~~] forecast must identify:

16 (1) all state and federal sources of funding available
17 for transportation projects and projects involving aviation,
18 public transportation, rail, and the state's waterways and
19 coastal waters, including bond proceeds; and

20 (2) any limitations imposed by state or federal law on
21 the use of the identified source.

22 (d) [~~e~~] First two years. The first year or two years of
23 each [~~the~~] forecast, as appropriate, must be based on the

1 amounts appropriated by the legislature to the department for
2 that period.

3 (e)~~(d)~~ Updates. The department's chief financial officer
4 will update each ~~the~~ forecast more frequently than annually if
5 significant changes in the department's funding occur.

6 (f)~~(e)~~ Publication. Each ~~cash-flow~~ forecast and update
7 will be available on the department's website for viewing by the
8 public and the documents will be available for review at each of
9 the district offices and at the department's Financial
10 Management ~~Finance~~ Division offices in Austin.

11 (g)~~(f)~~ Uses of planning cash flow forecast. The
12 commission will use the planning cash flow forecast to estimate
13 funding levels for each year of the unified transportation
14 program as provided in §16.105 of this chapter (relating to
15 Unified Transportation Program (UTP)), to determine the annual
16 amount of funding in each of the program funding categories
17 described in §16.153 of this subchapter (relating to Funding
18 Categories), and to allocate funding to the districts,
19 metropolitan planning organizations, and other authorized
20 entities in accordance with §16.154 of this subchapter (relating
21 to Transportation Allocation Funding Formulas).

22 (h)~~(g)~~ Funding definition. In this subchapter, unless
23 the context clearly indicates otherwise, "funds" or "funding"

1 means the estimates of federal, state, and local money
2 reasonably expected to be available for expenditure on
3 transportation projects and projects involving aviation, public
4 transportation, rail, and the state's waterways and coastal
5 waters during the relevant period.

6

7 §16.153. Funding Categories.

8 (a) Highway program funding categories. The ten-year
9 unified transportation program (UTP) described in §16.105 of
10 this chapter (relating to Unified Transportation Program (UTP))
11 will contain the following 12 program funding categories for
12 highway related projects:

13 (1) Category 1 Preventive Maintenance and
14 Rehabilitation - preventive maintenance and rehabilitation on
15 the existing state highway system, including:

16 (A) Preventive maintenance - minor roadway
17 modifications to improve operations and safety; and

18 (B) Rehabilitation - installation,
19 rehabilitation, replacement, and maintenance of pavement,
20 bridges, traffic control devices, traffic management systems,
21 and ancillary traffic devices;

22 (2) Category 2 Metropolitan and Urban Corridor
23 Projects - mobility and added capacity projects along a corridor

1 that improve transportation facilities in order to decrease
2 travel time and the level or duration of traffic congestion, and
3 safety, maintenance, or rehabilitation projects that increase
4 the safe and efficient movement of people and freight in
5 metropolitan and urbanized areas;

6 (3) Category 3 Non-Traditionally Funded Transportation
7 Projects - transportation related projects that qualify for
8 funding from sources not traditionally part of the state highway
9 fund including state bond financing under programs such as
10 Proposition 12 (General Obligation Bonds), Texas Mobility Fund,
11 pass-through toll financing, unique federal funding, regional
12 toll revenue, and local participation funding;

13 (4) Category 4 Statewide Connectivity Corridor
14 Projects - mobility and added capacity projects on major state
15 highway system corridors which provide statewide connectivity
16 between urban areas and corridors, to create a highway
17 connectivity network composed of the Texas Highway Trunk System,
18 National Highway System, and connections from those two systems
19 to major ports of entry on international borders and Texas water
20 ports;

21 (5) Category 5 Congestion Mitigation and Air Quality
22 Improvement - congestion mitigation and air quality improvement
23 area projects to address attainment of a national ambient air

1 quality standard in the nonattainment areas of the state;

2 (6) Category 6 Structures Replacement and
3 Rehabilitation - replacement and rehabilitation of deficient
4 existing bridges located on the public highways, roads, and
5 streets in the state, construction of grade separations at
6 existing highway-railroad grade crossings, and rehabilitation of
7 deficient railroad underpasses on the state highway system;

8 (7) Category 7 Metropolitan Mobility and
9 Rehabilitation (TMA) - transportation needs within the
10 boundaries of designated metropolitan planning areas of
11 metropolitan planning organizations located in a transportation
12 management area;

13 (8) Category 8 Safety - safety related projects both
14 on and off the state highway system including the federal
15 Highway Safety Improvement Program, Railway-Highway Crossing
16 Program, Safety Bond Program, and High Risk Rural Roads Program;

17 (9) Category 9 Transportation Alternatives -
18 transportation related activities as described in Chapter 11,
19 Subchapter G [~~F~~], of this title (relating to the Transportation
20 Alternatives Set-Aside Program);

21 (10) Category 10 Supplemental Transportation Projects
22 -transportation related projects that do not qualify for funding
23 in other categories, including landscape and aesthetic

1 improvement, erosion control and environmental mitigation,
2 construction and rehabilitation of roadways within or adjacent
3 to state parks, fish hatcheries, and similar facilities,
4 replacement of railroad crossing surfaces, maintenance of
5 railroad signals, construction or replacement of curb ramps for
6 accessibility to pedestrians with disabilities, and
7 miscellaneous federal programs;

8 (11) Category 11 District Discretionary - projects
9 eligible for federal or state funding selected at the district
10 engineer's discretion; and

11 (12) Category 12 Strategic Priority - projects with
12 specific importance to the state including those that generally
13 promote economic opportunity, increase efficiency on military
14 deployment routes or to retain military assets in response to
15 the federal military base realignment and closure reports, and
16 maintain the ability to respond to both man-made and natural
17 emergencies.

18 (b) Program funding categories for other modes of
19 transportation and transportation infrastructure. The UTP will
20 contain the following program funding categories for aviation,
21 public transportation, rail, and the state's waterways and
22 coastal waters projects:

23 (1) Aviation Capital Improvement Program - projects

1 based on the anticipated funding levels of the Federal Aviation
2 Administration Airport Improvement Program and the Texas
3 Aviation Facilities Development Program for general aviation
4 airport development in Texas;

5 (2) Public transportation - projects based on the
6 anticipated funding levels for public transportation including
7 fixed route city bus service, rural demand response service,
8 special transit service for elderly and persons with
9 disabilities, and intercity bus service from city to city;

10 (3) Rail - rail related projects including light rail,
11 freight rail, passenger rail, and high-speed rail; and

12 (4) State waterways and coastal waters - water related
13 projects including lands, easements, and rights of way for the
14 widening, deepening, and expansion of the main channel of the
15 Gulf Intracoastal Waterway (GIWW), including beneficial use
16 projects of dredged material, and other maritime related
17 projects.

18 (c) Determination of funding allocations. The commission
19 will use a performance-based process to determine, subject to
20 the mandates of state and federal law, the amount of funds to be
21 allocated to each program funding category described in
22 subsection (a) of this section for the appropriate period of
23 time, in order to achieve established performance outcomes. The

1 commission will determine, subject to the mandates of state and
2 federal law and specific requirements contained in other
3 chapters of this title, ~~[for programs and projects described in~~
4 ~~subsection (b) of this section,]~~ the amount of funds to be
5 allocated to each program funding category described in
6 subsection (b) of this section for the appropriate period of
7 time.

8

9 §16.154. Transportation Allocation Funding Formulas.

10 (a) Formula allocations. The commission will, subject to
11 the mandates of state and federal law, allocate funds from
12 program funding Categories 1, 2, 4, 5, 7, 9, and 11, as
13 described in §16.153 of this subchapter (relating to Funding
14 Categories), to the districts and metropolitan planning
15 organizations (MPO) as follows:

16 (1) Category 1 Preventive Maintenance and
17 Rehabilitation - will be allocated to all districts as an
18 allocation program according to the following formulas:

19 (A) Preventive maintenance.

20 (i) Ninety-eight percent for roadway
21 maintenance with 65 percent based on on-system lane miles, and
22 33 percent based on the pavement distress score Pace factor; and

23 (ii) Two percent for bridge maintenance

1 based on square footage of on-system span bridge deck area;

2 (B) Rehabilitation. Thirty-two and one half
3 percent based on three-year average lane miles of pavement
4 distress scores less than 70, 20 percent based on on-system
5 vehicle miles traveled per lane mile, 32.5 percent based on
6 equivalent single axle load miles for on-system, off-system, and
7 interstate, and 15 percent based on the pavement distress score
8 Pace factor;

9 (2) Category 2 Metropolitan and Urban Corridor
10 Projects - will be allocated to MPOs for specific projects in
11 the following manner:

12 (A) 87 percent to MPOs operating in areas that
13 are transportation management areas, according to the following
14 formula: 30 percent based on total vehicle miles traveled on
15 and off the state highway system, 17 percent based on estimated
16 population within the boundaries of the metropolitan planning
17 area using data derived from the most recent census provided by
18 the U.S. Bureau of the Census (census population), 10 percent
19 based on lane miles on-system, 14 percent based on truck vehicle
20 miles traveled on-system, 7 percent based on percentage of
21 census population below the federal poverty level, 15 percent
22 based on congestion, and 7 percent based on fatal and
23 incapacitating vehicle crashes;

1 (B) 13 percent to MPOs operating in areas that
2 are not transportation management areas, according to the
3 following formula: 20 percent based on total vehicle miles
4 traveled on and off the state highway system, 25 percent based
5 on estimated population within the boundaries of the
6 metropolitan planning area using data derived from the most
7 recent census provided by the U.S. Bureau of the Census (census
8 population), 8 percent based on lane miles on-system, 15 percent
9 based on truck vehicle miles traveled on-system, 4 percent based
10 on percentage of census population below the federal poverty
11 level, 8 percent based on centerline miles on-system, 10 percent
12 based on congestion, and 10 percent based on fatal and
13 incapacitating vehicle crashes;

14 (3) Category 4 Statewide Connectivity Corridor
15 Projects - will be allocated to districts as an allocation
16 program for specific corridors [~~projects~~] selected by the
17 commission based on engineering analysis of [~~projects on~~] three
18 corridor types and, if applicable to the particular corridor
19 type, considering the formula specified in subsection (a)(2) of
20 this section:

21 (A) Mobility corridors - congestion
22 considerations throughout the state [~~in areas that are not in~~
23 ~~the boundaries of an MPO~~];

1 (B) Connectivity corridors - two-lane roadways
2 requiring upgrade to four-lane divided roadways to connect the
3 urban areas of the state; and

4 (C) Strategic corridors - strategic corridors on
5 the state highway network that provide statewide connectivity;

6 (4) Category 5 Congestion Mitigation and Air Quality
7 Improvement - will be allocated to districts and MPOs as an
8 allocation program for projects in a nonattainment area
9 population weighted by ozone and carbon monoxide pollutant
10 severity;

11 (5) Category 7 Metropolitan Mobility and
12 Rehabilitation (TMA) - will be allocated to MPOs operating in
13 areas that are transportation management areas as an allocation
14 program based on the applicable federal formula;

15 (6) Category 9 Transportation Alternatives - a portion
16 of the funds in this category will be allocated to MPOs serving
17 urbanized areas with populations over 200,000 as an allocation
18 program based on the areas' relative share of population, unless
19 FHWA approves a joint request from the department and the
20 relevant MPOs to use other factors in determining the
21 allocation; and

22 (7) Category 11 District Discretionary - will be
23 allocated to all districts as an allocation program based on

1 state legislative mandates, but if there is no mandate or the
2 amount of available funding in this category exceeds the minimum
3 required by a mandate, the funding allocation for this category
4 or the excess funding, as applicable, will be allocated
5 according to the following formula: 70 percent based on annual
6 on-system vehicle miles traveled, 20 percent based on annual on-
7 system lane miles, and 10 percent based on annual on-system
8 truck vehicle miles traveled. The commission may supplement the
9 funds allocated to individual districts on a case-by-case basis
10 to cover project cost overruns.

11 (b) Pace factor calculation. For purposes of subsection
12 (a)(1) of this section, the Pace factor is a calculation used to
13 adjust funding among districts according to increases or
14 decreases in a district's need to improve its pavement distress
15 scores. It will slow the rate of improvement for districts with
16 the highest condition scores and accelerate the rate of
17 improvement for districts with the lowest condition scores. The
18 Pace factor is calculated by:

19 (1) determining the district with the highest distress
20 score;

21 (2) determining the deviation of a district's distress
22 score from the highest score;

23 (3) totaling the deviations for all districts as

1 determined by paragraph (2) of this subsection.

2 (c) Non-formula allocations. The commission, subject to
3 the mandates of state and federal law and specific requirements
4 contained in other chapters of this title for programs and
5 projects described in subsection (a) of this section, will
6 determine the amount of funding to be allocated to a district,
7 metropolitan planning organization, political subdivision,
8 governmental agency, local governmental body, recipient of a
9 governmental transportation grant, or other eligible entity from
10 each of the following program funding categories described in
11 §16.153 of this subchapter:

12 (1) Category 3 Non-Traditionally Funded Transportation
13 Projects for specific projects;

14 (2) Category 6 Structures Replacement and
15 Rehabilitation as an allocation program;

16 (3) Category 8 Safety Projects generally funded as an
17 allocation program with some specific projects designated under
18 the Safety Bond Program;

19 (4) Category 9 Transportation Alternatives - of the
20 remaining funds in this category, a portion will be allocated to
21 certain areas of the state, for specific projects, based on the
22 areas' relative share of the population, and a portion may be
23 allocated in any area of the state for specific projects or

1 transferred to other eligible federal programs, as authorized by
2 law;

3 (5) Category 10 Supplemental Transportation Projects
4 generally funded as an allocation program with some specific
5 projects designated under miscellaneous federal programs;

6 (6) Category 12 Strategic Priority for specific
7 projects;

8 (7) Aviation Capital Improvement Program;

9 (8) Public transportation;

10 (9) Rail; and

11 (10) State waterways and coastal waters.

12 (d) Allocation program. For the purposes of this chapter,
13 the term "allocation program" refers to a type of program
14 funding category identified in the unified transportation
15 program for which the responsibility for selecting projects and
16 managing the allocation of funds has been delegated to
17 department districts, selected administrative offices of the
18 department, and MPOs. Within the applicable program funding
19 category, each district, selected administrative office, or MPO
20 is allocated a funding amount and projects can be selected,
21 developed, and, subject to the base cash flow forecast prepared
22 and published in accordance with §16.152(b) of this subchapter
23 (relating to Cash Flow Forecasts), let to contract with the cost

1 of each project to be deducted from the allocated funds
2 available for that category.

3 (e) Listing of projects. The department will list the
4 projects that the department intends to develop and let during
5 the ten-year unified transportation program (UTP) under §16.105
6 of this chapter (relating to Unified Transportation Program
7 (UTP)), and reference for each listed project the program
8 funding category to which it is assigned. If a program funding
9 category is an allocation program, the listing is for
10 informational purposes only and contains those projects
11 reasonably expected at the time the UTP is adopted or updated to
12 be selected for development or letting during the applicable
13 period. For the purpose of listing projects in the UTP,
14 "project" means a connectivity or new capacity roadway project
15 ~~[does not include preventive maintenance and rehabilitation~~
16 ~~under Category 1 Preventive Maintenance and Rehabilitation as~~
17 ~~described in subsection (a) of this section]~~. The term does not
18 include a safety project, bridge project, federal discretionary
19 project, maintenance project, preservation project,
20 transportation alternatives project, or locally funded project.

21 (f) Limitation on distribution. In distributing funds to
22 the districts, metropolitan planning organizations, and other
23 entities described in subsections (a) and (c) of this section,

1 the department may not exceed the planning cash flow forecast
2 prepared and published in accordance with §16.152(a) [~~§16.152~~]
3 of this subchapter (relating to Cash Flow Forecasts [~~Forecast~~]).
4 In developing and distributing funds for purposes of letting,
5 the department may not exceed the base cash flow forecast
6 prepared and published in accordance with §16.152(b) of this
7 subchapter.

8 (g) Formula revisions. The commission will review and, if
9 determined appropriate, revise both the formulas and criteria
10 for allocation of funds under subsections (a) - (c) of this
11 section at least as frequently as every four years.

12 (h) Supplemental allocations. The commission may
13 supplement the funds allocated to individual districts under
14 subsections (a)(1) and (7) of this section in response to
15 special initiatives, safety issues, or unforeseen environmental
16 factors. Supplemental funding under this subsection is not
17 required to be allocated proportionately among the districts and
18 is not required to be allocated according to the formulas
19 specified in subsections (a)(1) and (7) of this section. In
20 determining whether to allocate supplemental funds to a
21 particular district, the commission may consider safety issues,
22 traffic volumes, pavement widths, pavement conditions, oil and
23 gas production, well completion, or any other relevant factors.

1

2 §16.160. Funding Allocation Adjustments.

3 (a) Changes in funding. Changes in the allocation of funds
4 under §16.153 or §16.154 of this subchapter (relating to Funding
5 Categories and Transportation Allocation Funding Formulas,
6 respectively) may result from significant changes in the
7 department's funding and consideration of performance results.

8 (b) Allocation revisions. If a significant change in
9 funding is identified by the department's chief financial
10 officer in an updated planning cash flow forecast prepared and
11 published in accordance with §16.152(a) of this subchapter
12 (relating to Cash Flow Forecasts), the commission may revise the
13 allocation of funds to each program funding category or from the
14 program funding categories to the districts and metropolitan
15 planning organizations (MPO) and may approve:

16 (1) a specific percentage increase or decrease in the
17 allocation of funds and, subject to the mandates of state and
18 federal law, apply the percentage change equally to each program
19 funding category; or

20 (2) an increase or decrease in the allocation of funds
21 to one or more program funding categories, after considering
22 the:

23 (A) total amount of the change;

1 (B) priority of the funding category based on
2 performance results and the category's relationship to the
3 stated commission goals as provided in the statewide long-range
4 transportation plan under §16.54 of this chapter (relating to
5 Statewide Long-Range Transportation Plan (SLRTP));

6 (C) mandates of state and federal law; and

7 (D) best interests of the state.

8 (c) Adjustment of programs. After the commission approves
9 a change in the allocation of funds to a program funding
10 category under subsection (b) of this section, the funds
11 allocated to individual districts and MPOs will be adjusted and
12 the unified transportation program, statewide transportation
13 improvement program, and metropolitan transportation improvement
14 programs will be revised in accordance with the applicable
15 change in funding. Specific projects will be advanced or
16 delayed in the order of the planning organization's and
17 department's listed priorities in the applicable programs.

18 (d) Letting. If a significant change in funding is
19 identified by the department's chief financial officer in an
20 updated base cash flow forecast prepared and published in
21 accordance with §16.152(b) of this subchapter (relating to Cash
22 Flow Forecasts), the chief financial officer may revise the
23 letting schedule to maintain the constraint of the base cash

1 flow forecast. Projects eligible for letting include all
2 authorized projects or allocation programs covered in the
3 unified transportation program or the statewide transportation
4 improvement program. Specific projects will be advanced or
5 delayed relative to the order of listed priorities in the
6 applicable programs, fund source eligibility, and the completion
7 of project benchmarks sufficient to proceed to construction.
8 [~~Preference for allocation of funding increases. If the~~
9 ~~allocation of funds to a district or MPO is reduced under~~
10 ~~subsection (c) of this section, any subsequent increase in the~~
11 ~~allocation of funds to the applicable program funding category~~
12 ~~will be allocated first to the accounts of the districts and~~
13 ~~MPOs that were previously reduced.]~~

14 (e) Public involvement. The department will hold at least
15 one statewide public hearing regarding a proposed change in the
16 allocation of funds to a program funding category under this
17 section with an available comment period of at least 30 days
18 after the date the hearing notice appears in the *Texas Register*
19 in accordance with the procedures set forth in §16.105(h) of
20 this chapter (relating to Unified Transportation Program (UTP)).

21 (f) Publication. Documents describing each change in the
22 allocation of funds to a program funding category will be
23 available for viewing by the public on the department's website

- 1 and at each of the district offices and at the department's
- 2 Financial Management [~~Finance~~] Division offices in Austin.