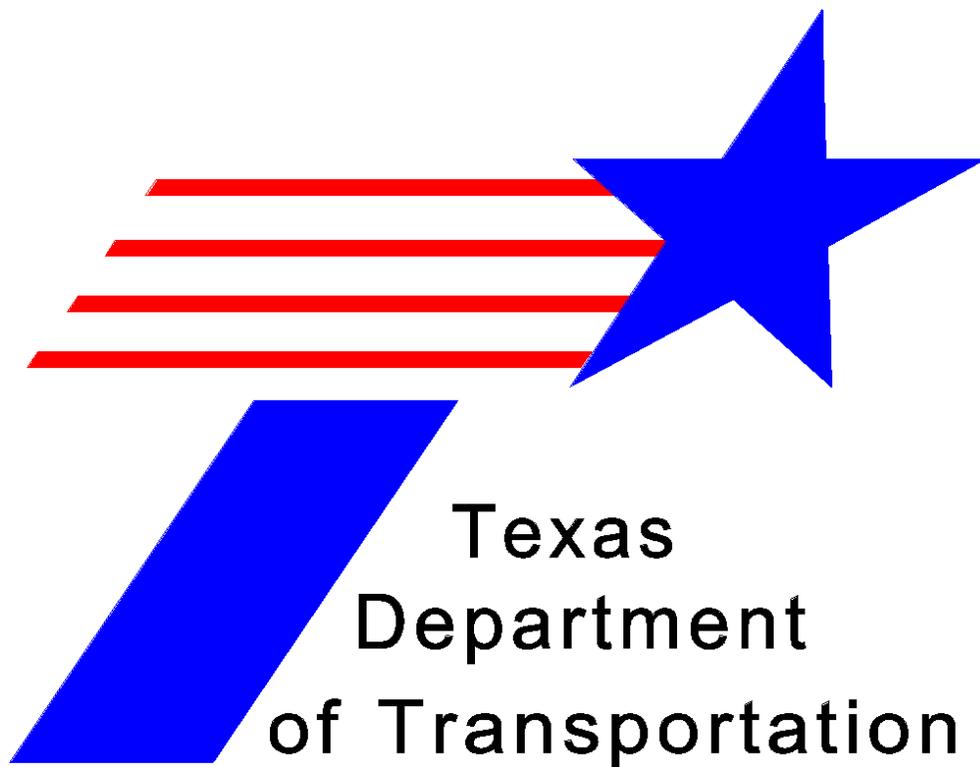


Metropolitan Planning Funds Administration



Revised November 2010

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Manual Notice 2010-2

From: Jim Randall, P.E., Director, TPP Division

Manual: *Metropolitan Planning Funds Administration*

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Purpose

This manual has been revised to make one technical change and minor changes.

Contents

Chapter 1, Section 2, Sign MOA

A technical change is made by deleting the word, "may," to correct the manual and indicate a federal requirement to sign a memorandum of agreement. "The MPO, the state, and the public transportation operators(s) sign a memorandum of agreement to cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process in accordance with [23 CFR §450.314](#)."

Chapter 3, Section 1, Eligible Activities, UPWP Work

A typographical correction is made by replacing the word, "UPWP" with the word, "MPO." "Because the UPWP is funded with federal metropolitan transportation planning funds, the MPO must incur costs only for work that is outlined in the UPWP..."

Chapter 3, Section 1, Audit

A capitalization correction is made for the proper name, "Legislative Audit Committee."

Chapter 3, Section 3, Last Bullet

A typographical correction is made by replacing the word, "must" with the word, "and." "Include revenue and cost estimates that support the metropolitan transportation plan and use an inflation rate..."

Chapter 3, Section 5, Guidelines, Metropolitan Planning

A typographical correction is made by deleting the redundant word, "action." "The federal administrators will take the appropriate action for each TMA to either issue certification, or deny certification..."

Chapter 3, Section 6, Last Sentence

A typographical correction is made by deleting an editing comment, inadvertently published in the pdf version of the manual.

Chapter 4, Section 3, Inventory

A definition's clarity is improved by changing punctuation and sentence arrangement. "Equipment is defined in federal regulations..."

Chapter 4, Section 4, Requirements

A typographical correction is made by deleting the redundant phrase, "to be included." Subcontracts must include all provisions required by the state or FHWA in the contract between the state and the MPO."

Chapter 4, Section 5, Available Assistance

Punctuation is improved by deleting a colon after "questions" and replacing it with a comma. "If an AUD report includes recommendations, findings, or questions, the district and TPP will coordinate a response."

Contact

Readers may direct questions or suggestions for this manual to the Systems Planning and Programming Section of the Transportation Planning and Programming Division, (512) 486-5038.

Archives

Past manual notices are available in [pdf archive](#).

Table of Contents

Chapter 1 — Introduction

Section 1 — Manual Purpose	1-2
Section 2 — Metropolitan Planning Process Overview	1-3
Section 3 — Metropolitan Planning Funds Overview	1-5
Planning Requirements	1-5
Background	1-5
Federal Funds	1-5
PL Funds Defined	1-6
Section 4 — Authority	1-8
Federal Law and Regulations	1-8
State Law	1-8
Duties	1-8
Monitoring	1-9

Chapter 2 — Planning Contract Development

Section 1 — State and MPO Interaction	2-2
Communication	2-2
Example Planning Contracts	2-2
Contract Execution	2-2
Contract Period	2-3
Contract Amendments	2-3
Contract Monitoring	2-3
Letter of Authorization	2-3
MOA with Transit Operators	2-4

Chapter 3 — Planning Program Administration

Section 1 — Unified Planning Work Program (UPWP)	3-2
Overview	3-2
Eligible Activities	3-3
Format	3-4
Contents	3-4
Appendices	3-5
FTA 5303 Worksheet	3-5
Self-Certification	3-5
Reimbursements	3-5
Revisions	3-8
Reporting (APER)	3-8
Monitoring	3-9

On-Site Monitoring Form	3-10
TxDOT Oversight Responsibility Agreement	3-10
Records Retention	3-10
Audit	3-11
Section 2 — Transportation Improvement Program (TIP)	3-12
Overview	3-12
Authority	3-12
Requirements	3-12
Development	3-13
Essential Components	3-14
Approval Process	3-14
Amendments	3-14
Section 3 — Metropolitan Transportation Plan (MTP)	3-16
Section 4 — Annual Listing of Obligated Projects	3-17
Section 5 — Planning Process Self-Certification	3-18
Self-Certification Form	3-18
Frequency	3-19
Guidelines	3-19
Section 6 — Public Participation	3-22

Chapter 4 — Planning Contract Administration

Section 1 — Procurements	4-2
Standards	4-2
Certification	4-3
Example Procurement Standards	4-3
Section 2 — Payments	4-4
Frequency	4-4
Incurred Costs	4-4
Required Information	4-4
Support Documentation	4-4
Cost Principles	4-5
Voucher Processing	4-5
End of Year Billing	4-5
Section 3 — Property Management	4-6
Existing Requirements	4-6
Capital Expenditures	4-6
Equipment Ownership	4-6
Allowable Use	4-6
Records	4-6
Inventory	4-7

Additional Standards	4-8
Disposition	4-8
Section 4 — Subcontracts	4-10
Requirements	4-10
Prior Authorization	4-10
Prior Authorization Exception	4-10
Example Subcontract	4-10
Distribution	4-10
Section 5 — Audit	4-11
Standards	4-11
Requirements	4-11
District Responsibility	4-11
Available Assistance	4-12
Section 6 — Close Out	4-13
UPWP Close Out	4-13
When to Close Out	4-13
Required Reports	4-13
Consequences	4-13
Section 7 — Debarment/Suspension	4-14
Eligibility Certification	4-14
Example Certification	4-14

Appendix A — Useful Website Links

Introduction	A-1
Useful Website Links	A-1

Chapter 1

Introduction

Contents:

- Section 1 — Manual Purpose
- Section 2 — Metropolitan Planning Process Overview
- Section 3 — Metropolitan Planning Funds Overview
- Section 4 — Authority

Section 1

Manual Purpose

This manual provides the necessary knowledge of and references to federal and state laws, regulations, and rules that pertain to the metropolitan transportation planning process. It describes the various responsibilities of the Texas Department of Transportation (the department) and the Metropolitan Planning Organizations (MPOs) in Texas.

District personnel may refer to this manual when administering and monitoring funds from transportation planning grants to MPOs. This manual also provides tools and resources for effective administration of the metropolitan planning process and it provides direction on where to obtain more information.

Section 2

Metropolitan Planning Process Overview

The metropolitan transportation planning process is a federally mandated and funded prerequisite for the approval of programs and projects in urbanized areas pursuant to [23 CFR Part 450](#) and [49 CFR Part 613](#). The Metropolitan Planning Organization (MPO) is a significant partner with the Texas Department of Transportation's (the department) planning activities in urbanized areas.

In general, the metropolitan planning process involves the following activities:

- ◆ **Designate MPO.** The governor designates the MPO and executes an agreement to effectuate that designation as per [23 USC §134\(d\)](#), Designation of Metropolitan Planning Organizations. These powers and responsibilities have been delegated to the Texas Transportation Commission.
- ◆ **Execute Planning Contract.** The department and the MPO enter into a contractual agreement ([planning contract](#)) that establishes terms and conditions for performance and payment.
- ◆ **Approve UPWP.** The MPO may develop and submit an annual or if desired, a biennial Unified Planning Work Program ([UPWP](#)), which, when approved, becomes the current budget and statement of work and is incorporated into the planning contract by reference. Federal approval of each MPO's UPWP is a requirement.
- ◆ **Authorize Federal Funding.** The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) approve the UPWP and then issue an authorization to the department to expend FHWA [PL funds](#) and FTA [Section 5303 funds](#) for metropolitan planning.
- ◆ **Issue Letter of Authorization.** The Transportation Planning and Programming Division (TPP) issues a [letter of authorization](#) to the MPO indicating the available funding, and the district monitors MPO performance, assuring that the UPWP's terms of agreement and objectives will be met.
- ◆ **Certify Procurement Procedures.** The MPO may self-certify its procurement procedures with a [Certification of Compliance](#) to be in accordance with [49 CFR §18.36\(g\)\(3\)\(ii\)](#).
- ◆ **Conduct Property Inventory.** The MPO performs a physical inventory at least every two years of MPO property acquired with federal funds. See [49 CFR §18.32\(d\)\(2\)](#).
- ◆ **Certify Planning Process.** The department's district engineer and the MPO jointly certify the planning process with the UPWP submittal to satisfy the annual certification requirement in [43 TAC §15.5\(h\)\(1\)](#). They also jointly certify the planning process with the TIP submittal to satisfy the certification requirement in [23 CFR §450.334](#).
- ◆ **Sign MOA.** The MPO, the state, and the public transportation operator(s) sign a memorandum of agreement ([MOA](#)) to cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process in accordance with [23 CFR §450.314](#).

FHWA has recommended a single written agreement between all parties to accomplish that task.

Section 3

Metropolitan Planning Funds Overview

Planning Requirements

Federal law ([23 USC §134](#)) and state promulgated rules ([43 TAC Chapter 15](#)) mandate a comprehensive, continuing, cooperative (3-C) planning process between state and local governments in urbanized areas (cities having a population of 50,000 or more) that results in plans and programs consistent with the comprehensively planned development of the urbanized area. Federal funds are allocated to the states on a formula basis to fund the planning process.

The department is responsible for monitoring and obtaining assurance of MPO compliance with federal and state requirements. State law must be followed when it is more restrictive than the federal requirements.

The department contracts with each MPO to establish terms and conditions under which the MPO will operate. There are currently 25 MPOs in Texas which share an annual budget of approximately \$22 million in PL funds and approximately \$7 million in Section 5303 funds.

Background

The department through its district offices was originally responsible for developing and carrying out the planning process when first initiated in the mid 1960's. Through the district offices, the department developed and staffed a planning process. In the [1973 Federal-Aid Highway Act](#) (PL 93-87), federal regulations were implemented which required the governor of each state to designate an MPO for each urbanized area to assume this responsibility, in cooperation with the department, for the metropolitan planning process. Section 112 of the 1973 Act newly established metropolitan planning funds (PL funds) for the MPOs to use for approved transportation planning activities.

Federal Funds

The federal government apportions funds to assist, stimulate, and support the transportation planning process. These funds are awarded in grants to the department as the grantee. Subgrants are then awarded by the department to MPOs as subrecipients. MPOs may also award subgrants to other subrecipients, such as a local government, for transportation planning work.

Metropolitan PL funds are a 1.25 percent deduction of five federal construction program allocations: (1.) Interstate Maintenance, (2.) National Highway System, (3.) Surface Transportation Program, (4.) Highway Bridge Replacement and Rehabilitation, and (5.) Congestion Mitigation and Air Quality Improvement.

The Federal Highway Administration (FHWA) apportions PL funds to the department which are then all made available to the MPOs. MPO distribution is by formula developed cooperatively between the department and MPOs, through the Association of Texas Metropolitan Planning Organizations ([TEMPO](#)), and approved by FHWA. The department uses State Planning and Research Program funds (SPR) for grant administration, not PL funds.

The Federal Transit Administration ([FTA](#)) also provides funding (commonly referred to as FTA Section 5303 funds) to the MPOs for planning activities. See [49 USC §§5303](#), [5305](#), and [5308](#). MPO distribution is by formula developed cooperatively between the department and the MPOs (through TEMPO), and approved by FTA. The department does not use Section 5303 funds for grant administration, but uses SPR funds instead.

FHWA PL funds and FTA Section 5303 funds are combined into the Transportation Planning Fund (TPF) for use by the MPOs.

Regardless of funding source, federal funds that support metropolitan planning may be used to plan for and evaluate any mode of transportation.

PL Funds Defined

PL funds are those available for MPOs to carry out the metropolitan transportation planning process required by [23 USC §134](#), including the development of metropolitan area transportation plans and transportation improvement programs. Apportionments of PL funds are addressed in [23 USC §104\(f\)](#).

PL funds are also discussed in [A Guide to Federal-Aid Programs and Projects](#), within the document, Metropolitan Planning Funds. (Find the document by linking to the guide's main page, then scrolling down the table of contents).

From the guide's document on Metropolitan Planning Funds:

- ◆ Eligible activities include conducting inventories of existing routes to determine their physical condition and capacity, determining the types and volumes of vehicles using these routes, predicting the level and location of future population, employment, and economic growth, and using such information to determine current and future transportation needs.
- ◆ The Transportation Equity Act for the 21st Century ([TEA-21](#)) did not alter the basic provisions for PL funds. However, with the restructuring of the federal-aid highway program under the TEA-21, the categories of funds that PL funds are derived from has changed. In addition to increasing the PL takedown to 1.25 percent, [SAFETEA-LU](#) added a new provision, [23 USC 104\(4\)\(B\)](#), that requires states to reimburse an MPO for PL funds expended within 30 days of receipt of a request for reimbursement from the MPO.

The following terms are often used interchangeably to indicate federal highway metropolitan planning funds:

Interchangeable Terms for PL Funds

PL funds	PL program funds	Metropolitan planning funds
PL-112 funds	PL-112 program funds	FHWA highway planning funds

Section 4

Authority

Federal Law and Regulations

- ◆ [23 CFR §450.300](#) establishes an ongoing transportation planning process in urbanized areas and further creates a single-focus planning organization with basic responsibilities in these areas. These regulations combined with [49 CFR Part 18](#) implement the federal law applicable to the transportation planning process in urbanized areas. The regulations:
 - ◆ Define the MPO as the forum for cooperative transportation planning.
 - ◆ Establish funding and administrative requirements.
 - ◆ Require the development of the following:
 - Unified Planning Work Program ([UPWP](#))
 - Metropolitan Transportation Plan ([MTP](#))
 - Transportation Improvement Program ([TIP](#))
 - Annual Performance and Expenditure Report ([APER](#))
 - [Annual Listing](#) of Obligated Projects.

At the time the UPWP document is submitted as well as at the time the TIP element is submitted, the state and the MPO certify to FHWA/FTA that the planning process is consistent with, and being conducted in conformance with specific program objectives including transportation planning, public transportation, clean air, civil and minority business rights, and rights of elderly individuals and individuals with disabilities.

State Law

Texas Transportation Code [§201.703](#) and [§221.003](#) (scroll down on linked pages) authorize the department to expend federal and state funds for improvements to the state highway system, and for improvements to roads not on the system of state highways, as may be necessary for proper construction and prosecution of the work. This legislation permits the state to provide the necessary non-federal match (20 percent) for planning the integrated network of federal, state, and local roads.

Duties

The TxDOT Transportation Planning and Programming Division (TPP) is responsible for providing general oversight to carrying out the metropolitan transportation planning process by the department. In turn, the department's districts provide day-to-day involvement in the operations of

the activity. This partnership effectively ensures the department's compliance with known requirements.

Monitoring

In administration of federal grants ([PL funds](#) and [Section 5303 funds](#)), FHWA/FTA are the grantors, the department is the grantee, and in the case of planning funds, the MPOs are the subrecipients. In 49 CFR Part 18, known as the "Common Rule" for administering federal grants; [§18.40](#), *Monitoring and Reporting Program Performance, (a) Monitoring by Grantees*, states:

Grantees are responsible for managing day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with acceptable federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function, and activity.

Chapter 2

Planning Contract Development

Contents:

Section 1 — State and MPO Interaction

Section 1

State and MPO Interaction

Communication

The relationship between the Texas Department of Transportation (TxDOT) and the Metropolitan Planning Organizations (MPOs) is that of a long-term partnership. For this reason, TxDOT will support open communication with the MPOs to:

- ◆ Guide and assist MPOs as needed.
- ◆ Inform MPOs of new or different requirements and practices.

Example Planning Contracts

It is the purpose of a planning contract to make provisions for cooperative mutual determination of responsibilities in carrying out the metropolitan transportation planning process. These responsibilities should be clearly identified in a planning contract between the MPO, TxDOT, and the fiscal agent serving the metropolitan planning area, often a city.

The department and the MPO also enter into a contractual agreement to establish the terms and conditions for performance and payment. This contract is commonly referred to as an MPO planning contract. Three example planning contracts are provided in this manual:

- ◆ [Example planning contract for most MPOs](#)
- ◆ [Example planning contract for Council of Government \(COG\)-based MPOs](#)
- ◆ [Example planning contract for the North Central Texas Council of Governments \(NCTCOG\)](#)

TPP is the office of primary responsibility for current versions of the contracts' templates.

Contract Execution

TPP coordinates with the district office who obtains the MPO policy board's and fiscal agent's signatures. The director of TPP then executes the planning contract with the final signature and date. TPP provides the contract copies to the district, MPO, and MPO fiscal agent.

Once the contract is executed, the approved UPWP is incorporated into the existing planning contract by reference (Article 7.1). This incorporation occurs when the approved UPWP refers to the existing, executed planning contract.

The planning contract is executed by the following entities:

Planning Contract Execution

Entity	Authorized Signatory	Role
◆ State of Texas	◆ TPP Director	◆ Oversight for Planning Process Program
◆ MPO	◆ MPO Policy Board Chair	◆ Decision Making for the MPO
◆ City, or ◆ Council of Government (COG)	◆ City in MPO Area, or ◆ Local Council of Government (COG), or ◆ North Central Texas COG	◆ Fiscal Agent for the MPO

Contract Period

The planning contract is written to be as flexible as practical. At the end of the contract's initial six-year period, it may either be terminated and re-negotiated, or extended for no more than two years. The contract is automatically terminated if the MPO loses its designation as the metropolitan area's designated transportation planning organization. All existing contracts prevail until new ones are negotiated. If all terms and conditions of the contract remain viable and no amendment to the existing contract or new contract is required, a letter from the department to the MPO will constitute renewal of the contract.

Contract Amendments

Execution of amendments is required when changes to one or more of the terms and conditions of the contract are necessary. Changes in operation are not valid unless agreed to by the parties and made in writing before implementation.

Contract Monitoring

TxDOT requires cost information documenting salary, benefits, indirect cost rates, and other direct costs to be provided for review to satisfy [23 CFR §420.113\(b\)](#), [49 CFR §18.22](#), and [OMB Circular A-87](#). If at any time the district or division determines that a need exists for a review of any current MPO's costs, the department or its authorized representative will perform the review.

Letter of Authorization

After receiving federal apportionments for metropolitan transportation planning activities, the director of the Transportation Planning and Programming Division (TPP) will issue a letter of authorization to each MPO receiving the funds. The letter will indicate the available funding and the work authority for approved planning activities.

If unexpended funds are available from the previous year, TPP will send out a subsequent letter of authorization that releases the carryover funds to the MPO. See an example letter of authorization [here](#).

MPOs must follow these requirements as noted in a TPP letter of authorization:

- ◆ All metropolitan planning work must be outlined in the approved UPWP.
- ◆ Work must occur within the noted federal fiscal year (October 1 through September 30).
- ◆ All FTA [Section 5303 funds](#) must be depleted before the FHWA [PL funds](#).
- ◆ Charge numbers for FTA Section 5303 funds and FHWA PL funds must be correctly referenced on documents, including [Form 132](#), Billing Statements.

In summary, the letter of authorization will provide the following information:

Letter of Authorization Information

Funding Source	Authorization (Dollars)	Contract Number	Charge Numbers	CFDA Number	Fiscal Year (Federal)
FHWA PL Funds	Varies	Varies	Varies	20.205	October 1 – September 30
FTA Section 5303	Varies		Varies	20.505	October 1 – September 30

CFDA. The Catalog of Federal Domestic Assistance (CFDA) is a government-wide compendium of federal programs that provide assistance or benefits to the American public. TxDOT must track and report all CFDA funds, including metropolitan planning funds.

Each TxDOT letter of authorization to the MPOs must indicate the CFDA number for the metropolitan planning funds.

CFDA numbers for metropolitan planning funds are shown in the CFDA table here:

Catalog of Federal Domestic Assistance (CFDA)

Funding Category	CFDA Title	CFDA Number
FHWA PL Funds	Highway Planning	20.205
FTA Section 5303 Funds	Federal Transit Metropolitan Planning Grants	20.505

MOA with Transit Operators

An example [Memorandum of Agreement](#) (MOA) is available in the TxDOT Forms System that may be used to address requirements of [23 CFR §450.314](#). The regulations require that the MPO, the state, and the public transportation operator(s) cooperatively determine their mutual responsi-

bilities to carry out the metropolitan transportation planning process. FHWA has recommended a single written agreement between all parties to accomplish that task.

TPP is the office of primary responsibility for the example MOA form. The district office may suggest use of the form to the MPO, who may or may not already have an MOA.

Chapter 3

Planning Program Administration

Contents:

- Section 1 — Unified Planning Work Program (UPWP)
- Section 2 — Transportation Improvement Program (TIP)
- Section 3 — Metropolitan Transportation Plan (MTP)
- Section 4 — Annual Listing of Obligated Projects
- Section 5 — Planning Process Self-Certification
- Section 6 — Public Participation

Section 1

Unified Planning Work Program (UPWP)

Overview

General Description. A Unified Planning Work Program (UPWP) is a statement of work that identifies the planning priorities and activities to be carried out within the specific boundary of a designated metropolitan planning area. The department, in consultation with the MPO, develops a time line for developing the UPWP. Failure to adhere to the time line may result in a delay in the authorization for the MPO to incur costs.

At a minimum, a UPWP includes:

- ◆ a description of the planning work and resulting products,
- ◆ responsible organizations performing the work,
- ◆ time frames for completing the work,
- ◆ costs of the work, and
- ◆ source(s) of funding.

NOTE: Federal regulations allow either a one- or two-year UPWP.

MPO Responsibilities. The MPO is responsible for developing a UPWP that meets the requirements of [23 CFR §450.308\(c\)](#) and includes the goals, objectives, and tasks required of the metropolitan transportation planning process.

MPO Policy Board. The MPO's policy board must approve the MPO's proposed UPWP. After receiving the policy board's approval, the MPO submits the approved draft simultaneously to the district, TPP, and TxDOT's Public Transportation Division ([PTN](#)) no later than June 1 of each year. The three departmental offices coordinate, review, and comment on the MPO's draft UPWP. The department sends suggestions to the MPO.

The MPO policy board must approve and provide the UPWP to the department's three offices on or before the first Monday in August:

- ◆ each year for a one-year UPWP, or
- ◆ biennially for a two-year UPWP.

NOTE: The terms MPO policy board and MPO policy committee are used interchangeably.

UPWP Authorization. TPP coordinates the federal approval process of the UPWP with FHWA/FTA. After receiving the federal approvals, the UPWP is incorporated by reference into the exist-

ing [planning contract](#) (Article 7.1). This incorporation occurs when the approved UPWP refers to the existing, executed planning contract.

The effective date of each UPWP is October 1 of each year or the FHWA/FTA date of approval, whichever occurs later. Upon the effective date, the UPWP constitutes a new federal program and supersedes the previous UPWP. After October 1 of each year, TPP issues a [letter of authorization](#) establishing the effective date of work and the funds authorized to the MPO.

UPWP Revisions. If a revision to the UPWP is necessary that affects the original authorization, TPP may issue a revised letter of authorization as appropriate. If funding shown in the UPWP differs from the amount in the letter of authorization, the amount in the authorization letter prevails.

UPWP Amendments. Only the MPO policy board has the authority to provide approval of the UPWP for the area or subsequent amendments. Amendments to the UPWP must be coordinated between the board and the department.

Examples requiring amendments to the UPWP are:

- ◆ actions that change the scope of work
- ◆ actions that result in an increase or decrease in the amount of task funding
- ◆ actions that affect the overall budget.

UPWP Minor Corrections. The MPO policy board may delegate approval authority for minor corrective actions. Examples include typographical, grammatical or syntactical corrections.

Eligible Activities

UPWP Work. Because the UPWP is funded with federal metropolitan transportation planning funds, the MPO must incur costs only for work that is outlined in the UPWP, in accordance with [43 TAC §15.4 \(b\)\(6\)](#) and [23 CFR §420.113\(a\)](#).

Activities Within MAB. The use of federal metropolitan transportation planning funds must be limited to transportation planning activities affecting the transportation system within the metropolitan planning area boundary (MAB) as noted in [23 USC §134\(e\)](#). Any other costs incurred for transportation planning activities outside the MAB will not be eligible for reimbursement.

Outside MAB Exception. If an MPO determines that data collection and analysis activities relating to land use, demographics, or traffic or travel information conducted outside the MAB affect the transportation system within the MAB, then those activities may be undertaken with federal planning funds. However, these activities **must be specifically identified in an approved UPWP**.

Eligible Corridor Activities. The use of federal transportation planning funds must be limited to corridor/subarea level planning, multimodal, or system-wide transit planning studies. Major investment studies and environmental studies are considered corridor level planning.

Ineligible Planning Activities. The use of federal transportation planning funds beyond environmental document preparation or for specific project-level planning and engineering (efforts directly related to a specific project instead of a corridor) is not allowed.

Format

Required Format. The department, in cooperation with the Association of Texas Metropolitan Planning Organizations ([TEMPO](#)), has developed a standard UPWP format to be used in accordance with [43 TAC §15.4\(a\)\(4\)](#). A UPWP submitted in a different format will not be approved.

Example Format. The UPWP and subsequent amendments may be submitted via email. An [example UPWP format](#) is provided by this manual for informational purposes. TPP will provide an actual UPWP template to all Texas MPOs on an annual basis.

Contents

The MPO should at minimum include the following items in the UPWP:

- ◆ **Identification of Tasks.** Each task is identified as an element in the planning process and may contain one or more subtasks. Task identification includes a description of the following:
 - the project
 - previously completed work
 - methodology to accomplish the task
 - the product
 - a work schedule or timetable.
- ◆ **Budget.** A budget will be included in the UPWP. The MPO may not incur costs until final approval of the UPWP is granted. The maximum amount payable will not exceed the amount authorized for that fiscal year.
- ◆ **Use of Consultants.** To engage a consultant for one or more tasks, the UPWP must clearly indicate this intent, including a thorough description of the task(s) to be performed, estimated cost, and etc.
- ◆ **Task Responsibility.** Identify the responsible agency for completing the task. If the MPO intends to engage a consultant, see above requirement.
- ◆ **Task Cost Estimate.** Each task must include an estimated cost.
- ◆ **Task Funding Sources.** The funding source or sources for each task must be shown along with the estimated non-federal participation amount (by fiscal year for 2-year UPWPs). MPOs should assure that [PL funds](#) are clearly identified as FHWA-provided funds and that [Section 5303 funds](#) are clearly identified as FTA-provided funds.

Appendices

Each UPWP must have the following appendices as shown in the [example UPWP](#):

- ◆ Appendix A - Policy Committee Membership
- ◆ Appendix B - Metropolitan Area Boundary Map (color map with date of Board approval)
- ◆ Appendix C - Debarment Certification
- ◆ Appendix D - Lobbying Certification
- ◆ Appendix E - Certification of Compliance
- ◆ Appendix F - MPO Self-Certification

FTA 5303 Worksheet

The MPO must complete an [FTA/TxDOT Section 5303 Worksheet](#) and submit it along with the UPWP and all UPWP appendices. The worksheet must indicate the MPOs proposed budget costs for planning activities that will use FTA Section 5303 funds for the metropolitan planning process.

[PTN](#) is the office of primary responsibility for the latest version of the FTA/TxDOT Section 5303 Worksheet, but TPP will distribute the worksheet each year along with the latest version of the UPWP format. Explanations and contact information for assistance are available in the example FTA/TxDOT Section 5303 Worksheet.

Self-Certification

As part of the UPWP development process, the department and the MPO shall annually self-certify to FHWA/FTA that the planning process is being:

- ◆ addressed for major transportation management issues facing the area
- ◆ conducted in accordance with all applicable requirements of [23 CFR §450.334](#).

See this manual's section on [self-certification](#) for more information.

Reimbursements

Prior Approval. The MPO must obtain written approval from the department prior to incurring any costs for work outlined in the UPWP or any subsequent amendments. The department provides the official written approval to the MPO in a [letter of authorization](#), which is sometimes referred to as a work order. Any cost incurred prior to the necessary approval is not eligible for reimbursement from federal transportation planning funds.

Conditions. The department's reimbursement of any MPO-incurred cost is contingent upon the following:

1. Sufficient federal funds are available to the department for making payments.
2. The incurred cost is authorized in the UPWP. The maximum amount payable under this contract must not exceed the total budgeted amount outlined in the UPWP in accordance with [43 TAC §15.4\(b\)\(7\)](#).
3. The MPO has actually incurred the cost, and it meets the following criteria:
 - a. is verifiable from MPO records;
 - b. is not included as match funds for any other federally-assisted program;
 - c. is necessary and reasonable for the proper and efficient accomplishment of program objectives;
 - d. is the type of charge that would be allowable under [OMB Circular A-87](#), *Cost Principles for State, Local and Indian Tribal Governments*; and
 - e. is not paid by the department or federal government under another assistance program unless authorized to be used as match under that other federal or state agreement and the laws and regulations to which it is subject.

Requesting Reimbursements. The MPO may submit requests for reimbursement of authorized costs incurred on a semi-monthly basis, but no more than 24 times a year; and no less than monthly as expenses occur.

Request Information. Each request for payment will be submitted in a manner acceptable to the department, which includes at a minimum the following information:

- ◆ UPWP budget category or line item
- ◆ description of the cost
- ◆ quantity
- ◆ price
- ◆ total.

Request Deadline. No later than December 31, the MPO must submit to the department all final request(s) for reimbursement from the fiscal year that ended three months prior on September 30.

Eligible Items. According to OMB Circular A-87, the costs of meetings and conferences, where the primary purpose is the dissemination of technical information, including meals, transportation, rental of meeting facilities and other incidental costs are allowable. Further, OMB Circular A-87 states that the costs are allowable if they are necessary and reasonable for the proper and efficient performance and administration of federal awards.

Meals Policy. Based on OMB circular A-87, the department established the following meals policy for MPOs to follow when purchasing meals (food and soft drinks) with metropolitan transportation planning funds (PL funds and Section 5303 funds):

Meals Policy Using Planning Funds

Situations	Conditions
<ul style="list-style-type: none"> ◆ MPO-Sponsored Meetings, or ◆ Conferences 	<ol style="list-style-type: none"> 1. Primary purpose of situation is dissemination of technical information, and 2. Costs are necessary and reasonable for the proper and efficient performance and administration of planning funds.

NOTE: Costs of alcoholic beverages are unallowable.

Meals Documentation. To ensure that planning funds are spent appropriately, the districts and the MPOs are encouraged to adhere to the following practices:

- ◆ If the MPO intends to use planning funds for the purchase of meals for a meeting, a notice should be sent to the district prior to any funds being expended. The notice should outline the nature of the meeting at which the meals are to be provided, and the estimated total cost of the meals.
- ◆ Both entities should keep a record of the notice on file.

To assist the districts in establishing a process to implement the meals' policy, TPP has developed [example wording](#) for the purchase of meals with metropolitan planning funds.

In-State Travel. Reimbursement for in-state travel does not require prior departmental approval of the trip. Requests for reimbursement are submitted to the department using the TxDOT [Form 132](#) Billing Statement.

Out-of-State Travel. The department must approve the use of federal transportation planning funds for travel outside of Texas by MPO staff and other agencies participating in the MPO planning process. Department approval must be provided to the MPO prior to incurring any costs associated with the actual travel (e.g., registration fees).

Out-of State Travel Exceptions. The following out-of-state travel exceptions are treated as in-state travel expenses:

Out of State Travel Exceptions

If the travel is...	Treat it as...
at the request of the department	in-state travel expenses
to Arkansas by the Texarkana MPO staff	
to New Mexico by the El Paso MPO staff	

Elected Officials' Travel. Federal transportation planning funds may not be expended for travel costs incurred by elected officials.

Revisions

When approved by the department, FHWA, and FTA, the UPWP becomes the statement of work and a contract for that fiscal year's budget. As such, any revision must be approved in the appropriate method:

Less Than 25%. If the proposed change will cause the estimated cost of one task to overrun/underrun by an amount **less than 25 percent** of the task total, but the total budget will not be exceeded due to an overrun/underrun in another task, the MPO is authorized to overrun/underrun, and no notice is required.

Greater Than 25%. If the proposed change will cause the estimated cost of one task to overrun/underrun by an amount **greater than 25 percent** of the task total, but the total budget will not be exceeded due to an overrun/underrun in another task, or if an increase in funding is requested, the following typical procedures can be used:

1. The MPO Policy Board revises the UPWP and forwards the document to the district.
2. The district reviews and forwards it to the TPP.
3. TPP submits the revision to FHWA and FTA for written approval.

Significant Work Changes. If additional funding is requested but is not available, the additional work will not be approved. If the proposed change does not affect the task funding but represents a significant change in the scope, complexity, nature, or outcome of the task, the FHWA/FTA must approve the change.

Non-TMA or TMA Changes. By agreement with FHWA, if an [attainment](#) non-TMA MPO revises its UPWP, TPP will review and approve or reject the revision. Copies of approved amended UPWPs will be transmitted to FHWA, FTA, and PTN for information. In the case of [TMAs](#), no work authorization will be issued by the department to the MPO prior to receiving FHWA/FTA approval of its UPWP or revision.

Reporting (APER)

APER. To permit program monitoring and reporting, the MPOs must prepare and submit an Annual Performance and Expenditure Report ([APER](#)) of progress to TPP no later than December 31 of each year. Refer to [23 CFR §420.117\(b\)\(1\)](#). A uniform format for the annual report has been established by the department in cooperation with [TEMPO](#). If task expenditures overrun or under-run a budgeted task amount by 25 percent or more, the annual performance and expenditure report must include an explanation as to why the overrun or underrun occurred.

APER Development. The MPO develops the APER and submits it to TPP through the district office. TPP in turn forwards the document to FHWA, FTA, and PTN. The report must at a minimum contain:

- ◆ Comparison of actual performance with established goals.
- ◆ Progress in meeting schedules.
- ◆ Status of expenditures in a format compatible with the work program, including a comparison of budgeted amounts and actual cost incurred.
- ◆ Cost overruns or underruns.
- ◆ Approved work program revisions.
- ◆ Other pertinent supporting data.

Monitoring

Monitoring Requirement. In accordance with [49 CFR §18.40](#), the state DOT is responsible for monitoring all activities performed by its staff or by subrecipients of FHWA and FTA planning funds to assure that the work is being managed and performed satisfactorily and that time schedules are being met. FHWA and FTA are the grantors, TxDOT is the grantee, and the MPO is the subrecipient.

Monitoring Activities. The district office is responsible for monitoring the day to day performance of the MPO. Monitoring in general consists of evaluation of actual performance compared to established goals, schedules of progress, and work program revisions established in the UPWP. Monitoring also includes reviewing activity budgets and cost overruns or underruns.

District monitoring also involves attending meetings of technical and administrative committees, reviewing reports and records of meetings, and performing site visits to the MPO headquarters as well as possible audits of requests for payment.

On-Site Visits. An on-site visit is available as a management tool and the district may make site visits as frequently as needed; however, a minimum of quarterly visits is recommended. The on-site visit, which functions distinctly separate from attendance at committee meetings or other district contacts with the MPO, is conducted at the MPO headquarters to review source documents and or other administrative records. During a site visit, the district is authorized to:

- ◆ Review MPO accomplishments during the period preceding the inspection.
- ◆ Review the MPO's management control systems, including purchasing, contracting, personnel, etc.
- ◆ Verify MPO cost records including personnel time charges. See any of the [example planning contracts](#) Article 8, Compensation, 3(a).
- ◆ Provide technical assistance as may be required.

- ◆ Examine financial records periodically to determine that source documents are properly maintained.
- ◆ Review the progress of the MPO in implementing the current UPWP.
- ◆ Discuss potential problems or unanticipated situations.

On-Site Monitoring Form

An on-site monitoring form ([Form 2370](#)) in the TxDOT Forms System should be used to document on-site visits, and retained in district files. In the event of an unusual finding, a copy should be forwarded to TPP.

TxDOT Oversight Responsibility Agreement

TPP and FHWA have signed an [oversight responsibility agreement](#) regarding attainment non-TMA MPOs. Following is a summary of the agreement's review and approval processes:

- ◆ FHWA reviews and approves the initial UPWP. TPP reviews and approves all subsequent revisions and send copies to FHWA and FTA.
- ◆ FHWA provides an obligation letter to the department for obligating the full unobligated balance to the MPOs. TPP manages and tracks the contingency amounts of each MPO. If an MPO revises its UPWP, the department reviews and approves or rejects the revision.
- ◆ FHWA's reviews are not conducted unless TxDOT deems necessary by individual circumstances. The department provides documentation to ensure FHWA that the Joint Record of Review for the State Transportation Improvement Program (STIP) planning procedures are being followed.
- ◆ TPP submits to FHWA/FTA a copy of the [APER](#) for each MPO.
- ◆ The department reviews and approves all equipment purchases over \$5000 in accordance with [OMB Circular A-87](#).
- ◆ FHWA and FTA conduct process reviews on the department's program management as deemed necessary.
- ◆ The department implements necessary actions to carry out its oversight responsibilities.

Records Retention

In general when grant support is continued or renewed at annual or other intervals, the retention period for each funding period is three years. The three years' starting date begins the on the day that the grantee or subrecipient submits to the awarding agency its single or last expenditure report for that period. Refer to [49 CFR §18.42](#).

Audit

The MPO shall comply with the requirements of [OMB Circular A-133](#), *Audit Requirements for State and Local Governments*, and shall promptly furnish a copy of any state auditor's report to the district and TPP. The MPO shall repay the department any funds determined ineligible for federal reimbursement.

As stated in the MPO planning contract, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under a planning contract or indirectly through a related MPO subcontract. Acceptance of funds directly under the planning contract or indirectly through a related subcontract acts as acceptance of the authority of the state auditor. A state auditor is under the direction of the Legislative Audit Committee to conduct an audit or investigation in connection with those funds.

Section 2

Transportation Improvement Program (TIP)

Overview

The MPO, in cooperation with the department and public transportation operators, must develop a Transportation Improvement Program ([TIP](#)) for the metropolitan planning area ([23 CFR §450.324](#)). The TIP is a four-year program of transportation projects and strategies formally implementing the MPO's Metropolitan Transportation Plan ([MTP](#)). A region's means of allocating limited transportation resources to projects and programs, the TIP establishes a clear set of short-term transportation priorities. Every two years, each MPO must develop a four-year TIP. The twenty-five Texas MPO TIPs are then incorporated verbatim along with the twenty-four TxDOT rural TIPs to form the Statewide Transportation Improvement Program ([STIP](#)) for Texas.

Authority

Authorities for the TIP include:

- ◆ [23 USC §134\(h\) and \(j\)](#)
- ◆ [49 USC §5303\(j\)](#)
- ◆ [23 CFR §§450.324, 450.326, 450.328, and 450.330](#)
- ◆ [Title VI of the Civil Rights Act of 1964](#) (See also [23 CFR Part 200](#))
- ◆ [Executive Order 12898](#)
- ◆ [Clean Air Act Amendments of 1990](#) (See also [42 USC Chapter 85](#))

Requirements

Requirements for the TIP include:

- ◆ Development in cooperation with TxDOT and public transportation operators.
- ◆ Criteria and process for prioritizing implementation of transportation plan elements.
- ◆ Financial plan, including operations and maintenance.
- ◆ Identification of the agencies responsible for carrying out the project or phase.
- ◆ Updated at least every four years.
- ◆ Reasonable opportunity for public comment.
- ◆ Publish draft and final on website.
- ◆ A minimum four-year timeframe.

- ◆ Financial constraint by year, by funding program.
- ◆ Consistency with the Metropolitan Transportation Plan (MTP);
- ◆ For each project or phase, estimated total project cost, description, amount of federal funds, and sources of non-federal funds proposed to be obligated during each program year for the project or phase.
- ◆ Conformity with the State Implementation Plan ([SIP](#)).
- ◆ Status of SIP Transportation Control Measures ([TCM](#)) implementation if applicable.
- ◆ Capital and non-capital surface transportation projects (or phases of projects) of federal and state financed highway, transit, bicycle, enhancement, and other eligible transportation projects ([23 USC Chapter 1](#) and [Chapter 2](#), and [49 USC Chapter 53](#)).
- ◆ All regionally significant projects requiring an action by the FHWA or the FTA.

Development

The TIP records a program or prioritized listing of transportation projects covering a period of four years for the MPO area, and including projects and strategies sponsored by a variety of agencies. While the TIP is a federal requirement, it also serves as a focal point for the planning process as the short term vehicle for implementation of the MTP.

Funding Source Impact. The TIP partners cooperatively set priorities for the program, project selection, and funding that are consistent with the goals and objectives of the MTP. Each partner has a responsibility in the development of the TIP. Most partners bring federal, state, or local funds to the process. The ultimate decision on particular projects depends upon the source of funds. Certain federal funds allow the state the final decision in cooperation with the MPO, while other federal funds allow the MPO the final decision in collaboration with the state. Local project sponsors have the final lead on projects funded primarily with local funds, and the state has final lead on state funded projects.

Public Access. Each MPO should review the public participation activities in its approved [Public Participation Plan](#) (PPP) and develop a strategy for engaging the public. This process must include specific activities which allow the public access to the TIP development process and reasonable opportunity to comment on the draft TIP.

Air Conformity. For air quality [non-attainment areas](#), the MPO, FHWA, and FTA must make a conformity determination that the TIP conforms to the State Implementation Plan (SIP). In nonattainment and maintenance areas, priority shall be given to the timely implementation of Transportation Control Measures (TCMs) contained in the applicable SIP.

EJ Population Impacts. The TIP must include an analysis of the impacts of the projects on the Environmental Justice ([EJ](#)--scroll down) populations.

Establishing a uniform format for listing projects in the TIP and the accompanying financial summary is a joint effort by TxDOT, FTA, FHWA, and [TEMPO](#).

Essential Components

A TIP's essential federal components include:

- ◆ Documentation of public participation activities, written comments and their disposition.
- ◆ Environmental Justice (EJ) assessment of disproportionate, adverse impacts and equitable distribution of benefits among targeted populations.
- ◆ A process to prioritize projects and strategies for transportation with limited resources.
- ◆ Air quality conformity documentation, including emission burdens and projects in each analysis scenario.
- ◆ Financial analysis, including fiscal forecasts, projects funded, limits on project funding, and any special funding arrangements.
- ◆ Accomplishments and delays on major projects from previous TIP.
- ◆ Demonstration that the existing transportation facilities are adequately operated and maintained.

Approval Process

The MPO's proposed TIP must be adopted by the MPO policy board following completion of the MPO public participation process. Following board action, copies of the TIP, including air quality conformity documentation as applicable, must be submitted to the district. The district will review and forward to TPP. The individual TIPs will be included verbatim into the STIP. After federal review and approval of the STIP, including air quality conformity determinations for the nonattainment and maintenance area MPOs, TPP will notify the district office and the MPO of the federal approval.

Amendments

50% Rule. The MPO may amend the TIP as necessary to address regional needs; there are also several circumstances in which an amendment to the TIP is required. Adding a federally funded project or changing the major source of funding of an existing project are situations that mandate amendments to the TIP. An amendment to the TIP is also required when changes in an estimated federal cost exceeds 50 percent and results in a revised total cost exceeding \$1,499,000. A STIP revision is not required when a change in estimated federal cost results in a total project cost of under \$1,500,000. **Note that the 50 percent rule applies only to the federal-aid share of the**

project cost, while the greater than \$1,499,000 applies to the total cost of the increase of the project revision. The following examples identify when a revision will and will not be required:

Examples of STIP Revision Needs

Initial Cost	Revised Cost	Revision Needed (rationale)	
\$800,000	\$1,450,000	no	(increase > 50%, total < 1.499 M)
\$800,000	\$1,550,000	yes	(increase > 50%, total > 1.499 M)
\$1,500,000	\$2,200,000	no	(increase < 50%, total > 1.499 M)
\$1,500,000	\$2,300,000	yes	(increase > 50%, total > 1.499 M)

TIP Revision Requirement. An amendment to a TIP is not completed until the change has also been included in the STIP. Therefore, federal funds cannot be authorized for a project amended to an MPO TIP until the project is also amended into the STIP and approved. The STIP is amended on a quarterly cycle. Any TIP amendments approved by the MPO after a scheduled STIP revision will be incorporated in the next quarterly revision.

Verifying Project Funds. In order to better manage the TIP amendment process, the MPO and district should verify the status of projects' current funding prior to requesting federal authorization by following these recommended district steps:

- ◆ Periodically review the TIP funding status of TxDOT sponsored projects
- ◆ Verify that the TIP includes the most current
 - funding information
 - funding source (federal, state, or local)
 - cost estimate
 - project scope.

By verifying this information on a routine basis, districts will be able to provide timely TIP amendment requests to the appropriate MPO. The MPO should work with other project sponsors to monitor project funding changes.

Transit Amendments. For transit amendments to the TIP, FTA's threshold is a flat +/- 25 percent.

Section 3

Metropolitan Transportation Plan (MTP)

The MPO must review and update the Metropolitan Transportation Plan ([MTP](#)) at least every four years in air quality nonattainment areas and at least every five years in attainment areas ([23 CFR §450.322](#)). The MPO may revise the plan at any time without a requirement to extend the horizon year.

At a minimum, the MTP must:

- ◆ Estimate projected demand for transportation services over a minimum of 20 years.
- ◆ List the existing and proposed facilities that work as an integrated metropolitan transportation system.
- ◆ Describe the operational and maintenance strategies that an MPO will use to preserve and make the most efficient use of the existing system. Strategies should strive to relieve congestion and maximize safety and mobility.
- ◆ Consider the results of the congestion management process in TMAs.
- ◆ Assess the capital investments and other measures needed based on regional priorities and needs.
- ◆ Include design concept and scope descriptions of existing and proposed facilities in air quality nonattainment and maintenance areas.
- ◆ Contain a financial plan that demonstrates how the plan can be implemented, reasonable funding sources, and fiscal constraint.
- ◆ Consider appropriate transportation and transit enhancement activities.
- ◆ Include accommodation of bicycle and pedestrian facilities.
- ◆ Discuss potential environmental mitigation activities.
- ◆ Include revenue and cost estimates that support the metropolitan transportation plan and use an inflation rate(s) to reflect year of expenditure dollars, based on reasonable financial principles and information.

The MPO shall provide interested parties with a reasonable opportunity to comment on the transportation plan through public participation.

The MTP may be amended at any time. The amendment process carries the same requirements as an [MTP update](#), including public participation.

Section 4

Annual Listing of Obligated Projects

The state, public transportation operators, and MPO must cooperatively develop a listing of projects for which federal funds were obligated in the preceding program year ([23 CFR §450.332](#)). The listing must include all federally funded projects authorized or revised to increase obligations in the previous program year and must include:

- ◆ amount of federal funds requested in the TIP
- ◆ type of work
- ◆ beginning and ending points of the project
- ◆ project length in miles
- ◆ federal funding that was obligated during the previous year
- ◆ federal funding remaining and available for subsequent years
- ◆ identification of the agencies responsible for the project or phase.

MPOs shall make their annual listing of obligated projects available to the public by posting the information on websites or other means such as printed reports, publication in local newspapers, or newsletters. The project listing is due to the district no later than 90 days after the end of the federal fiscal year (i.e., by December 31). The district subsequently submits the listing to TPP, who then submits it to FHWA/FTA.

Section 5

Planning Process Self-Certification

Addressing Major Issues. The department and the MPO, in accordance with [43 TAC §15.5\(h\)\(1\)](#), will annually certify to FHWA and FTA that the transportation planning process is addressing the major transportation management issues facing the metropolitan planning area and is being conducted in accordance with all applicable requirements of [23 CFR §§450.218](#) and [23 CFR §450.334](#).

TMA. FHWA and FTA will jointly review and evaluate the transportation planning process for each Transportation Management Area ([TMA](#)) to determine if the process meets the requirements of [23 CFR §450.334\(b\)](#).

FHWA and FTA will either issue or deny certification. If denied, the federal agencies may:

- ◆ withhold all or part of the apportionment attributed to the relevant metropolitan planning area, or
- ◆ withhold approval of all or certain categories of projects.

Upon full, joint certification by FHWA and FTA, approval of projects and all withheld funds will be restored to the metropolitan area, unless the funds have lapsed.

Nonattainment or Maintenance Areas. In TMAs that are [nonattainment or maintenance areas](#) for transportation related air pollutants, FHWA and FTA will also review and evaluate the transportation planning process to assure that the MPO has an adequate process to ensure conformity of plans and programs.

Upon the review and evaluation conducted, FHWA and FTA will jointly make the determinations and certifications provided for in [23 CFR §450.334](#).

Non-TMAs. For non-TMA areas, TxDOT will determine whether the MPO's transportation planning process substantially meets requirements and act accordingly.

Self-Certification Form

Federal regulations specify that the state and the MPO must self-certify that the planning process is addressing the requirements of [23 CFR §§450.218](#) and [.334](#). The MPOs should maintain supporting documentation illustrating how their planning process meets the self-certification requirements. Districts are requested to carefully review the federal and state requirements with their transportation planning partners and work with them to ensure compliance.

An MPO Self-Certification form is found Appendix F of the [example UPWP format](#). The MPO and District Engineer must sign the self-certification form.

Frequency

The state and the MPO must annually submit and certify as a part of the UPWP submittal that the planning process is conducted in accordance with all applicable requirements. The state must submit and certify to FHWA and FTA at least every four years as part of their STIP submittal (including STIP amendments) that their planning process is conducted in accordance with all applicable requirements.

Guidelines

These are some of the substantial items to be considered by the department and the MPO's self-certification process. Each item provides discussion and guidelines.

- ◆ Metropolitan Planning
- ◆ Statewide Planning
- ◆ Environmental Justice
- ◆ Disadvantaged Business Enterprises
- ◆ Americans with Disabilities Act of 1990
- ◆ Restrictions on Influencing Certain Federal Activities
- ◆ Air Pollution Prevention and Control.

Metropolitan Planning. The state and the MPO must annually certify to FHWA and FTA that the planning process is addressing major issues facing the metropolitan planning area and is being conducted in accordance with all applicable transportation planning requirements.

The planning process will undergo joint review and evaluation by FHWA, FTA, and TxDOT no less than once every four years to determine if the process meets requirements for TMAs. The federal administrators will take the appropriate action for each TMA to either issue certification, or deny certification if the TMA planning process fails to substantially meet requirements. If FHWA and FTA jointly determine that the transportation planning process in a TMA does not substantially meet the requirements, they may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the MPO for projects funded under [23 USC Chapter 1](#), and [49 USC Chapter 53](#), (scroll down on website to find Chapter 53) in addition to corrective actions and funding restrictions, or withhold approval of all or certain categories of projects. Upon full, joint certification by FHWA and FTA, all funds withheld will be restored to the metropolitan area, unless they have lapsed.

For non-TMA areas, the department will determine whether an MPO's transportation planning process substantially meets requirements and act accordingly. Refer to [23 CFR §450.334](#); [49 CFR §613](#); [23 USC §134](#); and [49 USC §§5303](#), [5304](#), [5305](#), and [5306](#).

Statewide Planning. The process for developing transportation plans and programs must provide for consideration of all modes of transportation and must be continuous, cooperative, and comprehensive, based on the complexity of the transportation problems to be addressed. The state must coordinate transportation planning activities for metropolitan areas, and must carry out its responsibilities for the development of the transportation portion of the State Implementation Plan ([SIP](#)) to the extent required by the [Clean Air Act](#). The state will carry out the long range planning processes and the STIP development in cooperation and consultation with designated MPOs, affected local transportation officials and affected tribal governments.

The STIP shall include financial plans that demonstrate how the programs can be implemented, indicate resources from public and private sources reasonably expected to be made available for carrying out the programs, and recommend any additional financing strategies for needed projects. Refer to [23 CFR §450.220](#); [23 USC §135](#); [49 USC §§5307](#), [5308](#), [5309](#), [5310](#), [5311](#) and [5323](#).

Title VI, Civil Rights Act of 1964. [Title VI](#) of the Civil Rights Act of 1964 prohibits exclusion from participation, denial of benefits, and discrimination under federally assisted programs on grounds of race, color, or national origin. Title VI assurance regulations were also executed by each state, prohibiting discrimination on the basis of sex or disability. Refer to [23 USC §324](#) and [29 USC §794](#).

Environmental Justice. In support of Title VI regulations, each federal agency must identify and address, as appropriate, disproportionately high adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. The department and MPOs are responsible for developing procedures to collect statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of state highway programs, i.e., relocatees, affected citizens and affected communities. Recipients of federally assisted programs shall keep documentation for federal review, demonstrating the extent to which members of target populations are beneficiaries of such programs. Refer to [EO 12898](#); [23 CFR §200.9 \(b\)\(4\)](#); and [49 CFR §21.9 \(b\)](#).

Disadvantaged Business Enterprises. The Disadvantaged Business Enterprise (DBE) program ensures equal opportunity in transportation contracting markets, addresses the effects of discrimination in transportation contracting, and promotes increased participation in federally funded contracts by small, socially and economically disadvantaged businesses, including minority and women owned enterprises. The statute provides that at least 10 percent of the amounts made available for any federal-aid highways, public transportation, and transportation research and technology program be expended with certified DBEs. Refer to [SAFETEA-LU \(Public Law 85-767\)](#), [TEA-21, §1101\(b\)\(1\) \[Public Law 105-178\]](#); and [49 CFR §26.41](#).

Americans with Disabilities Act of 1990. Programs and activities funded with federal dollars are prohibited from discrimination based on disability. Compliance with the applicable regulations is a condition of receiving federal financial assistance from the U.S. Department of Transportation.

Refer to the [American with Disabilities Act of 1990](#) as amended (PL 101-336); [49 CFR Parts 27, 37](#) and [38](#).

Restrictions on Influencing Certain Federal Activities. No appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing a federal employee regarding the award of federal contracts, grants, loans or cooperative agreements. Refer to [49 CFR Part 20](#).

Clean Air Act: Air Pollution Prevention & Control. All state and local transportation officials will take part in a [3-C](#) planning process in nonattainment areas to determine which planning elements will be developed, adopted and implemented to maintain or improve the air quality for said area. In nonattainment areas that include more than one state, the affected states may jointly undertake and implement air quality planning procedures. For nonattainment areas, activities not conforming to approved SIPs will not be financially supported by the federal government. Priority of funding will be given to those projects or programs that achieve and maintain national primary ambient air quality standards. Refer to [42 USC §§ 7408, 7410, 7504, 7505a, 7506 \(c\) and \(d\), 7511, 7512](#), and [§7604](#); [49 USC Chapter 53](#) (scroll to find Chapter 53); and [23 USC §134](#).

Section 6

Public Participation

Public participation is a critical element of the metropolitan transportation planning process. State rules ([43 TAC §15.5](#)) and federal regulations ([23 CFR §§450.316](#); [.322](#); and [.324](#)) require each MPO to have an adopted a Public Participation Plan (PPP). The planning process must provide complete information, timely public notice, full public access to key decisions, and support early and reasonable opportunity for involvement of the public in developing plans and programs.

The PPP includes how the MPO engages key stakeholders and the public in the planning process and how the MPO consults with federal and state resource agencies.

Under federal requirements, the Public Participation Plan must:

- ◆ Provide adequate notice and timely information to citizens, affected public agencies, transportation agencies, private providers of transportation, affected community segments at key decision points.
- ◆ Provide timely notice and reasonable access to information on issues and processes.
- ◆ Employ visualization techniques to describe plans and TIPs.
- ◆ Make public information, technical and meeting notices available in electronic formats.
- ◆ Hold public meetings at convenient and accessible locations and times.
- ◆ Demonstrate explicit consideration and response to comments.
- ◆ Seek out and consider needs of traditionally underserved populations.
- ◆ Provide additional opportunity for comment if final is substantially different from draft circulated.
- ◆ Coordinate with statewide public participation process.
- ◆ Review the process periodically for effectiveness, and to assure full and open access to decision-making.
- ◆ As part of the final MTP and TIP, provide a summary, analysis, and report on the disposition of significant written and oral comments that are received on the draft MTP and TIP (including the financial plans) as a result of:
 - the participation process in this section, or
 - the interagency consultation process required under the EPA transportation conformity regulations ([40 CFR Part 93](#)).
- ◆ Consult with or coordinate planning with agencies responsible for other planning activities in the area affected by transportation (state and local planned growth, economic development, environmental protection, airport operations, or freight), and give due consideration to other related planning activities in the region.

Chapter 4

Planning Contract Administration

Contents:

- Section 1 — Procurements
- Section 2 — Payments
- Section 3 — Property Management
- Section 4 — Subcontracts
- Section 5 — Audit
- Section 6 — Close Out
- Section 7 — Debarment/Suspension

Section 1

Procurements

Standards

The MPO must maintain approved written procurement procedures that meet or exceed the requirements of [49 CFR Part 18](#), *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments*, as it may be revised or superseded. These procedures will be used for all acquisitions authorized in any UPWP.

According to OMB Circular A-87 the principles for determining allowable costs are:

- ◆ [OMB Circular A-87, 5. Policy](#): This circular establishes principles and standards to provide a uniform approach for determining costs and to promote effective program delivery, efficiency, and better relationships between governmental units and the federal Government.
- ◆ [OMB Circular A-87, Attachment B, Section 15\(a\)](#) states:
 - (1) **Capital expenditure** means the cost of the asset including the cost to put it in place. Capital expenditure for equipment means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protection in transit insurance, freight, and installation may be included in, or excluded from, capital expenditure cost in accordance with the governmental unit's regular accounting practices.
 - (2) **Equipment** means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit for financial statement purposes, or (b) \$5000.

According to [OMB Circular A-133](#), internal control processes should be in place to ensure that transactions are properly recorded to:

1. permit the preparation of reliable financial statements and federal reports,
2. maintain accountability over assets, and
3. demonstrate compliance with laws, regulations, and other compliance requirements.

The MPO also agrees to comply with applicable Buy America requirements set forth in [23 USC §313](#) and regulations found in [23 CFR §635.410](#) and FTA's Buy America regulations in [49 CFR Part 661](#) through its [planning contract](#) with the department. The MPO also agrees to comply with the cargo preference requirements set forth in [46 USC §55305](#) and Maritime Administration regulations set forth in [46 CFR Part 381](#) through its planning contract with the department.

Certification

An example Certification of Compliance for use by the MPO is provided in Appendix E of the UPWP example format. After the procurement procedures are approved, the MPO must submit the signed Certification of Compliance with the UPWP certifying the procurement procedures.

Example Procurement Standards

An example of [contract procurement standards](#) has been developed to help address requirements of [49 CFR Part 18](#).

Section 2

Payments

Frequency

The [planning contract](#) authorizes the MPO to submit requests for payments on a semi-monthly or monthly basis. The department will exercise due diligence in making prompt payment. Refer to the department's Voucher Manual for additional [prompt payment](#) information.

Incurred Costs

The MPO must submit requests for payment for only those costs incurred during the billing period. A cost is incurred when the service is performed or when supplies or goods are received. Costs incurred must be authorized in the approved UPWP, and costs must not be incurred until the [letter of authorization](#) is issued by the department. See the discussion on [reimbursements](#) for additional information.

Required Information

MPOs must submit a request for payment on the TxDOT [Form 132](#) billing statement to the department's district office with information including but not limited to the following:

- ◆ billing period
- ◆ UPWP budget category or line item
- ◆ description of the cost, including date the cost was incurred
- ◆ quantity (when appropriate)
- ◆ price (when appropriate)
- ◆ total due this claim
- ◆ total claimed to date.

Support Documentation

All costs incurred shall be supported by original source documents such as invoices, time sheets, etc. and the documentation must be maintained in MPO files. These records must be made available to state or federal auditors at reasonable times during the fiscal year and for four years following the date of the final performance report.

If at any time during the contract period the district determines that documentation is required in support of a request for payment, the district may request any or all documentation necessary to support the claim.

Cost Principles

As stated in the [UPWP](#) section of this manual, all costs incurred must be necessary and reasonable for the proper and efficient accomplishment of program objectives, and must be the type of charge that would be allowable under [OMB Circular A-87](#), Cost Principles for State and Local Governments, or other appropriate regulation.

The provisions of [49 CFR Part 18](#), Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments, and applicable state law will also govern payments.

Voucher Processing

The period of authorization for each year's UPWP is based on the federal fiscal year, so charges accumulated in the Financial Information Management System (FIMS) on the respective Segment 72 and Segment 74 details will be for the period of October 1, 20xx, through September 30, 20yy.

When the district office processes a voucher for September charges, the fiscal year on the Multi-Vendor Voucher Detail (MVVD) should reflect the state fiscal year.

End of Year Billing

The following procedures have been implemented to facilitate close-out of each year's UPWP:

- ◆ Billings received within 90 days after the close of the federal fiscal year (September 30) in which the PL program is authorized are charged to the PL program on which the work was performed.
- ◆ The amount authorized in the UPWP cannot be exceeded.

Section 3

Property Management

Existing Requirements

[OMB Circular A-87](#), *Cost Principles for State and Local Governments*, includes federal requirements applicable to the department and the MPO. The MPO is bound to comply with the requirements. They are referenced here in this manual to inform the district of the requirements, not to impose additional or new requirements on the MPOs.

Capital Expenditures

OMB Circular A-87 requires approval by the grantor agency before a grantee incurs certain costs. One of these costs is capital expenditures. [49 CFR §18.32](#) also establishes acquisition, use and disposition requirements for equipment.

Equipment Ownership

Title to equipment is vested with the MPO upon acquisition.

Allowable Use

Regulations require the MPO must observe the following standards when using the equipment:

- ◆ The equipment is used in the program for as long as needed, whether or not the program continues to be federally funded.
- ◆ The equipment can be used in other federally funded activities when the equipment is no longer needed for the original program.
- ◆ Other federally funded programs can be allowed to use the equipment (paying a user fee) if such use will not interfere with work on the original program.
- ◆ Equipment is not to be used to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by federal statute.
- ◆ Equipment may be used as trade-in or it can be sold to offset the cost of replacement property subject to the approval of the federal agency.

Records

The regulations further require the MPO to maintain property records that include but are not limited to the following information:

- ◆ description of the property
- ◆ a serial number or other identification number
- ◆ the source of property
- ◆ who holds title
- ◆ acquisition date
- ◆ acquisition cost and amount of federal participation
- ◆ location, use, and condition
- ◆ ultimate disposition date, including the disposal date and sale price.

Inventory

This section focuses on MPO equipment inventory requirements.

[49 CFR §18.32\(d\)](#) states:

1. Property records must be maintained.
2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

FHWA states that under the Federalism rule, individual states are given the authority on what requirements they want to impose on the MPOs. Thus local government subrecipients of state DOTs must follow the procedures specified by the state DOT.

Since FHWA gives the states the authority to decide on what rules and requirements to impose on the MPOs, it is up to the department to define inventory requirements. Having oversight of the metropolitan planning program, the department is fiscally responsible for inventory of equipment and property purchased by the MPOs with federal funds. Therefore, the MPO equipment inventory should not only include capital equipment >\$5,000, but should also cover controlled assets (starting at a certain amount), as described in the TxDOT Property Management Manual and be consistent with TxDOT procedures.

The TxDOT Property Management Manual states:

- ◆ [Personal property](#) is any possession of the State of Texas having sufficient value to warrant inclusion in the fixed asset portion of any official statement(s) of financial condition, or any possession of the State of Texas that, due to the nature of the asset, is required to have management controls placed upon it. [...]

- ◆ **Controlled assets** are items that qualify as personal property, but do not meet the capitalization threshold of \$5,000, but must be secured and tracked due to the nature of the items. Current controlled inventory assets are as follows: [...] microcomputers regardless of cost; items valued from \$500 to \$4,999.99 in the following groups: printers, personal data assistants (with PJS code), and cameras, video or television equipment.

Equipment is defined in federal regulations, [49 CFR §18.3](#) as follows: “Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.”

In order to better define and document operating policies and procedures concerning MPO equipment inventory, as well as to provide clearly written and communicable instructions, the department will develop a consensus policy regarding what equipment should be included in an inventory. This consensus effort will result in creation of a check-off list for the districts to ensure that they have addressed all inventory requirements.

During the consensus process, consideration will also be given to whether an independently conducted inventory obtained by the MPO is acceptable in lieu of the department performing the equipment inventory to avoid duplication of efforts.

Additional Standards

The regulations also require the MPO to observe the following standards in its property management system as per [49 CFR §18.32](#):

- ◆ Develop a control system that includes adequate safeguards to prevent loss, damage, or theft of property, and provides for the investigation of any loss, damage, or theft.
- ◆ Use adequate maintenance procedures to keep the property in good condition.
- ◆ Use proper sales procedures to ensure the highest possible return if property must be sold.

Disposition

When equipment has exceeded its useful life or is no longer needed for the original program or for other activities, the regulations allow disposition in accordance with the following procedures:

- ◆ If current per-unit fair market value is less than \$5,000, it may be retained, sold, or otherwise disposed of with no further obligation to the federal agency.
- ◆ If current per-unit fair market value is more than \$5,000, it may be retained or sold, and the federal agency shall have a right to an amount calculated by multiplying the current market value or proceeds from the sale by the federal agency’s share of the acquisition cost of the equipment.

If the MPO fails to take appropriate disposition actions, the federal agency may direct TxDOT or MPO to take final disposition action, including remittance of proceeds of sale, assignment of equipment to another federal project, etc.

Section 4

Subcontracts

Requirements

Contracts between the MPO and another entity are considered subcontracts, or third-party contracts, by the state. As such, they are subject to the same requirements and standards as is the MPO.

Subcontracts must include all provisions required by the state or FHWA in the contract between the state and the MPO. Subcontractors must be aware of federal and state requirements. Subcontracts are subject to the records retention and accessibility requirements of the MPO.

Prior Authorization

Any subcontract for services rendered by individuals or organizations which are not a part of the MPO's organization, shall not be executed without prior authorization and approval of the subcontract by the department, and when federal funds are involved, by FHWA/FTA also. If the work for the subcontract is authorized in the current approved UPWP, and if the MPO's procurement procedures for [negotiated contracts](#) have been approved by the department either directly or through a Certification of Compliance (Appendix E of the [example UPWP format](#)) by the MPO, the subcontract shall be deemed to be authorized and approved, provided that the subcontract includes all provisions required by the department and the FHWA and FTA. No subcontract will relieve the MPO of its responsibility as determined by the MPO [planning contract](#), Article 15.

Prior Authorization Exception

If the MPO has [certified](#) its procurement procedures with the Certification of Compliance, or if the procedures have been approved by the department and the FHWA/FTA, then the MPO is not required to submit its subcontracts to the state for approval.

Example Subcontract

Districts may provide an [example subcontract](#) for consultant work to MPOs if desired.

Distribution

The MPO must submit a copy of each executed subcontract to the district within thirty days after execution. The district forwards a copy to TPP, who then sends it to FHWA.

Section 5

Audit

Standards

Audits of state DOTs and their subrecipients must be performed in accordance with [OMB Circular A-133](#), *Audits of States, Local Governments, and Non-Profit Organizations*.

Requirements

These standards primarily require an organization-wide audit to be performed by an independent auditor on an annual basis. In Texas, the MPOs generally use their federal cognizant agency's audit. In addition, the TxDOT Audit Office (AUD) works with TPP to develop state audit instructions, and a district should refer questions about the audit results to TPP.

As stated in [OMB Circular A-133, Subpart B \(d\)](#), *Exemption when federal awards expended are less than \$300,000 (\$500,000 for fiscal years ending after December 31, 2003)*:

Non-federal entities that expend less than \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) a year in federal awards are exempt from federal audit requirements for that year, except as noted in [OMB Circular A-133, Subpart B, § .215\(a\)](#) [scroll down on linked page to find], but records must be available for review or audit by appropriate officials of the federal agency, pass-through entity, and General Accounting Office (GAO).

The exemption stated in OMB Circular A-133, Subpart B, § .215(a) states:

Audit under this part in lieu of other audits. An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits, evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors.

District Responsibility

The district office will request an MPO's audit report if the MPO has not submitted it within a reasonable period (90 days) after completion of the audit, and should simultaneously forward a copy of the report to TPP.

Available Assistance

If an AUD report includes recommendations, findings, or questions, the district and TPP will coordinate a response. Any district with questions about the audit procedures is encouraged to contact TPP or AUD.

Section 6

Close Out

UPWP Close Out

Because of wording in the [planning contract](#), it is possible that the department's contract with the MPO could be extended without modification or renegotiation. Although the terms and conditions of the contract may not change, the budget and statement of work will change annually or biennially with approval of a succeeding UPWP. It is actually the UPWP that will be closed out rather than the contract.

When to Close Out

Close out of the UPWP occurs 90 days after the close of the federal fiscal year. It is therefore imperative that the MPO complete all administrative requirements prior to December 31.

Required Reports

Within 90 days after the end of the federal fiscal year for which the UPWP was applicable, the MPO must submit all financial, performance, and other required reports to the district for subsequent forwarding to TPP. TPP then forwards them to FHWA/FTA and PTN. These items include but are not limited to the:

- ◆ Annual Performance and Expenditure Report (APER)
- ◆ Financial status report
- ◆ Final request for payment
- ◆ Annual List of Projects.

Consequences

Failure by the MPOs to submit requests for payment and reports within the specified period will result in a delay in receiving the previous year's carryover funds. Funding would be limited to the FTA's [Section 5303 funds](#) authorization and any new fiscal year [PL funds](#) apportioned to the state by FHWA. Costs cannot be incurred until the federal authorization and the state's [letter of authorization](#) is issued.

Section 7

Debarment/Suspension

Eligibility Certification

The MPO is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under [Executive Order 12549](#), Debarment and Suspension.

The MPO must require any party to a subcontract or purchase order awarded, as specified in [49 CFR Part 18](#) Debarment and Suspension, to certify its eligibility to receive federal funds and, when requested by the department, to furnish a copy of the certification. This provision is also a part of the department's [planning contract](#) with the MPO.

The MPO's debarment certification is submitted with each year's UPWP.

Example Certification

An example Debarment/Certification for [negotiated contracts](#) is in Appendix C of the [example UPWP format](#).

Appendix A

Useful Website Links

Introduction

State requirements must be followed when they are more restrictive than the federal requirements.

Useful Website Links

- ◆ [Texas Administrative Code](#)
 - Transportation Planning Rules, [43 TAC Chapter 15](#)
- ◆ [Texas Transportation Code](#)
- ◆ [United States Code \(USC\)](#)
 - Metropolitan Transportation Planning, [23 USC §134](#)
- ◆ [Code of Federal Regulations \(CFR\)](#)
 - “Common Rule” – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, [49 CFR Part 18](#)
 - Planning Assistance and Standards, [23 CFR Part 450](#)
 - Management and Monitoring Systems, [23 CFR Part 500](#)
- ◆ [Executive Orders \(EO\)](#)
- ◆ [OMB Grants Management Circulars](#)
 - [A-102 - Grants and Cooperative Agreements with State and Local Governments](#)
 - [Circular A-87 Revised, State and Local Governments' Cost Principles](#)
 - A-133 Audit Requirements as published in [Federal Register Notice June 27, 2007, Audits of States, Local Governments, and Non-Profit Organizations](#)
- ◆ [The Federal Register](#)
- ◆ [FHWA Legislation, Regulations, and Guidance](#)
- ◆ [ISTEA](#)
- ◆ [TEA-21](#)
- ◆ [SAFETEA-LU](#)