

1 SUBCHAPTER C. TRANSPORTATION PROGRAMS

2 §16.105. Unified Transportation Program (UTP).

3 (a) General. The department will develop a unified
4 transportation program (UTP) that covers a period of ten years
5 to guide the development and authorize construction and
6 maintenance of transportation projects and projects involving
7 aviation, public transportation, and the state's waterways and
8 coastal waters. In developing the UTP, the department will
9 collaborate with local transportation entities and public
10 transportation operators as defined by 23 C.F.R. Part 450.

11 (b) Requirements. The UTP will:

12 (1) be financially constrained for planning and
13 development purposes based on the planning cash flow forecast
14 prepared and published in accordance with §16.152(a) of this
15 subchapter (relating to Cash Flow Forecasts) and estimate
16 funding levels and the allocation of funds to each district,
17 metropolitan planning organization (MPO), and other authorized
18 entity for each year in accordance with Subchapter D of this
19 chapter (relating to Transportation Funding);

20 (2) list all projects and programs that the department
21 intends to develop, or on which the department intends to
22 initiate construction or maintenance, during the UTP period, and
23 the applicable funding category to which a project or program is

1 assigned, after consideration of the:

2 (A) statewide long-range transportation plan

3 (SLRTP);

4 (B) metropolitan transportation plans (MTP);

5 (C) transportation improvement programs (TIP);

6 (D) MPO annual reevaluations of project selection

7 in MTPs and TIPs, if any, in accordance with subsection (c) of

8 this section;

9 (E) statewide transportation improvement programs

10 (STIP);

11 (F) recommendations of rural planning

12 organizations (RPO) as provided in this subchapter; and

13 (G) list of major transportation projects in

14 accordance with §16.106 of this subchapter (relating to Major

15 Transportation Projects); and

16 ~~(3) [be organized by funding category, district, mode~~

17 ~~of transportation, and the year a project is scheduled for~~

18 ~~development or letting; and]~~

19 [(4)] designate the priority ranking within a program

20 funding category of each listed project in accordance with

21 subsection (d)(2) of this section.

22 (c) MPO annual reevaluation of project selection. An MPO

23 may annually reevaluate the status of project priorities and

1 selection in its approved metropolitan transportation plan (MTP)
2 and transportation improvement program (TIP) and provide a
3 report of any changes to the department at the times and in the
4 manner and format established by the department. The
5 reevaluation must be consistent with criteria applicable to
6 development of the MTP and TIP in accordance with federal
7 requirements.

8 (d) Project selection.

9 (1) The commission will consider the following
10 criteria for project selection in the UTP as applicable to the
11 program funding categories described in §16.153 of this chapter
12 (relating to Funding Categories):

13 (A) the potential of the project to meet
14 transportation goals for the state, including efforts to:

15 (i) maintain a safe transportation system
16 for all transportation users;

17 (ii) optimize system performance by
18 mitigating congestion, enhancing connectivity and mobility,
19 improving the reliability of the system, facilitating the
20 movement of freight and international trade, and fostering
21 economic competitiveness through infrastructure investments

22 [~~address travel congestion~~];

23 (iii) maintain and preserve system

1 infrastructure [~~connect Texas communities~~]; and

2 (iv) accomplish any additional
3 transportation goals for the state identified in the statewide
4 long-range transportation plans as provided in §16.54 of this
5 chapter (relating to Statewide Long-Range Transportation Plan
6 (SLRTP));

7 (B) the potential of the project to assist the
8 department in attainment of the measurable targets for the
9 transportation goals identified in subparagraph (A) of this
10 paragraph; and

11 (C) adherence to all accepted department design
12 standards as well as applicable state and federal law and
13 regulations.

14 (2) The department will consider performance metrics
15 and measures to evaluate and [~~establish criteria to~~] rank the
16 priority of each project listed in the UTP based on the
17 transportation needs for the state and the goals identified in
18 paragraph (1)(A) of this subsection. A project will be ranked
19 within its applicable program funding category, using a
20 performance-based scoring system, and classified as tier one,
21 tier two, or tier three for ranking purposes. The scoring
22 system will be used for prioritizing projects for which
23 financial assistance is sought from the commission and must

1 account for the diverse needs of the state so as to fairly
2 allocate funding to all regions of the state. Major
3 transportation projects will have a tier one classification and
4 be designated as the highest priority projects within an
5 applicable funding category. A project that is designated for
6 development or construction in accordance with the mandates of
7 state or federal law or specific requirements contained in other
8 chapters of this title may be prioritized in a funding category
9 as a designated project in lieu of a tier one, tier two, or tier
10 three ranking.

11 (3) The commission will determine and approve the
12 final selection of projects and programs to be included in the
13 UTP, except for the selection of federally funded projects by an
14 MPO serving in an area designated as a transportation management
15 area (TMA) as provided in §16.101(n) of this subchapter
16 (relating to Transportation Improvement Program (TIP)). A
17 federally funded project selected by an MPO designated as a TMA
18 will be approved by the commission, subject to:

19 (A) satisfaction of the project selection
20 criteria in paragraph (1) of this subsection;

21 (B) compliance with federal law; and

22 (C) the district's and MPO's allocation of funds
23 for the applicable years.

1 (e) Approval of unified transportation program (UTP). Not
2 later than August 31 of each year, the commission will adopt the
3 unified transportation program for the next fiscal year. The
4 UTP may be updated more frequently if necessary to authorize a
5 major change to one or more funding allocations or project
6 listings in the most recent UTP. For the purpose of updating
7 the UTP, the term "major change" refers to the authorization of
8 new projects or the revision of project funding allocations
9 which exceed 10 percent of the project cost or \$500,000,
10 whichever is greater, occurring within the first four years of
11 the UTP in non-allocation program categories, excluding
12 revisions to local funding contributions and projects designated
13 under miscellaneous state and federal programs. The department
14 will present information regarding the development of the UTP
15 and any updates to the commission the month prior to final
16 adoption of the UTP and any updates. The department will hold a
17 hearing prior to:

18 (1) final adoption of the UTP and any updates; and
19 (2) approval of any adjustments to the program
20 resulting from changes to the allocation of funds under §16.160
21 of this chapter (relating to Funding Allocation Adjustments).

22 (f) Administrative revisions. The UTP may be
23 administratively revised at any time for minor or

1 nondiscretionary changes to funding allocations and project
2 listings. An amendment, update, or revision to the STIP or the
3 department's letting schedule that does not constitute a major
4 change as described in subsection (e) of this section is
5 considered to be an administrative revision to the UTP and does
6 not require an update to the program.

7 ~~[(1)The UTP may be administratively revised at any~~
8 ~~time for minor or nondiscretionary changes to funding~~
9 ~~allocations and project listings, including the changes~~
10 ~~specified in this paragraph.]~~

11 ~~[(A) A project may be added to the UTP, or a~~
12 ~~project within the UTP may be moved forward or delayed if:]~~

13 ~~[(i) the status of a listed project or~~
14 ~~projects change, and if the moved or added project can be~~
15 ~~developed and let during a two-year period within the district's~~
16 ~~or MPO's allocated funds in the applicable program funding~~
17 ~~category for that period;]~~

18 ~~[(ii) the project and funding for the~~
19 ~~project is specifically identified in a commission minute order~~
20 ~~for pass through toll financing; or]~~

21 ~~[(iii) the project and funding for the~~
22 ~~project is specifically identified in a federal or state~~
23 ~~legislative act or appropriation, including a federal earmark.]~~

1 ~~[(B) A district or MPO, subject to the mandates~~
2 ~~of state and federal law and specific requirements contained in~~
3 ~~other sections of this chapter for selection of projects and~~
4 ~~management of funds, may transfer all or a portion of its~~
5 ~~allocated funds either within a program funding category or~~
6 ~~between program funding categories during the first two years of~~
7 ~~the UTP if the transferred funds are returned to the~~
8 ~~contributing program funding category within the same two year~~
9 ~~period and the two year total allocation for each applicable~~
10 ~~program funding category as listed in the UTP is not exceeded or~~
11 ~~reduced.]~~

12 ~~[(C) A district or MPO, subject to the mandates~~
13 ~~of state and federal law and specific requirements contained in~~
14 ~~other sections of this chapter for selection of projects and~~
15 ~~management of funds, may transfer all or a portion of its~~
16 ~~allocated funds from a program funding category to another~~
17 ~~district or MPO during the first two years of the UTP if the~~
18 ~~transferred funds are returned to the contributing program~~
19 ~~funding category within the same two year period and the two~~
20 ~~year total allocation for each applicable program funding~~
21 ~~category for each district and MPO as listed in the UTP is not~~
22 ~~exceeded or reduced.]~~

23 ~~[(D) A local government may provide additional~~

1 ~~funding contribution or participation for a project.]~~

2 ~~[(E) A district may transfer all or a portion of~~
3 ~~its allocated funds in a program funding category to an~~
4 ~~adjoining district for a project that extends across the~~
5 ~~districts' common boundary.]~~

6 ~~[(F) A district or MPO, subject to the mandates~~
7 ~~of state and federal law and specific requirements contained in~~
8 ~~other sections of this chapter for selection of projects and~~
9 ~~management of funds, may transfer any unspent excess allocated~~
10 ~~funds remaining in a program funding category at the end of a~~
11 ~~fiscal year to the same program funding category for the next~~
12 ~~fiscal year.]~~

13 ~~[(G) Projects that are listed only for~~
14 ~~informational purposes in program funding categories identified~~
15 ~~as allocation programs in §16.154 of this chapter (relating to~~
16 ~~Transportation Allocation Funding Formulas) may be added to or~~
17 ~~deleted from the categories.]~~

18 ~~[(2) The department, an MPO, an RPO, or a public~~
19 ~~transportation operator as defined by 23 C.F.R. Part 450 may~~
20 ~~request an administrative revision of the UTP. A revision~~
21 ~~request by a public transportation operator must be applicable~~
22 ~~to projects in the public transportation portion of the UTP and,~~
23 ~~if the public transportation operator is located within the~~

1 ~~boundaries of an MPO or RPO, it must obtain consent of the~~
2 ~~applicable MPO or RPO prior to making the request.]~~

3 ~~[(3) If an administrative revision is requested, the~~
4 ~~department will, in coordination with the other affected~~
5 ~~parties, determine whether a revision is appropriate and may,~~
6 ~~consistent with the authority to select projects under~~
7 ~~subsection (d) of this section, develop a revised list of~~
8 ~~projects for the applicable period.]~~

9 ~~[(4) An administrative revision under this subsection~~
10 ~~is not an update or adjustment to which subsections (e), (g),~~
11 ~~and (h) of this section apply.]~~

12 ~~[(5) The department will incorporate an administrative~~
13 ~~revision into the UTP if the request complies with the~~
14 ~~requirements of this subsection and compliance is confirmed by~~
15 ~~the chief planning and project officer. If a requested revision~~
16 ~~is a minor or nondiscretionary change to a funding allocation or~~
17 ~~project listing in the UTP, but does not comply with the~~
18 ~~specific requirements described for changes in paragraph (1) of~~
19 ~~this subsection, the requested revision may not be incorporated~~
20 ~~into the UTP unless it is also approved by the chief financial~~
21 ~~officer. In determining whether to approve the administrative~~
22 ~~revision request, the chief financial officer shall consider the~~
23 ~~fiscal impact of the requested revision in the context of the~~

1 ~~current cash flow forecast.]~~

2 ~~[(6) Department staff will provide a written report to~~
3 ~~the commission within two months after the end of each quarter~~
4 ~~identifying all administrative revisions implemented under this~~
5 ~~subsection during that quarter.]~~

6 (g) Public involvement during development of the unified
7 transportation program.

8 (1) The department will seek to effectively engage the
9 general public and stakeholders in development of the UTP.

10 (2) The department will hold public meetings
11 throughout the state that will cover each district during
12 development of the UTP as early as the department determines is
13 feasible to assure public input into the process. The
14 department will also hold public meetings throughout applicable
15 areas of the state during development of each update to the
16 program that will cover each district affected by the update.
17 The department will publish notice of each public meeting as
18 appropriate to maximize attendance at the meeting.

19 (3) The department will report its progress on the
20 program and provide an opportunity for a free exchange of ideas,
21 views, and concerns relating to project selection, funding
22 categories, level of funding in each category, the allocation of
23 funds for each year of the program, and the relative importance

1 of the various selection criteria. A representative from each
2 district will attend each public meeting applicable to the
3 district and be available for the discussion.

4 (4) The department may conduct a public meeting by
5 video-teleconference or other electronic means that provide for
6 direct communication among the participants.

7 (h) Public involvement prior to final adoption. The
8 department, prior to adoption of the unified transportation
9 program and approval of any updates to the program, will hold at
10 least one statewide hearing on its project selection process
11 including the UTP's funding categories, the level of funding in
12 each category, the allocation of funds for each year of the
13 program, and the relative importance of the various selection
14 criteria.

15 (1) The department will publish a notice of the
16 applicable hearing in the *Texas Register* a minimum of 15 days
17 prior to it being held and will inform the public where to send
18 any written comments.

19 (2) The department will accept written public comments
20 for a period of at least 30 days after the date the notice
21 appears in the *Texas Register*.

22 (3) A copy of the proposed project selection process,
23 the UTP, and any adjustments to the plan, as applicable, will be

1 available for review at the time the notice of hearing is
2 published at each of the district offices and at the
3 department's Transportation Planning and Programming Division
4 offices in Austin. A copy will also be available on the
5 department website.

6 (i) Publication. The department will publish the entire
7 approved unified transportation program, updates, adjustments,
8 and administrative revisions together with any summary documents
9 highlighting project benchmarks, priorities, and forecasts on
10 the department's website. The documents will also be available
11 for review at each of the district offices and at the
12 department's Transportation Planning and Programming Division
13 offices in Austin.