

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

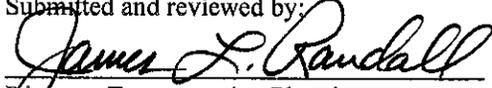
The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §15.4, relating to the Unified Planning Work Program, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §15.4 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:


Director, Transportation Planning
and Programming Division

Recommended by:


Executive Director

110264 OCT 27 05

Minute
Number

Date
Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts
3 amendments to §15.4, concerning the Unified Planning Work
4 Program (UPWP). The amendments to §15.4 are adopted without
5 changes to the proposed text as published in the August 12, 2005
6 issue of the *Texas Register* (30 TexReg 4626) and will not be
7 republished.

8

9 EXPLANATION OF ADOPTED AMENDMENTS

10 Section 15.4 currently provides that travel outside the
11 metropolitan area boundary (MAB) by metropolitan planning
12 organization (MPO) staff and other agencies participating in the
13 MPO planning process shall be approved by the department if
14 funded with federal transportation planning funds.

15

16 Department approval of travel beyond metropolitan area
17 boundaries is unduly burdensome on the department and the MPO.
18 The adopted amendment removes this requirement and, instead,
19 requires department approval of travel outside Texas. The
20 amendments further provide that travel to Arkansas by the
21 Texarkana MPO staff and travel to New Mexico by the El Paso MPO
22 staff shall be considered in-state travel.

23

24 COMMENTS

25 One comment on the proposed amendments was received from the

1 Association of Texas Metropolitan Planning Organizations
2 (TEMPO). TEMPO agrees with the amendment to remove the
3 requirement that the department approve travel beyond the
4 metropolitan area boundary. The commenter raised other issues,
5 outside the scope of the proposal. Department staff will review
6 TEMPO's comments for possible future rule amendments.

7

8 STATUTORY AUTHORITY

9 The amendments are adopted under Transportation Code, §201.101,
10 which provides the Texas Transportation Commission with the
11 authority to establish rules for the conduct of the work of the
12 department.

13

14 CROSS REFERENCE TO STATUTE

15 Transportation Code §201.101.

1 SUBCHAPTER A. TRANSPORTATION PLANNING

2 §15.4. Unified Planning Work Program (UPWP).

3 (a) Planning activities. Under 23 C.F.R. §450.314, an MPO
4 is required to document planning activities in a UPWP to
5 indicate who will perform the work, the schedule for completing
6 it, and all products that will be produced. The department is
7 responsible for assisting in the development of the UPWP,
8 approving the format of work programs submitted by MPOs, and,
9 where required by federal law or regulation, monitoring an MPO's
10 performance of activities and expenditure of funds under a UPWP.
11 Where monitoring is not required, the department is responsible
12 for reviewing an MPO's activities and expenditure of funds, and
13 will comment on and make suggestions relating to those
14 activities and expenditures. The department will design a
15 uniform format for UPWPs and reports to be submitted by MPOs.
16 This subsection describes how a UPWP is developed, the contents
17 of a UPWP, how it is approved, and how the department will
18 monitor work programs.

19 (1) Requirements. An MPO in cooperation with the
20 department and operators of publicly owned transit systems must
21 annually develop a unified planning work program that meets the
22 requirements of 23 C.F.R. Part 420, Subpart A and 23 C.F.R.
23 §450.314.

1 (2) Prospectus allowed. The metropolitan transportation
2 planning process may include the development of a prospectus
3 that establishes a multiyear framework within which the UPWP is
4 accomplished.

5 (3) UPWP development. The department will develop a time
6 line for development of the UPWP by the MPOs. Failure to adhere
7 to the time line may result in a delay in the authorization to
8 the MPOs to proceed in incurring costs.

9 (4) UPWP format. The department, in consultation with
10 the MPOs, shall develop a standard UPWP format to be used by all
11 MPOs. UPWPs submitted in a different format will not be
12 approved.

13 (5) UPWP approval and revisions. The MPO policy board
14 shall not delegate approval authority of, or subsequent
15 revisions to, the UPWP.

16 (6) Annual performance and expenditure report. To allow
17 the department to monitor work programs, the MPOs shall prepare
18 and submit an annual performance and expenditure report of
19 progress no later than December 31 of each year. A uniform
20 format for the annual report will be established by the
21 department, in consultation with the MPOs.

22 (b) Funding. Federal transportation planning funds are
23 available to MPOs to develop the metropolitan transportation

1 plans and transportation improvement programs required by this
2 subchapter. Under 23 C.F.R. §420.111, the use of federal
3 planning funds must be documented by the MPO in a work program
4 acceptable to the FHWA setting out proposed work undertaken with
5 federal planning funds and the estimated cost of this work. A
6 work program acceptable to the FTA is required for planning
7 activities involving mass transportation plans and programs.
8 This subsection describes the requirements for a UPWP related to
9 funding, limitations on the use of federal planning funds for
10 planning work, when the travel costs of persons participating in
11 the metropolitan planning process may be authorized and
12 reimbursed, limitations on the expenditure of funds for planning
13 work outlined in a UPWP, and how federal transportation planning
14 funds will be distributed to MPOs.

15 (1) Requirements. The UPWP shall reflect transportation
16 planning work tasks to be funded by federal, state, or local
17 transportation, or transportation related (e.g. air quality),
18 planning funds.

19 (2) Planning work eligibility. The use of federal
20 metropolitan transportation planning funds shall be limited to
21 transportation planning activities affecting the transportation
22 system within the Metropolitan Area Boundary (MAB). If an MPO
23 determines that data collection and analysis activities relating

1 to land use, demographics, or traffic or travel information,
2 conducted outside the MAB, affect the transportation system
3 within the MAB, then those activities may be undertaken using
4 federal planning funds, provided that the activities are
5 specifically identified in an approved UPWP. Any other costs
6 incurred for transportation planning activities outside the MAB
7 will not be eligible for reimbursement.

8 (3) Authorization for travel outside the state~~[MAB]~~.
9 Travel outside the State of Texas [~~Metropolitan Area Boundary~~]
10 by MPO staff and other agencies participating in the MPO
11 planning process shall be approved by the department if funded
12 with federal transportation planning funds. Approval must be
13 received prior to incurring any costs associated with the actual
14 travel (e.g., registration fee). This provision will not apply
15 if the travel is [~~was~~] at the request of the department. Travel
16 to the State of Arkansas by the Texarkana MPO staff and travel
17 to the State of New Mexico by the El Paso MPO staff shall be
18 considered in-state travel.

19 (4) Reimbursement of travel costs of elected officials.
20 The cost of travel incurred by elected officials will not be
21 eligible for reimbursement with federal transportation planning
22 funds.

23 (5) Funding limitations. The use of federal

1 transportation planning funds shall be limited to
2 corridor/subarea level planning or multimodal or systemwide
3 transit planning studies. Major investment studies and
4 environmental studies are considered corridor level planning.
5 The use of such funds beyond environmental document preparation
6 or for specific project level planning and engineering (efforts
7 directly related to a specific project instead of a corridor) is
8 not allowed.

9 (6) Department approval of costs. The MPO shall not
10 incur any costs for work outlined in the UPWP or any subsequent
11 amendments (i.e., adding new work tasks or changing the scope of
12 existing work tasks) prior to receiving approval from the
13 department. Any costs incurred prior to receiving department
14 approval shall not be eligible for reimbursement from federal
15 transportation planning funds.

16 (7) Expenditure limitations. Costs incurred by the MPO
17 shall not exceed the total budgeted amount of the UPWP without
18 prior approval of the MPO policy board and the department.
19 Costs incurred on individual work tasks shall not exceed that
20 task budget by 25% without prior approval of the MPO policy
21 board and the department. If the costs exceed 25% of the task
22 budget, the UPWP shall be revised, approved by the MPO policy
23 board, and submitted to the department for approval.

1 (8) Distribution of funds. Federal transportation
2 planning funds will be distributed to the MPOs based on a
3 formula mutually agreed to by the department and FHWA/FTA.