



**U.S. DEPARTMENT OF TRANSPORTATION**  
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January 5, 2018

Compliance with Updated Metropolitan and Statewide  
Planning Rules (23 CFR Part 450)

Texas Metropolitan Planning Organizations:

The Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) issued final rulemaking on metropolitan and statewide planning on May 27, 2016. This rulemaking addressed changes to the metropolitan planning process stemming from MAP-21 and the FAST Act including Performance Based Planning. A checklist identifying these updated planning requirements, developed by FHWA and previously shared with Texas' MPOs is enclosed. In accordance with 23 CFR 450.340, MPO Transportation Improvement Program (TIP) updates and amendments, Metropolitan Transportation Plan (MTP) updates, Statewide Transportation Improvement Program (STIP) updates or revisions and transportation conformity determination actions completed after May 27, 2018 require that the TIP, MTP or STIP be compliant with the updated metropolitan and statewide planning rule. Additionally, the requirements of 23 CFR 450.340(a) are interpreted as applying to the adoption of Metropolitan Transportation Plan amendments after May 27, 2018. As such, FHWA/FTA and TxDOT are taking this opportunity to remind Texas' MPOs of the need to adequately address the planning requirements outlined in the enclosed checklist (See Enclosure No. 1). Additional information concerning the Performance Based Planning and Programming implementation schedule is enclosed (See Enclosure No. 2).

A specific requirement reflected in the checklist is that associated with 23 CFR 450.314 concerning the need for a written agreement among the MPO, the State DOT, and providers of public transportation within each metropolitan planning area, for conducting the metropolitan planning process. Under the final rulemaking, the MPO, the State(s), and the providers of public transportation should periodically review and update the written agreement, as appropriate, to

reflect effective changes (e.g., changes in Federal laws, regulations, and roles and responsibilities of partner agencies). 23 CFR 450.314(h) also requires a written agreement addressing performance-based planning.

Specifically, the final rule (23 CFR 450.314(h)) states that: *the MPO(s), the State(s), and the providers of public transportation shall jointly agree upon and develop specific written provisions 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 (see Section 450.306(d)), and the collection of data for the State asset management plan for the NHS.*

Below are three scenarios for purposes of addressing the requirements of 23 CFR 450.314:

- **Scenario 1:** for those MPO areas without an existing written agreement in accordance with 23 CFR 450.314, the MPO should adopt a Memorandum of Understanding (MOU) (See MOU template, Enclosure No. 3) that includes the roles and responsibilities of the MPO, TxDOT, and Public Transit Operators for performance-based planning and other metropolitan planning requirements. Please note that the MOU template is being provided for informational purposes only. Also, in accordance with 23 CFR 450.314(h), the performance-based planning provisions required by this section may be documented as part of the metropolitan planning agreements required by 23 CFR 450.314 (a), (e) or (g), or in some other means outside of these agreements as determined cooperatively by the MPO, State and public transportation providers.
- **Scenario 2:** for those MPO areas with an existing written agreement in accordance with 23 CFR 450.314 (a-g), the MPO may amend the existing agreement among the MPO, TxDOT, and Public Transit Operators with the pertinent and relevant language regarding performance-based planning (as shown on pp 8-9 of the MOU template, Enclosure No. 3) or some other means as determined cooperatively by the MPO, State and public transportation providers, in accordance with 23 CFR 450.314(h).
- **Scenario 3:** for MPOs that have a written agreement that does not include all three parties (e.g., MPO, TxDOT, and the Public Transit Operators), the MPO should adopt an agreement including all three parties and the pertinent and relevant language regarding performance-based planning (as shown on pp 8-9 of the MOU template, Enclosure No. 3) or some other means as determined cooperatively by the MPO, State and public transportation providers, in accordance with 23 CFR 450.314(h).

As discussed during the November 9, 2017 TEMPO meeting, FHWA/FTA and TxDOT Transportation Planning and Programming Division will work with the MPOs individually to assure that the transportation planning process and written agreements meet the requirements as noted above.

Should you have any questions regarding this matter, please contact Jose Campos at (512) 536-5932 or Mike Leary of the FHWA Texas Division at (512) 536-5940; or Don Koski, FTA Region 6 at (817) 978-0571; or Peggy Thurin, TxDOT-TPP at (512) 486-5024; or Jack Foster TxDOT-TPP at (512) 486-5002.

Sincerely yours,



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Donald R. Koski, Director  
Planning and Programming Development  
Federal Transit Administration



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Michael T. Leary  
Director, Planning and Program  
Development



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Peter Smith, P.E.  
Director, Transportation Planning and  
Programming Division  
Texas Department of Transportation

Enclosures



# Enclosure No. 1- FAST Act Checklist for Metropolitan & Statewide Planning Process (for TIP/MTP Revisions and Conformity Determinations on or after 05-27-18)



## FAST ACT COMPLIANCE CHECKLIST FOR METROPOLITAN & STATEWIDE TRANSPORTATION PLANNING PROCESS *(Due on or after 05-27-18)*

1. Update Public Participation Plan (PPP) to include: a) public ports; b) private providers of transportation (including intercity bus operators, employer-based commuting programs, such as carpool program, vanpool program, transit benefits program, parking cash-out program, shuttle program, or telework program). (Ref: 23 CFR 450.316(a))
2. Demonstrate consultation with agencies involved in: a) tourism; b) natural disaster risk reduction. (Ref: 23 CFR 450.316(b))
3. MPO(s), State(s), and the providers of public transportation shall jointly agree upon and develop specific written provisions for cooperatively developing and sharing information related to: a) transportation performance data; b) the selection of performance targets; c) the reporting of performance targets; d) the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO & the collection of data for the State asset management plan for the NHS. (Ref: 23 CFR 450.314(h))
4. Incorporate two new planning factors: a) Improve the resiliency and reliability of the transportation system and reduce or mitigate storm-water impacts of surface transportation; b) Enhance travel and tourism. (Ref: 23 CFR 450.206(a)(9&10) and 306(b)(9&10))
5. Include consideration of intercity buses (in both MTPs and Statewide Long-Range Transportation Plans). (Ref: 23 CFR 450.216(b) and 324(f)(2))
6. MTP includes an assessment of capital investment and other strategies to preserve the existing and future transportation system and reduce the vulnerability of the existing transportation infrastructure to natural disasters. (Ref: 23 CFR 450.324(f)(7))
7. MTP includes a description of the (Federally required) performance measures and performance targets used in assessing the performance of the transportation system. (Ref: 23 CFR 450.324(f)(3))
8. MTP includes a system evaluation report evaluating the condition and performance of the transportation system with respect to the (Federally required) performance targets including progress achieved by the MPO toward the performance targets. (Ref: 23 CFR 450.324(f)(4))
9. STIP/TIPs include (to the maximum extent practicable) a description of the anticipated effect of the STIP and TIP toward achieving the performance targets identified by the State in the long-range statewide transportation plan and by MPO in the MTP. (Ref: 23 CFR 450.218(q) and 326(d))
10. STIP/TIPs include a linkage from the investment priorities in the TIP/STIP to achievement of performance targets in the plans. (Ref: 23 CFR 450.218(q) and 326(d))
11. Statewide plan shall include a description of the performance measures & targets and a systems performance report assessing the performance of the transportation system. (Ref: 23 CFR 450.216(f)(1&2))
12. Statewide plan and STIP updates should apply asset management principles consistent with the State Asset Management Plan for the NHS and the Transit Asset Management Plan and the Public Transportation Safety Plan in the statewide planning process. (Ref: 23 CFR 450.208(e))



**Enclosure No. 2- Federal Transit Administration (FTA) Region VI and Federal Highway Administration (FHWA) Texas Division – Performance Based Planning and Programming (PBPP) Implementation Schedule Information (01/05/2018)**

The Federal Transit Administration (FTA) Region VI Office and Federal Highway Administration (FHWA) Texas Division Office would like to take this opportunity to remind TxDOT, MPOs and providers of public transportation of the need to adequately address the planning requirements identified in the final rule on metropolitan and statewide planning published in the Federal Register on May 27, 2016<sup>1</sup>. This final rule addresses changes to the metropolitan planning process stemming from Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) and the Fixing America's Surface Transportation Act (FAST) including Performance Based Planning and Programming (PBPP). It provides that updates and amendments to the Transportation Improvement Program (TIP), Metropolitan Transportation Plan (MTP), Long-Range Statewide Transportation Plan, Statewide Transportation Improvement Program (STIP) and transportation conformity determination actions completed after May 27, 2018 must be compliant with the updated metropolitan and statewide planning rule.<sup>2</sup>

The final rule also provides that State(s), MPO(s), and providers of public transportation must jointly agree upon and develop specific written provisions 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). These jointly written provisions can be documented either as part of the metropolitan planning agreements required under 23 CFR 450.314 or documented in some other means outside of the metropolitan planning agreements as determined cooperatively by the MPO(s), State(s), and providers of public transportation.

Similar to the other performance based planning requirements, State(s), MPO(s), and providers of public transportation are required to complete the jointly written provisions in accordance with the phase in schedules described in the planning final rule<sup>3</sup>.

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<sup>1</sup> 23 CFR Parts 450 and 771 and 49 CFR Part 613 (Metropolitan Transportation Planning and Statewide and Non-metropolitan Transportation Planning)

<sup>2</sup> STIP and TIP administrative modifications are exceptions per 23 CFR 450.226(d) and 23 CFR 450.340(d).

<sup>3</sup> § 450.340 Phase-in of new requirements.

With respect to FHWA safety performance measures and targets<sup>4</sup>, written provisions are due **May 27, 2018** (2 years after the publication date of the planning rule). With respect to the FHWA's Pavement and Bridge performance measures (PM-2 Rule<sup>5</sup>) and system performance measures (PM-3 Rule<sup>6</sup>), jointly written provisions are due **May 20, 2019** (two years after the effective date of those rules). With respect to the greenhouse gas performance measure, written provisions would be due September 28, 2019, two years after the effective date of September 28, 2017. For additional information on the schedule to implement the FHWA performance measures, please see <https://www.fhwa.dot.gov/tpm/rule/timeline.pdf>.

The jointly written provisions to address FTA's Transit Asset Management/State of Good Repair (TAM/SGR) performance measures must be completed by **October 1, 2018** (two years after the effective date of the TAM rule<sup>7</sup>). As information on transit asset conditions as reported by providers of public transportation to the National Transit Database (NTD) will not be available until October 2019, they will need to provide this information directly to their MPO. The schedule to address FTA's transit safety performance measures will be provided once the Public Transportation Agency Safety Plan Final Rule is published.

The FHWA Division Office and the FTA Regional Office will work with the MPOs individually to assure that the transportation planning process and jointly written provisions on performance measures and targets meet the requirements as noted above. Should you have any questions regarding this matter, please contact Jose Campos, FHWA at (512) 536-5932 or Don Koski, FTA at (817) 978-0571.

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<sup>4</sup> 23 CFR Part 490

<sup>5</sup> 23 CFR Part 490

<sup>6</sup> 23 CFR Part 490

<sup>7</sup> 49 CFR Parts 625 and 630



**Enclosure No. 3- Memorandum of Understanding Among MPO(s),  
TxDOT, and Public Transportation Operators (for TIP/MTP Revisions and  
Conformity Determinations on or after 05-27-18)**

**MEMORANDUM OF UNDERSTANDING**

**AMONG  
THE \_\_\_\_\_ METROPOLITAN PLANNING ORGANIZATION ("MPO"),  
THE TEXAS DEPARTMENT OF TRANSPORTATION ("TxDOT") AND  
THE \_\_\_\_\_ PUBLIC TRANSPORTATION OPERATOR**

**WHEREAS**, the Fixing America's Surface Transportation Act (FAST Act) promulgated regulations 23 CFR 450.314, and

**WHEREAS**, the MPO, the State and the Public Transportation Operator(s) 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 Operator(s) 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 to 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.

*[If, in nonattainment or maintenance areas, the MPO is not the designated agency for air quality planning under section 174 of the Clean Air Act (42 U.S.C. 7504), insert the following whereas statement]*

**WHEREAS**, the MPO and the designated air quality planning agency entered into a written agreement on \_\_\_\_\_ [insert effective date of agreement] describing their respective roles and responsibilities for air quality related transportation planning.

*[If more than one MPO has been designated to serve an MPA, insert the following whereas]*

**WHEREAS**, TxDOT, the MPOs [name MPOs], and the public transportation operator(s) entered into a written agreement on \_\_\_\_\_ [insert effective date of agreement] describing how the MPOs shall coordinate data collection, analysis, and planning assumptions across the MPA to ensure the development of consistent MTPs and TIPs with respect to that transportation improvement.

*[If more than one MPO serves an MPA, where the MPA includes a UZA that has been designated a TMA in addition to an UZA that is not designated a TMA, include the following whereas]*

**WHEREAS**, [Name of MPO] MPO, designated as a Transportation Management Area (TMA), entered into a written agreement on [insert effective date of agreement] with the [Name of MPO] with which it overlaps the MPA boundaries, describing the roles and responsibilities of each MPO in meeting specific TMA requirements

**WHEREAS**, the federal regulations require that the MPO, State DOT, and the public transit provider 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).

**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 \_\_\_\_\_ MPA and to provide a single agreement between the State of Texas acting through the Texas Department of Transportation (TxDOT), \_\_\_\_\_ MPO, and \_\_\_\_\_ [list Public Transportation Operator(s)] 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. 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. Ensure TxDOT, the Public Transportation Operator(s) and the MPO 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. Ensure that the UPWP will detail and document these responsibilities, deliverables and associated costs.

### **3. Performance Based Planning & 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 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 MPOs. 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 FHWA and 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 a 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 (g) (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 Operator(s) and TxDOT in developing the financial plan for the MTP.
- b. Work in consultation with Public Transportation Operator(s) 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 Operator(s) and TxDOT, update the MTP and TIP in accordance with State and Federal laws.
- e. Invite Transit Districts to participate in all public participation processes.
- f. Conduct comprehensive, cooperative and continuous transportation planning for the \_\_\_\_\_ 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 Operator(s)**

The Public Transportation Operator(s) will:

- a. Work in consultation with the MPO in developing short-range and long-range plans for transit 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 obligated projects.
- 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. Establish transit asset management performance targets and share with the MPO and other interested parties.

**6. Responsibilities of TxDOT.**

- a. Work in consultation with Public Transportation Operator(s) 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 and Transit District, update the MTP and TIP in accordance with State and Federal laws.
  - g. Work in consultation with the MPO and Public Transportation Operator(s) in developing short-range and long-range plans for transit for inclusion in the MTP and TIP.
7. **Term.** This Memorandum shall become effective as to each Party when fully executed by all parties. It shall remain in full force and effect until such time it is terminated in writing by one or all of the 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 PAGE TO FOLLOW)**

EXECUTED by the parties hereto, each respective entity acting by and through its duly authorized official as required by law.

\_\_\_\_\_  
Chairperson of the MPO Policy Board

Date: \_\_\_\_\_

\_\_\_\_\_  
Public Transportation Operator  
General Manager

Date: \_\_\_\_\_

\_\_\_\_\_  
Texas Department of Transportation  
District Engineer

Date: \_\_\_\_\_

**Approved as to Content:**

\_\_\_\_\_  
Director  
Metropolitan Planning Organization



**Appendices:**

- A. Safety Performance Measures**
- B. Highway Safety Improvement Program**
- C. FHWA Pavement and Bridge Performance Measures**
- D. FHWA System Performance Measures**
  - a. NHS**
  - b. Freight**
  - c. CMAQ**
- E. FTA Transit Asset Management**
- F. FTA Agency Safety Plan**

[Recommend inclusion of a summary describing the anticipated purpose, content and structure of the appendices.]

