









































































































1 maintenance, non-urbanized transit projects) may be grouped by  
2 function, geographic area, or work type.

3 (C) In a nonattainment area, only those projects which  
4 have been determined to conform with the requirements of the  
5 Clean Air Act (CAA) and which comply with the state  
6 implementation plan (SIP) may be included in the STIP.

7 (D) Regionally significant projects to be funded with  
8 non-federal funds will be included in the STIP for planning,  
9 coordination, and public disclosure purposes.

10 (E) Projects may be excluded from the STIP by agreement  
11 between the department and the TPO in accordance with  
12 requirements established in §15.10(d) of this subchapter  
13 (relating to Transportation Improvement Programs).

14 (2) Statewide transportation improvement program (STIP)  
15 funding. The federal funding level for each year of the STIP is  
16 the annual authorization as outlined in 23 U.S.C. §101 et seq.  
17 and funds appropriated under 49 U.S.C. §5307 et seq., in  
18 addition to the appropriate state and local match.

19 (c) Statewide transportation improvement program (STIP)  
20 financial plan. The STIP will reflect the priorities for  
21 programming and expenditure of funds and will:

22 (1) include a financial plan that demonstrates how the  
23 transportation improvements can be funded and reasonably



1 implemented;

2 (2) be consistent with funding reasonably expected to be  
3 available during the relevant period as provided under the  
4 unified transportation program in §15.14 of this subchapter; and

5 (3) be financially constrained by year.

6 (d) Statewide transportation improvement program (STIP)  
7 public involvement process. The governor is responsible for  
8 providing for public involvement in the STIP development  
9 process. If the governor delegates this responsibility to the  
10 commission, the commission or if further delegated, the  
11 executive director will provide for public involvement in  
12 accordance with this subsection.

13 (1) Initial adoption of the STIP.

14 (A) There must be adequate opportunity for public  
15 involvement in development of the STIP. The department will  
16 divide the state into regions and hold at least one public  
17 meeting in each region during development of the STIP at as  
18 early a stage as the department determines is feasible to assure  
19 public input into the process.

20 (i) The department will publish notice of each public  
21 meeting as appropriate to maximize attendance at the meeting.

22 (ii) The department will report its progress on the  
23 program and provide a free exchange of ideas, views, and

1 concerns relating to proposed projects and priorities.

2 (B) In developing the STIP, the department will hold at  
3 least one statewide public hearing regarding the adoption of the  
4 proposed STIP.

5 (i) The department will publish a notice of the  
6 hearing in the *Texas Register* a minimum of 15 days prior to it  
7 being held and will inform the public where to send any written  
8 comments.

9 (ii) The department will accept written public  
10 comments, including comments submitted in electronic format, for  
11 a period of at least 30 days after the date the notice appears  
12 in the *Texas Register*.

13 (iii) A copy of the proposed STIP will be available  
14 for review, at the time the notice of hearing is published, at  
15 each of the department's district offices, at the department's  
16 Transportation Planning and Programming Division offices in  
17 Austin, and on the department website.

18 (iv) The approved STIP will also be made available at  
19 each of the district offices, at the department's Transportation  
20 Planning and Programming Division offices in Austin, and on the  
21 department website.

22 (2) STIP amendments.

23 (A) General. The governor will approve amendments to

1 the STIP. If the governor delegates this authority to the  
2 commission, the commission or if further delegated, the  
3 executive director will approve amendments according to a  
4 published schedule developed in accordance with subsection (f)  
5 of this section, which the department will make available at the  
6 district offices, to the MPOs, and on the department website on  
7 an annual basis.

8 (B) Amendments to the STIP. The STIP may be amended  
9 consistent with the requirements established in §15.10(k) of  
10 this subchapter (relating to Transportation Improvement  
11 Programs). The public involvement process for amendments to the  
12 STIP will be the same as for initial adoption of the STIP.

13 (e) Statewide transportation improvement program  
14 (STIP) approval.

15 (1) The governor will approve the STIP. The governor, or  
16 if the governor delegates this authority to the commission, the  
17 commission or if further delegated, the executive director must  
18 approve the STIP if it finds the STIP has met all the  
19 requirements of this section.

20 (2) The governor, or if the governor delegates this  
21 authority to the commission, the commission or if further  
22 delegated, the executive director may approve a partial STIP if  
23 difficulties are encountered in cooperatively developing the TIP

1 portion for a particular metropolitan or rural area.

2 (f) Statewide transportation improvement program (STIP)  
3 revisions.

4 (1) Schedule of revisions. The department and the MPOs  
5 will be required to adhere to a quarterly STIP revision cycle,  
6 except as provided in paragraph (2) of this subsection. Project  
7 information and MPO approval documentation for the quarterly  
8 revisions must be received by the department's Transportation  
9 Planning and Programming Division by the close of business on  
10 the submittal date established by the department.

11 (2) Exceptions.

12 (A) Request. An MPO may submit a written request for  
13 an exception to the quarterly revision schedule. The request  
14 must include reasons justifying the need for the exception.

15 (B) Approval. The executive director may approve an  
16 exception to this requirement if:

17 (i) additional funding becomes available; or

18 (ii) the revision involves a project which is  
19 expected to have a significant effect on capacity, connectivity,  
20 or public safety and security on transportation systems.

21 (g) Project selection procedures. Under 23 C.F.R.  
22 §450.220, project selection from an approved STIP varies  
23 depending on whether a project selected for implementation is

1 located in a metropolitan planning area and on what type of  
2 federal funding is involved. The purpose of this subsection is  
3 to prescribe project selection procedures and specify which  
4 entity may select a project for implementation.

5 (1) General. Project selection procedures must be  
6 developed for each metropolitan area and for state projects that  
7 lie outside of metropolitan planning areas. The department will  
8 develop and reevaluate annual project selection procedures for  
9 state projects which lie outside of metropolitan planning areas.

10 (A) Project agreement. The first year of both the TIP  
11 and the STIP constitute an agreed to list of projects for  
12 project selection purposes. Project selection may be revised if  
13 the apportioned funds, including the highway obligation ceiling  
14 and transit appropriations, are significantly more or less than  
15 the authorized funds. In such cases, if requested by the MPO,  
16 the department or the transit operator, a revised agreed-to list  
17 of projects for project selection purposes may be developed.

18 (B) Eligibility. Except as provided in 23 C.F.R.  
19 §450.220, only those projects included in the federally approved  
20 STIP will be eligible for funding with Title 23, U.S.C., or  
21 Federal Transit Act (49 U.S.C. §5307 et seq.) funds.

22 (2) Project selection in metropolitan planning areas. In  
23 metropolitan planning areas, transportation projects shall be

1 selected in accordance with the project selection procedures  
2 established in §15.10(n) of this subchapter (relating to  
3 Transportation Improvement Programs).

4 (3) Project selection outside metropolitan planning  
5 areas. Outside metropolitan planning areas, transportation  
6 projects undertaken on the National Highway System with Title 23  
7 funds and under the bridge and interstate maintenance programs  
8 shall be selected by the department in consultation with  
9 affected local officials. Federal lands highways projects shall  
10 be selected in accordance with 23 U.S.C. §204. Other  
11 transportation projects undertaken with funds administered by  
12 the FHWA shall be selected by the department in cooperation with  
13 the affected local officials, and projects undertaken with  
14 Federal Transit Act funds shall be selected by the department in  
15 cooperation with the affected local officials and transit  
16 operators.

17  
18 §15.12. Metropolitan Planning Organization Ten-Year  
19 Transportation Program (MTYTP).

20 (a) Requirement. Each metropolitan planning organization  
21 (MPO) shall develop a ten-year transportation program that is  
22 consistent with the criteria developed for the department's  
23 unified transportation program, as set forth in §15.14 of this

1 subchapter. The program must include a prioritized list of  
2 projects and programs for the area within the MPO's boundaries.  
3 Projects that are not considered by the department and the MPO  
4 to be of appropriate scale for individual identification in a  
5 given program year may be grouped by function, geographic area,  
6 or work type (e.g., minor rehabilitation, preventive  
7 maintenance).

8 (b) Relationship to the transportation improvement  
9 program. The first four years of the program shall be developed  
10 so as to comply with the requirements of federal law and §15.10  
11 of this subchapter for a metropolitan transportation improvement  
12 program.

13 (c) Cost estimates. The department will provide estimates  
14 to planning organizations for the project costs of all  
15 transportation projects on the state highway system.

16  
17 §15.13. Ten-Year Transportation Programming Recommendations for  
18 Non-Metropolitan Areas. A rural planning organization (RPO)  
19 shall make recommendations to the commission concerning the  
20 prioritization of projects and programs in the department's  
21 unified transportation program to be developed within the  
22 boundaries of the RPO. For a non-metropolitan area outside the  
23 boundaries of an RPO, those programming recommendations will be

1 made by the applicable district engineer. All recommendations  
2 shall be delivered to the department at the times and in the  
3 manner and format established by the department and shall  
4 include a prioritized list of projects with input from officials  
5 of affected municipalities, counties, and local transportation  
6 entities.

7  
8 §15.14. Unified Transportation Program (UTP).

9 (a) General. The department will develop a unified  
10 transportation program (UTP) that covers a period of ten years  
11 to guide the development and authorize construction of  
12 transportation projects and projects involving aviation, public  
13 transportation, rail, and the state's waterways and coastal  
14 waters. During this process, the department will cooperate with  
15 officials who have local responsibility for the various modes of  
16 transportation and transportation infrastructure including  
17 officials of municipalities, counties, and local transportation  
18 entities.

19 (b) Requirements. The program will:

20 (1) be financially constrained and estimate funding  
21 levels and the allocation of funds to each district and  
22 metropolitan planning organization (MPO) for each year in the  
23 program in accordance with Subchapter C of this chapter;



1           (2) list all projects and programs that the department  
2 intends to develop or initiate construction during the program  
3 period, after consideration of the:

4           (A) statewide long-range transportation plan (SLRTP),

5           (B) MPO ten-year transportation programs (MTYTP),

6           (C) MPO four-year transportation improvement programs  
7 (TIP),

8           (D) statewide transportation improvement programs  
9 (STIP), and

10           (E) recommendations of rural planning organizations  
11 (RPO) as provided in this subchapter; and

12           (3) be organized by funding category, district, mode of  
13 transportation, and the year of the project.

14           (c) Project selection.

15           (1) The commission will consider the following criteria  
16 for project selection in the UTP as applicable to the program  
17 funding categories described in §15.22 of this chapter:

18           (A) the potential of the project to:

19           (i) increase the safety of the transportation  
20 system for all transportation users;

21           (ii) maintain and preserve the existing  
22 transportation system;

23           (iii) provide congestion relief;

1           (iv) increase the accessibility and mobility of the  
2 transportation system for all transportation users;

3           (v) support the economic vitality of the area,  
4 especially by enabling global competitiveness, productivity, and  
5 efficiency; and

6           (vi) promote efficient system management and  
7 operation; and

8           (B) adherence to all accepted department design  
9 standards as well as applicable state and federal law and  
10 regulations.

11           (2) The commission will determine and approve the final  
12 selection of projects and programs to be included in the UTP,  
13 except for the selection of federally funded projects by an MPO  
14 serving in an area designated as a transportation management  
15 area (TMA) as provided in §15.10(n) of this subchapter. A  
16 federally funded project selected by an MPO designated as a TMA  
17 will be approved by the commission, subject to:

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

20           (B) compliance with federal law; and

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

23           (d) Approval of unified transportation program (UTP). The

1 commission will, no later than March 31 of each even-numbered  
2 year, adopt the unified transportation program. The UTP may be  
3 updated more frequently if necessary. The commission will hold  
4 a hearing prior to:

5 (1) final adoption of the UTP and any updates; and

6 (2) approval of any adjustments to the program  
7 resulting from changes to the allocation of funds under §15.28  
8 of this chapter.

9 (e) Program revisions.

10 (1) Projects within the UTP may be moved forward or  
11 delayed if there is a change in the status of a listed project  
12 or projects, and projects may be added to the UTP, if the moved  
13 or added project(s) can be developed and constructed within the  
14 district's or MPO's allocated funds for the applicable year.

15 (2) The department, an MPO, RPO, or transit operator  
16 may request a revision of the UTP. If a revision is requested,  
17 the department will, in coordination with the other affected  
18 parties, determine whether a revision is appropriate and may,  
19 consistent with the authority to select projects under  
20 subsection (c), develop a revised list of projects for the  
21 applicable period. A revision under this subsection shall not  
22 be deemed an update or adjustment to the program under  
23 subsection (d).

1 (f) Public involvement during development of the unified  
2 transportation program. There will be adequate opportunity for  
3 public involvement in development of the UTP. The department  
4 will divide the state into regions and hold at least one public  
5 meeting in each region during development of the UTP and each  
6 update of the program at as early a stage as the department  
7 determines is feasible to assure public input into the process.

8 (1) The department will publish notice of each public  
9 meeting as appropriate to maximize attendance at the meeting.

10 (2) The department will report its progress on the  
11 program and provide a free exchange of ideas, views, and  
12 concerns relating to project selection, funding categories,  
13 level of funding in each category, each region's allocation of  
14 funds for each year of the program, and the relative importance  
15 of the various selection criteria.

16 (g) Public involvement prior to final adoption. The  
17 department, prior to adoption of the unified transportation  
18 program and approval of any updates to the program, will hold at  
19 least one statewide hearing on its project selection process  
20 including the UTP's funding categories, the level of funding in  
21 each category, each region's allocation of funds for each year  
22 of the program, and the relative importance of the various  
23 selection criteria.

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

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

8           (3) A copy of the proposed project selection process, the  
9 UTP, and any adjustments to the plan, as applicable, will be  
10 available for review at the time the notice of hearing is  
11 published at each of the district offices and at the  
12 department's Finance Division offices in Austin. A copy will  
13 also be available on the department website.

14           (h) Publication. The department will publish the entire  
15 approved unified transportation program, updates, and  
16 adjustments together with any summary documents highlighting  
17 project benchmarks, priorities, and forecasts on the  
18 department's website. The documents will also be available for  
19 review at each of the district offices and at the department's  
20 Finance Division offices in Austin.

21

22

23

1 SUBCHAPTER C. TRANSPORTATION FUNDING

2

3 §15.20. Long-Term Planning Assumptions. The department, in  
4 cooperation with metropolitan planning organizations (MPO) will  
5 develop mutually acceptable assumptions for the purposes of  
6 long-range federal and state funding forecasts that are  
7 consistent with the project selection criteria prescribed under  
8 §15.14 of this chapter. The department and each planning  
9 organization will use those funding assumptions to guide  
10 development of the statewide long-range transportation plan and  
11 metropolitan transportation plans under §15.6 and §15.5 of this  
12 chapter.

13 (a) Factors. The assumptions will include the following  
14 factors:

15 (1) anticipated level of available state gas tax revenues  
16 to be deposited to the state highway fund;

17 (2) anticipated level of registration fees and other  
18 state non-gas tax revenues to be deposited to the state highway  
19 fund and Texas Mobility Fund;

20 (3) anticipated level of federal transportation funding;

21 and

22 (4) other factors deemed appropriate by the commission  
23 for projection of available revenue.

1 (b) Optional factors. An MPO may also include reasonable  
2 funding assumptions based on one or both of the following  
3 factors to guide development of a separate supplement to the  
4 MPO's metropolitan transportation plan and its portion of the  
5 statewide long-range transportation plan that is in addition to  
6 the funding forecasts developed under section (a). The factors  
7 are:

8 (1) local funding options; and

9 (2) a contingency factor not to exceed 10% for potential  
10 increases in state and federal funding.

11

12 §15.21. Cash Flow Forecast.

13 (a) Forecast. On or before September 1 of each year, the  
14 department's chief financial officer will issue a cash flow  
15 forecast for each source of funding that covers a period of not  
16 less than the 20 years following the date the forecast is issued  
17 and is based on the funding assumptions developed under §15.20  
18 of this subchapter.

19 (b) Requirements. The forecast must identify:

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

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

3           (c) First two years. The first two years of the forecast  
4 in even-numbered years must be based on the appropriation of  
5 funds in the General Appropriations Act for the department for  
6 that biennium. The first year of the forecast in odd-numbered  
7 years must be based on the appropriation of funds in the General  
8 Appropriations Act for the department for the second year in  
9 that biennium.

10          (d) Updates. The department's chief financial officer will  
11 update the forecast more frequently as needed if significant  
12 changes in the department's funding occur.

13          (e) Publication. Each cash flow forecast and update will  
14 be available on the department's website for viewing by the  
15 public and the documents will also be available for review at  
16 each of the district offices and at the department's Finance  
17 Division offices in Austin.

18          (f) Uses of forecast. The commission will use the cash flow  
19 forecast to estimate funding levels for each year, determine the  
20 annual amount of funding in each of the program funding  
21 categories described in §15.22 of this subchapter, and allocate  
22 funding to the districts, metropolitan planning organizations,  
23 and other authorized entities in accordance with §15.23 of this



1 subchapter.

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

9  
10 §15.22. Funding Categories.

11 (a) Highway program funding categories. The ten-year  
12 unified transportation program (UTP) described in §15.14 of this  
13 chapter will contain the following 12 program funding categories  
14 for highway related projects:

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

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

22 (B) Preventive maintenance - minor roadway  
23 modifications to improve operations and safety;

1           (2) Category 2 Metropolitan and Urban Corridor Projects -  
2 mobility and added capacity projects along a corridor that  
3 improve transportation facilities in order to decrease travel  
4 time and the level or duration of traffic congestion, and to  
5 increase the safe and efficient movement of people and freight  
6 in metropolitan and urbanized areas;

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

14           (4) Category 4 Statewide Connectivity Corridor Projects -  
15 mobility and added capacity projects on major state highway  
16 system corridors which provide statewide connectivity between  
17 urban areas and corridors, to create a highway connectivity  
18 network composed of the Texas Trunk System, National Highway  
19 System, and connections from those two systems to major ports of  
20 entry on international borders and Texas water 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 Rehabilitation  
3 - replacement and rehabilitation of deficient existing bridges  
4 located on the public highways, roads, and streets in the state,  
5 construction of grade separations at existing highway-railroad  
6 grade crossings, and rehabilitation of deficient railroad  
7 underpasses on the state highway system;

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

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

17 (9) Category 9 Transportation Enhancement -  
18 transportation related projects, including:

19 (A) categories outlined in federal law; and

20 (B) building new safety rest areas and visitor centers  
21 along the state highway system;

22 (10) Category 10 Supplemental Transportation Projects -  
23 transportation related projects that do not qualify for funding

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

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

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

20 (b) Program funding categories for other modes of  
21 transportation and transportation infrastructure. The ten-year  
22 unified transportation program described in §15.14 of this  
23 chapter will contain the following program funding categories

1 for aviation, public transportation, rail, and state's waterways  
2 and coastal waters projects:

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

8 (2) Public Transportation - multimodal related projects  
9 based on the anticipated federal funding levels for transit  
10 including fixed route city bus service, rural demand response  
11 service, special transit service for elderly and persons with  
12 disabilities, and intercity bus service from city to city;

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

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

20 (c) Determination of funding allocations. The commission  
21 will determine, subject to the mandates of state and federal law  
22 and specific requirements contained in other chapters under this  
23 title for programs and projects described in subsection (b), the

1 amount of funds to be allocated to each program funding category  
2 for the appropriate period of time.

3

4 §15.23. Transportation Allocation Funding Formulas.

5 (a) Formula allocations. The commission will, subject to  
6 the mandates of state and federal law, allocate funds from  
7 program funding Categories 1, 2, 4, 5, 7, 9, and 11 described in  
8 §15.22 of this subchapter to the districts and metropolitan  
9 planning organizations (MPO) in the following manner:

10 (1) Category 1 Preventive Maintenance and Rehabilitation  
11 - will be allocated to all districts according to the following  
12 formulas:

13 (A) preventive maintenance:

14 (i) 98% for roadway maintenance with 65% based on on-  
15 system lane miles, and 33% based on the pavement distress score  
16 Pace factor; and

17 (ii) 2% for bridge maintenance based on square  
18 footage of on-system span bridge deck area;

19 (B) rehabilitation: 32.5% based on three-year average  
20 lane miles of pavement distress scores less than 70, 20% based  
21 on on-system vehicle miles traveled per lane mile, 32.5% based  
22 on equivalent single axle load miles for on-system, off-system,  
23 and interstate, and 15% based on the pavement distress score

1 Pace factor;

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

4 (A) 90% to MPOs operating in areas that are  
5 transportation management areas, according to the following  
6 formula: 30% based on total vehicle miles traveled on and off  
7 the state highway system, 17% based on census population, 10%  
8 based on lane miles on-system, 14% based on truck vehicle miles  
9 traveled on-system, 7% based on percentage of census population  
10 below the federal poverty level, 15% based on congestion, and 7%  
11 based on fatal and incapacitating vehicle crashes;

12 (B) 10% to MPOs operating in areas that are not  
13 transportation management areas, according to the following  
14 formula: 20% based on total vehicle miles traveled on and off  
15 the state highway system, 25% based on census population, 8%  
16 based on lane miles on-system, 15% based on truck vehicle miles  
17 traveled on-system, 4% based on percentage of census population  
18 below the federal poverty level, 8% based on centerline miles  
19 on-system, 10% based on congestion, and 10% based on fatal and  
20 incapacitating vehicle crashes;

21 (3) Category 4 Statewide Connectivity Corridor Projects -  
22 will be allocated to districts for specific projects selected by  
23 the commission based on engineering analysis of projects on

1 three corridor types:

2 (A) Mobility corridors - congestion considerations in  
3 areas that are not in the boundaries of an MPO;

4 (B) Connectivity corridors - two-lane roadways  
5 requiring upgrade to four-lane divided to connect the urban  
6 areas of the state;

7 (C) Strategic corridors - strategic corridor additions  
8 to the state highway network;

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

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

17 (6) Category 9 Transportation Enhancement - Fifty percent  
18 of all funds in this program funding category will be allocated  
19 to MPOs operating in areas that are transportation management  
20 areas based on the following formula: census population; and

21 (7) Category 11 District Discretionary - will be  
22 allocated to all districts based on state legislative mandates,  
23 but if there is no mandate or the amount of available funding in



1 this category exceeds the minimum required by a mandate, the  
2 funding allocation for this category or the excess funding, as  
3 applicable, will be according to the following formula: 70%  
4 based on annual on-system vehicle miles traveled, 20% based on  
5 annual on-system lane miles, and 10% based on annual truck  
6 vehicle miles traveled.

7 (b) Pace factor definition. In this section, Pace factor  
8 shall mean a calculation used to adjust funding among districts  
9 in order to react to increases and decreases in a district's  
10 need to improve its pavement distress scores. It will slow the  
11 rate of improvement for districts with the highest condition  
12 scores and accelerate the rate of improvement for districts with  
13 the lowest condition scores. The factor is calculated as  
14 follows:

15 (1) determine the district with the highest distress  
16 score;

17 (2) determine the deviation of a district's distress  
18 score from the highest score;

19 (3) total all deviations for all districts from the  
20 maximum score; and

21 (4) allocate either a 33% factor under subsection  
22 (a)(1)(A), or a 15% factor under subsection (a)(1)(B), as  
23 applicable, based on a district's percentage of total

1 deviations.

2 (c) Non-formula allocations. The commission will  
3 determine, subject to the mandates of state and federal law and  
4 specific requirements contained in other chapters under this  
5 title for programs and projects described in subsection (b), the  
6 amount of funding to be allocated to a district, metropolitan  
7 planning organization, political subdivision, governmental  
8 agency, local governmental body, or recipient of a governmental  
9 transportation grant, from each of the following program funding  
10 categories described in §15.22 of this subchapter:

- 11 (1) Category 3 Non-Traditionally Funded Transportation  
12 Projects;
- 13 (2) Category 6 Structures Replacement and Rehabilitation;
- 14 (3) Category 8 Safety;
- 15 (4) Fifty percent of all funds in Category 9  
16 Transportation Enhancement;
- 17 (5) Category 10 Supplemental Transportation Projects;
- 18 (6) Category 12 Strategic Priority;
- 19 (7) Aviation Capital Improvement Program;
- 20 (8) Public Transportation;
- 21 (9) Rail; and
- 22 (10) State's waterways and coastal waters.

23 (d) Formula revisions. The commission will review and, if

1 determined appropriate, revise both the formulas and criteria  
2 for allocation of funds under subsections (a) - (c) every four  
3 years or more frequently as necessary.

4

5 §15.24. Surplus Revenue and Contract Payments Not Allocated by  
6 Formula.

7 (a) Chapter 228 revenue. Revenue from Transportation Code,  
8 §228.005, §228.0055, and §228.006 will be allocated in  
9 accordance with Subchapter A, Chapter 228.

10 (b) Toll project funds. Funds associated with toll  
11 projects under Chapter 228 are not considered revenue allocated  
12 by a formula under §15.23 of this subchapter.

13

14 §15.25. Limitation on Allocation of Funds.

15 (a) Toll project conditions. Neither the commission or the  
16 department may require that a toll project be included in a  
17 region's transportation plan or program as a condition for the  
18 allocation of funds for the construction of projects in the  
19 region.

20 (b) Limitations on allocation decrease. Neither the  
21 commission or the department may:

22 (1) revise a formula as provided in the unified  
23 transportation program under §15.14 of this chapter, or its

1 successor document, in a manner that results in a decrease of an  
2 allocation to a district or metropolitan planning organization  
3 (MPO) because of:

4 (A) the failure of a region to include toll projects in  
5 a region's transportation plan or program;

6 (B) participation by a political subdivision in the  
7 funding of a transportation project in the region, including  
8 the use of money collected in a transportation reinvestment zone  
9 under Transportation Code, §222.106 or §222.107; or

10 (C) payments, project savings, refinancing dividends,  
11 and any other revenue received by the commission or the  
12 department under a comprehensive development agreement and used  
13 to finance the construction, maintenance, or operation of  
14 transportation projects or air quality projects in the region;  
15 or

16 (2) take any other action that would reduce funding  
17 allocated to a district or MPO without the prior consent of the  
18 MPO because of:

19 (A) the failure of a region to include toll projects in  
20 a region's transportation plan or program; or

21 (B) receipt by a region of payments, project savings,  
22 refinancing dividends, and any other revenue received by the  
23 commission or the department under a comprehensive development

1 agreement; or

2 (C) the need of another district or MPO for increased  
3 funding to complete a pending project.

4 (c) Financial assistance for toll projects. Nothing  
5 contained in this section shall preclude the commission or the  
6 department from using funds to design, develop, finance,  
7 construct, maintain, repair, or operate or assist in the design,  
8 development, financing, construction, maintenance, repair, or  
9 operation of toll projects in a region.

10

11 §15.26. Use of Allocated Funds. The funds allocated to a  
12 district or metropolitan planning organization (MPO) under  
13 §15.23 of this subchapter may be used to:

14 (1) pay project costs, provide toll equity, or make  
15 payments under a pass-through toll agreement, for selected  
16 transportation projects; or

17 (2) fund operations costs of an MPO in accordance with  
18 §15.4 of this chapter.

19

20 §15.27. Encumbrance of Allocated Funds. The allocation of  
21 funds to a district or metropolitan planning organization (MPO)  
22 will be encumbered in an amount equal to the engineer's estimate  
23 of the project cost and periodically adjusted to reflect:

1 (1) the bid award;

2 (2) any change orders issued during construction that  
3 modify the bid award; and

4 (3) the total amount paid for a project as of the time it  
5 is completed and closed out.

6

7 §15.28. Voluntary Transfer of Allocated Funds.

8 (a) Transfer of allocated funds. The allocation of funds  
9 to a metropolitan planning organization (MPO) under §15.23 of  
10 this subchapter is subject to a voluntary agreement for the  
11 transfer of a portion of one MPO's allocated funds to another  
12 MPO.

13 (b) Agreement. An agreement for the transfer of allocated  
14 funds shall be in written form, executed by both MPOs, and  
15 approved by the department's executive director. The agreement  
16 must include:

17 (1) the amount of funding to be transferred and the  
18 program funding category described in §15.22 of this subchapter  
19 from which it will be re-allocated;

20 (2) the total amount of funds to be reimbursed from  
21 allocations to the recipient MPO in future years, the applicable  
22 program funding category, the reimbursement period, and the  
23 payment schedule; and

1           (3) a description of the project or projects to be  
2 developed with the transferred funds, including the project  
3 limits, connections with other transportation facilities, and  
4 the geographic area affected.

5           (c) Commission approval. In determining whether to approve  
6 the transfer, the commission will consider the:

7           (1) transportation need for and anticipated public  
8 benefit of the transfer, including:

9           (A) possible loss of federal obligation authority or  
10 apportionment in one or more fiscal years; and

11           (B) need of an MPO for increased funding in order to  
12 complete a pending project;

13           (2) reasonableness of the financial terms submitted in  
14 the agreement; and

15           (3) relationship of the transfer to furthering the  
16 purposes of this chapter.

17           (d) Reimbursement priority. The obligation of a recipient  
18 MPO to reimburse the lending MPO in accordance with the terms of  
19 the agreement described in subsection (b) of this section shall  
20 have priority over all other considerations relating to the  
21 allocation of future funding in the applicable program funding  
22 category to each of the participating MPOs. If, in any fiscal  
23 year, there are not funds in the applicable program funding

1 category available to the recipient MPO sufficient to reimburse  
2 the scheduled payment or payments, all of the recipient MPO's  
3 available funds in that category for that fiscal year will be  
4 re-allocated to the lending MPO. Any remaining unpaid balance  
5 of the scheduled reimbursement shall in the next fiscal year  
6 have priority over all other considerations relating to the  
7 recipient MPO's allocation of funding from the applicable  
8 program funding category. The priorities described in this  
9 subsection are subject to an amendment of the agreement as  
10 authorized by all parties to the agreement.

11 (e) Federal requirements. The transfer and reimbursement  
12 of funds under this section shall be subject to and accomplished  
13 in compliance with all applicable federal requirements.

14  
15 §15.29. Funding Allocation Adjustments.

16 (a) Changes in funding. The allocation of funds to each  
17 program funding category under §15.22 of this subchapter and  
18 from the program funding categories to the districts and  
19 metropolitan planning organizations (MPO) under §15.23 of this  
20 subchapter are subject to the occurrence of significant changes  
21 in the department's funding.

22 (b) Allocation revisions. If a significant change in  
23 funding is identified by the department's chief financial



1 officer in an updated cash flow forecast, the commission may  
2 revise the allocation of funds to each program funding category  
3 and from the program funding categories to the districts and  
4 MPOs and approve:

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

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

11 (A) total amount of the change;

12 (B) priority of the funding category based on the  
13 category's relationship to the stated commission goals as  
14 provided in the statewide long-range transportation plan under  
15 §15.6 of this chapter;

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

17 (D) best interests of the state.

18 (c) Adjustment of programs. After the commission approves a  
19 change in the allocation of funds to a program funding category  
20 under subsection (b), the funds allocated to individual  
21 districts and MPOs will be proportionally adjusted and the  
22 unified transportation program, metropolitan planning  
23 organization ten-year transportation programs, statewide

1 transportation improvement programs, and metropolitan  
2 transportation improvement programs will be revised in  
3 accordance with the applicable change in funding. Specific  
4 projects will be advanced or delayed in the order of the  
5 planning organization's and department's listed priorities.

6 (d) Preference for allocation of funding increases. If the  
7 allocation of funds to a district or MPO is reduced under  
8 subsection (c), any subsequent increase in the allocation of  
9 funds to the applicable program funding category will be  
10 allocated first to the accounts of the districts and MPOs that  
11 were previously reduced.

12 (e) Public involvement. The department will hold at least  
13 one statewide public hearing regarding a proposed change in the  
14 allocation of funds to a program funding category under this  
15 section with an available comment period of at least 30 days  
16 after the date the hearing notice appears in the *Texas Register*  
17 in accordance with the procedures set forth in §15.14(g) of this  
18 chapter.

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

1 SUBCHAPTER D. PROJECT AND PERFORMANCE REPORTING

2

3 §15.30. Project and Performance Reporting System.

4 (a) General. The department will establish a project and  
5 performance reporting system that makes available in a central  
6 location on the department's website information regarding the:

7 (1) delivery of individual transportation projects as  
8 provided in §15.31 of this subchapter;

9 (2) operation and condition of the department's statewide  
10 transportation system as provided in §15.32 of this subchapter;  
11 and

12 (3) funding available for the department's statewide  
13 transportation system and actual expenditures related to the  
14 system as provided in §15.33 of this subchapter.

15 (b) Entry of information. Each district will enter  
16 information about each of its transportation projects into the  
17 project and performance reporting system.

18 (c) Department website. The department will make the  
19 statistical information provided under this subchapter available  
20 on the department's website in more than one downloadable  
21 electronic format. The information will be easily accessible,  
22 understandable, and in a format that allows a person to conduct  
23 electronic searches for information about a specific district, a

1 county, a highway under the jurisdiction of the department, or a  
2 type of road.

3

4 §15.31. Reporting System for Delivery of Individual Projects.

5 (a) Work plan. The department will develop a business work  
6 plan for tracking the delivery of individual transportation  
7 projects, including grouped rehabilitation and preventive  
8 maintenance projects, that are being developed or under  
9 construction and identified in the unified transportation  
10 program (UTP) described in §15.14 of this chapter.

11 (1) Each district will develop a consistently formatted  
12 work plan based on the UTP that contains all projects the  
13 district intends to implement during the next fiscal year and  
14 the following three consecutive fiscal years.

15 (2) The work plan must contain the following information  
16 for each project:

17 (A) an identification of each phase of project  
18 development, including planning, route and environmental impact  
19 studies, design, right-of-way acquisition, utility adjustment,  
20 and construction;

21 (B) the estimated cost of each phase of project  
22 development;

23 (C) a project schedule with timelines for completing

1 each phase of the project;

2 (D) a summary of progress on the project that  
3 identifies whether the project is being completed on-time and  
4 on-budget; and

5 (E) a list of department employees responsible for the  
6 project, including information as to how each person on that  
7 list may be contacted.

8 (3) The department will use the work plan to:

9 (A) assist in preparation of a budget for the district  
10 and the department;

11 (B) monitor the performance of the district; and

12 (C) evaluate the performance of district employees.

13 (4) The department will consolidate the districts' work  
14 plans into a statewide work plan and publish it on the  
15 department's website.

16 (5) The department will update the information contained  
17 in the project and performance reporting system for delivery of  
18 individual transportation projects under this section at least  
19 monthly.

20 (b) Annual Report. As a component of the project and  
21 performance reporting system required by this section, the  
22 department will conduct an annual review of the benchmarks and  
23 timelines of all transportation projects funded under program

1 funding Categories 2, 3, 4, 5, 6, 7, and 12 described in §15.22  
2 of this chapter to determine the completion rates of the  
3 projects and whether the projects were completed on-time and on-  
4 budget. The review will include a report on the level of  
5 achievement statewide and by district, and a status report on  
6 each transportation project listed in the work plan and included  
7 in the program funding categories described in this subsection.

8 (c) Legislative districts. The department will make  
9 available to each member of the legislature a copy of the annual  
10 reports required by this section for each department district  
11 located within the boundaries of a legislative district, and at  
12 the request of a member of the legislature, a senior management  
13 employee of the department will meet with the member to explain  
14 the report.

15 (d) Legislature. The department will provide a copy of the  
16 complete annual report required by this section to the  
17 lieutenant governor, the speaker of the house of  
18 representatives, and the chair of the standing committee of each  
19 house of the legislature with primary jurisdiction over  
20 transportation issues.

21

22 §15.32. Performance Reporting on the Operation and Condition of  
23 the Statewide Transportation System.

1 (a) System performance. The department will develop a set  
2 of performance measures for evaluating the effectiveness of it's  
3 expenditures on the statewide transportation system in achieving  
4 the transportation goals identified by the statewide long-range  
5 transportation plan under §15.6 of this chapter. The  
6 transportation goals include:

- 7 (1) reduce congestion;
- 8 (2) enhance safety;
- 9 (3) expand economic opportunity;
- 10 (4) preserve transportation assets; and
- 11 (5) improve air quality.

12 (b) Performance measures. At a minimum, the performance  
13 measures adopted under subsection (a) will include the:

14 (1) percentage of transportation construction projects  
15 for which the planning, design, and project development phases,  
16 including environmental clearance, right-of-way acquisition, and  
17 utility coordination, are completed on or before the planned  
18 implementation timelines and on-budget;

19 (2) percentage of transportation construction projects  
20 for which construction is completed on or before the planned  
21 implementation timelines and on-budget;

22 (3) total amount spent for right-of-way as a percentage  
23 of the original estimated amount;

1 (4) number of vehicle miles traveled;

2 (5) peak hour travel congestion in the eight largest  
3 metropolitan areas;

4 (6) number of fatalities per 100 million vehicle miles  
5 traveled;

6 (7) percentage of bridges that have a condition rating of  
7 good or better;

8 (8) amounts of money deposited in the state highway fund  
9 and disbursements compared to forecasted amounts;

10 (9) amounts obligated to be spent in connection with  
11 contracts or participation in contracts with historically  
12 underutilized businesses, disadvantaged business enterprises,  
13 and small business enterprises as a percentage of the amounts  
14 spent on all contracts; and

15 (10) percentage of lane miles on the state highway  
16 system that have a pavement condition rating of good or better.

17 (c) Additional performance measures. The commission, as it  
18 deems appropriate, may adopt performance measures in addition to  
19 those listed in subsection (b).

20 (d) Updates. The department will update the information  
21 contained in the project and performance reporting system for  
22 performance measures under this section at least annually.

23 (e) Annual Report. As a component of the project and



1 performance reporting system required by this section, the  
2 department will evaluate and publish a report about the status  
3 of each transportation goal that is identified by the statewide  
4 long-range transportation plan under §15.6 of this chapter. The  
5 department will report on the level of achievement statewide and  
6 by district.

7 (f) Legislative districts. The department will make  
8 available to each member of the legislature a copy of the status  
9 reports for each department district located within the  
10 boundaries of a legislative district, and at the request of a  
11 member of the legislature, a senior management employee of the  
12 department will meet with the member to explain the report.

13 (g) Legislature. The department will provide a copy of the  
14 complete status report to the lieutenant governor, the speaker  
15 of the house of representatives, and the chair of the standing  
16 committee of each house of the legislature with primary  
17 jurisdiction over transportation issues.

18

19 §15.33. Reporting System for Funding and Expenditures.

20 (a) Account information system. The department will  
21 develop an account information reporting system for tracking  
22 money deposited in each separate account and subaccount of the  
23 state highway fund, including subaccounts for toll projects

1 under Chapter 228. The account information will include:

2 (1) the source and amount of the deposited funds;

3 (2) the amount and general type or purpose of expenditure  
4 as described in the comptroller's statewide accounting system;  
5 and

6 (3) the balance in each account and subaccount.

7 (b) Updates. The department will update the account  
8 information reporting system at least quarterly.

9  
10 §15.34. Department Information Consolidation. To the extent  
11 practicable and to avoid duplication of reporting requirements,  
12 the department may combine the reports required under this  
13 subchapter.

14

15

16