§16.152. Cash Flow Forecasts.  

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

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

(c) Requirements. Each forecast must identify:  

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

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

(d) First two years. The first year or two years of each forecast, as appropriate, must be based on the
amounts appropriated by the legislature to the department for
that period.

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

(f) [e] Publication. Each [each flow] forecast and update
will be available on the department's website for viewing by the
public and the documents will be available for review at each of
the district offices and at the department's Financial
Management [Finance] Division offices in Austin.

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

(h) [g] Funding definition. In this subchapter, unless
the context clearly indicates otherwise, "funds" or "funding"
means the estimates of federal, state, and local money reasonably expected to be available for expenditure on transportation projects and projects involving aviation, public transportation, rail, and the state's waterways and coastal waters during the relevant period.

§16.153. Funding Categories.

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

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

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

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

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

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

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

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

(5) Category 5 Congestion Mitigation and Air Quality Improvement - congestion mitigation and air quality improvement area projects to address attainment of a national ambient air quality standards.
quality standard in the nonattainment areas of the state;

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

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

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

(9) Category 9 Transportation Alternatives - transportation related activities as described in Chapter 11, Subchapter G, of this title (relating to the Transportation Alternatives Set-Aside Program);

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

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

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

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

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

(1) Aviation Capital Improvement Program - projects
based on the anticipated funding levels of the Federal Aviation
Administration Airport Improvement Program and the Texas
Aviation Facilities Development Program for general aviation
airport development in Texas;

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

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

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

(c) Determination of funding allocations. The commission
will use a performance-based process to determine, subject to
the mandates of state and federal law, the amount of funds to be
allocated to each program funding category described in
subsection (a) of this section for the appropriate period of
time, in order to achieve established performance outcomes. The
commission will determine, subject to the mandates of state and
federal law and specific requirements contained in other
chapters of this title, [for programs and projects described in
subsection (b) of this section,] the amount of funds to be
allocated to each program funding category described in
subsection (b) of this section for the appropriate period of
time.

§16.154. Transportation Allocation Funding Formulas.

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

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

(A) Preventive maintenance.

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

(ii) Two percent for bridge maintenance
based on square footage of on-system span bridge deck area;

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

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

(A) 87 percent to MPOs operating in areas that are transportation management areas, according to the following formula: 30 percent based on total vehicle miles traveled on and off the state highway system, 17 percent based on estimated population within the boundaries of the metropolitan planning area using data derived from the most recent census provided by the U.S. Bureau of the Census (census population), 10 percent based on lane miles on-system, 14 percent based on truck vehicle miles traveled on-system, 7 percent based on percentage of census population below the federal poverty level, 15 percent based on congestion, and 7 percent based on fatal and incapacitating vehicle crashes;
(B) 13 percent to MPOs operating in areas that are not transportation management areas, according to the following formula: 20 percent based on total vehicle miles traveled on and off the state highway system, 25 percent based on estimated population within the boundaries of the metropolitan planning area using data derived from the most recent census provided by the U.S. Bureau of the Census (census population), 8 percent based on lane miles on-system, 15 percent based on truck vehicle miles traveled on-system, 4 percent based on percentage of census population below the federal poverty level, 8 percent based on centerline miles on-system, 10 percent based on congestion, and 10 percent based on fatal and incapacitating vehicle crashes;

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

(A) Mobility corridors - congestion considerations throughout the state [in areas that are not in the boundaries of an MPO];
(B) Connectivity corridors - two-lane roadways requiring upgrade to four-lane divided roadways to connect the urban areas of the state; and

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

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

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

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

(7) Category 11 District Discretionary - will be allocated to all districts as an allocation program based on
state legislative mandates, but if there is no mandate or the amount of available funding in this category exceeds the minimum required by a mandate, the funding allocation for this category or the excess funding, as applicable, will be allocated according to the following formula: 70 percent based on annual on-system vehicle miles traveled, 20 percent based on annual on-system lane miles, and 10 percent based on annual on-system truck vehicle miles traveled. The commission may supplement the funds allocated to individual districts on a case-by-case basis to cover project cost overruns.

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

(1) determining the district with the highest distress score;
(2) determining the deviation of a district's distress score from the highest score;
(3) totaling the deviations for all districts as
determined by paragraph (2) of this subsection.

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

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

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

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

(4) Category 9 Transportation Alternatives – of the remaining funds in this category, a portion will be allocated to certain areas of the state, for specific projects, based on the areas’ relative share of the population, and a portion may be allocated in any area of the state for specific projects or
transferred to other eligible federal programs, as authorized by law;

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

(6) Category 12 Strategic Priority for specific projects;

(7) Aviation Capital Improvement Program;

(8) Public transportation;

(9) Rail; and

(10) State waterways and coastal waters.

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

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

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

(f) Limitation on distribution. In distributing funds to the districts, metropolitan planning organizations, and other entities described in subsections (a) and (c) of this section,
the department may not exceed the **planning** cash flow forecast prepared and published in accordance with §16.152(a) [§16.152] of this subchapter (relating to Cash Flow **Forecast**).

In developing and distributing funds for purposes of letting,

the department may not exceed the **base** cash flow forecast prepared and published in accordance with §16.152(b) of this subchapter.

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

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

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

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

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

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

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

(C) mandates of state and federal law; and

(D) best interests of the state.

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

(d) Letting. If a significant change in funding is identified by the department's chief financial officer in an updated base cash flow forecast prepared and published in accordance with §16.152(b) of this subchapter (relating to Cash Flow Forecasts), the chief financial officer may revise the letting schedule to maintain the constraint of the base cash.
flow forecast. Projects eligible for letting include all authorized projects or allocation programs covered in the unified transportation program or the statewide transportation improvement program. Specific projects will be advanced or delayed relative to the order of listed priorities in the applicable programs, fund source eligibility, and the completion of project benchmarks sufficient to proceed to construction.

[Preference for allocation of funding increases. If the allocation of funds to a district or MPO is reduced under subsection (c) of this section, any subsequent increase in the allocation of funds to the applicable program funding category will be allocated first to the accounts of the districts and MPOs that were previously reduced.]

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

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

Financial Management [Finance] Division offices in Austin.