

ITEM 11 – Information

March 21, 2018

Briefing on a new Metropolitan Transportation Planning Process “3C” Agreement between the State Departments Of Transportation (DOT) and TPB, and on Performance Based Planning and Programming Letters of Agreement

Staff Recommendation: Briefing on the new draft 3C Agreement and Performance Based Planning and Programming Letters of Agreement.

Issues: None

Background: The board will be asked to approve TPB’s new agreement at its April 18 meeting. The FAST Act requires that the metropolitan transportation planning process “3C” agreement be updated by May 2018. Last executed in 2008, the state DOTs, our federal partners and TPB staff have collaborated to develop a new draft agreement which provides written documentation of the regional metropolitan transportation planning process. The signatories include the TPB and the agencies who provide the metropolitan planning funding (DDOT, MDOT, VDOT, VDRPT).

The board will also be briefed on the associated individual performance-based planning and programming (PBPP) letters of agreement (LOA).



MEMORANDUM

TO: Transportation Planning Board
FROM: Sergio Ritacco, Transportation Planner
SUBJECT: Briefing on the new 3C Metropolitan Transportation Planning Agreement
DATE: March 15, 2018

This memorandum provides information on the revised metropolitan transportation planning agreement (“3C” Agreement) that outlines the mutual responsibilities necessary to carry out the metropolitan transportation planning process between the TPB and its funding and oversight agencies. The Transportation Planning Board will be asked to approve the Chair’s signature at its April meeting.

Under federal regulations, the Transportation Planning Board (TPB) must execute an updated “3C” Agreement with its funding and oversight agencies, including State DOTs and State Transit Agencies, by May 26, 2018. Last updated in January 2008, the “3C” Agreement responds to updated MAP-21 and FAST Act rules and regulations governing MPOs, outlines the mutual responsibilities necessary to carry out the metropolitan transportation planning process, and responds to the provisions for a performance-based planning and programming process. A draft of the “3C” Agreement, reviewed by FHWA and FTA partners, MWCOG, VDOT, MDOT, and DDOT counsels, planners, and other technical staff can be found on pages 3 of this item.

In addition to the 3C Agreement, if applicable, participants in the metropolitan planning process also need to document their participation in the performance based planning and programming process. TPB staff has developed a Performance Based Planning and Programming Letter of Agreement (PBPP LOA) to provide the administrative framework for documenting roles and responsibilities in meeting performance-based planning and programming (PBPP) requirements, which may be found in the accompanying memorandum.”

BACKGROUND

First legislated in 2012 in the Moving Ahead for Progress in the 21st Century federal surface transportation act (MAP-21), and subsequently expanded in the Fixing America’s Surface Transportation (FAST) Act of December 2015, the PBPP process calls for the State departments of transportation (“States”), Metropolitan Planning Organizations (“MPOs”); and Providers of Public Transportation to transition to a performance-driven, outcome-based program that provides for a greater level of transparency and accountability, improved project decision-making, and more efficient investment of federal transportation funds, as part of the cooperative, comprehensive and continuing (“3C”) performance-based multimodal transportation planning and programming process for the metropolitan planning area.

On May 27, 2016, FHWA and FTA jointly published the final Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning regulations (23 CFR Parts 450, 771 and 49 CFR Part 613; “Planning Rule”). This final rule updated the regulations governing the development of metropolitan transportation plans and programs for urbanized areas, long-range statewide transportation plans and programs, and the congestion management process, as well as revisions related to the use of and reliance on planning products developed during the planning process for project development and

the environmental review process. The update makes the regulations consistent with current statutory planning requirements, including the new mandate for a PBPP process.

Under 23 CFR 450.314, the Planning Rule requires the TPB, States, and Providers of Public Transportation to cooperatively determine and clearly identify in written agreements the mutual responsibilities necessary to carry out the metropolitan transportation planning process. It directs the parties to periodically review and update these agreements and to implement the provisions of 23 USC 134, 23 USC 150, and 49 USC 5303, as amended (23 CFR 450.314).

For the past six months, staff have been working to update these elements, including consultation with BRTB (Baltimore MPO), our State Technical Working Group (DDOT, MDOT, VDOT, VDRPT, and WMATA), as well as our FTA and FHWA partners. The agreements provided to you today include edits that respond to comments received by FHWA and FTA partners, MWCOC, VDOT, MDOT, and DDOT counsels, planners, and other technical staff.

“3C” METROPOLITAN PLANNING AGREEMENT

To meet the revised requirements, TPB staff developed a new metropolitan planning agreement to replace its current agreement, executed on January 16, 2008, for consideration and execution. Titled “Planning Agreement On Performance Based Metropolitan Transportation Planning Responsibilities for the National Capital Region,” the agreement is consistent with current statutory planning requirements including the new mandate for a Performance-Based Planning and Programming process. These regulations can be found here: [23 CFR Subpart C—Metropolitan Transportation Planning and Programming](#).

Signatories to this agreement are the parties with direct funding and oversight of the TPB, including the metropolitan transportation planning processes and provide Federal Highway Administration PL funds and Federal Transit Administration Section 5303 funds. These parties include the District Department of Transportation, the Maryland Department of Transportation, the Transportation Planning Board, the Virginia Department of Transportation, and the Virginia Department of Rail and Public Transportation.

NEXT STEPS

At its April 2018 meeting, the TPB will be asked to approve execution of the “3C” Agreement by the Chair of the TPB. Final execution of the enclosed “3C” agreements by all parties is required by May 26, 2018, two years from the finalization of the Planning Rule (May 26, 2016).

For questions regarding the metropolitan planning transportation agreement, please contact Lyn Erickson, Plan Development and Coordination Program Director (202-962-3319, lerickson@mwkog.org) or Sergio Ritacco, Transportation Planner (202-962-3232, sritacco@mwkog.org).



DRAFT – National Capital Region Transportation Planning Board
Metropolitan Transportation Planning Agreement – DRAFT

**PLANNING AGREEMENT
ON PERFORMANCE BASED METROPOLITAN TRANSPORTATION PLANNING
RESPONSIBILITIES FOR THE NATIONAL CAPITAL REGION**

This Planning Agreement on Performance Based Metropolitan Transportation Planning Responsibilities for the National Capital Region (“3C” Agreement/Planning Agreement/Agreement) is made and entered into as of **TKDATETK**, by and among the National Capital Region Transportation Planning Board, the region’s Metropolitan Planning Organization (TPB); and the District of Columbia Department of Transportation (DDOT), the State of Maryland Department of Transportation (MDOT), the Commonwealth of Virginia Department of Transportation (VDOT), and the Commonwealth of Virginia Department of Rail and Public Transportation (DRPT), hereinafter referred to as the **States and Providers of Public Transportation**, collectively “the Parties.

WHEREAS, the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) on June 30, 1983 jointly issued, and on May 27, 2016 updated, rules and regulations which require that each urbanized area, as a condition to the receipt of Federal capital or operating assistance, have a continuing, cooperative and comprehensive transportation (3-C) planning process carried out by a metropolitan planning organization (MPO) in cooperation with the States and their local jurisdictions that results in plans and programs consistent with the planned development of the “urbanized area” pursuant to 23 U.S.C. 134, 23 U.S.C. 150, and 49 U.S.C. 5303, as amended; and

WHEREAS, the Fixing America’s Surface Transportation Act (P.L. 114-94)(FAST Act), and the Moving Ahead for Progress in the 21st Century Act (P.L. 112-41) (MAP-21 Act), Sec. 20005, reiterate the need for the 3-C planning process; and

WHEREAS, 23 CFR 450.314 – Metropolitan Planning Agreements – requires MPOs, States and Providers of Public Transportation to cooperatively determine the mutual responsibilities necessary to carry out the metropolitan transportation planning process, and directs MPOs, States and Providers of Public Transportation to periodically review and update these agreements; and

WHEREAS, 23 CFR 450.306 - Scope of the metropolitan transportation planning process – establishes a performance-driven approach to transportation decision-making to be carried out in the metropolitan transportation planning and programming process; and

WHEREAS, the 1990 Clean Air Act Amendments identify specific responsibilities of MPOs relating to air quality planning and the determination of conformity of transportation plans and programs; and

WHEREAS, on July 14, 1966, the TPB was designated as the MPO for the Washington Urbanized Area by an agreement entered into by the Governor of the Commonwealth of Virginia, Governor of the State of Maryland, and the Mayor of the District of Columbia; and

WHEREAS, the TPB serves as the MPO for the National Capital Region, including the Washington DC-VA-MD Urbanized Area, Frederick, MD Urbanized Area, and the Waldorf, MD

DRAFT – National Capital Region Transportation Planning Board
Metropolitan Transportation Planning Agreement – DRAFT

Urbanized Area; and

WHEREAS, the States and Providers of Public Transportation, through agreement with the Metropolitan Washington Council of Governments (COG), as the administrative agent of the TPB, provide for the financial assistance and mutually agree upon terms and conditions for which such assistance will be provided; and

WHEREAS, 23 U.S.C 134[d] [2] and 49 U.S.C 5303[d] [2], as amended by sections 1201 and 20005 of MAP-21, require that, by October 1, 2014, each MPO that serves an area designated as a Transportation Management Areas (TMA), of which the TPB is one, consist of:

1. Local elected officials,
2. Officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by operators of public transportation, and
3. Appropriate State officials; and

WHEREAS, the TPB has long included representation by public transportation operators through a Board structure whose voting membership includes Board representatives from the Washington Metropolitan Area Transit Authority (WMATA), an agency that meets the above MAP-21 criteria and provides the vast majority of public transportation trips in the metropolitan area, and Board representatives from other local public transportation operators who directly fund public transportation, including commuter bus and rail services, thus complying with the MAP-21 requirements in this regard; and

WHEREAS, the TPB's continuous, cooperative, and comprehensive metropolitan planning process, and the States' and Providers of Public Transportation's planning and programming activities provide local jurisdictions, public agencies, individuals, and representatives of public transportation with opportunities to cooperate in the metropolitan transportation planning process; and

WHEREAS, the TPB and States must certify that the federal metropolitan transportation planning process addresses the major issues in the metropolitan planning area and is being conducted in accordance with all the applicable requirements in 23 CFR 450.336; and

WHEREAS, nothing in this Agreement shall be construed as limiting or affecting the legal authorities of the Parties, or as requiring the Parties to perform beyond their respective authority; and

NOW, THEREFORE, the TPB, the States and the Providers of Public Transportation agree that they will conduct a cooperative, comprehensive and continuing transportation planning and programming process for the National Capital Region (Region) and their mutual responsibilities for carrying out this process are described as follows:

Article 1

Scope of the Performance-Based Metropolitan Transportation Planning Process

The TPB, in cooperation with the States and the Providers of Public Transportation, will conduct a performance-driven, outcome-based metropolitan transportation planning process that is continuous, cooperative, and comprehensive and they will develop long-range metropolitan transportation plans and Transportation Improvement Programs (TIPs) that provide for the consideration of projects, strategies, and services to address the federal planning factors specified in 23 CFR 450.306.

The TPB will use a performance-based approach to support the national goals described in 23 USC 150(b) and the general purposes described in 49 USC 5301(b). The approach will establish performance targets that address the performance measures or standards established under 23 CFR part 490 (when applicable), 49 USC 5326(c), and 49 USC 5329(d) to use in tracking progress toward attainment of critical outcomes for the Region. Selection and establishment of performance targets will be in accordance with the appropriate target setting framework established at 23 CFR part 490 and will be coordinated, to the maximum extent practicable, with the relevant States. Selection and establishment of performance targets will also address performance measures described in 49 USC 5326(c) and 49 USC 5329(d) and be coordinated, to the maximum extent practicable, with the relevant public transportation providers.

Either directly or by reference, the TPB will integrate into the metropolitan transportation planning process the goals, objectives, performance measures, and targets described in other State transportation processes, plans, and reports to include factors specified in 23 CFR 450.306(d)(4).

The TPB will carry out the metropolitan planning process in coordination with the States' transportation planning processes that are required in regulations at 23 CFR 450 Subpart B-Statewide and Nonmetropolitan Transportation Planning and Programming.

The TPB will coordinate and prepare the coordinated public transit-human services transportation plan consistent with the metropolitan transportation planning process required by 49 USC 5303.

The TPB carries out the performance-driven, outcome-based metropolitan transportation process by performing a range of activities that promote an integrated approach to transportation development. The TPB activities comply with federal laws and requirements, provide a regional transportation policy framework and forum for coordination, and provide technical resources for decision-making. The TPB's 28 committee and sub-committees, as of date of execution, conduct an average of 10 meetings per month to ensure that TPB members, including the States and Providers of Public Transportation, local jurisdictions, and additional interested parties, engage with and meet the scope of the performance-based metropolitan transportation planning process.

Article 2
Funding for Transportation Planning and the Unified Planning Work Program

The TPB will, in cooperation with the States and Providers of Public Transportation, develop a Unified Planning Work Program (UPWP) that documents the performance-driven, outcome-based approach to metropolitan transportation planning activities in accordance with 23 CFR 450.308 and 23 CFR part 420 and performed with funds provided under 23 USC 104(d), 49 USC 5305(d), and 23 USC 133(d)(4).

The UPWP will document activities, tasks, and the planning priorities facing the metropolitan planning area. The UPWP will identify work proposed for the next 1- or 2-year fiscal period, beginning July 1 and ending June 30, by major activity and task and provide sufficient detail as to who will perform the work, the schedule for completing the work, the resulting products, the proposed funding by activity and task, and a summary of the total amounts and sources of Federal and matching funds.

To fund the activities agreed upon by the TPB and States as described in the UPWP, on October 3, 2003, and amended on September 13, 2008, COG, as the administrative agent for the TPB, and the States executed an Agreement upon which the terms and conditions of administrative support and assistance will be provided.

Between January and March of each year, the TPB, the States and the Providers of Public Transportation, in cooperation with the local jurisdictions and other TPB members, will prepare the UPWP, including documenting the metropolitan transportation planning activities anticipated within the Region. In March, the TPB will approve the UPWP and submit it to FHWA, FTA and the States for approval and funding. When necessary, the TPB can approve amendments, modifications, and technical corrections to the UPWP and submit it to FHWA and FTA for information and review.

- go to next page -

Article 3
Metropolitan Planning Organization Designation and Redesignation

The TPB has been designated the MPO for the National Capital Region by the Governors of Maryland and Virginia, and the Mayor of the District of Columbia to carry out the metropolitan transportation planning process under 23 CFR 450, Subpart C and required by 23 USC 134 and 49 USC 5303, as amended. The TPB includes the contiguous Washington DC-VA-MD Urbanized Area, Frederick, MD Urbanized Area, and Waldorf, MD Urbanized Area.

The Bylaws of the TPB, as amended on February 15, 2017, establish its membership, time and place of meeting, officers, voting procedures, committees, staffing, and relationship to COG, public participation, and procedures for amendments. The States and COG executed an “Agreement for the Support of the Metropolitan Planning Organization Transportation Planning Process in the Washington Metropolitan Area” on October 30, 2003, amended on September 17, 2008, specifying the COG responsibilities for supporting the MPO transportation planning process as described in the annually federally approved UPWP.

In the event there is a need for redesignation, the TPB will carry out the requirements in accordance with the provisions under 23 CFR 450.310.

- go to next page -

DRAFT – National Capital Region Transportation Planning Board
Metropolitan Transportation Planning Agreement – DRAFT

Article 4
Metropolitan Planning Area Boundaries

The TPB will, under agreement between the MPO and Governors and Mayor, determine the boundaries of the metropolitan planning area, as established under 23 CFR 450.312, to accomplish the performance-driven, outcome-based long-range metropolitan planning approach.

After each census, the TPB will review this planning boundary in cooperation with the States and Providers of Public Transportation to determine if the existing boundaries meet the minimum statutory requirements for new and updated urbanized areas. The TPB will adjust the boundary, as necessary, to reflect the most comprehensive boundary to foster an effective planning process that ensures connectivity between modes, improves access to modal systems, and promotes efficient overall transportation investment strategies. The TPB planning boundary for the Region includes the Washington DC-VA-MD Urbanized Area, Frederick, MD Urbanized Area, and the Waldorf, MD Urbanized Area. Figures 1 and 2 on page 18 and 19 show the TPB planning area boundary for the Region, the location of each of the participating local jurisdictions, and the urbanized areas.

Where part of the urbanized areas served by the TPB extends into an adjacent metropolitan planning area, or vice versa, the TPB will establish agreement(s) allowing for minor adjustments to each region's boundaries and outlining responsibilities for each metropolitan planning area overlap. The agreement(s) will also detail coordination processes, the division of transportation planning responsibilities among and between the regions and data sharing for the establishment and measurement of performance targets and standards established under 23 CFR part 490 (as applicable), 49 USC 5326(c), and 49 USC 5329(d). The TPB and the Baltimore Regional Transportation Board established an agreement, on May 12, 2015, for the urbanized areas overlapping the planning areas of those two MPOs. The TPB and the Fredericksburg Area Metropolitan Planning Organization established an agreement, on November 17, 2004, for the urbanized areas overlapping the planning areas of those two MPOs.

- go to next page -

DRAFT – National Capital Region Transportation Planning Board
Metropolitan Transportation Planning Agreement – DRAFT

Article 5
Metropolitan Planning and Supporting Agreements

The TPB will, in cooperation with the States and Providers of Public Transportation, periodically evaluate this Agreement and supporting agreements and cooperatively determine the mutual responsibilities for carrying out the metropolitan transportation planning process under 23 CFR 450.314.

The TPB will, in cooperation with the States and Providers of Public Transportation, periodically evaluate this Agreement and supporting agreements to include specific provisions for the development of financial plans that support the performance-driven, outcome-based long-range metropolitan transportation plan and the Transportation Improvement Program (TIP), and development of the annual listing of obligated projects, as described in Article 9 – Development and Content of the Metropolitan Transportation Plan, Article 10 - Development and Content of the Transportation Improvement Program, and Article 11 – Annual Listing of Projects with Federal Funding Obligations of this Agreement, respectively.

As permitted under 23 CFR 450.314(h)(2)ii) the TPB, with the States and Providers of Public Transportation, and, when applicable, operators of public transportation and local jurisdictions, will jointly document, in the form of Letter(s) of Agreement (LOA), roles and responsibilities for the cooperative development and sharing of information related to transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the Region, and the collection of data for the States' asset management plans for the National Highway System. Outside of this Agreement, the LOA's, executed **TKDATESTK**, among the TPB, States and Providers of Public Transportation, and, where applicable, operators of public transportation and local jurisdictions, will address participation in the metropolitan planning process in general and include performance management provisions for required areas of Highway Safety, Highway Pavement and Bridge Condition, System Performance, Transit Safety, and Transit Asset Management.

The TPB's non-attainment area includes Calvert County, Maryland, which is outside its Metropolitan Planning Area (MPA) but within the Calvert-St. Mary MPO's MPA. In such instances, 23 CFR 450.314(c) requires MPOs to establish a written agreement among the relevant States' departments of transportation, States' air quality agencies, and affected local agencies describing the process for cooperative planning and analysis of all projects outside the MPA and within the nonattainment or maintenance area. The TPB and the Calvert-St. Mary's MPO established an agreement, on January 22, 2016, describing how transportation-related emissions will be treated for purposes of determining conformity in accordance with the EPA's transportation conformity regulations, as required in 40 CFR part 93, subpart A, and address policy mechanisms for resolving conflicts concerning transportation-related emissions that may arise.

As of **DATE** and subject to future adjustments, the TPB's urbanized area includes locations that are within the MPA of two adjacent MPOs and vice-versa. To the south the urbanized area of northern Stafford County, Virginia, while part of the TPB's urbanized area is within

DRAFT – National Capital Region Transportation Planning Board
Metropolitan Transportation Planning Agreement – DRAFT

the MPA of the Fredericksburg MPO (FAMPO). Similarly, parts of Anne Arundel County and Howard County, Maryland, while part of the TPB's urbanized area are within the MPA Baltimore Regional Transportation Board (BRTB). Further the City of Laurel and parts of Prince George's County, Maryland while part of the TPB's MPA are within the BRTB urbanized area. As required under 23 CFR 450.314 (g), when an urbanized area is designated to more than one MPO, the MPOs will establish a written agreement describing the roles and responsibilities of each MPO in coordinating the metropolitan transportation planning process to assure development of consistent metropolitan transportation plans and Transportation Improvement Programs across the Metropolitan Planning Area boundaries, especially when a proposed transportation project extends across the boundaries of the MPA, in accordance with 23 FR 450.314 (e). The TPB and the Fredericksburg Area MPO established an agreement, on November 17, 2004. The TPB and BRTB established an agreement, on May 12, 2015.

- go to next page -

Article 6
Interested Parties, Participation, and Consultation

The TPB will develop, use, and maintain a documented Public Participation Plan (PPP) to provide citizens, affected public agencies, and all interested parties with reasonable opportunities to be involved in the performance-driven metropolitan transportation planning process and to review and comment at key decision points as specified in 23 CFR 450.316. The PPP will be coordinated with the States' public involvement and consultation on transportation planning processes.

- go to next page -

DRAFT

Article 7

**Transportation Planning Studies, Development of Programmatic Mitigation Plans, and
Project Development Process Under the National Environmental Policy Act (NEPA)**

The TPB, the States and the Providers of Public Transportation may undertake a multimodal, systems-level corridor or subarea planning study as part of the metropolitan transportation planning process as specified in 23 CFR 450.318.

The development of these studies will involve consultation with, or joint efforts among, the TPB, States and Providers of Public Transportation. The results or decision of these planning studies may be used as part of the overall project development process consistent with the National Environmental Policy Act (NEPA).

The TPB, the States and the Providers of Public Transportation may also undertake development of programmatic mitigation plans as part of the metropolitan transportation planning process to address the potential environmental impacts of future transportation projects as specified in 23 CFR 450.320.

The development of these plans will involve consultation with, or joint efforts among, the TPB, States and Providers of Public Transportation, FHWA and/or the FTA, and other federal, state, and local agency or agencies with jurisdiction and special expertise over the resources being addressed in the plan(s). These entities will also determine the scope and content of such plan(s) and may integrate these programmatic mitigation plan(s) with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, State Wildlife Action Plans, and land use plans for the region.

- go to next page -

Article 8
Congestion Management Process in Transportation Management Areas

The TPB will, in cooperation with the States and the Providers of Public Transportation, operators of public transportation, and local officials, address congestion management through a process that provides for safe and effective integrated management and operation of the multimodal transportation system, as required by 23 CFR 450.322. This process will be based on the cooperative development and implementation of a metropolitan-wide strategy, including new and existing transportation facilities eligible for funding under title 23 USC and title 49 USC Chapter 53, job access projects, and operational management strategies.

Development of a congestion management process, through the performance-driven transportation planning process, may result in multimodal system performance measures and strategies that can be reflected in the performance-based metropolitan transportation plan, TIP, and performance-driven planning and programming requirements. It may assess the extent of congestion and support the evaluation of the effectiveness of congestion reduction and mobility enhancement strategies for the movement of goods and people.

In lieu of a congestion management process, the TPB may develop a congestion management plan that includes projects and strategies that will be considered in the TIP as specified in 23 CFR 450.322(h).

The TPB conducts the congestion management process through four components: (1) It monitors and evaluates transportation system performance, (2) defines and analyzes strategies, (3) implements strategies and assess, and (4) compiles project-specific congestion management information. It is updated as information becomes available, engagement conducted through the metropolitan planning process, and results incorporated into the performance-driven metropolitan transportation planning and programming requirements as specified in Article 1 - Scope of the Performance-Driven Metropolitan Transportation Planning Process.

- go to next page -

DRAFT – National Capital Region Transportation Planning Board
Metropolitan Transportation Planning Agreement – DRAFT

Article 9
Development and Content of the Metropolitan Transportation Plan

At least every 4 years, the TPB shall develop or amend an integrated multimodal performance-based long-range metropolitan transportation plan that includes both long-range and short-range strategies and actions to facilitate the safe and efficient movement of people and goods in addressing current and future transportation trends and demands as specified in 23 CFR 450.324. The TPB shall approve this plan and submit it for information purposes to the States and make copies of updated and/or revised transportation plans available to the FHWA and FTA.

When updating the performance-based long-range metropolitan transportation plan, the TPB shall base the update on the latest available estimates and assumptions for population, land use, travel, employment, congestion, economic activity, and environmental concerns. The TPB shall approve the performance-based long-range metropolitan transportation plan (Plan) contents and supporting analyses produced for any update to the long-range Plan.

The TPB will make a conformity determination on the Plan and any regionally significant updates or amendments in accordance with the Clean Air Act, the United States Environmental Protection Agency's (EPA's) transportation conformity regulations 40 CFR part 93, subpart A, and the TPB's May 1998 air quality conformity process and agreement titled "Consultation Procedures with Respect to Transportation Conformity Regulations Governing TPB Plans and Programs."

The Plan shall include, at minimum, the elements listed under 23 CFR 450.324 (f)(1-11). The Plan shall be designed such that, once implemented, it makes progress toward achieving the performance targets established under 23 CFR 450.306 (c) and (d). The performance measures and targets and a description of progress made toward target achievement since the Plan's last update shall be included.

As part of the quadrennial update to the Plan, the TPB, States and Providers of Public Transportation will cooperatively develop, share, review, and adopt estimates of revenues and costs required for the financial plan that demonstrate fiscal constraint for the Plan as specified in 23 CFR 450.324(f)(11)).

The TPB uses the committee structures and meeting schedules for the metropolitan transportation process, as needed and as described in Article 1 – Scope of the Performance-Based Metropolitan Transportation Planning Process, to meet the requirements of the Plan as specified in 23 CFR 450.324. The TPB's coordinates with numerous planning processes at the local and state levels to help determine the content of the Plan. The TPB is guided by its own vision and priorities which in turn reflect federal policy guidance.

- go to next page -

Article 10

Development and Content of the Transportation Improvement Program (TIP)

The TPB will develop a TIP for the Region that reflects the investment priorities established in the current long-range metropolitan transportation plan developed pursuant to Article 9 of this Agreement and shall cover a period of no less than four (4) years as specified in 23 CFR 450.326.

The TIP will be updated at least every four (4) years and be approved by the TPB and States for their approval and inclusion in their State Transportation Improvement Programs (STIP). Copies of any updates or revisions will be provided to FHWA and FTA.

The TPB will make a conformity determination on the TIP and any major updates or amendments in accordance with the Clean Air Act and the United States EPA's transportation conformity regulations 40 CFR part 93, subpart A and the air quality conformity process and agreement.

The TPB will provide all interested parties with a reasonable opportunity to comment on the proposed TIP pursuant to the Plan.

The TIP will be designed such that, once implemented, it makes progress toward achieving the performance-driven, outcome-based targets established under 23 CFR §450.306 (c) and (d). A description of how the investments make progress toward achievement of the targets in the Plan shall be included. The TIP will include, at minimum, the elements listed under 23 CFR 450.326 (e) through (h).

The TPB, States and Providers of Public Transportation, will cooperatively develop, share, review, and adopt estimates of costs and estimates of funds that are available or committed or reasonably expected to be available that are required for the financial plan that demonstrate fiscal constraint for the TIP as specified in 23 CFR 450.326 (j) & (k).

The selection of projects from the TIP by the TPB, States and Providers of Public Transportation will be made as specified in 23 CFR 450.332.

TIP amendments and administrative modifications will be consistent with the established Transportation Improvement Program development procedures, the Public Participation Plan, and federal requirements as specified in 23 CFR 450.328. The TIP is amended or modified on a monthly and sometimes even weekly basis, through staff approvals, TPB Steering Committee actions, or large-scale amendments brought to the TPB for adoption.

The TPB uses the committee structures and meeting schedules for the metropolitan transportation process, as needed and as described in Article 1 – Scope of the Performance-Based Metropolitan Transportation Planning Process, to meet the requirements of the TIP for the Region as specified in 23 CFR 450.326. The TPB coordinates with numerous planning processes at the local and state levels to help determine the content of the program. The TPB is guided by its own vision and priorities which in turn reflect federal policy guidance.

- go to next page -

Article 11
Annual Listing of Projects with Federal Funding Obligations

Annually, and no later than 90 days after the close of the program year, which concurs with the Transportation Improvement Program fiscal year, the TPB, States and Providers of Public Transportation will cooperatively develop a listing of projects from the TIP for which federal transportation funds were obligated in the preceding fiscal year. This report will contain the projects and financial information required by 23 CFR 450.334. This report will be made publicly available.

- go to next page -

DRAFT

Article 12
Self-Certification and Federal Certifications

The TPB and the States will certify that the metropolitan planning process for the National Capital Region is being carried out in accordance with all applicable Federal requirements as specified in 23 CFR 450.336 and 23 CFR 450.330.

The TPB develops its self-certification statement describing how its metropolitan transportation planning process meets the federal requirements as specified in 23 CFR 450.336. This statement shall be approved concurrent with approval of the TIP.

- go to next page -

DRAFT

DRAFT – National Capital Region Transportation Planning Board
Metropolitan Transportation Planning Agreement – DRAFT

This Agreement is approved by the respective parties hereto as of the date shown above.

Chair
National Capital Region Transportation Planning Board

Director
District of Columbia Department of Transportation

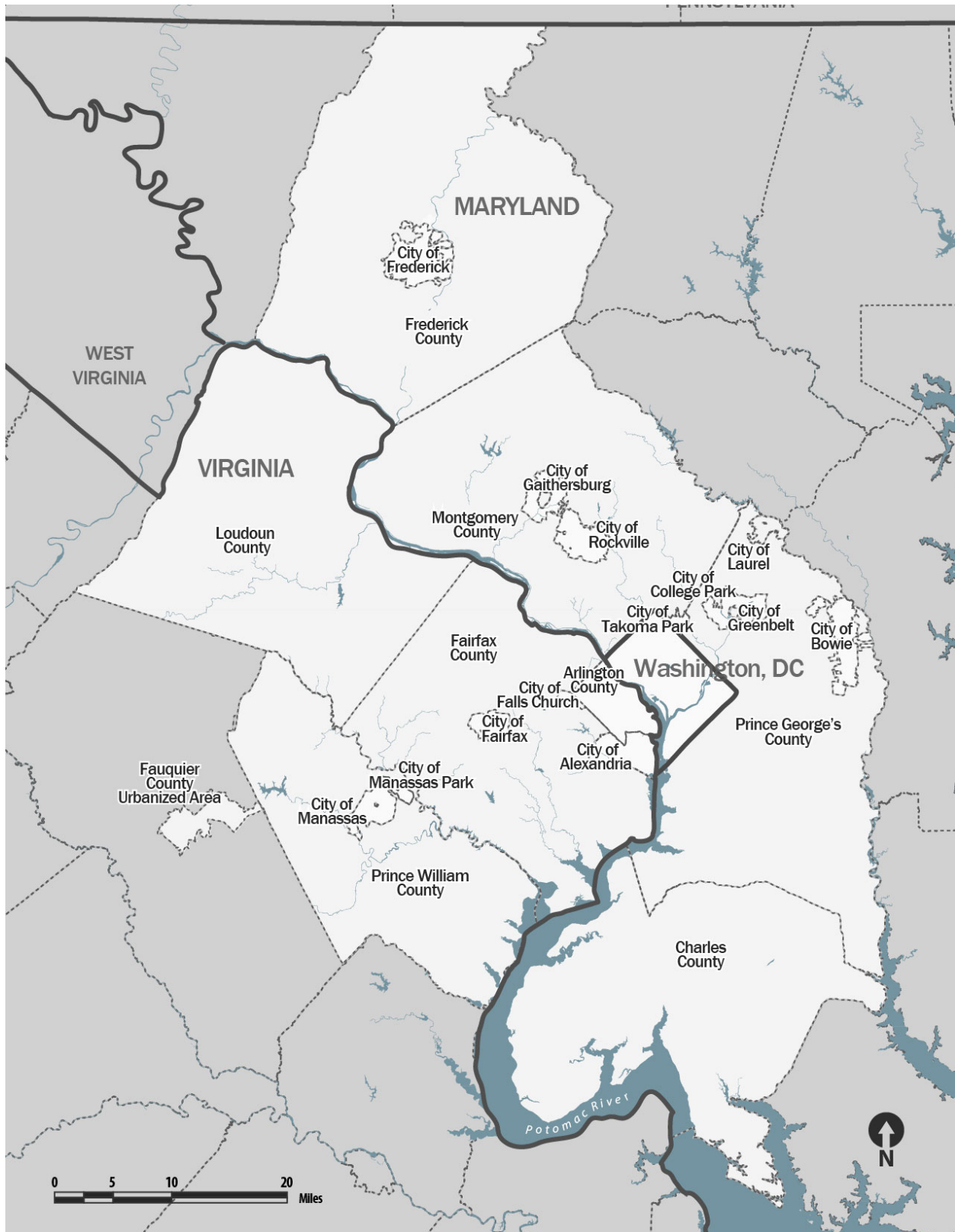
Secretary
Maryland Department of Transportation

Secretary
Virginia Department of Transportation

Director
Virginia Department of Rail and Public Transportation

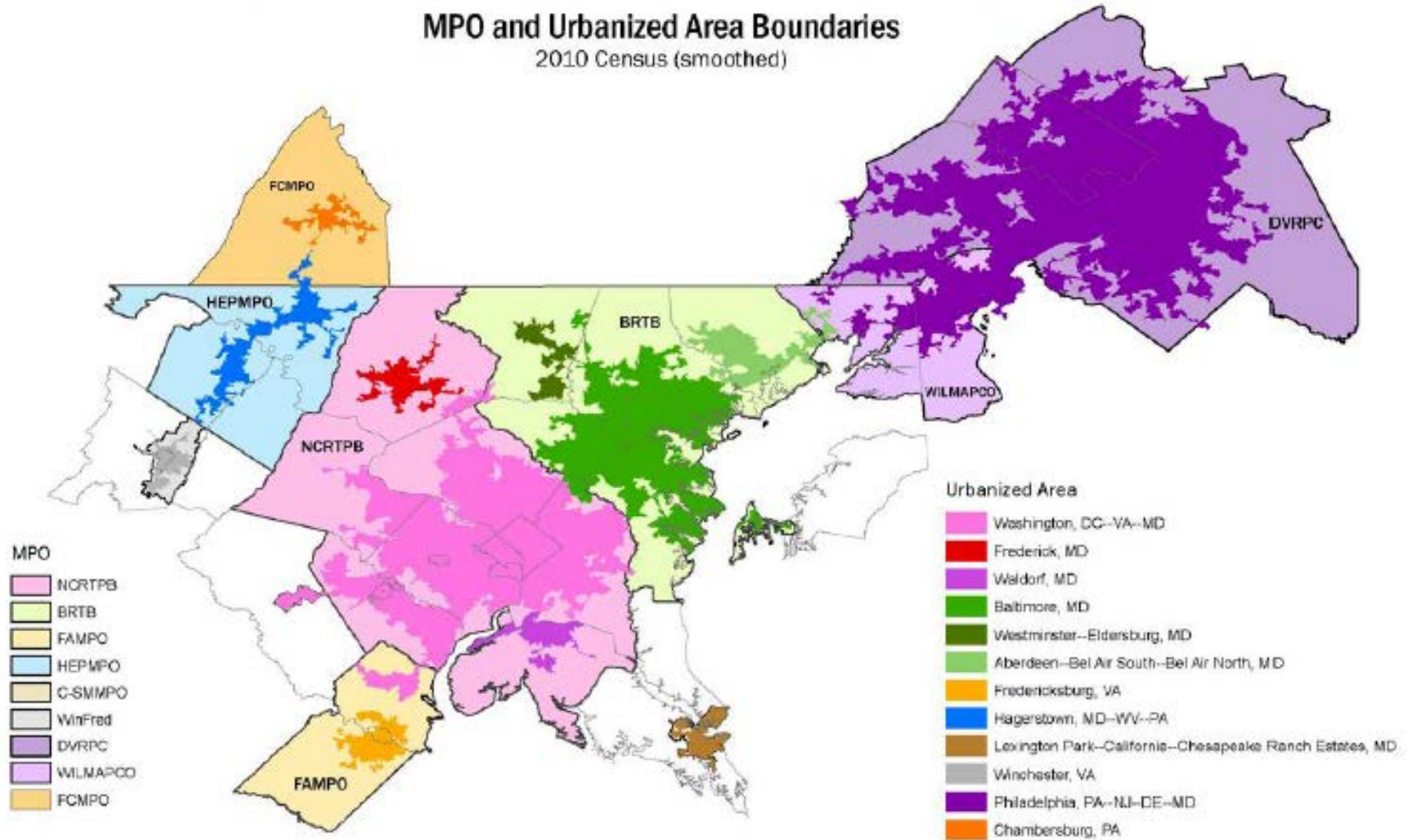
DRAFT – National Capital Region Transportation Planning Board
Metropolitan Transportation Planning Agreement – DRAFT

Figure 1 – TPB Metropolitan Planning Area for the National Capital Region



DRAFT – National Capital Region Transportation Planning Board
 Metropolitan Transportation Planning Agreement – DRAFT

Figure 2 – Urbanized Areas in the TPB National Capital Region





MEMORANDUM

TO: TPB Technical Committee
FROM: Sergio Ritacco, Transportation Planner
SUBJECT: Documentation of responsibilities for federal transportation Performance-Based Planning and Programming (PBPP LOA)
DATE: March 15, 2018

This memorandum provides information on a key provision (23 CFR 450.314(h)) of the federal performance-based planning and programming (PBPP) requirements, to agree on, and document the respective roles and responsibilities of, individual stakeholders in the PBPP process. To meet these specific provisions, the TPB has developed a PBPP Letter of Agreement (PBPP LOA) that would define PBPP responsibilities between the TPB and each individual stakeholder. The TPB will not be asked to approve its execution of these LOAs, however, staff will share the package of the LOAs after all are executed by its September 2018 deadline. An example of a PBPP LOA can be found on page 23 of this item. TPB staff have presented this information to the Technical Committee in January and in March and have already begun the review process with the individual agencies who must execute these LOAs.

PBPP LETTER OF AGREEMENT

The final Statewide and Metropolitan Planning Rule, published May 27, 2016, provides direction and guidance on requirements for implementation of PBPP, including specified measures and data sources, forecasting performance, target-setting, documentation in the statewide and metropolitan long-range transportation plans (Plans) and Transportation Improvement Programs (TIPs), and reporting requirements. The initial part of the PBPP process requires coordination and agreement to formally document specific responsibilities for each agency in accordance with the planning rule.

Two parties must sign each individual agreement: the TPB Executive Director (Kanti Srikanth) and the individual responsible agency. Table 1 identifies the responsible agencies and the areas which apply to them.

Various responsibilities are required for each PBPP performance area: Highway Safety, Highway and Bridge Condition, System Performance (Congestion, Freight, and CMAQ). TPB staff have drafted a PBPP LOA that would be signed with each stakeholder to meet the documentation requirement for applicable PBPP performance areas, as well as to provide for the planning and programming of projects in the TIP and long-range plan that would enable meeting performance targets. An example of a PBPP LOA can be found on page 23 of this item. All parties identified in Table 1 would sign the Letter of Agreement and agree to Article A, the General Agreement on Performance Based planning and Programming and Metropolitan Transportation Planning. Each party would also agree to the separate Articles for relevant PBPP performance area responsibilities for performance target selection and project programming, as listed in Table 1.

NEXT STEPS

TPB staff have begun working and coordinating execution of these administrative agreements and are targeting September 2018 for completion with all individual parties. The TPB will not be asked to approve its execution of these LOAs, however, staff will share the package of the LOAs after all are executed.

For questions regarding the Letter of Agreements documenting responsibilities to meet Federal transportation performance-based planning and programming, please contact Eric Randall, Principal Transportation Engineer (202-962-3254, erandall@mwco.org).

Table 1 – PBPP Signatories and relevant Performance Area Articles

	B. Highway Safety	C. Highway Pavement and Bridge Condition	D. System Performance (NHS Congestion, Freight, and CMAQ Program)	E. Transit Safety	F. Transit Asset Management
District DOT	√	√	√	√	√
Maryland DOT	√	√	√		
Maryland Transit Administration				√	√
Virginia DOT	√	√	√		
Virginia Department of Rail and Public Transportation				√	√
National Park Service		√			
Maryland Transportation Authority		√			
Metropolitan Washington Airport Authority		√			
Arlington County		√		√	√
City of Alexandria		√		√	√
City of Fairfax		√		√	√
Fairfax County		√		√	√
Fauquier County		√			
City of Frederick		√			
Montgomery County		√		√	√
Prince George's County		√		√	√
Prince William County		√			
Potomac and Rappahannock Transportation Commission				√	√
Virginia Railway Express				√	√
Washington Metropolitan Area Transit Authority				√	√

Note: Fairfax, Fauquier, and Prince William counties do not own NHS assets, but as members of the TPB they represent municipalities that do.



DRAFT 2/23/18

March XX, 2018

Jurisdiction or Agency Head
Organizational Address

Subject: Documentation of Responsibilities for Federal Transportation Performance-Based Planning and Programming

Dear Jurisdiction or Agency Head:

This Letter of Agreement ("LOA") between the National Capital Region Transportation Planning Board ("TPB") and Jurisdiction or Agency ("AGENCY") sets forth the agreement between the parties to implement the metropolitan transportation planning provisions of the federal Performance-Based Planning and Programming ("PBPP") process.

First legislated in 2012 in the Moving Ahead for Progress in the 21st Century Act (MAP-21) and, subsequently expanded in the Fixing America's Surface Transportation (FAST) Act of December 2015, the PBPP process calls for the State departments of transportation ("States"), Metropolitan Planning Organizations ("MPOs"); and Providers of Public Transportation to transition to a performance-driven, outcome-based program that provides for a greater level of transparency and accountability, improved project decision-making, and more efficient investment of federal transportation funds, as part of the cooperative, comprehensive and continuing ("3C") performance-based multimodal transportation planning and programming process for the metropolitan planning area.

MPOs and States and Providers of Public Transportation must link investment priorities to the achievement of performance targets in:

1. Highway Safety
2. Highway Assets: Pavement and Bridge Condition
3. System Performance (National Highway System Congestion, Freight, CMAQ Program)
4. Transit Asset Management
5. Transit Safety

On May 27, 2016, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) jointly published the final Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning regulations (23 CFR Parts 450, 771 and 49 CFR Part 613; "Planning Rule"). This final rule updated the regulations governing the development of metropolitan transportation plans and programs for urbanized areas, long-range statewide transportation plans and programs, and the congestion management process, as well as revisions related to the use of and reliance on planning products developed during the planning process for project development and the environmental review process. The update makes the regulations consistent with current statutory planning requirements, including the new mandate for a Performance-Based Planning and Programming process.

Regulation 23.CFR §450.314(a) requires that the TPB, the State(s) and Providers of Public Transportation

“shall cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process. These responsibilities shall be clearly identified in written agreements among the MPO, the State(s), and the providers of public transportation”.

With regard to the FAST Act provisions of PBPP, the updated regulation for Metropolitan Planning Agreements (23 CFR §450.314(h)), notes that the TPB, State(s) and Providers of Public Transportation

“shall jointly agree upon and develop specific written provisions for cooperatively developing and sharing information related to transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region”.

Consistent with the above regulation and in consideration of the mutual promises contained herein, TPB and the AGENCY agree to the following:

The AGENCY and TPB shall perform tasks related to PBPP as outlined in **Article A – General Agreement on Performance Based Planning and Programming and Metropolitan Transportation Planning, and Articles B through F** (as applicable) – PBPP Areas.

The communication outlined in these provisions between the AGENCY and TPB will generally be through the State Technical Working Group, the TPB Technical Committee, and the TPB board.

IN WITNESS WHEREOF, the parties hereto have caused this LOA to be executed by their proper and duly authorized officers, on the day and year first written above.

National Capital Region
Transportation Planning Board

BY: _____
Kanti Srikanth
Director, Department of Transportation Planning
Metropolitan Washington Council of Governments
Administrative Agent for the TPB

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

XXX

Jurisdiction or Agency

BY: _____
Jurisdiction or Agency Head
Title

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

XXX

DRAFT

Article A

General Agreement on Performance Based Planning And Programming (PBPP) and Metropolitan Transportation Planning

Under the LOA and this article, the TPB, the States and the Providers of Public Transportation recognize and agree that they will conduct a cooperative, comprehensive and continuing transportation planning and programming process for the National Capital Region (Region) in accordance with the **Planning Rule** and as described in the **Planning Agreement on Performance Based Metropolitan Transportation Planning Responsibilities** (“3C” Agreement/Agreement) signed by the States and the TPB.

The following articles for performance based planning and programming establish the general mutual responsibilities for carrying out this planning process in the Region. The remaining articles (B through F) document specific provisions for each performance area for cooperatively developing and sharing information related to the requirements for transportation performance data, the selection of performance targets, the reporting of performance targets, and the reporting of performance, as well as programming and projects.

Article 1

Cooperative, Comprehensive, and Continuing Process for Metropolitan Transportation Planning

The TPB uses the committee structures and meeting schedules for the metropolitan transportation process, as needed and as described in Article 1 of the “3C” Agreement. The TPB coordinates with numerous planning processes at the local and state levels to help determine the content of the long-range metropolitan transportation plan (Plan). The TPB is guided by its own vision and priorities which in turn reflect federal policy guidance.

Signatories to the LOA participate as stakeholders in the metropolitan planning process, which provides a forum for cooperative transportation planning and decision-making. There is also a Public Participation Plan (PPP) to provide citizens, affected public agencies, and all interested parties with reasonable opportunities to be involved in the performance-driven metropolitan transportation planning process and to review and comment at key decision points, as described in Article 6 of the “3C” Agreement.

Article 2

Performance Based Planning and Programming

The performance based planning and programming process will be conducted for the National Capital Region, the metropolitan planning area for the TPB, as described in the “3C” Agreement, Articles 1, 5, 9, and 10. The remaining articles of this LOA specify the roles and responsibilities for each signatory for specific PBPP performance areas, as applicable. In general, these include collecting data, cooperatively establishing all federally required performance targets for the metropolitan planning area (or urbanized area), sharing performance data, and supporting preparation of the system performance report.

The TPB will prepare and submit the system performance report, CMAQ performance plan, TIP assessment, and other reports as required by the federal performance rules.

Article A: General Agreement on PBPP and Metropolitan Planning, continued**Article 3
Performance Inputs to the Metropolitan Transportation Plan**

As described in Article 9 of the “3C” Agreement, as amended or at least every four (4) years, the TPB shall develop an integrated multimodal performance-based long-range metropolitan transportation plan (Plan) that includes both long-range and short-range strategies and actions to facilitate the safe and efficient movement of people and goods in addressing current and future transportation trends and demands as specified in 23 CFR 450.324. This Plan shall be approved by the TPB and submitted for information purposes to the States and Providers of Public Transportation, and copies of updated and/or revised Plans shall be made available to the FHWA and FTA.

When updating the Plan, the TPB will coordinate with State DOTs, Providers of Public Transportation, and other stakeholders to conduct a cooperative, comprehensive, and continuing process to develop inputs on performance of the region’s highway and transit systems for inclusion in the Plan.

**Article 4
Performance Inputs to the Transportation Improvement Program**

As described in Article 10 of the “3C” Agreement, the TPB will develop a Transportation Improvement Program (“TIP”) for the Region that reflects the investment priorities established in the current Plan and shall cover a period of no less than four (4) years. The TIP will be approved by the TPB and transmitted to the States for their approval and inclusion in their State Transportation Improvement Programs (STIP).

The TIP will provide a notice to the public that the public participation process used for its development meets the public participation requirements for the program of projects prepared by Providers of Public Transportation under 49 U.S.C. 5307.

The TIP will be designed such that, once implemented, it makes progress toward achieving the performance-driven, outcome-based targets established under 23 CFR §450.306 (c) and (d). The TIP will include, at minimum, the elements listed under 23 CFR 450.326 (e) through (h).

State DOTs and Providers of Public Transportation, and other stakeholders will conduct a cooperative, comprehensive and continuing process to develop project inputs in order to improve the performance of the Region’s highway and transit systems.

Article B
Performance Based Planning And Programming Responsibilities for
Highway Safety

The final Highway Safety rule was published in the Federal Register on March 15, 2016, and became effective April 14, 2016.¹ Federal regulations require state departments of transportations (DOTs) to establish and report annual targets related to each of the five highway safety performance measures by August 31 of each year. The TPB is required to either adopt and support the DOTs' statewide targets or set its own targets specific to the metropolitan planning area. Annual targets are expressed as five-year rolling averages and are compared with a five-year rolling average base period comprising of the five (5) calendar years ending two (2) years before targets are due for fatalities (from NHTSA FARS data) and the year prior for serious injury data from the States.

1) Transportation performance data

- a. By August 31 of each year, each State DOT will provide the TPB with the statewide performance data and methodology used in developing the annual statewide targets, and will also provide the TPB any additional available data for the TPB's planning area.
- b. By February 27 of the following year, the TPB will provide each State DOT with any data developed or supplemental data utilized in the performance process by the TPB, and will provide subsets of metropolitan planning area performance data by state.

2) Selection of performance targets

- a. The TPB will develop draft metropolitan planning area performance targets in coordination with the State DOTs. Coordination may include in-person meetings, web meetings, conference calls, and/or email communication. State DOTs shall be given an opportunity to provide comments on the TPB targets before final targets are adopted.
- b. The TPB will be presented with the set of draft annual targets for consideration, and adopt the final targets at a subsequent meeting.

3) Reporting of performance targets

- a. When final statewide targets are adopted, State DOTs will transmit a copy to the TPB.
- b. The targets approved by the TPB will be reported to each State DOT. For each target, the TPB will provide the following information to each State DOT no later than 180 days after the date the State DOT establishes performance targets, or the date specified by federal code.
 1. A determination of whether the TPB is 1) agreeing to plan and program projects that contribute toward the accomplishment of the State DOT or relevant provider of public transportation performance target, or 2) setting a quantifiable target for that performance measure for the TPB's planning area.
 2. When any quantifiable target is set for the TPB planning area, the TPB will provide any supplemental data used in determining any such target to the State DOTs.
 3. Documentation of the TPB's target or support of the statewide target will be provided in the form of a resolution or meeting minutes of the TPB.

4) Reporting of performance to be used in tracking progress toward attainment of critical outcomes for the TPB region

- a. Each State DOT will provide the TPB with the statewide performance data used in developing statewide targets, and will also provide the TPB with subsets of the statewide data, based on the TPB planning area boundaries. Updates of this data will include prior performance data.

¹ <https://www.gpo.gov/fdsys/pkg/FR-2016-03-15/pdf/2016-05202.pdf>

Article B: Highway Safety, continued

- b. Each State DOT will provide their annual performance report to the TPB.
- c. As part of the long-range Plan, the TPB will prepare a System Performance Report on the Region's transportation performance. State DOTs will be given an opportunity to provide comments on the report before the report is finalized. The final report will be transmitted to the State DOTs, FHWA and FTA.

5) Programming and projects

- a. State DOTs will provide to the TPB:
 - 1. A list of projects that use Highway Safety Improvement Program (HSIP) funds planned for the TPB metropolitan planning area as part of their input to the metropolitan Transportation Improvement Program (TIP).
 - 2. The annual obligation listing of HSIP funds expended in the past year that includes funds expended in the TPB metropolitan planning area, by December 30 of each year.
 - 3. Any highway safety information outlined in any statewide transportation plan or any statewide transportation improvement program
 - 4. Any narrative report or analysis that reviews highway safety performance relevant to safety performance in the TPB metropolitan planning area.
- b. The TPB will provide to State DOTs:
 - 1. Technical support for the TIP database to facilitate the integration of highway safety performance into the project programming process.

Article C

Performance Based Planning and Programming Responsibilities for Highway Asset Condition – Pavement and Bridge

The final Pavement and Bridge Condition Performance Measures rule was published in the Federal Register on January 18, 2017, and became effective May 20, 2017.² This and other federal regulations require State DOTs to establish and report on two-year and four-year targets related to highway asset condition on a biennial cycle. The initial set of highway asset targets for pavement and bridge condition are due by May 20, 2018, for the period 2018 to 2021. Thereafter, the State DOTs will report on their targets and performance by October 1 of even-numbered years (i.e., 2020, 2022, 2024, etc.). The TPB is required to either adopt and support the State DOTs' statewide targets or set its own four-year targets specific to the metropolitan planning area. Other owners of National Highway System (NHS) assets shall provide supporting information to their State DOT and to the TPB.

1) Transportation performance data

- a. Each State DOT is responsible for collecting bridge and pavement condition data for the State asset management plan for the NHS, and report this data to the Highway Performance Monitoring System (HPMS) and National Bridge Inventory (NBI). By October 1 of reporting years, each State DOT will provide the TPB the statewide performance data and the methodology used in developing the annual statewide targets, and will also provide the TPB any additional available data for the TPB's metropolitan planning area.
- b. The TPB will provide each State DOT with any additional data developed or supplemental data utilized in the performance process by the TPB, and will provide subsets of metropolitan planning area performance data by state.
- c. Other NHS Asset Owners will provide both the respective State DOT and the TPB with any additional published or publicly available data on bridge and pavement condition for their assets.

2) Selection of performance targets

- a. The TPB will develop draft metropolitan planning area performance targets in coordination with the State DOTs and NHS Asset Owners. Coordination may include in-person meetings, web meetings, conference calls, and/or email communication. State DOTs and NHS Asset Owners shall be given an opportunity to provide comments on the TPB targets before final targets are adopted.
- b. The TPB board will be presented with the set of draft targets for consideration, and adopt the final targets at a subsequent meeting.

3) Reporting of performance targets

- a. When final statewide targets are adopted, State DOTs will transmit a copy to the TPB.
- b. The targets approved by the TPB will be reported to each State DOT. For each target, the TPB will provide the following information to each State DOT no later than 180 days after the date the State DOT establishes performance targets, or the date specified by federal regulation.
 1. A determination of whether the TPB is 1) agreeing to plan and program projects that contribute toward the accomplishment of the State DOT or relevant provider of public transportation performance target, or 2) setting a quantifiable target for that performance measure for the TPB's planning area.

² <https://www.gpo.gov/fdsys/pkg/FR-2017-01-18/pdf/2017-00550.pdf>

Article C: Highway Asset Condition, continued

2. When any quantifiable target is set for the TPB planning area, the TPB will provide any supplemental data used in determining any such target to the State DOTs and NHS Asset Owners.
3. Documentation of the TPB's target or support of the statewide target will be provided in the form of a resolution or meeting minutes.

4) Reporting of performance to be used in tracking progress toward attainment of critical outcomes for the TPB region

- a. Each State DOT will provide the TPB with information about the statewide performance data used in developing statewide targets, and will also provide the TPB with any available subsets of the statewide data for the TPB planning area. Updates of this data will include prior performance data.
- b. Each State DOT will provide its biennial performance reports to the TPB.
- c. As part of the long-range plan, the TPB will prepare a System Performance Report on the Region's transportation performance. State DOTs will be given an opportunity to provide comments on the report before the report is finalized. The final report will be transmitted to the State DOTs, federal agencies, and NHS Asset Owners.
- d. Other NHS Asset Owners will provide any additional published or publicly available documents or materials relevant to the performance of the pavement and bridge condition of their NHS assets to the TPB.

5) Programming and projects

- a. State DOTs will provide to the TPB:
 1. A list of projects that use National Highway Performance Program (NHPP), Surface Transportation Program (STP), or other funds to address pavement and bridge conditions planned for the TPB metropolitan planning area as part of their input to the metropolitan Transportation Improvement Program (TIP).
 2. The annual obligation listing of NHPP and STP funds expended in the past year that includes funds expended for the TPB metropolitan planning area by December 30 of each year.
 3. Any highway asset condition information outlined in any statewide transportation plan or any statewide transportation improvement program
 4. Any published or publicly available reports or analysis that reviews highway asset condition performance relevant to highway condition performance in the TPB metropolitan planning area.
- b. The TPB will provide to the State DOTs and Other NHS Asset Owners:
 1. Technical support for the TIP database to facilitate the integration of projects that affect highway asset condition performance into the project programming process.

Article D

Performance Based Planning and Programming Responsibilities for System Performance (National Highway System Congestion, Freight, CMAQ Program)

The final System Performance (National Highway System Congestion, Freight, Congestion Management and Air Quality (CMAQ) Program) rule was published in the Federal Register on January 18, 2017, and became effective May 20, 2017³, with the exception of the greenhouse gas performance measure, which became effective on September 28, 2017. Federal regulations require State DOTs to establish and report on two-year and four-year targets related to highway system performance on a biennial cycle. The initial set of highway system performance targets for National Highway System (NHS) congestion, Freight, and the CMAQ Program for the period 2018 to 2021 must be set by May 20, 2018, with the exception of the greenhouse gas performance measure target which must be set by September 28, 2018. Thereafter, the State DOTs will report on their targets and performance by October 1 of even-numbered years (i.e., 2020, 2022, 2024, etc.). The TPB is required to either adopt and support the DOTs' statewide targets or set its own targets specific to the metropolitan planning area or for the Washington, DC-MD-VA urbanized area.

1) Transportation performance data

- a. Each State DOT will be responsible for collecting congestion, freight, and CMAQ Program data. By October 1 of reporting years, each State DOT will provide the TPB with the statewide performance data and methodology used in developing the annual statewide targets, and will also provide the TPB any additional available data for the TPB's planning area.
- b. The TPB will provide each State DOT with any data developed or supplemental data utilized in the performance process by the TPB, and will provide subsets of metropolitan planning area or urbanized area performance data by state.

2) Selection of performance targets

- a. The TPB will develop draft metropolitan planning area or urbanized area performance targets in coordination with the State DOTs. Coordination may include in-person meetings, web meetings, conference calls, and/or email communication. State DOTs shall be given an opportunity to provide comments on the TPB targets before final targets are adopted.
- b. The TPB board will be presented with the set of draft targets for consideration, and adopt the final targets at a subsequent meeting.

3) Reporting of performance targets

- a. When final statewide targets are adopted, State DOTs will transmit a copy to the TPB.
- b. The targets approved by the TPB will be reported to each State DOT. For each target, the TPB will provide the following information to each State DOT no later than 180 days after the date the DOT establishes performance targets, or the date specified by federal code.
 1. A determination of whether the TPB is 1) agreeing to plan and program projects that contribute toward the accomplishment of the State DOT or relevant provider of public transportation performance target, or 2) setting a quantifiable target for that performance measure for the TPB's planning area.
 2. When any quantifiable target is set for the TPB planning area or one of the urbanized areas, the TPB will provide any supplemental data used in determining any such target to the State DOTs.

³ <https://www.gpo.gov/fdsys/pkg/FR-2017-01-18/pdf/2017-00681.pdf>

Article D: System Performance, continued

3. Documentation of the TPB's target or support of the statewide target will be provided in the form of a resolution or meeting minutes.

4) Reporting of performance to be used in tracking progress toward attainment of critical outcomes for the TPB region

- a. Each State DOT will provide the TPB with the statewide performance data used in developing statewide targets, and will also provide the TPB with subsets of the statewide data, based on the TPB planning area or urbanized area boundaries. Updates of this data will include prior performance data.
- b. Each State DOT will provide its biennial performance report to the TPB.
- c. As part of the long-range plan, the TPB will prepare a System Performance Report on the Region's transportation performance. State DOTs will be given an opportunity to provide comments on the report before the report is finalized. The final report will be transmitted to the State DOTs and federal agencies.
- d. The TPB will prepare a MPO CMAQ Performance Plan on a biennial basis, as required by the regulations. The plan will be prepared every other year, starting in 2018. State DOTs will be given an opportunity to provide comments on the Plan before the Plan is finalized. The final Plan will be transmitted to the State DOTs, for further transmittal to federal agencies.

5) Programming and projects

- a. State DOTs will provide to the TPB:
 1. A comprehensive list of projects affecting highway system performance planned for the TPB metropolitan planning area as part of their input to the metropolitan TIP.
 2. The annual obligation listing of funds expended on projects affecting highway system performance in the past year that includes funds expended in the TPB metropolitan planning area by December 30 of each year.
 3. Any published or publicly available narrative report or analysis that reviews system performance relevant to system performance in the TPB metropolitan planning area.
- b. The TPB will provide to the State DOTs:
 1. Technical support for the TIP database to facilitate the integration of highway system performance into the project programming process.

Article E

Performance Based Planning and Programming Responsibilities for Transit Asset Management

The final Transit Asset Management rule was published in the Federal Register on July 26, 2016, and became effective October 1, 2016.⁴ Transit asset management (TAM) is “a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively through the life cycle of such assets.” Under the final TAM rule, Providers of Public Transportation must collect and report data for four (4) performance measures, covering rolling stock, equipment, infrastructure, and facility condition. For these measures, providers of public transportation have to annually set targets for the fiscal year, develop a four-year TAM plan for managing capital assets, and use a decision support tool and analytical process to develop a prioritized list of investments. Small providers can be reported for by a Group Sponsor. Subsequently, the TPB must adopt transit asset targets for the metropolitan planning area to comply with requirements, when the TPB updates its long-range plan or TIP.

1) Transportation performance data

- a. Each Provider of Public Transportation is responsible for collecting its own transit asset data and reporting it in the National Transit Database (NTD), or of providing it to a Group Sponsor that reports the data on its behalf. When required to submit transit asset targets and data to the NTD (annually by October 31 for providers with fiscal year of July 1 to June 30), each Provider of Public Transportation or Group Sponsor will provide the TPB with the performance data and methodology used in developing the annual targets, and will also provide the TPB with any additional available data for the TPB’s planning area.
- b. The TPB will provide each Provider of Public Transportation with any data developed or supplemental data utilized in the performance process by the TPB.

2) Selection of performance targets

- a. The TPB will develop draft metropolitan planning area performance targets in coordination with the Providers of Public Transportation or Group Sponsors. Coordination may include in-person meetings, web meetings, conference calls, and/or email communication. Providers of Public Transportation or Group Sponsors shall be given an opportunity to provide comments on the TPB targets before final targets are adopted.
- b. The TPB board will be presented with the set of draft targets for consideration, and adopt the final targets at a subsequent meeting.

3) Reporting of performance targets

- a. When final transit asset management targets are adopted, each Provider of Public Transportation or Group Sponsor will transmit a copy to the TPB.
- b. The targets approved by the TPB will be reported to each Provider of Public Transportation or Group Sponsor. For each target, when the TPB approves a long range plan or TIP, the TPB will provide the following information to each Provider of Public Transportation or Group Sponsor.
 1. A determination of whether the TPB is 1) agreeing to plan and program projects that contribute toward the accomplishment of the provider of public transportation performance target, or 2) setting a quantifiable target for that performance measure for the TPB’s planning area.

⁴ <https://www.gpo.gov/fdsys/pkg/FR-2016-07-26/pdf/2016-16883.pdf>

Article E: Transit Asset, continued

2. When any quantifiable target is set for the TPB planning area, the TPB will provide any supplemental data used in determining any such target to each Provider of Public Transportation or Group Sponsor.
3. Documentation of the TPB's target or support of the public transportation provider target will be provided in the form of a resolution or meeting minutes.

4) Reporting of performance to be used in tracking progress toward attainment of critical outcomes for the TPB region

- a. Each Provider of Public Transportation or Group Sponsor will provide the TPB with the performance data used in developing targets, and will also provide the TPB with subsets of any data based on the TPB planning area boundaries. Updates of this data will include prior performance data.
- b. Each Provider of Public Transportation or Group Sponsor will provide its adopted performance reports and Transit Asset Management Plans to the TPB.
- c. As part of the long-range plan, the TPB will prepare a System Performance Report on the Region's transportation performance. Providers of Public Transportation or Group Sponsors will be given an opportunity to provide comments on the report before the report is finalized. The final report will be transmitted to the Providers of Public Transportation and Group Sponsors.

5) Programming and projects

- a. Each Provider of Public Transportation or Group Sponsor will provide to the TPB:
 1. A list of projects that affect transit asset performance and use federal transit or other funds planned for the TPB metropolitan planning area as part of their input to the metropolitan TIP.
 2. The annual obligation listing of federal transit funds expended on transit asset projects and programs in the past year that includes funds expended for the TPB metropolitan planning area by December 30 of each year.
 3. Any published or publicly available report or analysis that reviews transit asset performance relevant to transit asset performance in the TPB metropolitan planning area.
- b. The TPB will provide to each Provider of Public Transportation or Group Sponsor:
 1. Technical support for the TIP database to facilitate the integration of transit asset performance into the project programming process.

Article F

Performance Based Planning and Programming Responsibilities for Transit Safety

The final National Public Transportation Safety Plan rule was published on January 18, 2017, finalizing the transit safety performance measures.⁵ However, the Public Transportation Agency Safety Plan which would specify the target-setting process and timeline is still pending, anticipated in April 2018. Once the transit safety rules are complete, Providers of Public Transportation must collect and report data for four (4) performance measures, covering fatalities injuries, safety events (derailments, collisions, fires, and evacuations) and system reliability (mean distance between major and other mechanical system failures). For these measures, providers of public transportation will have to annually set targets for the fiscal year. A Group Sponsor can report for small providers. Subsequently, the TPB must adopt transit safety targets for the metropolitan planning area to comply with requirements, when the TPB updates its long-range plan or TIP.

1) Transportation performance data

- a. Each Provider of Public Transportation is responsible for collecting its own transit safety data and reporting it in the National Transit Database (NTD), or of providing it to a Group Sponsor that reports the data on its behalf. When required to submit transit safety targets and data to the NTD, each Provider of Public Transportation or Group Sponsor will provide the TPB with the performance data and methodology used in developing the annual targets, and will also provide the TPB with subsets of the data based on the TPB's planning area boundaries.
- b. The TPB will provide each Provider of Public Transportation with any data developed or supplemental data utilized in the performance process by the TPB.

2) Selection of performance targets

- a. The TPB will develop draft metropolitan planning area performance targets in coordination with the Providers of Public Transportation or Group Sponsors. Coordination may include in-person meetings, web meetings, conference calls, and/or email communication. Providers of Public Transportation or Group Sponsors shall be given an opportunity to provide comments on the TPB targets before final targets are adopted.
- b. The TPB board will be presented with the set of draft targets for consideration, and adopt the final targets at a subsequent meeting.

3) Reporting of performance targets

- a. When final transit safety targets are adopted, each Provider of Public Transportation or Group Sponsor will transmit a copy to the TPB.
- b. The targets approved by the TPB will be reported to each Provider of Public Transportation or Group Sponsor. For each target, when the TPB approves a long range plan or TIP, the TPB will provide the following information to each Provider of Public Transportation or Group Sponsor.
 1. A determination of whether the TPB is 1) agreeing to plan and program projects that contribute toward the accomplishment of the provider of public transportation performance target, or 2) setting a quantifiable target for that performance measure for the TPB's planning area.

⁵ <https://www.gpo.gov/fdsys/pkg/FR-2017-01-18/pdf/2017-00678.pdf>

Article F: Transit Safety, continued

2. When any quantifiable target is set for the TPB planning area, the TPB will provide any supplemental data used in determining any such target to each Provider of Public Transportation or Group Sponsor.
3. Documentation of the TPB's target or support of the public transportation provider target will be provided in the form of a resolution or meeting minutes.

4) Reporting of performance to be used in tracking progress toward attainment of critical outcomes for the TPB region

- a. Each Provider of Public Transportation or Group Sponsor will provide the TPB with the performance data used in developing targets, and will also provide the TPB with subsets of any data based on the TPB planning area boundaries. Updates of this data will include prior performance data.
- b. Each Provider of Public Transportation or Group Sponsor will provide any performance report to the TPB.
- c. As part of the long-range plan, the TPB will prepare a System Performance Report on the Region's transportation performance. Providers of Public Transportation or Group Sponsors will be given an opportunity to provide comments on the report before the report is finalized. The final report will be transmitted to the Providers of Public Transportation and Group Sponsors.

5) Programming and projects

- c. Each Provider of Public Transportation or Group Sponsor will provide to the TPB:
 1. A list of projects that affect transit safety performance and use federal transit or other funds planned for the TPB metropolitan planning area as part of their input to the metropolitan TIP.
 2. The annual obligation listing of federal transit funds expended on transit safety projects and programs in the past year that includes funds expended for the TPB metropolitan planning area by December 30 of each year.
 3. Any published or publicly available report or analysis that reviews transit safety performance relevant to transit safety performance in the TPB metropolitan planning area.
- d. The TPB will provide to each Provider of Public Transportation or Group Sponsor:
 1. Technical support for the TIP database to facilitate the integration of transit safety performance into the project programming process.

METROPOLITAN TRANSPORTATION PLANNING AGREEMENT AND PBPP LOA

Responding to updated rules and regulations governing MPOs

Sergio Ritacco, TPB Transportation Planner

Transportation Planning Board
March 21, 2018

Agenda Item 11



Board Action

- New metropolitan transportation planning process
“3C” agreement
 - Board action April 18
- Performance Based Planning and Programming
Letters of Agreement (PBPP LOAs)
 - Individual agency action required
 - All must be executed by September 2018

“3C” Agreement

- **FAST Act requirement:** Agreement between MPO, state DOTs and transit agencies that provide funding and direct oversight
- Determine and identify the mutual responsibilities necessary to carry out (*Planning Rule § 450.314*):
 - Cooperative, continuing and comprehensive (3C) metropolitan transportation planning process
 - Respond to new performance-based planning and programming (PBPP) mandates
- Current agreement signed in June 2008
- New agreement must be executed by **May 26, 2018**

“3C” Agreement Contents

Contents of draft agreement:

- **Resolution:** To be acted upon by the TPB on April 18
- **Articles 1 through 12:** Follows the rules and regulations in *23 CFR 450 Subpart C – Metropolitan Transportation Planning and Programming*
- **Signatories:** TPB and agencies with direct funding and oversight for the planning process (DDOT, MDOT, VDOT, and VDRPT)

“3C” Agreement Process

- ✓ Reviewed by FTA, FHWA, state DOTs and transit agencies
- ✓ Completed final review by MWCOG counsel for sufficiency of compliance with federal regulation
- ❑ Ask TPB to approve Chair’s execution of the “3C” Agreement at the April 18 meeting
- ❑ Complete execution of all signatories by the federal deadline of **May 26, 2018**

PBPP LOA

- Meets the provisions specific to the new mandate for a PBPP process (23 CFR 450.314(h))
- New requirement between the TPB and individual members on establishing roles and responsibilities in meeting PBPP mandates:
 1. Collecting performance data
 2. Selection of targets
 3. Reporting of targets
 4. Reporting of performance

PBPP LOA Applicability

- Each individual LOA will vary depending on the PBPP performance area
- Customized to the needs of each specific agreement

	B. Highway Safety	C. Highway Pavement and Bridge Condition	D. System Performance (HHS Congestion, Freight, and CMAQ Program)	E. Transit Safety	F. Transit Asset Management
District DOT	✓	✓	✓	✓	✓
Maryland DOT	✓	✓	✓		
Maryland Transit Administration				✓	✓
Virginia DOT	✓	✓	✓		
Virginia Department of Rail and Public Transportation				✓	✓
National Park Service		✓			
Maryland Transportation Authority		✓			
Metropolitan Washington Airport Authority		✓			
Arlington County		✓		✓	✓
City of Alexandria		✓		✓	✓
City of Fairfax		✓		✓	✓
Fairfax County		✓		✓	✓
Fauquier County		✓			
City of Frederick		✓			
Montgomery County		✓		✓	✓
Prince George's County		✓		✓	✓
Prince William County		✓			
Potomac and Rappahannock Transportation Commission				✓	✓
Virginia Railway Express				✓	✓
Washington Metropolitan Area Transit Authority				✓	✓

PBPP LOA Process

- ✓ Continue working with parties with PBPP responsibilities to execute agreements
- TPB action on each LOA not required but must ensure that all LOAs are executed
- TPB to receive regular status reports and expect completion of all LOAs by **September 2018**

Sergio Ritacco

TPB Transportation Planner
(202) 962-3232
sritacco@mwkog.org

mwkog.org/tpb

Metropolitan Washington Council of Governments
777 North Capitol Street NE, Suite 300
Washington, DC 20002



National Capital Region
Transportation Planning Board