TEXAS DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION ADVISORY COMMITTEE MEETING

10:00 a.m.
Friday,
May 14, 2010

Room 1A.1
200 E. Riverside Drive
Austin, Texas

COMMITTEE MEMBERS:

Present in Austin:

MICHELLE BLOOMER, Chair
J.R. SALAZAR, Vice Chair
VINCE HUERTA

Present via Teleconference:

AL ABESON
FRANK CASTELLANOS
CHRISTINA MELTON CRAIN
JANET EVERHEART

TxDOT STAFF:

ERIC GLEASON, PTN Director
BOBBY KILLEBREW
GINNIE MAYLE, PTN
SUZANNE MANN, OGC
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MS. BLOOMER: Okay. I think we have everybody that we know or that we're expecting, so we'll go ahead and call the meeting to order.

Taking item 2, approval of the minutes from the February 26 and April 7, 2010, meetings, are there any comments or questions, or do I have a motion?

MS. CRAIN: This is Christina. I move -- I'm sorry.

DR. ABESON: That's okay. I move that they be adopted.

MS. CRAIN: I'll second it.

MS. BLOOMER: Okay. We have a first and a second. To facilitate the vote, I'll just call everybody's name, and you can say your pleasure.

MS. BLOOMER: Al.

DR. ABESON: Yes.

MS. BLOOMER: Christina?

MS. CRAIN: Yes.

MS. BLOOMER: Janet?

MS. EVERHEART: Yes.

MS. BLOOMER: J.R.?

MR. SALAZAR: Yes.

MS. BLOOMER: Vince?

MR. HUERTA: Yes.
MS. BLOOMER: And Michelle, yes.

Okay. Moving on to item 3, review -- do we have to approve both of them, or do we just take the entire item? Oh, we need to approve them separately? Okay. Then which minutes did we just approve?

MR. SALAZAR: This is J.R. I move we approve the April 7 meeting minutes.

MS. BLOOMER: Okay. Do we have a second?

MR. HUERTA: This is Vince, and I second.

MS. BLOOMER: Okay. Al?

DR. ABESON: Yes.

MS. BLOOMER: Christina?

MS. CRAIN: Yes.

MS. BLOOMER: Janet?

MS. EVERHEART: Yes.

MS. BLOOMER: And then Michelle, yes. So now we have approved both sets of minutes.

Okay. Now can we move on to item 3? All right. Item 3, final review of draft revisions to 43 TAC concerning grant sanctions as it relates to those amendments to Chapter 31.

Who is presenting that?

MR. GLEASON: Suzanne Mann's going to do that.

MS. BLOOMER: Okay. Suzanne?

MS. MANN: Hi. I'm Suzanne Mann from the
Office of General Counsel at TxDOT. Can everybody hear me?

MS. BLOOMER: Yes.

MS. MANN: I'm here today to discuss the department's proposed grant sanction rules, Chapter 9, subchapter H. These rules were originally presented to PTAC, and you recommended them for adoption at your March 4, 2009, meeting.

The grant sanction rules were proposed for adoption by the Texas Transportation Commission at its February 2010 meeting.

The purpose of these proposed rules is to allow the department to impose sanctions on a subgrantee if the department determines that the subgrantee has failed to comply with law, grant conditions, or contractual agreements of the award.

Amendments to Chapter 31 simply remove sanction provisions in that chapter and refer to the new grant sanction provisions in proposed subchapter H. So we already had previous sanction rules before, and these are replacing those.

Currently the sanction process under the proposed rules begins with the assistant executive director or designee making the decision to sanction a subgrantee.
The assistant executive director may consider, as a mitigating factor, whether the subgrantee has an internal ethics and compliance program that satisfies Section 1.8 of our rules.

The subgrantee receives a notice of the sanction by mail that gives details of the sanction and states that the subgrantee may appeal the sanction. Appeal is to the department's executive director.

The department received a public comment on the rules from Jeff Heckler, executive director of Texas Transit Administration [sic], stating concern about the sanction process and the amount of discretion allowed to the department's executive director.

Taking into consideration TTA's concerns, the proposed rules have been changed to allow for more process before a final sanction is imposed. In the previous version a grantee could present only written evidence in support of an appeal. Now a subgrantee is allowed is allowed to actually meet in person with the executive director and present oral testimony in support of its appeal.

Additionally, the department recognizes that the sanction of declaring a subgrantee either temporarily or permanently ineligible for future subgrant awards can have severe consequences on a subgrantee; therefore, the
proposed rules have been changed to allow the subgrantee, at its option, to appeal to the State Office of Administrative Hearings after the decision of the executive director to impose a temporary or permanent declaration of ineligibility.

The department believes that these two changes adequately address TTA's concerns and are an overall improvement to the proposed rules.

At this time I'll be happy to address any questions or comments or anything.

DR. ABESON: I've got a curiosity. How frequently does the department find itself in a position where it needs to deal with a sanction?

MR. GLEASON: Al, this is Eric Gleason. Well, Al, it doesn't happen very often at all. In the five years I've been here, we've not found ourselves in that situation, so this isn't something that gets used, at least in the public transportation environment, that frequently at all.

DR. ABESON: Okay.

MR. GLEASON: I would frankly consider it a failure on our part if we ever got to that point.

DR. ABESON: Madam Chair, are you open for a motion to adopt?

MS. BLOOMER: Are there any other questions
from the committee members?

MR. SALAZAR: This is J.R. I just had one quick question, and maybe a little silly, but I just wanted clarification. On page 12 of 12 it talks about the subgrantee may file a petition with the executive director requesting administrative hearing under the provision.

I just wanted to -- if you could just briefly explain to me the administrative hearing part of it.

MS. MANN: Okay. Where are you on 12?

MR. SALAZAR: Page 12 of 12, line 7.

MS. MANN: Okay. Well, that's going to be under the SOAH provisions, under the State Office of Administrative Hearings, and -- which is actually better than an appeal to our commission or to this body here.

SOAH is used to hearing appeals from all state agencies. They do -- you present evidence; both sides present evidence. You could have an attorney or not. SOAH does hearings like on -- it's done as other contested cases are done, so it's a process to where -- and then they come out with a finding, is how it works.

And they hear cases from all over state government, so they're used to hearing -- when people lose their license, they go to SOAH, that kind of thing, too, so they're used to this kind of actions.

MS. BLOOMER: J.R., does that answer your
MR. SALAZAR: Yes, it does. Thank you.

MS. BLOOMER: Okay. I had a couple questions. On the first page, line 12 through 14 it says, "The proposed sanctions will only apply to agreements signed or executed on or after the effective date of the rules." And I was just curious if that is referring to the master agreement of it was referring to the annual. My understanding is master agreements are executed less frequently.

MR. GLEASON: This is Eric Gleason. The master agreement that we have is executed once every three years, and we've been talking about it recently among the division management team, and we're researching exactly the right way to do it.

The intent, of course, is to have it apply, you know, annually or whatever it is.

MS. BLOOMER: Annually.

MR. GLEASON: Right. So we're still researching the exact mechanism that we'll use, but the intent, of course, is to have it apply to everything signed after that date.

MS. BLOOMER: Okay. I just received that question and wanted to make sure I could respond.

And then on page 6 of 12, line 20 -- sorry --
19, it says, "Failure to return to the department within the required time any unused grant or subgrant funds remaining on an expired grant or subgrant" -- I was just curious, and maybe that's other areas of the department since -- but since all the programs are reimbursement based, I didn't understand how there could be any unused grant or subgrantee funds remaining.

MS. MANN: That's beyond me, Eric.

MR. GLEASON: Well, I think the -- well, and Bobby, if you need to jump in -- the situation we -- I mean, oftentimes once the grant -- once the project that the grant was given for is complete, there are funds that remain, and so the understanding at that time is that those funds have to get returned to the department.

MS. BLOOMER: Okay. So it's just unspent funds within the grant --

MR. GLEASON: I think this was just anticipating --

MS. BLOOMER: -- application.

MR. GLEASON: Exactly.

MR. KILLEBREW: If I may, for the record, this is Bobby Killebrew, deputy director of Public Transportation Division. Good morning to everyone.

And to your point, Michelle, these rules are global for the department; they're not specific to public
transportation, although public transportation at the
moment is the only program that's underneath these rules.

The Office of General Counsel has decided to
kind of phase this in for all the other programs. We're
just number one on the chopping block. So -- which is
good. We get to form them to best benefit us, but they
will apply to all the grants the department administers,
whether that's traffic safety grants or any other type of
grants that we do hand out.

And some of those other type of grants, it is
possible, because of their funding stream, that some
people may actually have some money up front, so this does
address that case, as well as the case that Eric explains,
that in case you have unused grants that have not been
reimbursed to you.

MS. BLOOMER: Okay. And then on that same
page, up on line 10, item 7, it says, "failure to begin
project operations within the period specified in the
grant or subgrant award document or if no period is
specified in that document, within 45 days after the
project start date."

And that's one of the reasons that you can --
funds can be withheld or costs can be disallowed. Is
that -- I guess I'm just trying to understand how that
applies. If an entity has an agreement with TxDOT for
funding, but that project isn't set to start within 45
days or can't start within 45 days, is that grounds for
withdrawing those funds?

MR. KILLEBREW: And this is Bobby again. In
the contracts that we write, we always have project-
specific time lines in them, so it wouldn't necessary
apply to public transportation, but in the event that --
and again, these are global rules. This is a "may"
situation; it's not a "shall" situation.

The provisions that Michelle's referring to
are -- they're instance of where the assistant executive
director may look at that. If a project was delayed for a
reason, then I don't see the assistant executive director
taking action if it's outside the means of the project to
start at that certain time.

MS. BLOOMER: Okay. And then my last question
sort of relates to a lot different sections on it. I
was -- if somebody could just explain to me -- like say a
subgrantee is notified of sanctions, and then how, through
the executive director decision and then the appeal
process they can or cannot incur costs.

So if you're a public transportation provider
and you're being told you have sanctions imposed on you
and you may or may not be able to incur costs and/or be
reimbursed for those costs at the end of the final
ruling -- I'm just trying to figure out, for a transit provider, what does that do to you, because you're in this -- there's no time frame from when you first receive notice of sanctions to when the executive director will rule or the appeal process will be done.

So do you cease service so that you don't incur costs and risks when you don't know how long that will go and what the possible outcome will be? On the last page it says -- regarding the appeal, it says, "the full term of the sanction will be imposed on the date of the final order," but in other areas it says that no stay will be allowed.

And I'm just trying to figure out, from a transit providers perspective, if they were to receive -- and I know it's unlikely, but if I'm a transit provider and I were to receive a notice of sanctions, which could possibly mean removal of funding, do I then make the decision to continue to providing service at the risk to my agency that I may or may not prevail?

And not knowing whether I will or will not prevail and how long it will take to make that decision, it's kind of hard to decide whether or not you cease service the day you receive the notice or you continue to provide that service and take on that risk.

MS. MANN: So you're saying -- so there's no
requirement on how soon TxDOT has to act on -- the executive director would have to act, and then we could not put anything on how quickly SOAH would have to act if it was appealed from the executive director's.

MS. BLOOMER: Right. I think there is like the executive director has five or ten days from the date of the decision to notify the subgrantee; I believe the subgrantee has ten days to then notify --

MS. MANN: Right.

MS. BLOOMER: I did -- and then another question I had was it says "written notification." And I've run into this issue previously. I think we just need to make that clear if that is -- it has to be a letter. It just says "written," and some people may interpret that, As long as I send some -- a written e-mail versus it has to be a formal letter that is hand-delivered, mailed, et cetera.

MS. MANN: Now, where is the "written" part, because we don't have -- (Perusing document.)

MS. BLOOMER: I know I underlined it somewhere.

MR. CASTELLANOS: While you're looking for that, can I just interrupt a second? This is Frank Castellanos; I just wanted to let you know I joined the conference call about five minutes ago.

MS. BLOOMER: Thanks, Frank.
MR. CASTELLANOS: You're welcome.

MS. BLOOMER: Page 10, line 20. It says, "A subgrantee may appeal a sanction by delivering to the executive director a written notice within 10 working days after the date that the department mailed the notice" -- I think we just need to clarify if only a handwritten letter delivered in hard copy to the executive director is sufficient, I just think we need to say that, because in past times I have responded to a written notice via e-mail and it was determined that that was not acceptable.

MS. MANN: Okay.

MS. BLOOMER: So I think just clarify what "written notice" is.

And so there is says within 10 working days, and then the next page, on page 11 of 12, on line 8 it says "meeting will be scheduled at the executive director's earliest convenience."

And I understand the need for that, because I'm sure the executive director is a very busy gentleman, but is there a time frame? -- like within 30 days, three months, six months?

MS. MANN: There's not anything anticipated, you know, in there right now.

MS. BLOOMER: Okay. Are there any other questions or concerns?
I think, Bobby, that action you're asking us for today is approval of the final?

MR. KILLEBREW: The action -- this is Bobby again. The action today that the committee can take is they can recommend these rules be recommended to the commission for final adoption. You could recommend these rules be recommended for final adoption to the commission with your suggested remarks.

Can they defer completely on this?

MS. MANN: Uh-huh.

MR. KILLEBREW: Or you could defer completely on this.

MS. BLOOMER: Is there any desire on the committee to either recommend for final adoption, recommend for final adoption with comments, or defer?

Again, we started this, I believe, in March 4 of 2009.

DR. ABESON: Well, the concerns that you've raised certainly sound rather serious. It sounds like a provider would really be left in limbo in terms of having any sense of whether or not to discontinue the services that were being paid for with the funds in question.

Is that correct?

MS. BLOOMER: And I guess that's what I'm asking for clarification on. And maybe what we could do
is recommend for final adoption with that concern being addressed.

MS. MANN: Well, I mean, are you asking for a more specific time period? -- because it's clear already that they will be barred during that time period from the funds. And so --

DR. ABESON: Could you repeat that, please?

MS. MANN: I'm asking if she would prefer to have a specific time period or -- because they are barred from receiving funds during that period, so --

MS. BLOOMER: Are they barred from -- sorry; this is Michelle. Are they barred from receiving funds, or are they barred from incurring expenses that they can then later be reimbursed, because I think those are -- if they're barred from receiving funds but upon resolution they could receive reimbursement for those expenses during that period in question, that isn't as big --

MS. MANN: It's the cost, too.

MS. BLOOMER: Then I think that's a bigger issue, and I think that's my concern, is that this could go, short-term, a month or it could go much longer, and as a provider, you don't know where you are, and you don't know how to proceed.

MS. MANN: I don't know. I guess as providers --
MR. HUERTA: I think it's an excellent point.
Vince.

I think it's an excellent point, and I think
what Al Abeson just mentioned I think is also important,
how the time period I think would be important.

MS. BLOOMER: Either the time -- there needs to
be a set time frame of which it's known and it's as short
as possible to resolve the issue, or there needs to be
a -- sanctions aren't applied until final decision is
made.

MS. MANN: Okay. What we need to realize,
though, is that before this ever would happen, these
people are in violation of either a law or their contract.
They can fix that -- they can fix all of this and have no
sanctions if they become in compliance.

So I think to say that it's not in their
control and they don't know how much time and all that is
not really accurate, because they can fix it by coming in
compliance with their contract.

So you're talking about an organization that
has breached their contract, to start with, or broken the
law, to start with.

DR. ABESON: But isn't that potentially the
issue that would be negotiated or discussed or adjudicated
through the remainder of the administrative appeals
process?

MS. MANN: Whether that --

DR. ABESON: I mean, the state could make that allegation, but the subgrantee could argue that that's not a correct interpretation.

MS. MANN: Yes. That's correct, sir. What they would do is they would receive a letter from the department, saying that, It is the department's opinion that you have violated the contract by doing X. The organization would come back and say, We don't view X as a breach of the contract, and here's why.

That process will be happening quickly; that part with the executive director happens pretty quickly, and now they are allowed to not just present written but actually set up a meeting, come talk, and go through why it's not a breach of the contract.

I actually -- just from how often you all are saying has happened, in the -- in this realm, I don't think it's that much of a concern, but -- I understand what your concern is, but I think with our contracts here it would be resolved at that level pretty quickly if the executive director -- well, in the first place, I don't think there's going to be a breach. That's a pretty big thing, for TxDOT to come out and say there's been a breach unless we're pretty sure there's been a breach.
And then secondly I think if the executive director feels that -- once he sees all the information, that would happen quickly. I can't -- I mean, things happen, but I can't see this realm, the public transportation realm, ever going to a SOAH hearing.

Will it ever happen? Maybe, but this -- like Bobby was explaining, these rules apply to other grants besides these, so that probably doesn't address your question so much; it's just that when you're talking about sanction rules -- and also realize that you have sanction rules in place right now that we're repealing and replacing with these.

Right now they can do that; they can stop that. So just keep in mind -- sanctions are tough; I mean, sanctions are slapping somebody or spanking somebody. Keep in mind, though, that you don't get to this point unless they're breaking the law or in breach of a contract.

MS. BLOOMER: And they've had sufficient --

MS. MANN: They've had notice.

MS. BLOOMER: And sufficient time and technical assistance to resolve that issue before we get to sanctions.

MS. MANN: Right, because this group doesn't want you to break your contract.
MS. BLOOMER: Back to Eric's point, that that's something we don't really -- you haven't done in five years, and wouldn't want to do if at any way possible. Okay. Any other thoughts?

DR. ABESON: Well, that explanation is helpful, but does it resolve the question of what do you do about spending money or incurring costs and all of that?

MS. BLOOMER: I don't think it resolves that issue, Al. I think what I'm understanding is that PTN will do everything in their realm of responsibility to make sure that it doesn't get to that point.

And if a provider gets to the point of a sanction, they've pretty much been defiant in addressing the issue. And like I said, I hope -- we haven't gotten there in the last five years, and there might have been some instances where we could have possibly gone there; I don't know.

I know in our region we work with our providers to address those issues when we catch them, and I'm sure PTN does the same with their subgrantees and in general almost all of our providers are very compliant in following those recommendations and suggestions.

So it doesn't address the issue. I think I'm a bit more comfortable only because you have to sort of be like the defiant five-year-old that just says, No, I'm not
going to do it, to get to that point. And at that point
you've sort of brought that situation on yourself.

So I don't know if anybody else on the phone
has any other comments? What we could do is we could
recommend for final adoption with that comment. I don't
know that I really want to defer again. I'd like to sort
of close the book on this one if at all possible, but I
will defer to what the committee would like to do.

DR. ABESON: I have a question; this is Al
Abeson.

Eric, do I remember that at one of the points
along the way we discussed the larger question of ethics,
that there was some plan for teaching providers about
these new provisions as well as the overall concern about
behaving in an ethical fashion? Is that correct?

MR. GLEASON: Al, I didn't catch all of your
question, but what I can tell you is that, you know, this
is, you know, part of our core business mission as a
division with our administration responsibilities for
these programs.

And we work with folks on a daily basis to
ensure compliance, and so, you know, it's just part of the
ethic of working the program. And it's possible -- you
know, this set of rules is sort of the end game; this is
the end stage, if you will.
So, I mean, we can have -- you know, we can schedule a conversation with our subrecipients, you know, to talk about this.

DR. ABESON: Well, I'm not trying to create additional work. I just thought I remembered there was some kind of a training program coming up that this all would be included. And I think if that were the case or if it could just be put into a conference that you have typically with the providers, I think that would --

MR. GLEASON: That's fine.

DR. ABESON: That would add insurance from my perspective.

MR. GLEASON: Okay. Yeah, we can do that.

MS. MANN: Yeah, I think I recall what you're talking about. This is Suzanne again.

When I presented the rules on requirement of having an internal compliance program, we agreed that we would provide training. Bobby and I are working on that, and we're going to have a training program; we're going to have a sample of how to have an internal compliance program, how to have -- we're going to have a checklist, and then we're going to provide that training.

And so we are working on that. A letter's going to go out shortly saying what we did in that regard. And the link here is that if you have an internal
compliance program, then that is a mitigating factor in your sanctions.

And so if you recall, a couple of months ago, we required that they have an internal compliance and ethics program. And now we're saying, If you have that, then that's a mitigating factor. So there is a link there, and I think that's the training you were talking about.

DR. ABESON: Thank you very much. I think so.

MS. BLOOMER: Okay. If there are no other questions on item 3, do we have a motion?

MR. HUERTA: This is Vince.

MS. CRAIN: This is Christina. So moved.

MS. BLOOMER: And, Christina, what's your -- is your motion to recommend for final adoption, recommend for final adoption with comment, or to defer action?

MS. CRAIN: Final adoption with comment.

MS. BLOOMER: Okay. And do we have a second?

MR. CASTELLANOS: This is Frank Castellanos.

I'll second that.

MS. BLOOMER: Okay. Thank you, Frank.

And I'll just go down through everybody on the phone.

Al?

DR. ABESON: Yes.
MS. BLOOMER: Christina?

MS. CRAIN: Yes.

MS. BLOOMER: Janet?

MS. EVERHEART: Yes.

MS. BLOOMER: Frank?

MR. CASTELLANOS: Yes.

MS. BLOOMER: J.R.?

MR. SALAZAR: Yes.

MS. BLOOMER: Vince?

MR. HUERTA: Yes.

MS. BLOOMER: And Michelle, yes.

Okay. Thank you all.

Moving on to item 4 is the discussion and action on input to the department's legislative appropriations request, and I believe Eric is going to present this item.

MR. GLEASON: Okay. Yes. At our workshop in Arlington, when we were talking about the work plan, one of the items that came up and rose to the top very quickly was the -- whether or not the committee wanted to comment and advise the commission in its development of this next legislative appropriation request for the 2012-2013 biennium.

And you each received in your packet sort of a one-page summary of some areas that we have identified.
that could make up a description of need for additional funding for the programs.

And, you know, there are a number of ways to come at this, and I think we have -- just looking at that handout that you got, obviously, you know, with -- and this is on the state side, not the federal side, but on the state side -- you know, we've had fairly flat funding levels since about 2000 on the state side, and so right away, obviously, with inflation, buying power of that amount of money has been reduced, and we estimate that to be about 40 percent, and that's based on data that we routinely collect from all of the rural and smaller providers that we give state funds to, and kind of averaging out their individual experiences.

And honestly, the average was developed looking back over the last three years of data that we have, because that is the data set that we have the most confidence in.

If you recall with our conversation in Arlington about the formula, that with the passage of the current formula back in 2006, the department embarked on an effort with TTI to work with all of our providers to improve the quality -- the overall quality of the data that was being reported.

And so we began seeing, I think, significant
improvement in the quality of that data, you know, beginning with our 2007 data. So we looked back 2007, -8, and -9, and honestly there was quite a range of experience among individual providers, but it seemed to sort of settle down in an average of about 4 percent.

And so we then made the assumption that that would then -- we applied that back over the time frame beginning in 2000 and then projected it through the completion of the next biennium.

And so that's where we are with that, and that's one estimate of need based on that, so this would basically say if you wanted to return to the buying power of the 2000 level of funding, you would need about another 22 million for the biennium.

We know as well from our presentation in Arlington that population growth obviously has occurred in all of these areas, and if you apply that growth against the flat state funding levels, you identify a need for another 16 percent increase, or about 8.2 million for the next biennium.

And then skipping over the third topic and going down to the fourth, which is accounting for the impacts of the 2010 census -- we talked about that as well up in Arlington. And while it's a little hard to get our arms around an exact number, if we try and plan for the
worst case, what we think is the worst case, meaning the
biggest impact on existing levels of funding for current
rural and small-urban programs, we've identified a need of
up to 3.2 million in the next biennium.

The fourth area was the one that the committee
started to talk about and I think recognized quickly that
this was an area that would be useful to talk about in
greater detail, and that is how do we get our arms around,
then, the need for additional service or the unmet need?

And, you know, having sort of made all these
adjustments to account for inflation and population growth
as best we can, you know, there still remains an unmet
need, and how do we get our arms around that?

And between the time that we met in Arlington
and today we took a run at that in a number of different
ways, and what we ended up with using, very much an
imperfect number, but relying on the work that was done
for the commission by the 2030 committee, if you go back
into the appendix of the report -- and the public
transportation information in the report was prepared by
TTI, and I've had some conversations with them about that
work, so it's sort of in the appendix and in the working
papers -- it seemed reasonable to suggest that if overall
funding levels were increased by about 25 percent, having
made all the adjustments for growth and inflation, that
that would be a good estimate of unmet need in terms of basic mobility needs across the state.

Now, to give you a sense of the other kinds of things that we looked at, we looked at our regional coordination plans. We have 24 plans, one from each of the regions of the state.

Now, we've not asked in those plans for folks to include estimates of what they would need financially to address the needs in the gaps that they identify in those plans, but three of those plans did in fact do that: the plan developed for the ArkTex area of the state, the northeast corner of the state; the Central Texas Council of Governments plan had estimates in there; and then the Middle Rio Grande Valley plan had estimates in there as well.

And so what we did is we took those estimates, and we said, Well, what if we sort of figure out on a per capita basis what those estimates were, and then applied that per capita number to the rural and small-urban population of the state.

And when we did that, we came up with a number that was in excess of $500 million a year. So -- and we weren't convinced that -- well, while that may in fact be the need, we weren't convinced that in this environment that that kind of a number was something that we ought to
try and wrap our arms around.

And so without judging it as being, you know, wildly inaccurate, it just seemed to be a really large leap of faith at this point in time to be suggesting that that was the need, and that we would really need to embark on a much more elaborate and detailed look at need before we could say confidently that that was or was not the right number.

The other thing we did -- and this is very similar to what was done in the 2030 report -- is we looked at revenue miles per capita for each of our rural and small-urban systems, and we asked ourselves, Well, what would it take if we brought everyone in the state up to the level represented by the second quartile, and what is, from a statistical standpoint, is we broke the distribution of the revenue miles per capita down into four groups.

The second quartile is the number that is the difference between group 2 and group 3. So bringing everyone in the state up to that level -- and I think at -- you know, that number was in the neighborhood of 26 to 28 million a year to do that.

We also know that realistically, if we were to get that amount of money, we wouldn't apply it that way; we'd give something to everyone, because everyone has
needs.

And so it's really a -- I guess in many respects it's an unsatisfactory conclusion that we have for you today about our ability to get our arms around a neat number, but what we've settled on is using a number that was -- you know, that can be traced back to the 2030 report, which, in our view, has standing with the commission, and adding that amount to the numbers that we already had identified for inflation and population growth.

And where that leaves us from a request for the next biennium is it leaves us in the neighborhood of, I think, if I have this right -- if you look at those three things, we are in the neighborhood of about $55.2 million for the next biennium.

And so that's what we have for you. We've reduced it to a single page, just for -- to make it as easily understood as possible without all the additional information, and this is information that we are working with as a division, internally, through the internal LAR development process.

So why don't I stop there and see what the committee wants to do. Just from a schedule standpoint, the best opportunity for the committee to comment to the commission is their June meeting, as best we can tell.
It's not clear whether the June workshop or the June commission meeting will be the opportunity; they're still trying to -- the department is still trying to determine how they are going to introduce a draft LAR to the commission, but it would be a part of that discussion which will be in June that I think the committee is best positioned -- and I've talked to the executive director about this -- is best positioned to make comment if you wish.

So with that, Michelle, why don't I give it back to you and see what the committee wants to do.

MS. BLOOMER: Okay. Eric, I just have a couple of questions. You said the bottom line is we're looking at 55.2 million for the next biennium, so that's 55.2 over the two-year period.

MR. GLEASON: Correct. Keeping in mind that the current level of state funding for a two-year period is about 57 million.

MS. BLOOMER: Oh, that was my next question. So we're looking at asking for 55.2 million for the next two years, and the current two-year is 57 million?

MR. GLEASON: About 57 million. Yes.

MS. BLOOMER: So we're asking for --

MR. GLEASON: You're doubling it.

MS. BLOOMER: Okay. That was my question. So
that 55 million is in addition to the existing 57.

MR. GLEASON: Absolutely.

MS. BLOOMER: Okay. I was like, we're reducing it?

MR. GLEASON: No, no, no. Generally speaking, it looks to be about a doubling of the existing level of state funding.

MS. BLOOMER: Okay. And I guess maybe -- when you called and Ginnie said, Hey, we'd like you to come down and present to the commission workshop, at the time my blood pressure went a little high.

I'm not sure -- and maybe we can talk about this as a committee. Given the state of the state of Texas and the state of TxDOT, asking for $57 from the commission -- is that realistic?

MR. GLEASON: Well, let's talk about a couple of things here.

MS. BLOOMER: Okay.

MR. GLEASON: The commission -- the department has been requested by the commission to develop an LAR which is described as needs-based --

MS. BLOOMER: Okay.

MR. GLEASON: -- which is similar to what was done for the last biennium, and what is meant by that is put forward an LAR which is not constrained by what you
think you have available but represents what you think you could do.

MS. BLOOMER: Okay.

MR. GLEASON: So what that means in the context of the department is the work on the 2030 plan identified an over-$300-billion gap in funding in terms of unmet need.

When the department puts together a needs-based LAR, what they have done and what they do typically is they sit down with the construction industry, and they say, How much could you do in two years? What's a realistic amount of money?

And the last time around, the last biennium, that number was I think in the neighborhood of 13 to $14 billion a year. And so that formed the basis for the last LAR that the department sent over.

So in that context it's not necessarily unrealistic to also suggest that additional funds are needed for public transportation. The key to this conversation is how you propose to finance those funds.

What the department did last time and what I would expect them to do this time is suggest that those funds need to come from somewhere else other than the state highway fund, because the state highway fund does not have them.
And so it's an expression to the legislature of what could be done if additional funds are found, and so in the context of this $55.2 million, the method of finance becomes an issue.

If the committee were to feel that all of these funds ought to come from the state highway fund, then you would need to make that point to the commission. It's also something that the committee could say, Well, we think that these additional funds ought to come from the general revenue fund or somewhere else.

Or you could simply remain silent on it and just speak to the commission in terms of need, leaving the method of finance decision up to them.

Now, given the dire economic situation, the budget situation of this next session -- and we talked about this in Arlington -- I mean, we're -- you know, anywhere from 15 to $18 billion budget deficit is expected; it seems to difficult to expect too much out of the session.

But I think it is an important issue to keep in front of the legislature, so what I can tell you is that what we have done internally is we have suggested to the administration that the census impact amount, the 3.2 million, be something that they look to the state highway fund for because of the critical nature of that impact on
existing systems, but that the balance of the need be addressed through an exceptional item request, which means something other than the state highway fund.

And so, I mean, that -- the committee would need to decide whether and how it wants to weigh in on the method of finance. I don't -- well, I think it's appropriate in this environment to provide the commission with an expression of need; that's certainly being done on the highway side.

MS. BLOOMER: Okay.

MR. GLEASON: I don't know if that brings your blood pressure down at all.

MS. BLOOMER: That helps a little bit.

MR. GLEASON: Now, there are other ways -- if the committee would simply want to write a letter to the commission, that's another way to provide comment. You don't need to do it publicly at a commission meeting, and it will be every bit as valid in the commission's review of the LAR as it would be if you were to come up and make the statement publicly.

So there is another option that the committee could take; you could simply write a letter to the chair.

MS. BLOOMER: Okay. I think it does help, though, knowing that it's a statement of need.

MR. GLEASON: Yes.
MS. BLOOMER: And we can or can not chose to weigh in on how they meet that need.

Okay. And then how -- so we put together a needs-based request, present that to the commission; the commission includes that in the legislative appropriations request or --

MR. GLEASON: It may or may not, but yes.

MS. BLOOMER: It may or may not. But they then send to the legislature. At that point then how do we avoid -- if we send down a $100 million request -- the 55.2 additional plus the 57 million we currently get -- is there any way to make sure that we don't end up somewhere less than $57 million?

MR. GLEASON: These things are treated as separate things. The department will propose its LAR, and I have no reason to believe that it's not going to do this; that we will continue to propose that we fund the -- at the current level of state funding for public transportation and its current method of finance remain the same.

Now, I can't second-guess the commission and what they will do in their discussions, but I've heard nothing at this point in the process to suggest that the department would do something different than that.

So the first -- the current level of funding
will be one item in the LAR, and then the LAR will identify additional funding. And, for example, if -- in a needs-based LAR, if the needs are included, they would be included, but they would be identified as over and above --

MS. BLOOMER: So they're treated separately.

MR. GLEASON: They're treated separately.

MS. BLOOMER: One request for the existing amount of funding and then a separate request for additional funding.

MR. GLEASON: Yes. That is my expectation as to how they will be treated. Without knowing exactly what the commission will do, that would certainly be our recommendation, and that they not be lumped into one and put at risk.

MS. BLOOMER: Okay.

MR. SALAZAR: So just so I'm clear on this, the -- as far as PTAC's role, we're not talking about the upcoming commission meeting. We're talking about --

MR. GLEASON: June.


MR. GLEASON: Yes.

MS. BLOOMER: And you won't be among us for that --

MR. SALAZAR: I won't be there that day.
MR. GLEASON: And with June we don't know if it's the Wednesday workshop or the Thursday commission meeting where it will be introduced.

MS. BLOOMER: Do we know when we will know that?

MR. GLEASON: No.

MS. BLOOMER: Okay. Will we know it -- I'm just trying to think, if we decide as a group that we would like to present either to the commission via whatever means, the workshop or the meeting, I would like as many PTAC members that are available to be there, just to show our --

MS. EVERHEART: What are the dates of that?

MS. BLOOMER: I believe it's --

MR. GLEASON: It will be the last Wednesday and Thursday in June, without knowing the dates.

MS. EVERHEART: Okay.

MR. GLEASON: 23rd and 24th. And I would say, Michelle, that, you know, right now the department's focused on the May meeting. I would think that it will come into focus very quickly after the May meeting.

MS. BLOOMER: Okay.

MR. GLEASON: Perhaps as soon as that next morning when we meet in typical fashion to talk about the next commission meeting. So I just think right now it's
that there's -- I think the intent is to not have the
commision take action on anything in June, and so the
discussion is how best to present it to them.

Do they do it in a workshop environment, or do they do it as the discussion item at the commission meeting, and that I think is the conversation.

MS. BLOOMER: Okay. And then for those committee members, the workshop is usually the Wednesday before the meeting at --

MR. GLEASON: The Wednesday afternoon before the meeting.

MS. BLOOMER: Wednesday afternoon around 1:30, and then the meeting's usually in the morning, so there's -- for those of that travel, that would be convenient.

MR. GLEASON: And as I say, if the committee would like to send a letter or do both -- I mean, you can do all those things.

MS. BLOOMER: All right. So how -- I guess -- are there any other questions? One question I have: How does that process work?

So say it is -- how do we communicate that to the commission? Is it that document, that like three-page document that Ginnie sent me that just looks like an accounting document, or is it in a -- sort of a white
Here's how much money we currently receive and, you know, some charts and some graphs to show that we're still getting the same amount of money; Public Transportation is still receiving the same amount of money in 2010 as they did in 2000 and just show that, show federal funding, or how is that communicated to the commission?

MR. GLEASON: I think the committee could communicate it -- I mean, to a point we could work with the committee in terms of if you wanted to put together something that had something more than, say, this single page as supporting documentation. We could work with that, to a point. I mean, I think there are practical limits to what actually gets looked at in this process.

MS. BLOOMER: Right.

MR. GLEASON: You know, how it gets presented to the committee is something that our finance department does in the context of the entire LAR presentation, so I don't know -- you know, in the scheme of things, I don't know how much time or attention would be devoted to this topic relative to the maintenance program and the mobility program and things like that.

But I do know that if it's being -- certainly if it's being suggested that additional funds be requested, that it will be a topic of conversation.
MS. BLOOMER: Okay. I guess what I'm just trying to get a better hold of is, if we're currently receiving 57 million and we're going to go ask for 55 and go ask for another 57, if I am a commissioner, I'm going to want to know sort of why, how. That's a lot of money, and it may or may not be a lot of money to the commission in the realm of everything, but to me $57 million is a lot of money. So I'm just trying to figure out how best we position the additional request in front of the commission so they can very quickly and easily see that, yes, additional funding is needed, but if I'm looking at it, I'm going like, Wow, 57, that's kind of out there, but how did you get to that amount; how do you go about making that argument that more funding -- or is this a letter and this the main mechanism you have to communicate to the commission?

MR. GLEASON: Well, let me describe to the committee what we've done so far. This piece here with a method of finance recommendation as well. We didn't include that here, because I didn't want to suggest to the committee one thing or the other.

But I have -- in the context of our request through our internal preparation process, I have sent this description to each of the commission aides and have asked them to let me know if they need more.
So if the committee were content with these as described, we could use that as whether or not -- as a barometer, if you will, of whether or not the commission desires more information as a part of this process.

If in its communication to the commission the committee wanted to include some more, we could certainly support that within practical amounts, and so -- because I think -- what I mean by practical is two things: one, our ability to generate it, but more so in terms of, you know, how best and how quickly to communicate something to someone who's got, you know, a six-inch notebook on the topic to look at.

And my experience has been that if you can get it down to one page, you're in good shape, and they'll let you know if they need more.

MS. BLOOMER: Okay. I'll stop monopolizing the conversation. Are there any other comments or questions from the committee?

MS. CRAIN: This is Christina.

Eric, what conversations, if any, have taken place with the Legislative Budget Board representative regarding this? I mean, have you all had extensive conversation with them on this?

MR. GLEASON: No. We have not. And, you know, I don't know to what extent members of our finance
department or division have, you know, Christina, but, no, I certainly have not.

MS. CRAIN: Okay. I was just curious whether or not we had any idea of where they kind of sit on this and what they might be recommending.

MR. GLEASON: Well, I think the process is such that the department will send its LAR process over --

MS. CRAIN: Right.

MR. GLEASON: It's scheduled to be adopted by the commission at the August meeting.

MS. CRAIN: Okay.

MR. GLEASON: So shortly thereafter we would send that over and then, you know, conversations would begin in earnest.

MS. CRAIN: Sure.

MR. GLEASON: I don't know to what extent prior to that --

MS. CRAIN: Any conversations. Okay.

MR. GLEASON: I'm sure there are, but I don't know to what extent they're specific to anything.

MS. CRAIN: Sure.

DR. ABESON: This is Al.

MR. GLEASON: Yeah.

DR. ABESON: As the division submits its request to whomever in the agency puts together the whole
LAR, you're asking for $57 million? I mean, that's the current level of spending. Is that right?

MR. GLEASON: Roughly. 57 million has been the level of state fund spending on public transportation grants. Yes.

DR. ABESON: Okay. And are you asking for the same amount?

MR. GLEASON: Well, we're asking -- in addition to that amount, we have identified four areas of need.

DR. ABESON: That's in this one-page paper.

MR. GLEASON: Yes, sir. And the total request that those four areas represent is 55.2 million additional.

DR. ABESON: And that's what you're submitting internally to move forward in the process.

MR. GLEASON: No, this committee can do -- well, okay. Let me make sure I understand.

As a division --

DR. ABESON: Yeah.

MR. GLEASON: -- we have moved these numbers forward, yes.

DR. ABESON: Yes.

MR. GLEASON: This committee can chose to do something different.

DR. ABESON: I understand.
MR. GLEASON: But this is the best information that we have at this time. And it's -- you know, at our meeting in Arlington we talked about -- we've talked about population growth and we've talked about census impacts.

DR. ABESON: So is it likely that the commission will see this -- if the committee were to decide to submit this same page, would the commission then essentially be receiving the same page from two places, from the department as well as from the committee?

MR. GLEASON: I'm not sure I follow.

MS. BLOOMER: Has the division already submitted -- you've already submitted this as a division?

MR. GLEASON: We have submitted, through the budget preparation process, the LAR process, we have submitted requests for additional funding. Yes.

And I have also, in conjunction with that, sent this one-page, plus a method-of-finance recommendation, to commission aides and the administration. So they have what you have.

And so if the committee were to provide comment to them that was consistent with that, then that would be, I think, supportive.

If the committee were to do something different, then that would be acceptable as well. And really this is not something that we -- I was just trying
to provide the committee with some basis for putting
together some comment.

And I think, obviously, a lot of the issue is
how do we -- what is a reasonable expression of unmet
need?

DR. ABESON: Well, one of the concerns I
have -- and maybe this is out of line with the process and
the people involved, and I know nothing about either.
This is cold, dry numbers and perfectly logical and
rational.

The impact on people is really absent, totally.
Now, maybe -- this just goes back -- you know, we all talk
about, when we visit with policymakers, to make it
personal, make it understandable.

And I wonder if the committee were to submit
something that would include these numbers, would it also
be of value to perhaps include some personal stories
translating unmet needs into older adults that are
isolated, people with disabilities that can't get to
work -- you know the routine, just to give it a different
perspective, and perhaps that would help it be recognized
and then, of course, maybe help with getting the
appropriation we need.

MS. BLOOMER: I think if we -- depending on how
we determine to transmit the information to the
commission, I think that's a good idea.

One other item I had included just in reading it this morning was thinking it also might be helpful to give an example -- for the purchasing power, just to give an example of -- pick a measurement, number of trips, hours of service, that we were able to provide in 2000 with the 2000 funding and, given inflation, how much service we are able to provide in 2010, given the same amount of funding.

MR. GLEASON: Yes. What I can tell the committee -- and this has been the story everywhere I've ever worked in transit -- is that in the intervening time frame, I think through coordination, through efficiencies, through working locally to find additional money, we've not seen, you know, a corresponding drop in service levels, and I think it's much to the credit of the provider community and their creativity and ability to sustain service levels that they've been able to do that.

And so I think you can talk to the commission and whomever about what that means, you know, from a practical standpoint, but the experience has been through a tremendous amount of I think hard work and creativity and management, the industry has managed to sustain if not, in some cases, somewhat increase the service that's out there.
You know, what small role the department has had in that has probably been limited to the use of transportation development credits for capital project applications that has allowed whatever non-federal money these agencies have -- it's allowed them to apply as much that as practically possible against the federal program to sustain their service levels.

So I think that's a good-news story that the industry can tell in the context of these numbers.

DR. ABESON: But as probably the skeptical member of the commission or the legislature, I'd say, Well, do it again. We're going to give you the same amount of money; keep right on being creative and working hard.

MS. CRAIN: So, Eric, you think after the May meeting that you'll have a better idea.

MR. GLEASON: Well, what I'd have a better idea after the May meeting, Christina, is whether it's going to be a Wednesday workshop discussion or whether it's going to be --

MS. CRAIN: Okay.

MR. GLEASON: -- a June -- a Thursday commission meeting time.

MS. CRAIN: Okay. Got it. And I'd just like to know what your recommendation or thoughts would be on
us possibly doing both versus doing one or the other;
meaning the letter versus the public comment.

    MR. GLEASON: Well, I think both will have the
same -- I mean, both -- there's no difference in how the
comments would be treated by the commission. A written
letter versus public testimony -- I guess it would just
depend upon, you know -- with public comment you have an
opportunity -- if the commission is interested in getting
into an exchange, you have an opportunity of having a
corneration with them.

    MS. CRAIN: Right.

    MR. GLEASON: And so that would be, you know,
the opportunity that commenting at a workshop or a
commission meeting would represent.

    MS. CRAIN: Uh-huh.

    MR. GLEASON: It's likely that what we would do
in either setting would be at some -- that the comment
would be part of the department's report to the
commission, so if the chief financial officer presented
the LAR, what is likely to happen is at some point he
would acknowledge that the committee is desiring of making
comment to the commission, and that's how it would happen.

    MS. CRAIN: Okay.

    MR. GLEASON: That's probably how it happens,
is some way that way.
MS. CRAIN: Okay.

MR. GLEASON: Honestly, I think the committee's breaking some ground here in terms of advising the commission. I think it's great. And so we're working to try and figure out how best to do that.

MS. BLOOMER: I know -- Eric, if I understand correctly, the division has already presented this information, the 57 million and then the additional money.

And so I think, at least from my standpoint, it would be in PTAC's best interest to sort of support and echo that request.

And to Janet's point, I think it would be beneficial if we could do both: maybe written comments and public comments either through the workshop or the actual meeting, and then maybe our written comments and the public comments can focus not only on the numbers of it but sort of the human nature that we all see; not just -- I think the numbers speak for themselves, but I think when you bring the personal aspect into it, it just hits a little harder home.

Are there any -- I think my biggest issue and my biggest concern -- and I think you've addressed it, Eric -- as long as we don't go below the 57 million -- that's my biggest concern, is we go in asking for 110, and they're like, Well, we can give you 40.
So as long as we keep those two separate, I have a little bit more level of comfort with the $55.2 million number. And I don't know how the commission and the Legislative Budget Board -- how they determine ultimately where you end up.

And I don't know if -- you know, sometimes asking -- we have some of the providers in our region that go big or go home, and, you know, I don't know that that's necessarily the best approach sometimes.

We have $150 million call; they'll ask for 250 million of it. We're like, We only have 150 million. So I just want to make sure that by going in and asking for an addition 55.2 million, when really that may be what we need, but something between zero and that would be a positive from where we are today.

So I don't know the strategy behind -- do we ask for the ultimate and hope we get knocked down to something that we'd still be happy with, or do we go in with something that may be somewhere in between that and have a better shot of getting close to that?

MR. GLEASON: Let me -- I think last biennium's experience in the LAR is I think helpful. For the last LAR, the department received a request from the Texas Transit Association to increase state funding levels up to $100 million a year -- no, 100 million for the biennium.
And we submitted an LAR that requested an additional $22 million a year, or 44 million for the biennium. So we, the department, included that request in the last LAR, and it -- but it included it as funds coming from general revenue.

And so in that process, the way that, you know, the LAR is sent over and all of those general revenue -- those exceptional item requests are dealt with differently through the process.

So to come in and ask for something that is roughly 26 million a year, when the last process included an additional 22 million a year, is not unreasonable, in my view, as long as the commission is taking a similar approach to the development of this LAR.

So you have a number which is not wildly different than it was two years ago, and you have a number which you can talk about as being justified for the following reasons.

Now, I think the notion of trying to put a more human side to this, element to this, is something that the committee can bring to the commission, and I think it is better positions, perhaps, than the division to do that because of who you are and who you represent and why you're on the committee.

And so I would just offer that. So I don't
think this would be viewed as being something, you know, out of left field, if you will. You have to remember that the department believes that there's a $300 million gap in need for additional transportation funding in general. So as long as the same approach is being used with this LAR, then I think this is consistent with that.

If the commission were to determine that it didn't want to do that, then we might have to -- it might be cause for y'all to go back and think about a different number that was scaled differently, if you will.

But I think this is -- as best I can tell, given what I know about the process the department is embarking on and the intent, this is consistent with that. And, honestly, the committee can go to the commission anytime and talk about need.

It's completely appropriate with the scope and responsibility of this committee, is to go and talk to the commission about what you see as the needs for public transportation, under any setting.

MS. BLOOMER: Okay. We do have somebody registered to speak on this item: Nancy Fisher from the Texas Transit Association.

MS. FISHER: Thank you. My name is Nancy Fisher, and I am registered lobbyist here in the state of Texas. Texas Transit Association is one of my clients,
and I'm here today to talk about item number 4, your legislative appropriations request.

As a point of information, I have been working in and around state government for the past 32 years, and I spent five of those years as chief of staff to Speaker Tom Craddick and am familiar with the appropriations process, not only during the session but also the interim process that leads up to the legislative appropriations request.

Last session I worked for Texas Transit Association, and one of our major items of interest included the appropriations for public transportation.

The request that has been outlined by Eric, including the 55.2 million biennium additional money for public transportation is supported by Texas Transit Association, and we would further ask you to include it in the base bill and not as exceptional item.

As you know, the Texas legislature is going to be faced with a deficit next session, and moving items from the exceptional items into the base bill after House Bill 1 and Senate Bill 1 is introduced will be very, very difficult.

The money that is available in GR and in fund 6 is a matter of prioritization for the Texas Department of Transportation and for the legislature, and we would
request that this funding receive that priority to be put in the base bill.

We've had, as Eric has mentioned, many years without an increase and would specifically request that when you make your deliberations on your LAR request to the commission that this money be included in the base bill.

If there's any questions, I'll be happy to respond to them at this point.

MS. BLOOMER: Are there any questions?

(No response.)

MS. BLOOMER: Thank you.

Any other discussion?

(No response.)

MS. BLOOMER: Eric, I just have a question, and I apologize; I'm not -- I'm learning some new acronyms: LAR, LBB. What -- can you explain a little bit more to Nancy's point what the difference is between the base bill and the exceptional items?

MR. GLEASON: I think what -- the difference is whether the department submits an LAR request that has these things as being funded from its revenues, which would be the base bill, versus suggesting funding but from some other source.

And when it is in that other-source category,
it becomes an exceptional item in the legislative process, so I think that's the problem -- and this is an issue that the association has been consistent on in the past: that they believe that any additional funding like this is something the department needs to find from within its revenues; it's been a consistent position.

MS. BLOOMER: So by requesting to place it in the base bill, we're asking the commission to prioritize all their obligations against their known revenues and to put transportation a little -- maybe move it up on the prioritization list to receive some of the limited funding --

MR. GLEASON: Uh-huh.

MS. BLOOMER: -- versus asking the legislature to come up with the money.

In the item that you forwarded on or the division forwarded on, you had mentioned that you included revenue recommendations.

MR. GLEASON: I did, yes. What we have done as a division is recommended that the census impact number -- the smallest number of all of these, the $3.2 million for the biennium -- be something that be included in the department's -- from department revenue, that the department find a way to finance that need from its revenue stream but that the other amounts be included as
exceptional items.

And that is an approach that is consistent with
the department's approach in the past to looking for
additional revenues for what it sees as additional needs.

So I think that is an issue for the committee
to talk about, and it's an appropriate agreement for it to
weigh in on in this process.

MR. SALAZAR: And that's just been a
historical -- J.R. -- been a historical way of dealing it
from TxDOT's perspective, to make an exceptional item?

MR. GLEASON: Well, if -- what I'm -- you know,
the last legislative process, the last biennium, with a
needs-based LAR, that is how the department approached it.

If you have followed recent commission or just
ongoing commission conversations about the highway fund
and the lack of new funds and the growing need for
maintenance and all of that, you -- you know, I think the
commission's emphasis has been on the need for additional
funding for transportation.

MS. BLOOMER: Is there a way to sort of get two
bites of the apple: to initially put it in the base bill
and then, if it doesn't meet the threshold to be funded,
then to move it --

MR. GLEASON: Well, if I can, I think the
committee should simply express to the commission what it
believes to be the right thing to do. And I think that --
and I hope I'm not overstepping my bounds here. I think
the nuances and the strategy that go into thinking about
how to approach it from a legislative process and
legislative budget process -- I really couldn't probably
begin to capture all of that.

I just think that the committee is best suited,
I think, just to simply make a presentation to the
commission on what it feels is the best approach.

MS. BLOOMER: Given that we're not going to the
commission -- or this item isn't going to be in front of
the commission in May but in June, is it something we need
to take action on today, as we're having a May [sic]
meeting, or is it something --

MR. GLEASON: Well, one possible action the
committee could do today is it could direct you or some
combination of the committee, based on this conversation
today, to develop a set of prepared comments to be sent to
the commission and delivered to the commission.

Toward the end of this meeting we will talk
about a June meeting. We've got time to, you know,
develop those and we could talk about them more fully in
June if you want, or the committee could be content with
this conversation today and just, you know, direct that
you go ahead and prepare comments with the assistance of
the division and move on to another topic.

So it just depends on what the committee wants to do.

MS. CRAIN: Michelle, this is Christina Crain. I agree with what Eric suggested or at least brought up about us formulating some comments, and I'd be happy to make that motion.

MS. BLOOMER: Okay. Just to clarify, Christina, I think earlier we had talked about transmitting a letter and --

MS. CRAIN: Correct.

MS. BLOOMER: -- to the commission.

MS. CRAIN: Right.

MS. BLOOMER: And I think in addition to that we had talked about, through the June commission workshop meeting --

MS. CRAIN: Correct.

MS. BLOOMER: -- also presenting public comment.

MS. CRAIN: Right.

MS. BLOOMER: Is that what you were making a motion to do?

MS. CRAIN: I think the motion I'd like to make is that we look at doing both.

MS. BLOOMER: Okay.
MS. CRAIN: That we look at constructing, with Eric's help, a letter that would be instructive to the commission that could be sent prior to their June workshop meeting that puts us on the record as stating that we do approve and support this, and that we also look at getting a group of us together -- whether it's the full committee or yourself along with Eric and several others -- that put together some comments that are prepared for public comment at that June meeting.

MS. BLOOMER: Okay. So we have a motion. Do we have a second?

MR. HUERTA: This is Vince, and I second.

MS. BLOOMER: Okay. We have a second. Any more discussion?

MR. CASTELLANOS: Yes. Under discussion -- this is Frank Castellanos -- again, supporting the fact that Eric has mentioned that we probably would have more impact if we just do a one-pager and the fact that we've -- I think we're going to the point that additional letter or letters need to be sent to highlight maybe the human-interest issues, I've been doing a little bit of fiddling with that paragraph that says "need for additional services."

And let me just read it to you all and see what you think, and maybe it will address some of the issues
that have been discussed. So if you'll bear with me a second, if you go to that page, under "Need for additional services exceeds available funding," I have deleted the phrase "by 25 percent" and then just said, "Increasing state funding levels for public transportation to address inflation and population growth impacts does not" -- and I took out the word "completely" -- "does not address the gap between the need for services and available service levels. Work done as part of the department's 2030 report suggests an overall increase of 25 percent" -- I've added in there "($22 million) to better meet basic mobility needs after adjustments for inflation and growth."

I've added the sentence, "PTAC comments that a more adequate amount to address unmet needs would be $75 million." And there I simply took the $55 million that was mentioned and added that to the 22 million and struck that last sentence in that paragraph.

I don't know if that kind of captures what it is that we're trying to do and also limits it to the one-pager, but I've been fiddling with that, and maybe just food for thought.

MS. BLOOMER: Thank you, Frank. Maybe you can send that out to the committee members via e-mail.

MR. CASTELLANOS: I'll do that.

MS. BLOOMER: And we can work on that as part
of the drafting of the letter.

So I have a motion and a second; we had some comments. If there are no more comments, we'll go ahead and we'll take a roll call and vote.

Al?

DR. ABESON: Definitely.

MS. BLOOMER: Christina?

MS. CRAIN: Yes.

MS. BLOOMER: Janet?

MS. EVERHEART: Yes.

MS. BLOOMER: Frank?

MR. CASTELLANOS: Yes.

MS. BLOOMER: J.R.?

MR. SALAZAR: Yes.

MS. BLOOMER: Vince?

MR. HUERTA: Yes.

MS. BLOOMER: And Michelle, yes.

All right. Thank you.

MR. SALAZAR: That meeting in June is --

MS. CRAIN: One more thing I'd add -- this is Christina. I just wanted to know what our time frame would be on trying to get a letter drafted, what Eric's thoughts are on when that letter ought to hit the commission, who it ought to be copied to, and then also what we want to do as far as getting a group together to
put comments -- public comments together.

MR. GLEASON: Well, let me -- this is Eric.

Let me address the first several of those, Christina.

I think the letter ought to be timed to be in
the commission's hands prior to the presentation at the
June workshop or discussion meeting; I would time it to
hit just before.

MS. CRAIN: Okay.

MR. GLEASON: So it's possibly right there with
them.

How the committee wants to pull the comment
together, I'll leave it up to the committee.

MS. CRAIN: Okay.

DR. ABESON: This is Al. Did we decide whether
we're going to approach the base budget or the exceptions
budget?

MS. BLOOMER: No, we did not. I think our
approach is just to present to the commission what we
think the need is.

MS. CRAIN: Well, wouldn't it be that -- I
mean, our position, I think, at this point, given that
they're working on the LAR, is that we want it in the base
budget, and -- I mean, at least that's the way I view it.

Correct me if I'm wrong.

And then if they make it an exception item,
then we deal with it accordingly.

Eric, am I right on that?

MR. GLEASON: Well, there's really no right or wrong to this approach, Christina, this conversation. I think that's up to the committee.

MS. CRAIN: Okay.

MR. GLEASON: We've talked about all the different ways it could be, from --

MS. CRAIN: Sure. Okay.

MR. GLEASON: The committee may chose not to comment at all, or the committee may chose to include a method of finance recommendation.

DR. ABESON: This is Al. I would hope that our argument is sufficiently strong that it would be considered part of the base budget.

MS. CRAIN: Well, that's my position. I mean, if we're going to go to this effort, which I totally agree with, I think that's the position the committee ought to take, is that we think it's important enough that this be made a part of the base budget. That's my two cents.

DR. ABESON: And I would add two more cents to that.

MS. BLOOMER: All right.

MS. CRAIN: We got four now.

MS. BLOOMER: We have four cents now. Al added
his two cents.

Eric, just a point of clarification, then. Do we need to go back and take action on that, or are we good, based on the action we have, to transmit the letter to the commission with the inclusion of the funding to come from the base budget?

MR. GLEASON: Well, I think the action you took was just comments.

MS. BLOOMER: Comments. Not what our comment are.

MR. GLEASON: Not what they are. So I think you're good.

MS. CRAIN: And he's leaving that to us, I guess.

MS. BLOOMER: Okay. So we can do that as part of the negotiation and drafting of the letter.

MS. CRAIN: Sounds like it's up to you to get us corralled and figure out.

MS. BLOOMER: Okay. Well, I'll work with Eric, then, on a time line so we can get the letter in front of the commission, time it so it gets there just before their workshop and the meeting and allows sufficient time for the members to look at it as well and provide any comments.

Is that okay?
MR. GLEASON: Yes. If I may, if there are committee members -- this notion of trying to put a human side to this, if there are committee members who have specific ideas on how to do that and what kind of language they might like to see in that regard, it would be really helpful for you all to send those on in to Ginnie so that we can capture that in whatever we put together.

MS. BLOOMER: Do you have a date by which you would like those?

MR. GLEASON: Why don't we say within the next week to ten days.

DR. ABESON: This is Al. I'm a little confused. These paragraphs, if that's what they turn out to be, would be the public testimony that the committee would present to the commission. So why do we need to do that so quickly? -- because that's going to be tough.

MS. BLOOMER: I think the question is did you want -- my understanding was you wanted to include sort of a human-interest in the official letter transmitted to the commission in advance of their meeting.

DR. ABESON: Oh, I see.

MS. BLOOMER: So that if we want to --

DR. ABESON: I agree.

MS. BLOOMER: -- include that sort of human component, not just the data, in the four areas on the
one-page paper, then we would need those within the seven to ten days.

MR. GLEASON: Just to get us started on it, Al.

DR. ABESON: Okay. I apologize for being confused. I thought we were going to do that in our public statement to the commission and not necessarily include them in the letter, but I'm for including them both times.

MS. BLOOMER: Okay.

MR. GLEASON: This is Eric. What I have in mind for the committee is that we're going to talk about a June meeting; we're going to try and scheduled a June meeting, and I would think that ideally we'd have a pretty cut at what those things might look like before that meeting.

DR. ABESON: Yeah.

MS. BLOOMER: And thinking of that, maybe if we have the June meeting -- well, I guess we couldn't have it the morning of the workshop; we would need more time. I was just trying to think how many trips down to Austin we'll all be making.

MR. GLEASON: Well, and we can do it over the phone, too.

MS. BLOOMER: Okay. That would be great.

Okay?
DR. ABESON: Do -- the providers that are on the phone, do they have source people that they could go to to be generating some of those comments from people?

MR. SALAZAR: This is J.R. Generally speaking I think we have a few. TTA is obviously one source that we can use, and then just our own systems that we run. But those are the only two that I can think of right now.

DR. ABESON: And is the lobbyist from the association still on the phone?

MS. BLOOMER: No, but she is here in the room.

DR. ABESON: Oh, okay. Maybe can you work through TTA and help us on this?

MS. BLOOMER: She's nodding her head yes.

MS. FISHER: Yes, sir, I will.

DR. ABESON: Okay. That's good enough for me.

MS. BLOOMER: Okay. All right, then. If there are no more items on the LAR and if it's okay with the members of the committee, we're going to flip item 5 and 6 and take item 6 first, and it's the division director's report.

MR. GLEASON: Okay. Each of you got a copy of our director's report in your packet, and I'll just highlight a few things for you.

We have our semiannual meeting coming up on July 14, and all of you are invited to attend that. This
is something we hold twice a year with our transit
operators, and it's a business meeting. It's a day-long
agenda, and we cover a variety of topics. Michelle spoke
at the last one and described generally what the committee
was up to at that time.

I also want to let you all know that we are
moving ahead with our executive leadership seminar; that
we have entered into an interagency contract with the
Texas Transportation Institute, and they have in turn
contracted with the Eno Foundation to begin pulling this
seminar together, and that will be held in October.

So we're really excited about that. I think
we've reported to you in the past about our efforts in
that area.

DR. ABESON: Who will be the attendees?

MR. GLEASON: We will be sending out an
application packet here shortly, and it being directed
toward current transit agency leadership among our rural
and small-urban providers or someone directly below that
level.

DR. ABESON: Thank you.

MS. BLOOMER: Are you looking for people who
are -- who the audience is, so it's your executive
directors or your directors of transportation. Is it
folks that are already sort of at a certain level, to take
them to the next level, or is it the folks that need a
little oomph to get them up to --

MR. GLEASON: I think over the long run it's
all of those people. What I have said in my comments on
this with this first one is I want to be sure that current
general managers and transit or transportation directors
don't forget about themselves for this training
opportunity.

I think too often with these seminars we
develop them for the up-and-coming leader, and we never
give anything to the current leaders, or we never
courage them to take advantage of it.

And so in my own mind I'm going to -- as we
look at our applicants, we'll be giving priority to
current leaders, and much of that is based on the work
we've done over the past 18 months to identify needs and
things in this area of leadership development.

I'm hoping that we'll get a lot of
applications. We're going to take 25 people, so it's
going to be a relatively small group. And that number is
based largely on a similar experience in Pennsylvania
where they had 40 to 45 individuals, and Dr. Gannon did
that seminar as well, and one of the conclusions coming
out of that was that was a little too many people; that
this is -- her approach is to be as customized for the
individuals as possible and to have it be a very interactive and small-group learning setting to have the largest impact.

And so we're going to move ahead with that, and actually J.R. has been helping us; he's part of a seven-member industry advisory group that has been helping shape this seminar.

So we're real excited about it. Not only is it going to be this October session; there's going to be a one-day follow-up session probably toward the end of January in 2011, and participants will also have up to four 30-minute individual coaching sessions throughout this whole time frame with Dr. Gannon and her staff. That's going to be, I think, an excellent opportunity.

Highlighting a few more things, the commission did approve a draft strategic plan, and we did provide to all of you sort of a summary of what's in the draft. With respect to comments that you all had, I think much of what you commented on did get addressed in this draft, and perhaps an equal amount did not, but I was encouraged by the amount of change that your comments triggered, given the timing of when we were able to submit those in the development of the draft.

The current plan -- or the draft is currently scheduled to be adopted at the June commission meeting,
and so we've included a copy of the current draft and the former draft to allow you to look through both those documents to see the changes that were made, as well as the summary table that Ginnie put together.

What I've not been able to do yet is sit down with our strategic plan folks and, for those comments that were not addressed, I've not had a chance to sit with them and understand why not, and that is something that we do intend to do. I apologize for not having it done in time for this meeting.

And our thinking is that a June meeting of the committee would be an appropriate time for the committee to develop any additional comments they might have on that strategic plan.

DR. ABESON: Eric, this is Al. As I looked over the results of what we submitted, it appears to me that coordination is essentially not in the plan. I couldn't find it, at any rate.

And it concerns me, obviously, because I think it's so important, but also because the department is already putting in a good deal of energy working on coordination around the state, and if one thinks of a strategic plan as truly guiding activity, does this mean that if it's not in the plan, then coordination then ceases? Do you see the illogic of what it appears to be?
MR. GLEASON: I don't think not including that comment implies that coordination is not part of the strategic plan. I mean, I understand it's not there from a -- it's not in the plan specifically, but I -- if the committee feels strongly about that and continues to feel strongly about it, then certainly that would be a comment that would need to be given to the commission.

DR. ABESON: To the commission. So that -- would that again be something we would discuss in June?

MR. GLEASON: Yes, sir.

DR. ABESON: Okay.

MR. GLEASON: If I may move on, this May meeting, we finally did receive from the FTA the balance of our apportionment amounts for federal fiscal year 2010, so we are able to move ahead with each of the first three awards scheduled for May.

Well, let's see. The first one is the award of our coordinated call projects. The second one is some state planning funds for some additional coordination planning. The third and fourth items are completing the fiscal year 2010 award for our 5310 program.

And then the fourth item is, as we promised in our letter to the industry in November of last year, now that we have the balance of the apportionments, we'll be able to award a fairly large amount of money through the
discretionary program to rural transit districts for
general program use, so that's what that fourth one is.

And the fifth item is, as we talked earlier in
this meeting, the final adoption of the contract
management grant sanction rules. So May is a very busy
meeting, and it seems like June's going to be busy as
well.

I did want to mention as a part of my report
one additional item for the committee's attention in that
I've had some conversation with the Texas Transit
Association about the possibility of introducing some
rulemaking with respect to the formula.

And we are talking about two areas which we
think are largely areas of consensus, and if so, the
department is considering a relatively short rule-making
process to address those two areas.

What I want to -- if the committee -- if you
recall, at our meeting in Arlington, we talked generally
about the rule making process, and you all got a flow
chart that sort of outlined all the steps that are
associated with rule making, and it becomes a fairly
lengthy process once you go through all those steps.

And one of our concerns at this time is making
sure that if we start a rule making process that we can
complete it prior to the beginning of the next legislative
The department historically does not undertake rule making when the Legislature is in session, and if it does so, it's only for emergency purposes and not what it might consider to be sort of ongoing business.

So what we need to try and do is to determine whether or not around two items in the formula we can do a relatively rule making process between now and the end of the year and address these issues.

The two things that have come to my attention that are of interest to be addressed refer only to the federal side of the formula, and so, in this instance, only to the rural programs, because if you recall, there are no federal funds that the department administers through formula that go to the small urbans.

And so the two items that have come to our attention actually have been topics of conversation I think at this committee. One is with respect to the size of what we call the discretionary fund.

And the current set of rules identifies a specific amount to be distributed by formula, leaving the balance to be distributed by the commission on a pro rata or competitive basis.

That current amount is just over $20 million, and in this time frame since the last rule making, the
federal program has grown significantly, to the extent
that the department is now working with a 7 to $8 million
discretionary amount every year.

And so what has been suggested is that we look
at revising the rules to limit that discretionary portion
to no more than 10 percent of what is available, so what
that would mean is that at least 90 percent of the amount
available would be distributed to the rural program
providers through the formula, so changing that fixed
level of 20.1 million to a no less than 10 percent being
available for the discretionary amount of the program, so
by definition meaning at least 90 percent of it be
distributed by the formula. We are in agreement with
that. The department or the division is supportive of
that change.

The other area of change is around the
calculation of the performance share of the award, and
right now when we look at -- we use the preceding year's
performance numbers to calculate what each system
receives.

And what we would do with this change is move
to a three-year rolling average for the performance
calculation. What that will do is it tends to smooth over
any year-to-year variation, and it allows a more
predictable and less variable amount of funding from the
performance portion of the award each year. So it would allow individuals to predict better, if you will, what they might have coming from the formula from one year to the next.

That last piece that I just described on the performance calculation actually would affect all areas of the formula, so it would impact not only the federal program calculation but also on the state side that share of the performance -- that share of the formula which comes from performance.

So that's a rather lengthy explanation, but I think both of those changes -- at least it's our view as a division both of those changes reflect requests that we've had from the industry.

I have had a conversation with Jeff Heckler, the Texas Transit Association executive director, and Jeff is working to try and determine what level of consensus there might be among association members that we make this change.

And assuming that the response to that is yes, then we would like to entertain a rule making process around these changes, and what I would like to do is suggest that we add this conversation to the June agenda for the committee.

It's not on our agenda today, so we really
can't talk about it at great length, other than to answer any questions you might have of what I'm saying now. But we would like to add it to the June agenda and come back to the committee with a full presentation on what we think this means.

Any thoughts on that?

(No response.)

MS. BLOOMER: Eric, did you also want to mention to the committee about Claudia Langguth?

MR. GLEASON: Thank you. I'm sorry.

The final thing I'll mention before I close on this is that -- and I think each of you got notice on this -- Claudia Langguth has had to resign her position on the committee, and that was effective May 10. She has some work that is going to take her out of state for an extended period of time, and she didn't feel that she could be an effective member of the committee with that work responsibility, so at the time we do have two open positions on the committee; we are down to a committee of seven.

And we are in the process of contacting the governor and the legislative side of -- the legislative branch on that additional opening.

MS. BLOOMER: Okay. Thank you for your report, Eric. I just -- I had a couple of questions; I don't know
if anybody else does.

    MR. GLEASON: Sure.

    MS. BLOOMER: At the June meeting could we get -- I see the first item there that the commission is taking in May is award of a bunch of funding, including 5316 and -17.

    And I know in previous meetings we had requested copies of the projects; like a description -- the entity receiving the funding, the project description and funding. If we could get that for '07, '08, and '09, at the June meeting.

    MR. GLEASON: Let me see if I understand that. You want -- one more time.

    MS. BLOOMER: I had initially asked for '09, and then I think at a previous meeting Al had asked for historically, just so we could see who has received JARC funding, so if we could just get a copy. I know we just had like a sheet that says the agency that was awarded the funds, a description of the project, and the amount of funding they got.

    MR. GLEASON: Is this for JARC and New Freedom programs?

    MS. BLOOMER: JARC and New Freedom.

    MR. GLEASON: Okay.

    MS. BLOOMER: And then on the item about the
regional coordination, we're adding two regional lead entities that weren't on the original list?

MR. GLEASON: That's correct.

MS. BLOOMER: Which --

MR. GLEASON: When -- at the -- we have two lead agencies, the Nortex Regional Planning Commission and South Texas Development Council. We have come to agreement with them on a level of funding to continue their coordination planning, and so we will be going to commission to award those funds for that purpose to those two entities.

MS. BLOOMER: Okay. And they weren't originally included.

MR. GLEASON: They were not part of the original group.

MS. BLOOMER: Okay. Any other questions on the director's report?

(No response.)

MS. BLOOMER: If not, we'll go back to item 5, discussion and possible action on the PTAC Work Plan as it relates to the Transportation Code.

And Ginnie did provide -- she has since had to leave us, but she did send us via e-mail some items for the work plan, and if my memory serves, we had decided we would tackle the legislative appropriations request first
and then, once we felt we were at a comfortable place with that, move on to another item on our work plan.

I wanted to just talk -- if we felt we were at a comfortable place with the LAR and we're ready to tackle another item or if you wanted to wait until the June meeting to pick our next area to focus on, so I'll leave that up to the committee.

(Pause.)

MS. BLOOMER: Anybody there?

DR. ABESON: This is Al Abeson. My preference would be let's do all the budget request stuff we've talked about and then take on something else.

MS. CRAIN: This is Christina. I totally agree.

MR. SALAZAR: And this is J.R. I agree with that as well.

MS. BLOOMER: I think everybody's nodding their head. Okay. So we'll continue to put our focus and effort on the legislative appropriations request, hopefully tighten that up by the end of June [sic], and then at our June meeting we can talk about maybe picking up our next item.

MR. GLEASON: If I can point out, there are two items on there on your list for the work plan that we've actually suggested be agenda items for the June meeting:
the strategic plan and a discussion of a minor change to
the funding formula. So it's not to say that that would
be -- so it seems as though if those items are on the
agenda for some level of action, that there will be some
effort around those elements of the work plan in June. It
doesn't mean that it would need to be limited to that, but
I point that out.

MS. BLOOMER: Okay. Then are there any public
comments other than the one we've already had?
(No response.)

MS. BLOOMER: Confirm date of next meeting.
Since we've lost Ginnie, we may need to do that via
e-mail, but I would just probably -- if you can block off
the 23rd and 24th of June tentatively for the commission
item, if you're interested in being there for that, and
then we'll probably have a meeting sometime in advance of
that.

MR. SALAZAR: And, Eric, this is J.R. I would
assume the workshop is held here in Austin. But is the
meeting -- are they still going out?

MR. GLEASON: This one's in Austin.
MR. SALAZAR: Okay. All right.
MS. BLOOMER: Thank you.
MR. KILLEBREW: Michelle?
MS. BLOOMER: Yes.
MR. KILLEBREW: This is Bobby, and I just wanted to also add that for the members who can't attend in person -- and I certainly understand the travel restrictions -- at all times the workshops and the commission meetings are broadcast on the internet, and we encourage you to at least listen in for the public transportation items when you can.

When they are out of town, as J.R. was expecting, sometimes the broadcast is only audio for those items, but the June one will be here in Austin; it will be a Wednesday-Thursday, workshop Wednesday, commission meeting Thursday, and it will be broadcast on the internet.

MS. BLOOMER: Thanks for reminding us, Bobby.

So we'll work with Ginnie via e-mail to confirm the date of the next meeting, and then do I have a motion to adjourn?

MS. CRAIN: So moved.

MS. BLOOMER: So moved. Do I have a second?

MR. HUERTA: This is Vince; I second.

MS. BLOOMER: All those in favor?

(A chorus of ayes.)

MS. BLOOMER: Thank you.

(Whereupon, at 11:53 a.m., the meeting was concluded.)
MEETING OF: Public Transportation Advisory Committee
LOCATION: Austin, Texas
DATE: May 14, 2010

I do hereby certify that the foregoing pages, numbers 1 through 85, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Elizabeth Stoddard before the Texas Department of Transportation.

05/18/2010
(Transcriber) (Date)

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