APPEARANCES

COMMITTEE MEMBERS PRESENT AND PARTICIPATING:
John McBeth, Chair
Jim Cline, Vice Chair
Marc Whyte
Dietrich Von Biedenfeld
J. R. Salazar
Ken Fickes

TX-DOT PRESENT AND PARTICIPATING:
Eric Gleason, PTN Director
Josh Ribakove, PTN Communications Mgr.
MEETING AGENDA

ITEM

1 Call to Order

2 Guidance on virtual meeting participation

3 Approval of minutes from July 28, 2020 meeting (Action)

4 Review of TxDOT’s CARES Act funding allocation and application of the Texas Administrative Code Section 5311 formula. (Action)

5 Public Comment – public comment will only be accepted during the meeting. Link and details are below. The meeting transcript will be posted on the internet following the meeting

9 Adjourn (Action)
PROCEEDINGS

JOHN MCBETH: Well, I know have 10:05 so I will go ahead and kick off the meeting. This is John McBeth. I’m the Chairman of the Public Transportation Advisory Committee and I am the one that requested this meeting. This is probably one of the more important meetings that we have had in the last year because it deals with the disposition of approximately $143 million, that’s million dollars in CARES Act funding. I thought it was important that the PTAC listened to how this money is going to be distributed or proposed to be distributed by the Public Transportation Team at TxDOT and that we sign off on it so when they go the Commission, they can tell the Commission that the PTAC has signed off on that -- on this. This -- that always seems to carry considerable amount of weight with the Commission as we are an independent body. And with that, I will kick off the meeting.

Welcome all of you and everyone else that’s on the phone, all 47 of you and Josh, if you would, would you do a roll call of the Committee Members? So, everyone knows who is here for this meeting.

JOSH RIBAKOVE: Thank you. We’ll start with the Chair, John McBeth?

JOHN MCBETH: I am here.
JOSH RIBAKOVE: Jim Cline, Vice-Chair.

JIM CLINE: Here.

JOSH RIBAKOVE: Ken Fickes? Ken, I know you’re on, but you might be still muted. You can unmute yourself. Well, I’m unmuting Ken right now.

JOHN MCBETH: Josh, let’s come back to Ken.

JOSH RIBAKOVE: Alright. Ah, there you are Ken. Alright. Dietrich Von Biedenfeld?

DIETRICH VON BIEDENFELD: I’m on the call.

JOSH RIBAKOVE: And Marc Whyte?

JOHN MCBETH: Don’t forget J.R.

JOSH RIBAKOVE: And J.R. Salazar.

J.R. SALAZAR: I’m here.

JOSH RIBAKOVE: And I’m not sure why we haven’t heard from Marc and Ken by audio, but I can tell you that they are both in the meeting.

JOHN MCBETH: Great. Now that we’ve got all the members present for the Public Transportation Advisory Committee, we will -- Josh will provide us briefly a report on the rules and regulations concerning this virtual meeting. So, Josh, if you would, this will be in lieu of your normal safety speech.

JOSH RIBAKOVE: Good morning everybody.

Welcome to our virtual meeting of the Public
Transportation Advisory Committee. There will be an opportunity for public comments in this meeting. The way to do that is to use the chat for the Q&A that belong to the meeting. And I’ll be monitoring those. If your comment or question relates to an Agenda Item on today’s Agenda, then I will read it aloud to the Committee and they will be able to respond. If further discussion is needed, I will be able to unmute your microphone, so please identify yourself when you’re making your question or comment. If your question or comment does not relate to an Agenda Item, I will give that to the Committee after the meeting is over.

And the other thing you should note is you can reach everyone in the meeting through the chat but if you use the Q&A, you’ll only be reaching myself and another TxDoT panelist. That’s all.

JOHN MCBETH: Okay. Thank you. Let’s move on to Item Number 3, approval of the minutes from the July 28, 2020 meeting. It’s an action item. I’ll ask for -- if the minutes are all in order, I’ll ask for a motion from Mr. Whyte and second from J. R. Salazar.

JOSH RIBAKOVE: John, I think Marc Whyte is having some trouble unmuting. I’m gonna see if I can do that from here. Marc, you --

MARC WHYTE: (Indiscernible) --
JOSH RIBAKOVE: There you go.

MARC WHYTE: Can you hear me?

JOSH RIBAKOVE: Yes.

MARC WHYTE: Alright. I don’t know why I couldn’t unmute me, but motions okayed by me.

JOSH RIBAKOVE: I don’t know Marc; you are fading in and out. John, perhaps we should get that -- that motion from someone else.

MARC WHYTE: Can you hear me better now?

JOSH RIBAKOVE: You’re way in the distance. I can hear you but not well.

MARC WHYTE: Okay well, I make the motion as requested and my audio is a little spotty on this, Josh. Is there a call-in number?

JOSH RIBAKOVE: I will email that to you.

MARC WHYTE: Great.

J.R. SALAZAR: This is J.R., I’ll second that motion.

JOHN MCBETH: We have a motion and a second. All in favor signify by saying ay.

(Ay stated in unison.)

JOSH RIBAKOVE: This is Josh, I understand that the two members are having real audio problems right now and that is Ken and Marc. If you would like
to use the chat to signify then we can continue then, and I will email you dial in information. Maybe you’ll get better audio that way.

JOHN MCBETH: Okay. And while we’re waiting on that we will move on to Item Number 4, which a review of TxDOT CARES Act funding allocation and application of the Texas Administrative Code Section 5311 form. This is an Action Item. And the person presenting this will be Eric Gleason of Transportation Division Director for the Texas Department of Public Transportation. Eric, it’s all your show.

ERIC GLEASON: Good morning, John, Committee Members. If you’re having trouble hearing me, go ahead and send Josh a note or just speak up and I’ll try and reposition my phone for this.

So, this is Eric Gleason, Division Director of Public Transportation of the Texas Department of Transportation. What we would like to do today with the Committee is -- is provide the Committee again with some quick background on CARES Act and the amount of funding we received. And walk you through the allocation process that we have used to determine how much each of the 36 Rural Transit Districts get of the total. As the Chair mentioned, the Commission -- we are requesting the Commission that they consider
approval at their January meeting this month of a remaining balance of those funds. So, we are very close to completing the award process around these funds.

So, a quick summary of the Texas apportionment we received from the original CARES Act legislation; this was the legislation passing Congress last Spring. First week of April we received an apportionment of this $143.2 million for the Rural Area Program and it came down to us through our existing regular traditional 5311 Program. So, while the source of CARES money was not the regular 5311 Program, the way in which it came down to us, the pipeline if you will, that FTA used to get the money to us was through the 5311 Program. And when that happened, those funds picked up all the characteristics of the 5311 Program. And the most significant of those being that we have an existing Formula that guide the distribution of those funds in Texas. So, as it came down to us, we applied the Formula, which is in the Texas Administrative Code.

Now in that context, FTA has been clear about their overarching objective for these funds and that was to maintain and sustain existing services giving transit systems the ability to weather whatever impacts they might be incurring as a result of the pandemic.
We established in Texas three priorities for use of these funds: emergency relief. Helping folks address an immediate need, given additional expenses, losses, ridership, loss of revenues, whatever it took to get them through the (indiscernible) term from an emergency relief standpoint.

Economic recovery, not only in the present condition but anticipating of perhaps several years’ worth of economic downturn that may be -- that may end up effecting revenues, non-federal revenues that transit districts rely on for their overall levels of service.

And then finally, the third category was resilience. That is making investments in assets to strengthen and update and modernize existing facilities and fleet so that in the event of a subsequent emergency such as this or an actual emergency in general our transit system is better positioned to weather whatever that emergency might be.

So, with those priorities in mind let’s take a look at how the Administrative Code treats these funds. So, Josh, if you could go to the next slide. So, in general, as these funds flow down to us through the 5311 Program, there is an upfront ability to have some set-asides that is driven by federal guidelines.
and regulation. The first is the requirement that 15% of those funds, however big they may be, 15% of those funds be set aside for intercity bus program support. At the mandatory set-aside off the total. We also have the flexibility as a State to allow to use up to 10% of the overall amount for Program Administration. So those two criteria come from us from the Federal Program. Once it comes into the State Formula, the State Formula generally approaches these funds and their allocations through three avenues, or three pods of money, if you will.

The first is an amount -- a specific amount of money which is hardwired into the code, if you will, of $20.1 million that is allocated among the 36 Rural Transit Districts based on their share of population, land area and performance. The second pod of money that is set-up through our Formula is 10% of the total amount remaining after set-asides can be used for discretionary purposes, we call it “discretionary”.

The Administrative Code is a little more specific in terms of how those funds can be used including distributed on a competitive pro rata basis or to address anomalies or unforeseen conditions. So up to 10% of the total after the set-asides can be used in that purpose -- or in that way. And then whatever
remains, between those two bookends if you will, whatever remains is distributed based on a proportion based of Total Vehicle Miles.

Now overarching this -- this Formula, and this is key to this discussion today, overarching this Formula is the requirement that the Department ensure that there is a fair and equitable distribution of funds. And in a minute, you will see where that came in to play in the allocation of these -- of these funds. And I think it’s -- it’s important to recognize that the Formula in the Administrative Code really is not structured in a way to anticipate this amount of funding. $143 million is about three times our annual apportionment for the 5311 Program. And so, I think it’s fair to say that if this amount of money was a routine amount that we would probably have a different looking Formula. But be that as it may, this is what we had to guide our allocation of funds among the Rural Transit Districts.

The next slide, let’s go to the next slide Josh. Okay. So, the next slide takes what I describe in the previous slide generally and it takes it and breaks it down more specifically in to the buckets with dollar amounts. I’ll walk you through this -- so up at the very top you see the total amount received, $143
million. That -- there are two branches there. There is the Set-Aside branch, which we’ve talked about and we follow that one through to the left, we have the Intercity Bus Set-Aside of 15% which is approximately $21 and a half million and then we did not take any funding from this for our own program oversight or administration. We will absorb the additional effort associated with these funds into our existing budgets for that.

So, moving to the right then when we subtract out the amount of the Intercity Bus Set-Aside, we are left with $121.7 million to then push through the Program and into these three buckets that I described previously. So, on the right-hand side of the chart reading from left to right in the lighter blue boxes, you will see the first box on the left is the $20.1 million. If you jump over to the right-hand side, you’ll see that the “Discretionary” amount is 10% of the number that is in the dark blue box above. And then adding the left-hand box and the right-hand box and subtracting from the 121, we are left with almost $90 million in the middle to be distributed based on Total Vehicle Miles. That kind of gets you set-up for running the Formula.

Now, you recall I talked fair -- about fair
and equitable adjustments. So, what we found was when we ran that $90 million, that approximately $90 million through the Total Vehicle Miles Formula, it revealed to us some -- some issues. The first issue that we became aware of was we saw that a number of relatively small systems were getting higher than what we might expect to be allocations. And in looking further at that we discovered that we had not made an adjustment in our data collections procedures that first were implemented in 2018. We had not made an adjustment to that for six of our smaller Rural Transit Districts that were receiving funding from the larger urbanized area that they were adjacent to, to help provide service within that urban area. When we made that adjustment -- when we caught that -- that -- that issue and then subsequently made the adjustment for it, we identified about $5 and half million that needed to be reallocated among the remaining districts in order to keep everyone (inaudible). So, in this instance, we reached into the “Discretionary” pod of 12 million and took 5 and half million of that money and under the notion of fair and equitable, we redistributed that among the other remaining Rural Transit Districts to make them whole for that timeframe in a FY’18 and ’19 when they did not receive their full share of Vehicle Mile award.
Are there questions on that? I’m gonna stop right there because that was a rather -- kind of hard to follow that explanation virtually. (Indiscernible) -- yes, sir.

JOSH RIBAKOVE: This is Josh, no questions so far.

ERIC GLEASON: Okay. So, we (indiscernible) an issue --

J.R. SALAZAR: Eric?

ERIC GLEASON: Yes.

J.R. SALAZAR: This is J.R.

ERIC GLEASON: Yes, sir.

J.R. SALAZAR: I just have one question, this apportionment amount, is that including the original amount that’s already been distributed? Or is that not counting that apportionment?

ERIC GLEASON: That includes it. This is the total we received.

J.R. SALAZAR: Okay. That’s what I thought. I was just making sure.

ERIC GLEASON: Yeah. Yeah. Now, so, the other thing we -- and so then -- then we had a remaining balance of “Discretionary” of about 6.6 million and you’ll see that at the far-right lighter blue box -- pod. And we distributed that on a pro rata
basis, as allowed, and we chose to distribute it based on each transit districts share of population and land area. So about 6.6 million was distributed that way. That resulted then in a -- in an initial allocation amount for each to the 36 Rural Transit Districts of this total apportionment. When we looked at that result, it was clear that we had an issue, not really an issue because it wasn’t a mistake but that one relatively small Rural Transit District that was wanting -- that was wanting a grant fund exemplary program was getting far more than an amount of funding that they needed or during this timeframe to adjust to the impacts of the pandemic. And when we looked at that we thought that the amount that we saw for that Transit District was just far in excess of a reasonable amount or fair amount, if you will. So, we approached that Transit District and -- in a collaborative fashion and they were very cooperative with us on that. We negotiated with them a different total. And the amount of money that they did not require was then redistributed among the remaining 35 Transit Districts based on proportion share of Vehicle Miles. So, that adjustment didn’t require “Discretionary” money, it -- all we did at the end was to negotiate a different result for one Rural Transit
District and distributed the balance of funds resulting
in from that, we distributed it across all the others
based on their Vehicle Miles. And again, it was done
under the general umbrella of fair and equitable
adjustment.

So, let’s -- let’s take a look at the next
slide. This slide, this gives you a picture without
identifying individual districts, it gives you a
picture where everyone ended up, if you will. A
scattered diagram picture of that. And the average
allocation resulting from this -- the average
allocation going to a transit district was just about
$3.4 million. The range, as you can see at the bottom,
is fairly broad. Anywhere from almost $900,000 to just
over $8 million.

Okay, so let’s go to the next slide, Josh.

So, what happens next with this? So, in December we
obligated the remaining amount of the allocation that
we got in the Federal Grant System and so the State is
fully executed, at the Federal level, to use all of
these funds. And J.R. was asking just a minute ago
about whether or not the $143 million represented just
a remaining balance or the total. The Commission
distributed an initial amount of these funds to Rural
Transit Districts in May, May of last year, about $60
1 million. And so, about half of the money available to Rural Transit Districts was distributed and executed in the Federal Grant System in May of last year. We have now executed in the Grant System the remaining amount of about 60 million, 61 million, and are moving toward a Commission Action at the end of January, January 28th.

So, we completed the obligation in the Federal System. We are in the midst of briefing Commissioners on our decision and we hope to be able to share with everyone what the allocation amounts were as a result of our methodology. We hope to be able to share that by mid-January. We have to complete our Commission briefings first to be certain that they’re comfortable with our recommendations with their meeting this month. And then once we achieve that, we will release what we will describe as Draft Preliminary (Indiscernible) and we will ask individual transit districts to begin building their specific applications in our Electronic Grants System.

We will have a discussion of this at the next scheduled semi-annual Operators Meeting, which is January 27th of this month. The Commission is scheduled -- we are requesting that they take action on these remaining amounts at their January 28th meeting.
And then we hope to then complete in the late-January through February timeframe applications and new grants, amendments to the Federal Grant, as needed, and Project Grant Agreements executed in the January through February timeframe.

So, this is an accelerated schedule. We had been originally contemplating final distribution in the April timeframe. We accelerated it recognizing that the, you know, that our system still needed assistance sooner rather than later and we felt that we would be learning enough about what the economic future holds in this January timeframe. We’ve been learning more about that with the release of the Comptrollers Bi-Annual Revenue Estimate so that folks could plan and -- and prepare, if needed, for any short falls and (indiscernible) in State funding that may be forecast.

Finally, let’s go to the last slide Josh. Many of you are probably aware of the recently completed Relief Legislation in Congress signed by the President. That Legislation included $14 billion for Public Transportation. 13.3 billion of that was allocated to the 5307, the Urbanized Area Program. Almost 680 million was targeted for Rural Area Programs and then $50 million for 5310 Program, which is our Enhanced Mobility of Seniors and Individuals with
Disabilities.

Now, all that sounds good; however, the Legislation also includes some very specific language that established some criteria, some threshold criteria for eligibility. And in those criteria, in the application of those criteria we believe, and I’ve been told by FTA that Texas will not receive any of the Rural Program funding in the Legislation. And in fact, when you look at the Urban Area funding, is it actually going to end up going to a relatively small member of the larger metropolitan systems in the country. Some of which who are in Texas.

So, essentially what the criteria did is they looked at what you reported to the National Transit Database, they looked at what you reported in 2018 for your Rural Program Operating Expense and then they -- they established a minimum threshold that said everyone needs to get at least 125% of that amount. And then they looked at what folks got in the first CARES Act distribution and determined where you were with respect to that threshold based on what you got the first time around. And with that application, our amount the 143.2 million is -- is above that 125%. So, we did not get any of the additional funding that was used to bring everyone up to at least 125%.
The second part of the language in the Legislation then said and if having done that, if there is -- if there are any remaining funds, that those funds will be allocated to only those systems who you just brought up to that 125%. So those same systems who benefited from being brought up to 125% were the only systems eligible to receive any of the remaining balance of that 679 million. And so, since we weren’t part of the original group, we did not receive any of the remaining balance as well.

A similar approach, actually this general approach was first initiated on the urban side and the result of that application on the urban side. So, the largest metropolitan systems in the state received funding, but -- with the exception of Laredo, none of the State funded urban systems. So that’s inclusive of large urbans such as Lubbock and Brownsville and McAllen, none of them and then none of the traditional small urban systems received any money from this Legislation.

We expect FTA to announce, formally announce apportionment amounts at the end of next week. And until we see those and can ask and understand better the calculations that FTA used to determine this, our best speculation at this point is that there will be no
funds coming to us. So obviously, that’s not good news. We have communicated at our Congressional Delegation the situation and I would expect it to continue to play out over the coming months.

We -- we do expect to get some part of the $50 million in the 5310 Program but that 50 million is a relatively small amount for a nation -- for a nationwide program. So, it remains to be seen how much we actually get of that 50 million for 5310.

So that concludes my presentation, Mr. Chair and I will turn the meeting back to you.

John, you might be on mute.

JOHN MCBETH: The last slide -- thank you for your presentation on the CARES Act money and also this last slide concerning the 14 billion. By the way, out of that 13.3 billion, that’s all going to 40 large systems, 40. Nationwide, 40. So they’re going to split 13.3 billion and the 679 million is gonna go to 22 rural systems -- rural systems in 22 states. And after they distributed the first go around, they’re still leaving $400 billion on the table. It’s -- what they have done with this Formula is infamous and like Eric said, TxDOT has contacted our Congressional Delegation but also the Association for Community Transit in Texas, we sent letters to all of our
Congressional Delegations and both of our Senators asking them why would you ever think about doing this to your own State? I mean, this is ridiculous. It’s a miscarriage of justice so we’ll see how that all plays out but at least we’ll get a portion of the 50 million for our Enhanced Mobility of Seniors and Individuals with Disabilities.

With that being said, I’d like to thank Eric for all of the work he and his staff did on putting this presentation together for the CARES Act money. This took a long time and it’s a lot of work and as you can tell it’s very concise. It’s going to be easy to explain to the Commission and hopefully it’ll be even easier if today we can have a motion and second to adopt this process so that Eric can tell the Commission that the PTAC has signed off on this. So, with that, we’ll commit to any discussion or to a motion and a second.

JIM CLINE: John, this is Jim, I definitely — I make a motion to accept this (indiscernible) -- approve as presented.

JOHN MCBETH: We have a motion from Jim to approve as presented. Do I have a second?

DIETRICH VON BIEDENFELD: This is Dietrich, I’ll second.
JOHN MCBETH: We have a motion from Jim and a second from Dietrich. Is there any discussion?

Hearing none, I’ll call to question, all in favor signify by saying ay.

(Ay stated in unison.)

KEN FICKES: This is Ken, I voted ay. Did you hear that?

JOHN MCBETH: I heard Ken say yes.

KEN FICKES: Yeah. I was muted.

JOSH RIBAKOVE: John, in the chat I received an ay from Marc Whyte as well.

JOHN MCBETH: Great. So, do we have a unanimous decision on moving this forward to the Commission?

JOSH RIBAKOVE: We have.

JOHN MCBETH: Okay. With that, Josh do we -- that -- that Item is adopted and Eric, again, thank you and your staff for this work. This is brilliant. It’s so -- considering what y’all had to deal with, this -- you came up with a -- solutions to basically a herculean problem. I know it was like we’re rolling a rock up a hill. We all really appreciate it. With that, Josh are there any public comments?

JOSH RIBAKOVE: John, we don’t have any other public comments at this time. I do want to let you
know that we did achieve unanimous approval of the previous minutes at 10:19 this morning.

JOHN MCBETH: Great. Thank you. With that being said, with no public comments, I will move for Item Number 6, the adjournment and request a motion from J. R. Salazar and a second from James Cline.

J.R. SALAZAR: This is J.R., I move to adjourn.

JIM CLINE: This is Jim Cline, I second that motion.

JOHN MCBETH: We have a motion and a second, any discussion? There being none, we are adjourned. Thank y’all for showing up.

JOSH RIBAKOVE: Thanks everybody.

JOHN MCBETH: Thank you.

JOSH RIBAKOVE: Thanks, everyone. We’re gonna end the meeting know.

(END OF PROCEEDINGS.)
CERTIFICATION PAGE OF AUDIO RECORDING

I, Angelica Mathews, hereby certify that the foregoing is a correct transcription from the audio file of the proceedings in the above-entitled matter.

Please take note that I was not personally present for said recording and, therefore, due to the quality of the audio file provided, inaudibles may have created inaccuracies in the transcription of said recording.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken, and further, that I am not financially or otherwise interested in the outcome of the action.

I further certify that the transcription fee of $________ was paid/will be paid in full by TxDOT - Public Transportation Division.

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Before me, Steven B. Wheeler, on this day personally appeared Angelica Mathews, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 22nd day of January, 2021.

STEVEN B. WHEELER
My Notary ID # 126957070
Expires July 18, 2021

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
COMMISSION EXPIRES: July 18, 2021