TEXAS DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION ADVISORY COMMITTEE

MEETING

Room 323
Building 6
3712 Jackson Avenue
Austin, Texas

Tuesday,
July 9, 2013

COMMITTEE MEMBERS PRESENT IN AUSTIN:

Michelle Bloomer, Chair
J.R. Salazar, Vice Chair
Brad Underwood

COMMITTEE MEMBERS PRESENT BY TELEPHONE:

Christina Crain
Rob Stephens

COMMITTEE MEMBERS NOT PRESENT:

Al Abeson
Glenn Gadbois

STAFF:

Eric Gleason, PTN Director
Bobby Killebrew, PTN Deputy Director
Kelly Kirkland, PTN
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<td>4. In accordance with 43 TAC '1.83(c), review and comment on the final draft of proposed revisions to Chapter 31: amendments to '31.3 (General); '31.11 and '31.23 (State Programs); '31.16-31.18, '31.21, '31.22, '31.26, new '31.30, amendments to '31.31, '31.36 and '31.37 (Federal Programs); new '31.38, amendments to '31.40-31.45, '31.48 and '31.49 (Program Administration); new '31.51 and amendments to '31.57 (Property Management Standards). (Action)</td>
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MS. BLOOMER: We will go ahead and get started.

It is 1:02 p.m.

The first item of business today is approval of the minutes from the May 28 meeting. Do I have a motion for approval of the minutes?

MR. UNDERWOOD: I just have one question, not a correction. On page 2 where it says I amended the motion for no set-aside for the intercity bus program for rural transit districts, my memory may fail me but I don't remember amending that. I think we kind of left it as, for me, at least, we left at as we'll go back and think about it, research it, and not really make any firm decisions. Maybe I was just withdrawing that piece, but I just want the minutes to clarify that it wasn't that I making a motion to not have a set-aside, it was just it was kind of inconclusive at the time, if my memory serves.

MR. KILLEBREW: For the record, Bobby Killebrew, deputy director of Public Transportation Division?

Brad, how would you like it to read?

MR. UNDERWOOD: I wasn't for pulling back a set-aside for the intercity bus program, it was just that it was kind of I think the way I worded it or my intention was to kind of go back and research some more options, not
to necessarily have that done. Does that make sense, Bobby? I don't know if there's a way to correct that.

MS. BLOOMER: This is Michelle. Bobby, on page 97 of the transcript, line 20, Brad said, "Actually, I've got my motion, so basically it would be just to leave it like it is where it has no percentage and we'll look at that next time."

So I think the intent was to leave the set-aside there but to leave the percentage blank, and I think we gave TxDOT the flexibility of looking at ways to address the set-aside without maybe a percentage and/or to come back with a recommended percentage.

Brad, is that consistent with your recall?

MR. UNDERWOOD: Yes, ma'am.

MS. BLOOMER: Okay.

MR. UNDERWOOD: But with that correction, then I would move to approve the minutes as presented.

MR. EDMUNDS: This is J.R. I'll second that.

MS. BLOOMER: So I have a motion and a second.

Any discussion?

(No response.)

MS. BLOOMER: Hearing none, we'll go ahead and do roll call.

MS. BLOOMER: Christina?

MS. CRAIN: Yes.
MS. BLOOMER: Okay, thank you. Brad?

MR. UNDERWOOD: Yes.

MS. BLOOMER: J.R.?

MR. EDMUNDS: Yes.

MS. BLOOMER: Michelle, yes.

All right. So the minutes pass, that takes care of item 2.

Item 3 is the division director's report, and Eric has opted not to give us an update today so we can focus on item 4, which is the Administrative Code revisions consistent with MAP-21. So what we're going to try to do to facilitate this process is we're going to go through exhibit by exhibit. We have five exhibits, Exhibits B through F, and for each exhibit we'll go section by section and just work our way through.

Bobby, do you need to give any sort of overview or preamble?

MR. UNDERWOOD: Do you want to take a break before we start this?

(General laughter.)

MS. BLOOMER: Before we dive right in, I'll turn it over to Bobby to proceed with Exhibit B.

MR. KILLEBREW: This is Bobby. First, take a very deep breath. Oh, my gosh, PTAC, what have you done? I wasn't even sure someone could actually get this on
your side of the fence, so hopefully you all got the packet, and it is quite large.

Again, don't be alarmed by the volume before you. There is a lot of pages that we probably won't touch on today because it has grammar corrections or it has updates to words where they should be hyphenated or not hyphenated, or some of it's deleted text. So there's a lot pages here that don't necessarily have a lot of meat to the matter.

I do want to go over a couple of things. In your packet, following the minutes there is a two-page document that has an estimated timeline for MAP-21 rule making, and I'd just like to refer back to this so that you can pinpoint in time where we are today. So we're about two-thirds down the page on the first page, the July 9 meeting of PTAC. This is your first opportunity to comment on the draft rules as prepared by the department, that we'll be taking to the commission at the end of this month.

Now, in regard to what the committee can do today, there really are three things that the committee can do today: one of the items is that you can waive your comment as a committee on this package; the second thing you can do is you can defer your comment as a committee until this package actually hits the public comment
period; or the third thing that you can do is actually provide comment, and that doesn't mean you have to accept the whole package, that could be we like this section, we don't like that section because we'd rather it read such-and-such. So there are three things you can do: waive comment, defer comment, or you can make comment. We would be happy if the committee said you liked everything today and we could go home very early, but I can see the gleam in your eyes, so we will go section by section, as Michelle suggested.

So any questions on the timeline? There are many things that are going to happen after today: we have the commission meeting coming up, we go into a public comment period, we'll have a public hearing during that public comment period, PTAC will get back together again, and in October we'll go back to the commission for final adoption if everything stays on schedule and we don't have any bump in the road that would cause us to start over in the process. So rule making takes some time and we want to make sure we give the public ample opportunity to provide comments.

Well, then diving right into the rule package itself, with Christina on the phone and everybody here in the room, I tried to give guidance to individuals -- we don't do rules very often -- how to go through the rules.
and when you're talking about a particular item, how to reference where you are in the rules. When you're looking at the exhibits that Michelle is referring to, in the lower right corner you'll see the word Exhibit and then it will be a B, C, D, E or F, I believe, and in the upper right-hand corner you'll see page references and along the left-hand side of the page you'll see line item references. So if I was to refer to the definition of administrative expenses and I wanted everybody to be on the same page with me, I would say, for example, Exhibit B, page 1, line 5, and so everybody can find administrative expenses, I hope.

So as we're talking as a committee, as you're looking at this, as you're making comments, it would be helpful if you can say the exhibit, the page, the line number so that everybody is at the same place.

As Michelle was saying, I'm going to kind of go through section by section within each subchapter to give you a broad overview. A lot of this the committee has been discussing over time, so what we tried to do is take the committee's wishes and put them down on paper, working with our legal counsel, to come up with something that fits the Code Construction Act, along with everything else we have to do for the legal folks downtown.

So I will be hitting the high points on this,
it will not be a line by line item, as I need to specifically draw you to -- Michelle is saying, no, please, not line by line -- to a specific item on a page.

And so the first section out here is section 31.3 which is the definitions section. This section is fairly large. We did a lot of cleanup in this section. There were several terms in this section which we needed to add or amend because of MAP-21 changes. We also had one definition that we wanted to get closer to what the defined term was in the state statute, and so we amended that definition to further align with state statute, and then there's these various different definitions that were added or amended, and that was done for clarity's sake. We, in some cases, used the term "elsewhere in Administrative Code," and so we thought we better define it because it's just used and not defined.

In some cases, the way it was defined didn't quite make sense anymore. The code in some areas is kind of old, so we were working with different dates of amendments to the code, we tried to clarify those things. And then there were a few definitions that over time they're no longer used in this chapter of the Administrative Code, so we've deleted those. And so you'll see on Exhibit B numerous pages that just deal with definitions. In fact, all of Exhibit B is just the
definition section. And so if the committee has any questions or comments about Exhibit B, I'm available.

MS. BLOOMER: Did we have somebody join us?

MR. STEPHENS: Yes, Michelle. Rob Stephens here. Sorry I'm late.

MS. BLOOMER: Hi, Rob. We are on item 4 on the agenda and have just started reviewing the Exhibit B in your packet.

MR. STEPHENS: Okay. Thank you.

MS. BLOOMER: Brad, did you have anything?

MR. UNDERWOOD: Yes. One question about page 3, Exhibit B, line 7: Contractor--a recipient of public transportation funds through a contract or grant agreement with the department. This is just for my clarification. Political subdivisions of the states, like '5311 providers, that would not be a contractor, they'd be subrecipients. Correct? Would that be more like a non-profit, or Greyhound, for example? Is that what we're looking for as contractors?

MR. KILLEBREW: This is Bobby. And thank you for bringing that up; Michelle and I had a conversation prior to the start of the meeting. These terms are only as used in this chapter of the Texas Administrative Code, and so when you look at the word contractor and the definitions, you'd have to go back further in the code to
see where contractor actually pops up, and that's now it's used. That could be an entity that's in a subcontract relationship with a rural transit district, for example, so you might hire someone to do some work for you so they're a contractor for you. That could be one reference. It could be a reference, just as you said, it might be one who is not a rural transit district and we're calling him a contractor just for in this Administrative Code.

MS. BLOOMER: This is Michelle. Bobby, on Exhibit B, page 4, line 9, employment-related transportation, would I be correct in assuming that it doesn't actually mention accessing employment because somewhere else there is a definition of access to employment and employment-related, so all they're doing is defining what employment-related is? Because it seems like going to work would be a key to employment-related transportation, not just job search or job preparation.

MR. KILLEBREW: I'm sorry for the delay, I had to confer with Karen. By the way, Karen Dunlap, who is sitting beside me, helped tremendously getting all this down into the legalese and so forth, and so I am leaning on her today. I may have to whisper on occasion to make sure I don't misspeak.

As Karen was relaying to my ear, this has
assumed that you could use this form of transportation to
and from work but the original intent for this one was the
auxiliary items that related to the employment.

MS. BLOOMER: Okay. So we're just defining it.

In the sentence it usually goes for employment and
employment-related, and we're just defining the
employment-related piece. Okay.

And then my only other comment was in Exhibit
B, page 6, line 5, when we're defining a job access
project, we say, "relating to the development and
maintenance of transportation services designed to
transport welfare recipients and eligible low-income
individuals," if there is a need to continue to use the
"welfare recipients," given they are low-income
individuals, as we define them on the next page. It's
just a thought if there is a need to continue to use the
term welfare recipient."

MR. KILLEBREW: This is Bobby. We continued
some of the definitions in here that have been
historically related to the JARC and New Freedom programs,
as they were previously defined under other authorization
bills prior to MAP-21, because the department still has
JARC and New Freedom funds that we are administering which
we have to administer under those prior rules, because, as
you know, the JARC and New Freedom programs were repealed.
So this mirrors what was in there for those funds and the rules that were associated with them.

I don't know if that answers your question, Michelle, but that's where this definition came from prior.

MS. BLOOMER: Okay. Are there any other questions from the committee regarding the definitions?

(No response.)

MS. BLOOMER: If not, then we'll go ahead and do I have a motion for acceptance of Exhibit B, section 31.3, Definitions, as presented?

MR. UNDERWOOD: So moved, with corrections that we talked about. Have we made any corrections besides that?

MS. BLOOMER: I don't think we made any corrections.

MR. KILLEBREW: No corrections.

MS. BLOOMER: There were no corrections.

MR. UNDERWOOD: So move to adopt as presented.

MR. SALAZAR: This is J.R. I'll second that.

MS. BLOOMER: I have a motion and a second.

We'll go ahead and call roll. Rob?

MR. STEPHENS: Yes.

MS. BLOOMER: Christina?

MS. CRAIN: Yes.
MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, yes.

Okay. So that moves us on to Exhibit C, and the first section is 31.11, the Formula Program. Bobby.

MR. KILLEBREW: Yes. This is Bobby again.

Exhibit C, starting on page 1, the State Formula Program, this is our state grant money that we hand out. There were actually three major changes that we made to 31.11 Formula Program. One of the changes deals with actually just revising the text for the distribution of urban funds. When looking at the Code, we noticed that we were very -- this begins somewhat on page 1, line 21 of Exhibit C -- we were pretty elaborate in defining different things about urban transit districts, we didn't do so when we defined rural transit districts, and so we've backed off a little bit about going into such lengthy detail here in the Administrative Code and simply specified urban transit districts. The state statute governs who we can give the money to, so to do it here in the Texas Administrative Code would not really be the proper place to do that. For whatever reason, in it he past we felt it necessary and now we felt it necessary to
leave it not too detailed as much as we had.

The second area that we've added some text on deals with a motion that came out of PTAC, one of the previous meetings, and that is when we are considering or we're calculating the performance award in the state grant funding that we've added text that allows the department to consider alternatives that if a transit district were to have a negative impact based on performance factors that are outside of the agency's control, the transit agency's control, then the department might be able to consider how that performance calculation is done, and we've added text in there that allows the department the authority to do that.

And the last thing throughout this section you'll see some terminology change, where we've used designated recipient before, we've now changed that to urban or rural transit district to be more specific in this section of the Administrative Code as to who this applies to. And those were the major changes in the State Grant Formula Program.

MS. BLOOMER: Does the committee have any questions for Bobby?

MR. UNDERWOOD: On 4 and page 5 where the revisions have been made, line 6 through 13, and on the back page, 13 through 19, that's worded very good, I like
the way that sounds, because there are some unique situations we've had, especially in the western part of the state where this would have been very helpful to have. So I really like this language, it's very good. And it doesn't put us so far in a box either that as situations change and move, I think it gives the department some flexibility, some area to move around a little bit, so I really like that language.

MS. BLOOMER: And Bobby, that specifically addresses one of the concepts that PTAC had laid out in the papers and received comments on. Thank you. Any other questions or comments regarding Exhibit C, section 31.11?

(No response.)

MS. BLOOMER: And Bobby, that is the only section in Exhibit C.

MR. KILLEBREW: There is another section in Exhibit C, but I can go over it quickly, it's very short, and you can have one motion for all of Exhibit C.

MS. BLOOMER: Okay.

MR. KILLEBREW: The other section in Exhibit C is Exhibit C, page 10, line 4, called the Discretionary Program, and the only changes in this section were formatting and clarity changes.

MS. BLOOMER: Bobby, is there a reason we go
from 31.11 to 31.13? What happened to 31.12?

MR. KILLEBREW: 31.12 doesn't exist in the Administrative Code; it's a placeholder, we call it.

MS. BLOOMER: Okay. Any questions on 31.13?

(No response.)

MS. BLOOMER: Hearing none, would anybody like to make a motion?

MR. SALAZAR: This is J.R. I move to approve.

MS. BLOOMER: I have a motion. Do I have a second?

MR. UNDERWOOD: Second.

MS. CRAIN: This is Christina. I'll second.

MR. UNDERWOOD: Let Christina have it.

MS. BLOOMER: Okay. Second by Christina. We'll go ahead and take roll call. Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Yes.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye. Okay. So that takes care of C.

Moving on to Exhibit D, and the first section
in Exhibit D is 31.16, the '5309 grant program.

MR. KILLEBREW: This is Bobby again.

The '5309 program beginning Exhibit D, page 1, line 2. You heard us talk in previous PTAC meetings that MAP-21 changed '5309 tremendously. It's no longer what it used to be for what we drew the money down on which is basically a lot of competitive programs to do vehicle replacements and construction of facilities, it's mainly rail.

So the department still has some old '5309 money that we're administering so we can't repeal this section out of the Administrative Code, we have to keep it. We've added a paragraph at the beginning, it starts on line 3 of page 1, that kind of sets up this section now that says this really only applies to money that was pre MAP-21 authorized, so that's the funds we're talking about in '5309.

And the rest of the changes in this particular section are for clarity's sake.

MS. BLOOMER: So Bobby, we're just talking in Exhibit D, section 31.16 which is pages 1 through the end of page 2, line 23.

MR. KILLEBREW: That's correct.

MS. BLOOMER: Are there any questions on that section?
MR. UNDERWOOD: It's pretty straightforward.

MS. BLOOMER: Now, I don't know that we want to take every section by every section, but given this is probably going to be the most difficult one, let's just go ahead and do it section by section, I think that will be easier in the long run. Do I have a motion regarding Exhibit D, section 31.16?

MR. UNDERWOOD: Move to approve.

MS. CRAIN: Second.

MS. BLOOMER: I have a first and a second, motion by Brad, a second by Christina.

Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

Okay. Moving on to the next section which is 31.17 which is Exhibit D, page 3, line 2.

MR. KILLEBREW: This is Bobby again.

We're now moving over into another program that was repealed under MAP-21. Again, the department has
funding available in this program, we still need to
continue to administer those funds, so we have to keep
this section in the Administrative Code until we no longer
funds and it can be repealed. So you have that lead-in
paragraph that begins on page 3, line 3 that references
the prior authorization bills. The other things in this
section really are for clarity's sake, or to correct
grammar, and those were the only items that changed in
this section.

If it's okay with the committee, I might take
the next section doing the same. I believe the committee
will probably want to do these two together.

MS. BLOOMER: The next section is '5317.

MR. KILLEBREW: Yes. Which is going to be the
New Freedom Program. That begins Exhibit D, page 17, line
6. Same thing applies here, we still have New Freedom
funds available that the department is administering, so
we have a very similar lead-in paragraph for this section,
and likewise there's other things that we have done in
this section for clarity's sake or to correct grammar, no
other changes in this section.

MS. BLOOMER: Okay. So it looks like for
Exhibit D, section 31.17, starting on page 3 and going
through page 17, line 4, and then the section 31.18
addressing the New Freedom Program that starts on Exhibit
D, page 17, line 6 and goes through page 31, line 6. So do I have a motion to accept those as presented? I'll make the motion. Do I have a second?

MR. SALAZAR: This is J.R. I'll second that.

MS. BLOOMER: Okay. We have a motion and a second.

Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

All right. Moving right along. So now we are on still Exhibit D, page 31, line 8, section 31.12, the '5303 program.

MR. KILLEBREW: Section 5303 program. Bobby again.

In this particular program we have made some changes here at TxDOT. At the request of the MPOs in Texas, we are going to be utilizing what's called the Consolidated Planning Grant Program at the federal level. We will be flexing the FTA MPO planning money over to
FHWA at the U.S. DOT level, and then those funds will be pulled down through one funding cycle through FHWA back to TxDOT. So the program will be administered administratively by one division here at TxDOT and we'll be getting it from one federal source now instead of two federal sources. So more efficiently managed, and at the request of the MPOs in Texas, this will also satisfy their request to us to do this.

So what you see in this program is a new paragraph that talks about that very item I just described, flexing the money over to FHWA and what you see deleted out of this particular section is our old administrative formula on how we allocated just the FTA funds. When the funds are brought in through FHWA, they'll be administered under the department's allocation formula with FHWA.

MS. BLOOMER: Okay. Any questions for Bobby on this section? I think, Bobby, the only question is just to confirm that this is something the MPOs have all agreed upon and are requesting?

MR. KILLEBREW: Absolutely.

MR. UNDERWOOD: The other thing is all these FHWA funds, these are all formula funds to MPOs?

MR. KILLEBREW: Yes, they are.

MS. BLOOMER: The point is there used to be FTA
funds and FHWA funds and now the FTA funds are going to
FHWA so there's just one apportionment. Okay.

Do I have a motion for approval of Exhibit D,
page 31, line 8, section 31.21, as presented?

MR. UNDERWOOD: So moved.

MS. BLOOMER: I have a motion. Do I have a
second?

MR. SALAZAR: Second.

MS. BLOOMER: I have a second from J.R.
Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.
Okay. So that moves us on to section 31.22
which is Exhibit D, page 33, line 9.

MR. KILLEBREW: This is Bobby.

In this section we really only have one change
and that is to clarify the local share requirements.
We've rewritten that paragraph to mirror the items in MAP-
21, plus we've also clarified in this paragraph that
transportation development credits can be used as match.
No other changes other than clarity changes are in this section.

MS. BLOOMER: Okay. Any questions or a motion?
MR. SALAZAR: This is J.R. I move to approve.
MS. CRAIN: Second.
MS. BLOOMER: I have a motion from J.R. and a second from Christina.

Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: Michelle, aye.

Okay. Moving on to section 31.26 of Exhibit D, page 34, line 12, which is the '5307 grant program.

MR. KILLEBREW: Bobby again. Michelle, you're doing great, you're right on task, perfect.

Section 5307, just for everybody's sake, this section in the Administrative Code refers to the governor's apportionment, or those urbanized systems below 200,000 in population, so we're not talking about the
large metros, we're just talking about the small urban
areas of the state.

In this particular section we deleted the term
"designated recipient." There's been a recent change in
this program -- I see Brad shaking his head, Michelle as
well -- the department, on the governor's behalf, now is
the designated recipient for this program, it's not
something that we can give away, so we've cleaned up this
section to reflect FTA's most current direction on that
designation.

We also had used a term in this section,
"transportation management area" but that term had never
been defined, so we defined it in this section because it
is only used in this section, and that term is defined on
page 36, line 3.

And lastly on here, still on page 36, beginning
on line 4, you'll see some added text -- excuse me -- page
36, line 11, you'll see some added text, and then
following that added text, some deleted text. We've
cleaned up that deleted paragraph and it describes how the
department now and how we have been doing, reviewing grant
balances in the governor's apportionment systems. If a
system is unable to spend their balances before that money
lapses to the State of Texas, it allows the department to
take some administrative action to reallocate those funds
to some other areas of Texas so Texas doesn't lose out on
the overall apportionment that comes to the governor.

And those were the changes in '5307.

MS. BLOOMER: Okay. Are there any questions
for Bobby on that last section? If not, I'll make a
motion to approve. Do I have a second?

MR. UNDERWOOD: Second.

MS. CRAIN: Second.

MS. BLOOMER: That was a tie. Christina, you
have the second. So a motion by Michelle, a second by
Christina.

We'll call roll. Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

Okay. We are moving on to section 31.30 which
is Exhibit D, page 37, line 4, and the '5339 grant
program.

MR. KILLEBREW: This is Bobby again.

This is a new program under MAP-21 and under
this program TxDOT is the administrative agency for two
pieces of this program. This program actually is split
into three pieces: one goes for the rural areas of the
state, one for the small urban areas of the state, and a
third piece for the large urbanized areas. The piece
that's in the Administrative Code that's before you today
in the new section only addresses the small urban and the
rural pieces which TxDOT will be responsible for
administering.

This section was drafted to mirror the concept
papers and the discussions that have happened at the PTAC
meetings. Very quickly, the allocation of the funds in
this program is based off of fleet condition of individual
systems. Once those funds are allocated to a system, it's
up to that system to determine how they want to spend
those funds. It could be for any other capital project,
it doesn't have to be based off of replacement of fleet,
it can be for any capital projects. There is a
requirement that PTAC wanted to put in here and that is
that the projects have to be linked to the transit asset
management plan, and so that's in here as well.

And not in here, but discussed at the PTAC
meeting, is something the department can do
administratively. We did not feel it necessary to put it
in the TAC, but administratively, if a system decided that
they did not want to take their allocation one year, the
department administratively could do what we call bank the
allocation to the next year. I know the committee
discussed that as well. That's something that we can do
administratively. We didn't feel it necessary to put it
in the TAC because that might tie our hands for future
allocations, so we prefer to do that administratively.
And that's the new section for '5339.

MS. BLOOMER: Bobby, this is Michelle. So
we're confident that administratively we can manage the
banking outside of the Code and that gives you more
flexibility.

MR. KILLEBREW: This bobby. We do that for our
program of projects, just like we do on some of the other
programs, '5310, '5311 and so forth, so yes.

MS. BLOOMER: Okay. Are there any questions
from the committee?
(No response.)

MS. BLOOMER: Hearing none, do I have a motion
for approval?

MR. SALAZAR: This is J.R. I move to approve.

MS. BLOOMER: And this is Michelle. I'll
second. So we have a motion and a second.

Call roll. Rob?

MR. STEPHENS: Aye.
MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

Okay. So we are now on section 31.31, Exhibit D, page 39, line 16, the '5310 program.

MR. KILLEBREW: Thanks, Michelle. This is Bobby again.

To draw the committee's attention to this, when we were updating '5310 after the committee's last conversations on this particular program, quite frankly, looking at it, it got really, really busy and we thought difficult for anyone outside of those who actually were writing the text to even understand. The text was just add-delete, add-delete all over the place. And so we elected to repeal the entire section and start from fresh.

Now, having said that, that doesn't mean we threw out everything from the old section, it just got too busy on the page for people to actually go through and understand. I found it difficult and I was helped writing this. So when you see this, you see a lot of pages here.

The new text is in the front. The new text actually
starts on page 39 and goes to page 53. Page 53 through 65 is the old deleted text. So you'll see two of these programs there, one is new, one is deleted or repealed, and I'm just going to be referring to the added text.

This is also one of the sections, because it is quite large, I'm going to break it down into pieces to help you, so if you need to interrupt me at a particular piece, don't be shy about that. I think it's better for everyone to understand as opposed to me kind of rattling through this whole section.

There are some general edits that we did. One was under MAP-21 this program was renamed. The term "elderly" is no longer appearing in the title, it's now "seniors" and so you'll see throughout the added text, anywhere where we were copying over the old text to the new text we substituted the word "senior" for the word "elderly." I know you've already approved the definitions section. "Senior" was a new term in the definitions section because we felt we needed to define as well. FTA, for the first time, at least in my history, actually has defined "senior." They in the past never really defined "elderly," they kind of danced around that, but under MAP-21 "senior" is defined, and that is an individual 65 or older.

Starting on page 39 of Exhibit D, line 17, it
talks about the purpose. I'm going to kind of compare the new language to the old language. What we did in the purpose area here, the only thing we changed on that was to allow for all the eligible expenses under MAP-21 basically so that operating now would be an eligible expense, so you'll see in that particular item it allows for all the expenses.

Under goals and objectives which is on that same page on line 22, MAP-21 repealed the New Freedom Program but they made the revised '5310 program a program that would allow for New Freedom type expenses, and so in the goals and objectives we have added New Freedom type expenses as an eligible part of the '5310 program in the objectives section. Specifically, those relate to anything that is beyond the ADA requirements or that might decrease someone's reliance on the ADA complimentary paratransit service. The rest of the goals and objectives mirrors some of the old text that we copied over from the previous version.

Going to Exhibit D, page 41, line 6, this is kind of the next little break which talks about the department's role in the '5310 program. The department acts as the designated recipient for some of the funds that come to Texas. The '5310 program is another program that kind of got split into pieces under MAP-21. There's
three components: there's the rural component, the small urban component, and there's the large urban component. For the rural and the small urban component, TxDOT will act as the designated recipient for the funds and will administer the program. The large urbanized area gets their monies directly from FTA.

The piece you see here in the Administrative Code does touch on all three of those pieces, and let me explain to you why that is the case. In some of those large urbanized areas, the MPO has asked TxDOT to be the designated recipient for a period of time. Because we will be administering those program funds, we had to write in the Administrative Code not only the rural and small urban areas, which we had already planned on administering, but also some pieces in here that talks about the large urbanized areas and how we will administer the program in the large urbanized areas for that period of time that the MPOs asked us to do it.

I do want to bring to your attention that we do have a typo on page 42 of Exhibit D, line 12, the letter (H) should actually be a letter (G). We did not omit something here, we didn't forget something, we actually just couldn't do the alphabet. That was probably my fault.

MR. UNDERWOOD: As long as you can do the
numbers.

(General laughter.)

MR. KILLEBREW: Actually, we're kind of surprised the paralegal didn't catch this either, but we'll get it corrected with the folks downtown.

Also on page 42, I'll bring to your attention as well, on line 14 there is a new paragraph in here that starts with the number (3), it says "Failure to expend funds in a timely manner..." This is something that we have added. This is has been a practice of TxDOT, and we certainly can do this through contractual agreement and we have done so in the past. But we want to put an emphasis on this, that if we award funds to a subrecipient and for whatever reason their project doesn't get carried out in a timely fashion that we think it should, this gives us the ability, at least the Administrative Code puts them on notice that we might take those grant awards back and give them to another project that needs to go forward. So this is putting some emphasis on this program about spending the funds in a timely manner.

MR. SALAZAR: I like that.

MR. KILLEBREW: The next little break on this section deals with eligible recipients, and this is on page 42, line 17. This is another one of those areas where we've had to clarify, because of our role in some of the
large urban areas of the state, we've had to add some extra text in here that talks about our role and who the eligible recipients for those areas would be.

In the old program, you might remember, that TxDOT administered, it was the rural urban transit districts were the primary recipients of the program; that's still in here. And then we can go to the alternate level of subrecipients; that's still in here. So what we've added is text that deals with those large urbanized areas because we don't have rural and urban transit districts in large urbanized areas, so we had to add text in there that talks about when we're going to select eligible recipients in those large urbanized areas, who might they be. So we put in here that the transit authorities would be eligible for that and also list things such as alternate recipients being local public bodies and private non-profit organizations.

MR. UNDERWOOD: What about number (3), a private for-profit transportation business, is that new?

MR. KILLEBREW: "...such as the taxicab company may participate as a contractor to an eligible recipient."

MR. UNDERWOOD: Yes.

MR. KILLEBREW: I'll have to check on it real quick. It's not a new practice, by any means, so if they qualify, we'll have to check to see.
MS. BLOOMER: Just for clarification, we're not saying that they can be a direct recipient but they can be a third party recipient.

MR. KILLEBREW: Well, as a contractor.

MS. BLOOMER: As a contractor.

MR. KILLEBREW: Yes.

MR. UNDERWOOD: They're an eligible recipient.

MS. BLOOMER: As a contractor.

MR. KILLEBREW: The next little break in this is on the same page, page 43, line 11 which talks about the eligible assistance categories, and for the most part, this remains unchanged from what the program was before. You remember PTAC wanted the programs really administered the same, so we've kept all the same things as much as possible.

There is a few changes in this is that under the eligible assistance categories we do have a higher reimbursement rate that MAP-21 is allowing for vehicle purchases that comply with either ADA or the Clean Air Act, so we've written that in here to allow for that higher percentage of federal participation. However, under MAP-21 and '5310, the sliding scale flexibility for match ratios was repealed for '5310, and that dealt with states that had federal lands or Indian reservations, you might be able to get a higher match ratio because of that,
but that doesn't apply to '5310 anymore under the federal statute. So it does allow for a federal higher match ratio for ADA and Clean Air, but the sliding scale has been taken out.

The other large change for this program is going to deal with that we've added in there now operating expense as an eligible item for '5310.

MR. UNDERWOOD: Can I ask another question? Maybe I'm just not reading it right, but I can't get past it. The way I read this where it says eligible recipients on (d) where it talks about the urban and the rural transit districts, then it says a second -- the way I would be reading this is I would be going down the line to see who's eligible for this program -- number (2) For an area not covered by the transit provider or the existing provider is not willing to provide the transportation, the director may chose a local public entity or a non-profit organization as an alternative recipient to receive '5310 funds. Now, if we're going to include a for-profit transportation business, to me that would say almost like a comma and, because if it puts a (3) out to the side it looks like to me that's the third possible eligible recipient. So no, I'm not the first, and no, the second didn't occur, but I'm the third, so therefore, I'm eligible. Should that line not be with the line above?
If I were reading this, if I was a private for-profit business and I went out and said am I eligible for '5310 funds, I'm not the first one, no, well, number (2), that's not happening, but I am number (3) so then I'm eligible. But if that line was put in with number (2) it would be a caveat that said if the transit provider is not willing to provide service or cannot, then a private for-profit business, such as a taxicab, would be allowed to participate.

Am I the only one reading that that way?

MR. STEPHENS: No. Brad, I read it the same way. Do we have to even include number (3) in this, period? I mean, that's what I'm saying. Why do we have to point out that we can have a contractor help us out?

MR. UNDERWOOD: Is that utilized in some areas of the state?

MR. STEPHENS: Well, sure, but is there any reason why we have to point it out? What are we trying to accomplish with number (3) there?

MS. BLOOMER: So are we not allowed to do that, regardless if it's specifically called out in the TAC?

MR. STEPHENS: There's nothing in the Code that prevents us from doing business with private entities, eligible recipients?

MR. UNDERWOOD: No. Because we can do that
under the capital cost of contracting.

MR. STEPHENS: Sure.

MS. BLOOMER: Hold on just a second. We're conferring.

MR. STEPHENS: Yes, okay. I wasn't sure what we were doing.

MS. BLOOMER: Sorry.

MR. STEPHENS: That's fine. It's hard to be on a conference call, you don't know what's going on.

MR. KIRKLAND: Can I put my two cents in? This is Kelly Kirkland, for the record.

I believe it's the intent of these rules for that subsection to say that for-profit companies can participate but going through an eligible recipient, it's not the intent to say that they are eligible on their own standing as an eligible recipient.

MR. UNDERWOOD: Do you read it that way if you were looking at this TAC? If I were a private company saying who's eligible under (d), well, the first one, I'm not a rural or urban or transit district, so I wouldn't be there, in an area, well, that's not happening, but item number (3), I'm a private for-profit transportation provider, and that's under eligibility, so to me that tells me I'm eligible.

MS. BLOOMER: But Brad, if you read it, it says
"may participate as a contractor to an eligible recipient." So they're not really the third level, it's just saying they are eligible but only if they go through number (1) or (2).

MR. KIRKLAND: And both (1) and (2) talk about the eligibility. For number (1) it listed transit districts will be the primary recipients. Okay, if you go past that, then you have local public entity as an alternate recipient. It does not say that a for-profit business is a recipient, it says they could be a contractor.

MR. STEPHENS: I don't know, I don't have as much experience as you guys do looking through these things, but I don't even know why we have to mention number (3) unless it's strictly prohibited other places. I mean, if they're an eligible recipient, then they are an eligible recipient, so a private company is not an eligible recipient, so why even mention them?

MR. KILLEBREW: This is Bobby.

A lot of this has to do with when we merged the New Freedom type eligible expenses into '5310. As you recall, under the New Freedom Program and the JARC Program we had some other type of transportation providers who were eligible for funds, so this is clarifying also the private industry's role in '5310 as a subcontractor or...
contractor to one of the eligible recipients in this program.

Brad, is it the way that it's worded that's giving you grief?

MR. UNDERWOOD: It makes sense what Kelly said, it helps me. I see that "may participate as a contractor to an eligible recipient."

MR. KILLEBREW: Yes. Not as an eligible.

MS. BLOOMER: This is Michelle.

I get Rob's point too where it's under the section of eligible recipients and they aren't eligible recipients. So I don't know if there's a way to put a clause in front of it that says, "while not eligible recipients, a private for-profit business, such as a taxicab, may participate as a contractor to an eligible recipient."

MR. UNDERWOOD: I don't like it sectioned out, like (1), (2) and then (3), here's another one kind of thing. I don't like that, that's what originally caught me on it.

MR. STEPHENS: What I think it might do, in some areas of the state it might put pressure on an eligible recipient to contract with a private provider and not give them, I don't know, enough leeway to be able to decide if they want to deliver the services themselves. I
don't know, this could be interpreted as, you know,
encouraging them to do something to keep that status quo.
I don't like it.

MR. KILLEBREW: Not to make a motion from PTAC,
I understand your point, it's in a line of almost like
this, then that, then that, then that. If we pulled out
that paragraph and stuck it, say, down towards the end
someplace in its own special slot for itself, would that
be something you're thinking about?

MR. UNDERWOOD: I just don't like where it's
at. I'm with Rob.

MR. KILLEBREW: So maybe the location of it is
throwing you off, not necessarily altogether the wording
of it? So for example, at the end of this we always talk
about other things like vehicle leasing and incidental
vehicle use, maybe it belongs down there towards the
bottom where it talks about contracting opportunities, and
we can just say a private for-profit transportation
business, and so forth.

MR. UNDERWOOD: Because it would be treated as
a capital expense. Correct?

MR. KILLEBREW: It could be. We treat it as an
operating expense now too, as well.

MS. BLOOMER: Can we go ahead and just put this
on the back burner for now until we get through it, and
then maybe when you're thinking of where it might go, you can flag that for us.

MR. KILLEBREW: And I think in your motion if you recommend that.

MS. BLOOMER: Okay.

MR. KILLEBREW: Continuing along then, unless there's any more discussion on this particular one, I'll continue going through the '5310 program on some of the other changes that are here. We had just finished up with eligible assistance categories, and my last comment was that we've added operating as an eligible expense.

Let's go on to the next one. The next one deals with local share requirements. This actually is on page 45 of this exhibit, line 23, the very last line on the page, the local share requirements, and it continues on to the next page. This does mirror what's in MAP-21, with the exception that we added transportation development credits in this long list of match resources for these program funds.

On that same page, page 46 of Exhibit D, starting on line 22 we get into the funding distribution for this program. Again, this program, the new text mirrors the old text on how TxDOT is going to allocate the funds, except, because we are the designated recipient for some large urbanized areas, we had to add some text
specifically for those large urbanized areas. So let me take this one at a time, the three pieces.

For the small urbanized areas, those urbanized areas under 200,000 in population, 25 percent of the available funding is divided equally amongst the TxDOT district boundaries. The remaining 75 percent is allocated on a pro rata basis, using the populations for seniors and individuals with disabilities. And so what we have at the end of the day is basically each TxDOT district boundary has an allocation for small urbanized areas if that district has a small urbanized area in it. If it doesn't, it doesn't get any money.

The same thing holds true for the rural piece of this apportionment: 25 percent would be split equally amongst the TxDOT district boundaries, 75 percent prorated based off of seniors and individuals with disabilities population.

The large urbanized piece, whatever is apportioned to that large urbanized area goes to that large urbanized area. We don't have the flexibility to move money between large urbanized areas, and that's only for the large urbanized areas that TxDOT is the designated recipient for, that's all that is referred to in this Administrative Code. For large urbanized areas that choose to get their money directly from FTA, this does not
cover those areas, this is just where TxDOT is the
designated recipient.

MR. UNDERWOOD: Since our last meeting I've had
several conversations about this. Let's see if I
understand this right, Bobby. So 65 percent of the '5310
money goes to the large urbanized areas. Is that a
correct percentage, is it 65 percent?

MR. KILLEBREW: Sixty percent.

MR. UNDERWOOD: Sixty percent. Okay.

MR. KILLEBREW: You're talking about the
federal formula that goes to the states, 60 percent is to
large urbanized areas nationwide, and then 20 percent is
apportioned to small urbanized areas to the state and 20
percent is apportioned to rural areas.

MR. UNDERWOOD: But we have fewer small urbans
than we do rural transit districts. Right?

MR. GLEASON: Yes.

MR. UNDERWOOD: I'm just trying to see if I can
walk this through in my head. So in certain districts you
will go and there will be a rural call, so everyone that's
eligible shows up for rural money, but if there's only one
transit district that's a small urban district in the
room, they're the only ones eligible for the money.
Right? The rurals can't say I'll take that other 20
percent. So it's almost like you're going to have two
separate meetings there, one for the small urban portion and one for the rural portion. No? Then I don't understand this. Then how do you make sure that the money that's coming from the small urban portion goes to the small urban?

MR. GLEASON: We just track it.

MR. UNDERWOOD: I'm just trying to figure it out.

MR. KILLEBREW: And while you're thinking about that, I might also add, because there's more to the allocation formula than what I just said, there's a few more pieces to it. So I don't want to confuse you but I also don't want you to not hear about this as well.

And it talks about the residual funds, so if in the process of identifying projects for these district-based allocations, if some of the money is not needed, let's say the urban operator doesn't need any money and the district allocation had some urbanized funding in it, then these rules will also allow the department, the commission or the executive director of the department, to move money to other areas of the state that might need it so we can fund it. So for example, if Abilene District, which only has the urbanized area of Abilene in it, did not need all of its urbanized money, we might move it over to someplace else in the state in East Texas that might
need it that has an urbanized area.

Likewise, at the end of the day, if we add up all the needs, if all the urban pots have been satisfied with their projects and there's still money left over, these new rules also allow the department to move money from the small urban pot over to the rural pot to go help with the needs in the rural areas of the state. We do that on a statewide level. So I don't know if that complicates your thinking or if that helps your thinking.

MR. UNDERWOOD: It makes sense. What about Abilene, do they also do any rural service, staying on that same example.

MR. KILLEBREW: The urbanized area of Abilene.

MR. SALAZAR: We're the rural provider.

MR. UNDERWOOD: You're the rural provider.

Okay. So I'm thinking that EZ-Rider. Is that who that is in Abilene?

MR. GLEASON: City Link.

MR. STEPHENS: City Link from Odessa.

MR. UNDERWOOD: Sorry, Rob. So City Link would not be eligible for the rural portion of '5310, J.R. and whoever is doing service in that district would be eligible. Right? But J.R. can't say I want urbanized money '5310.

MR. KILLEBREW: J.R. could say that if he's
running an urbanized project, but he's running a rural project so he's only going to go after the rural pot. It's possible that a rural operator may have a project that's both a rural and an urbanized project. We'd like to see coordination efforts out there in the other programs and so it could be a mixed bag of funding.

MR. UNDERWOOD: But it wouldn't be, when you show up to go to your '5310 meeting to go we've got $400,000 here, some of it's urban, some of it's rural, what would the projects look like.

MR. GLEASON: This is Eric. I would imagine it would be that, with the recognition that at the end of the day we're going to have to be able to document the expenses back to those original rural and urban allocations. But to the extent that we can, we want the public process and the project selection process because we know that travel doesn't respect those boundaries. So we're going to try and be as flexible as we can in this effort to take advantage of whatever means we have to make sure that we get the money to where it needs to be. So we've got some end-of-the-day requirements that we have to be able to document things, but to the greatest extent possible through the process, we want to have it be one conversation.

And so within a TxDOT district if there's an
urban transit district that could be going after urban funds and a rural transit district after rural funds, we wouldn't have two separate processes there, we would look to have one. It's much more efficient for everybody, and it probably results in a better solution. In fact -- and Bobby hasn't gotten to it yet -- we've got the flexibility in here to combine districts to further streamline and facilitate the process. So we're going to try not to get ourselves trapped into those boxes if we don't have to.

MS. BLOOMER: And this is Michelle.

I think that's consistent with the existing process, at least I know in the North Texas region where there is an urban and a rural portion.

MR. GLEASON: But we don't get the money that way.

MS. BLOOMER: Right. There's sort of an acknowledgment that there's a total amount, so it's all one process, not two separate processes.

MR. UNDERWOOD: But before that urban transit district provider were to lose money from their '5310 urbanized money to be taken to another area of the state for urbanized money, there would be an opportunity there, correct, for that provider?

MR. SALAZAR: For that rural provider.

MR. UNDERWOOD: No. For that urban provider.
It's got to go to urban districts first to see if anyone needs it before it goes to rural. Correct?

MR. KILLEBREW: This is Bobby.

I think in Brad's example, the example I was using in the Abilene area, if the Abilene urbanized allocation isn't totally needed, we might be able to move that money to rural areas of the state or to another urbanized area of the state. But yes, the processes are played out locally at the district always first to make sure the urbanized needs are being met before any of the money is moved around anywhere, whether it's to another area of the state or it's flexed over to the rural program. And vice versa, the rural area needs to play out, that process needs to play out, in case we decided there's a need to flex more money to urban. The processes need to play out locally before any money is moved around.

MR. UNDERWOOD: Okay. And so traditionally, what we've done in the '5310 meetings is we will not award but we will select projects greater than the amount of money that's available in case additional funding does come, then we kind of decide how we're going to distribute that step by step kind of thing.

MR. KILLEBREW: And I think the committee heard from some of the operators at your last meeting and they were very vocal about this, and they were interested in
having a process that was a single process, not necessarily having an urban call and a rural call. Because actually many operators now -- Brad, you're an example where you're both, you're an urban operator and you're a rural operator, so it would benefit you to have a single call and not have to go to several meetings. It helps in your coordination efforts, it helps with the regional planning agencies, the lead agencies there to get their coordination plans on the table as well. So we'd be looking to have a streamlined process with just a single meeting.

MR. UNDERWOOD: But at the end of the day, the urban money has got to be spent in the urbanized district and the rural money has got to be spent in the rural district.

MR. GLEASON: At the end of the day, we have to document, and the process that Bobby outlined, we have to make sure that urban needs are met, but at the very end of the day, if urban needs are met, we can move the money. But the whole thing is very transparent, and much more so than in the past when we just received a sum of funds for the entire state without any sort of geographic area associated with any portion of it. That's what's new about this.

So the trick is to stay flexible to give us the
greatest chance to address what we need to do, but also be
able, at the end of the day, to back out the numbers so
that we can demonstrate to FTA that we've spent the funds
or we've gone through a process of establishing that need
has been met before we transfer.

MR. UNDERWOOD: Okay. I think I understand.

Thank you.

MR. KILLEBREW: This is Bobby. Good
discussion. Thank you.

If I may continue then. The next piece in this
'5310 program actually is on page 49 of Exhibit D,
beginning on line 5, and that's the application
requirements. We copied this section over from the
previous text and we did not make any changes to the
application requirements.

On that same page, line 12, Brad, this gets
into the project selection which, I think, is where your
discussion was headed previously. There are some major
changes in this section. This is based, again, off the
PTAC comments, the concept papers we presented, the
feedback we got from the providers, obviously the
witnesses you had at your last meeting. So in crafting
this section we talked about lots of things, so I want to
kind of hit the high points on this one too.

The decision-making process and the
coordination opportunities, at least in the written context here, is being streamlined. As Eric was talking about, instead of having a process that plays out on a TxDOT district by TxDOT district basis, we're allowing in this revised text here for the department to combine contiguous department district boundaries to help with that stakeholder engagement and the project selection process, and the public involvement process and that public outreach which is also very important in this program.

So we might have some district boundaries that two or three get together and hold a more regional type meeting to facilitate the project selections. That certainly would help with some of the operators because we have all kinds of lines on the maps, they don't ever line up, there's all kinds of district lines, all kinds of transit districts, TxDOT districts, health districts, MTP districts, on and on and on. So we think that will help in that process.

The composition of that stakeholder group, whatever that stakeholder group is geographically defined, does have some very specific requirements in the text here. These do mirror a lot what's in MAP-21, so it talks about who should be represented in that stakeholder group.

Also, reference is made the FTA Circular in here. The
FTA Circular does a much better job than we probably could do in the Administrative Code as to defining what those groups are. For example, it says transportation partners, but then if you go to the circular it will better define transportation partners, give you examples of what transportation partners are. And so we refer to the FTA Circular to do those types of things because we know FTA also makes changes from time to time, and so it would be better for us to refer to their most recent guidance as opposed to putting that in the Administrative Code.

There is specific criteria for consideration when the projects are being selected. If you'll remember, in prior PTAC meetings, PTAC came up with some very defined items regarding project selection, such as leveraging resources, being sustainable over time and so forth, and those are listed actually on page 50, beginning on line 7. So if you remember back to your discussions you had on that, you'll see on line 7 the "(2) In recommending projects," underneath there beginning on line 10, you'll see an (A), (B), (C), (D), (E), (F), those were those items that PTAC came up with in prior meetings. We captured those, I believe, pretty much verbatim.

Also on page 50, beginning on line 18, we introduce another thing. With operating being an eligible expense in this program, there is a federal statutory cap
on how much can be spent on operating, and that is 45 percent. Because the project selection process is at the local level, we've passed down that 45 percent cap to those individual local project selection stakeholder groups, so it's a 45 percent cap for each area that's selecting projects as well.

MR. SALAZAR: This is J.R.

I have more of a comment than a question, Bobby, on Exhibit D, page 50, line 5. Being that I serve in four different TxDOT districts, I can tell you sometimes it gets somewhat hard on us to try to engage work force centers and health and human services. We do try to do that, but for the most part, to be perfectly honest, they start off in the process and then back out. And that's just my comment.

MR. UNDERWOOD: And we can attest to that. And my concern is in line 23 where it says "the stakeholder groups must include representatives of the following." So when you show up, if you've got transportation partners, you've got partners and advocates but you don't have anyone from work forces, it's like we can't have our meeting.

MR. GLEASON: This is Eric. Let me just jump in a little bit.

You can't require folks to participate. You
can have them on your invite list, you can have them as members of the committee, but we can't require participation.

MR. UNDERWOOD: That's what I'm saying because it says we must include.

MR. GLEASON: Must include.

MR. UNDERWOOD: Okay.

MS. BLOOMER: They're on your roster, they're invited.

MR. GLEASON: You can do what you can do, but we can't hold you accountable for participation.

MR. SALAZAR: Okay.

MS. BLOOMER: Bobby, this is Michelle.

On line 15, "(E) involve partnerships with non-profit organizations and for-profit transportation providers," we had talked at the last meeting about broadening that to just be involve partnerships. Do we include any potential partnership -- by specifically stating non-profits and for-profit transportation providers, I mean, does that cover everybody that you could potentially partner with? I mean, I would hate to limit partnerships to two groups.

MR. KILLEBREW: When we went back and looked at the transcript for this one, we thought that pretty much captured what was decided by the committee. It certainly
can be changed now if we didn't capture it correctly. The intent of this was to capture those providing transit services in whatever area that you're looking at, and there's an emphasis under MAP-21 to engage more of the private community in transit programs, and so this also reflects the intent of doing that as well.

MS. BLOOMER: And I guess my question is that I just want to make sure that by specifically mentioning those two types, we aren't excluding other partnerships, and we've talked about they can non-financial partnerships. If I get a group of parents that have children with special needs and I'm partnering with them to address that need, is that not a partnership, but they're not necessarily a non-profit organization or a for-profit transportation provider. Or if I partner with a dialysis center which isn't a non-profit organization or a for-profit transportation provider, are they not considered a partner. And so my only concern is we're limiting the types of partners.

MR. KILLEBREW: We're going to go back and look at MAP-21 while we're discussing the rest of this section to see how closely we actually aligned that with the federal statute. I don't know if we want to further define it from the federal statute, but we'll look at that before the committee makes a motion.
MS. BLOOMER: Okay. So we'll come back to that item?

MR. KILLEBREW: Yes. Karen has got the MAP-21 version over here. When we were writing some of the text -- well, from the concept papers and the PTAC discussions you had, a lot of the stuff came out of MAP-21, so going back to check to see if we might have copied this text verbatim out of something.

MS. BLOOMER: Because I know we initially had -- I think we had just had involve partnerships with for-profit transportation providers at the last meeting and we talked about expanding it, and the meeting before that.

And then my other question is on number (3), line 18, where we're applying the 45 percent operating cap at the district level, I may be wrong, but I thought we had initially talked about applying it to the statewide level.

MR. UNDERWOOD: We did, but how do you track that, though?

MS. BLOOMER: But you can track it at a district level, and if you have one district that's at 40 percent, then you have flexibility elsewhere. You're limiting your flexibility by saying it's 45 percent at every district level.
MR. UNDERWOOD: But I'm trying to think if you got a meeting and we're saying we'll take as much operating as anybody wants to take, and you allocate 75 percent at your meeting, we have to come back later and go whoops, we passed the state cap. I don't know how, without going meeting after meeting after meeting to try to figure out what that looks like, because all these projects come in at one time. Right?

MR. KILLEBREW: When we're talking about at the statewide level, that's when we're also talking about the statewide competition, and if we do a competition on the statewide level, it's easy to do that 45 percent cap, but since these projects are being selected at the local level, it's really impossible, and as Brad said, once everything comes in, go back out to people and say we have too much operating assistance statewide, someone has to cut, who is it going to be.

MR. UNDERWOOD: I don't disagree with you, Michelle, it's just I don't know how you'd monitor that and I don't know how you'd ever successfully implement it.

MS. BLOOMER: I'm just wondering if there's a way to not completely close that door.

MR. UNDERWOOD: Well, you can go back to my statewide call.

MS. BLOOMER: No. But we do it at the district
level, the 45 percent, and then PTN would have the
discretion, if one district is under and another district
wants more, and you're moving money from one rural area to
another or urban area to another to address the needs,
that you give yourself that flexibility. Because this
pretty much shuts the door on that flexibility because it
will 45 percent at the district level, not more than.
Right. So somebody can do less, but if somebody does
less, that means somebody can do more.

MR. SALAZAR: So like that commercial, we want
more, we want more, that little girl.

MR. UNDERWOOD: But I don't know how you
successfully implement that. If everyone had their same
meeting on this date and we all reported back, I don't
know how you'd ever do that.

MS. BLOOMER: Well, it's like: Hey, more money
is available. Well, instead of saying whoops, you've
already reached your 45 percent cap, we now have a second
round of funding for priority B projects that now makes
more money available, but you can't use it for anything
but capital because you've already reached your 45 percent
cap.

I mean, that's fine, I'm good with it as is.

MR. SALAZAR: I'm okay with the way it's
written.
MS. BLOOMER: We've just been talking about flexibility.

MR. UNDERWOOD: I just want to be able to be successful with it and not have to go to 15 '5310 meetings because we can't ever get our apportionment right under the 45 percent, and go back and hack up projects every time. When we leave, I'd rather be done and not have to keep going back, and go: Well, we can now go back and all ask for 5 more percent in operating because someone was under.

MS. BLOOMER: You had me at okay.

(General laughter.)

MR. GLEASON: This is Eric, if I could.

I think this is one we're just going to have to get some experience under our belts with, and it might be something that a couple of years from now, if that has emerged as a significant issue, maybe we go back in and put some flexibility in, but right now we're just kind of shooting in the dark. And I guess I wouldn't want to create an expectation out there that, you know, kind of see how moves first because we might want to come in with more. It just might introduce a dynamic that might not be productive. But I think this is an area we'll have to revisit.

MS. BLOOMER: Okay.
MR. KILLEBREW: While Karen is still researching, Michelle, your other comment and we'll get back to you, we'll continue then.

There are some other requirements in this same area that were unchanged from the previous version, like demonstrated need, financial and managerial capability of the applicant, past efforts to coordinate, local support, and absolutely the inclusion of the project in the coordinated public transit human service plan, all those still remain. We just copied those over the old text into the new text, we did not make any changes in those areas.

We did discontinue a piece in the old '5310 section which was something the department actually did administratively. We had it in the Code for some reason, but we had it in there, and that was that we had required at that time our districts to do a three-year transit development plan and to turn in a three-year plan to us. That's something internal to the department, so obviously the stakeholders had input on that. That item has been taken out of this. I think you had kind of discussions as well, and so that has been deleted from the old text. That also will closer align that selection process as proposed in this new text with what's happening in the lead agency and coordinated regional plan effort, so that makes those two mirror a little bit closer together.
The last two little sections that we did in '5310, they remain unchanged from the previous one. One deals with vehicle leasing that's on page 52, line 13, and on that same page 52, line 20, incidental vehicle uses. That remains unchanged from the previous text.

And let me check with Karen to see if we had anything on the partnership.

MS. DUNLAP: For the record, this is Karen Dunlap.

The MAP-21 itself does not talk about the involvement of private for-profits in this particular section. It does talk about engaging some of those folks in reference to the metropolitan planning process, but it doesn't talk about it right here. My understanding is that it is most likely in the Federal Register that came along with the apportionments, there was a large section which talked about engaging the for-profit transportation community that came out of the concerns that taxicab and that group of operators had with being excluded from this process.

Furthermore -- every time you read this thing it's like you open a new door and a window opens -- the MAP-21 definition of a subrecipient simply says that it is a local governmental authority -- which all you guys are -- a private non-profit organization, or an operator
of public transportation. So actually, in saying the taxi companies can only serve as a contractor, we have shut them out of subrecipient status.

I'm deferring to Kris Dudley who is the program manager for that. Has that been traditional in the '5310 program that you know of, is it more of a holdover from looking at this from the New Freedom/JARC projects? More of a holdover from their role with New Freedom and JARC, how we treated the taxicab companies. So by and large, they haven't been pounding down the door to participate in the program, anyhow, and it may actually in the long run be easier for them to be a contractor than to be a subrecipient and deal with all the 60 million things that come with subrecipient status.

MR. KILLEBREW: This is Bobby.

So not to confuse the two points, because Brad had a comment about the contractor, Michelle's comment was about the partnerships involving the private for-profits and the non-profit organizations and other partnerships.

MS. BLOOMER: This is Michelle.

I think Karen's response was more to Brad's question than it does to mine because the section I'm looking at on page 50, line 7 where we're listing out those goals, are all things that PTAC laid out in the concept paper, and when we first started -- I don't know
that I have the original concept paper -- the first one I believe we had said projects that involve partnerships with for-profit transportation providers, and then PTAC requested that that be expanded, and on the last meeting the line read: projects that involve partnerships with non-profit and for-profit transportation providers. And at that point last meeting we had a discussion of why are we limiting it to just those two types of entities and not broadening it to partners, period, and allowing the entity requesting the funds to sort of list out and describe who all their partners are, regardless if they're non-profit organizations or for-profit transportation providers.

So I don't know. I mean, we could involve partnerships including, but I mean, we're basically limiting it to those two types of partnerships and just acknowledging those two types of partnerships and not any other partnership a transit entity could possibly have, and that's my concern, because I have a lot of partnerships that don't fit into either one of those categories.

MR. KILLEBREW: This is Bobby.

I think that's a point well made and I think in perhaps making the motion for this section, you might want to include some edited text in the motion so the department can consider your suggestion.
MS. BLOOMER: And then back to Brad's earlier point on the for-profit transit providers being listed under the eligible entities, we discussed potentially moving them, taking them out the eligible entities section, since they are not an eligible entity, and moving them to somewhere else. Would somewhere else be where we just were?

MR. UNDERWOOD: (E) is what it says: "involve partnerships with non-profit organizations and for-profit transportation providers." That kind of sums it up, doesn't it?

MS. BLOOMER: But I'm going to make a motion that we broaden that.

MR. UNDERWOOD: Such as?

MS. BLOOMER: Involve partnerships including but not limited to non-profit organizations and for-profit transportation providers. And then delete the section -- where was that again?

MR. KILLEBREW: It's on page 43 is the area that we're talking about the taxicab company and for-profit providers participating as a contractor.

MS. BLOOMER: Okay. So involve partnerships -- what did we just say -- involve partnership including --

MR. UNDERWOOD: Are you structuring a motion right now?
MS. BLOOMER: I'm trying. Including but not limited --

MR. KILLEBREW: If I may, Michelle, though. The area that you're editing right now deals with project selection, and the involvement of private companies, as written on page 43, deals with not project selection as much as it deals with how can I participate in getting money out of this program in providing service.

MS. BLOOMER: But I guess the question I keep hearing is aren't for-profit providers eligible contractors under any program. So if you're an eligible recipient, number one, as an existing rural transit district or urban transit district, or in those areas where they don't cover, the director can choose a local public entity or a private non-private, can't any one of those entities, if they so choose, then contract with a for-profit transportation provider to provide the service, and all we're doing is specifically calling that out here. And I guess the question is do we need to specifically call it out, and if so, why.

Is there any discussion from the committee?

MR. UNDERWOOD: I think you're doing it right. I mean, delete that line and expand where you're going to expand under (E).

MS. BLOOMER: And the partnership piece, they
could be a partner as a funding partner, a non-funding partner, or they could be a partner in the sense of they're a third-party contractor.

MR. KILLEBREW: Again, I'm not sure we're editing the new language. Are you still under project selection?

MS. BLOOMER: No. We're recommending that on page 43, line 3, section (3) be deleted completely, and not deleted and moved anywhere else, but deleted. And then recommending that on page 5, line 15, when we talk about under project selection, that "In recommending project selection, stakeholder groups should consider the program goals and objectives set forth in subsection (b) of this section and consider projects that:" (A), (B), (C), (D), and (E) is "involve partnerships including, but not limited to, non-profit organizations and for-profit transportation providers."

MR. UNDERWOOD: The "not limited to" opens it up to a lot of those things you were discussing.

MR. GLEASON: Michelle, if I may. I don't know if perhaps a short recess to allow staff to kind of put our heads together and come back with something more specific would be helpful.

MS. BLOOMER: Five minutes?

MR. GLEASON: Ten minutes. And I think the
term is recess.

MS. BLOOMER: Yes, Christina.

MS. CRAIN: Michelle, how much longer do you think we have?

MS. BLOOMER: Well, we're on page 50 of 82, and then we have one more section after that which is 29 pages, but I believe that that last exhibit is the one that has been going fairly quickly, so I think right now this is the bulk of it here, the '5310 program, and then I'm guessing after this we have '5311, so I think we'll probably just go ahead and take a ten-minute recess and reconvene at 2:45, and my goal would be to end no later than 3:30.

MS. CRAIN: Okay. That will probably work for me. I've just got another meeting, I've got someone waiting on me, so 3:30 would be fine.

MS. BLOOMER: Okay. Let's go ahead and take a ten-minute recess and we'll reconvene at 2:45. Thank you.

(Whereupon, a brief recess was taken.)

MS. BLOOMER: We're going to close up the discussion and go ahead, and are we ready for a motion on section 31.30 which is Exhibit D? It starts on page 37, line 4, and goes through the new text --

MR. KILLEBREW: Michelle, this is Bobby. You may want to take roll call to make sure you still have a
quorum.

MS. BLOOMER: Rob?

(No response.)

MS. BLOOMER: Christina?

MS. CRAIN: Yes.

MS. BLOOMER: All right. And then we have Brad, J.R. and myself, so we have a quorum.

(General discussion about section numbers and page numbers in exhibit.)

MS. BLOOMER: Exhibit D, page 39, line 16, section 31.31, the '5310 program. I think would somebody like to make a motion? Okay. I'll try to make the motion based on the discussion we had. So I think the motion is to adopt section 31.31 with the following changes.

The first change is to take on page 43, lines 3 through 5, that section (3) that says "a private for-profit transportation business, such as a taxicab company, may participate as a contractor to an eligible recipient," to delete that text from the eligible recipient section and move it to the end of section 31.31.

The second change is on page 49, line 23, and to revise the sentence to say instead of "the stakeholder groups must include" to revise the word "must" to say "should."

And then the final change is on page 50, line
15, to take the text that says, "involve partnerships with
non-profit organizations and for-profit transportation
providers" and revise that text to read "involve
partnerships including, but not limited to, non-profit
organizations and for-profit transportation providers."

MR. UNDERWOOD: Terrific. I'll second that motion.

MS. BLOOMER: All right. We have a motion and
a second. Any further discussion?

(No response.)

MS. BLOOMER: Hearing none, we'll take roll
call. Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

All right. So we are moving on to the next
section which is section 31.36 which starts on page 65,
line 5 of Exhibit D. Bobby.

MR. KILLEBREW: Thank you, Michelle.

As you find your way to page 65, line 5, let me
outline the changes that are in this section. We've also
changed in this section, like the previous section, to
allow for the higher reimbursement rate on vehicle
purchases that comply with the ADA and also the Clean Air
Act. Planning is now a new eligible expense in this
program, so we've added a category to allow for planning
expenses.

I'll have to flip over a page here, bear with
me. We've also, similar to the previous sections which
talks about the local share requirements and where the
money can come from, we've revised this to mirror the text
that is used in those sections, transportation development
credits is also added as an eligible match source. We did
delete something in the local share requirements. In the
previous text for this program there was some text that
said 50 percent of the local share requirements had to be
cash. We can no longer find that that is a federal
requirement or even in a regulation or in an FTA policy,
so that has been deleted.

Beginning on page 75, there is some text that's
been added in regards to the intercity bus program -- I
believe this is on page 74 -- thank you, Eric -- on page
74 some text added in regards to the intercity bus
program, and this also deals with the local share
requirements. There was a pilot program that FTA had for
some time and then they actually formalized that pilot program and now it's in federal statute regarding the feeder service and the unsubsidized portions of intercity bus expenses that you can use for match on the '5311 program.

On page 75, around like 7, this was some items that PTAC had discussed also in regards to the intercity bus program. We've added some text here in regards to the intercity bus funds and how they're awarded to support the intercity bus industry to more clearly identify facility and service as providing access and connections to rural areas. That was a strong point that this committee had made about the connection to rural areas in the intercity bus program.

On page 77, line 12, you'll see some similar text that you've seen in some other sections regarding the performance and the negative impact, if there is a negative impact, calculating the performance factors and allowing the department to have some alternatives in addressing those situations. So this is similar to the same text we had back in the state grant program, we've copied over here into the federal program.

On page 78, line 13, you'll see some inserted text regarding the furtherance of the department's goals. This deals with project selection in what's commonly
called the Discretionary Program out of the '5311 federal funds. This was also another PTAC comment that as the department is considering projects out of the Discretionary Program that they be tied to the department's goals, and so we've added some text here to have that in the Administrative Code.

And the last change in this program that I'd like to bring to your attention is actually on page 80, beginning on line 8, and this also deals with the intercity bus program. We've added some text, the committee had a fairly lengthy discussion about the intercity bus funding of projects, whether there should be a set-aside or not a set-aside for this intercity bus pot of money, and so we've added some text here to clarify the department's role in selecting projects, and that added text begins on line 8. And this is to looked at a balanced investment in intercity bus travel and that the department would have the ability to establish investment targets among all the eligible applicant type groups for the intercity bus projects and types and for the solicitation that we do in the coordinated call every year.

And those are the major changes in the '5311 federal program.

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

(No response.)

MS. BLOOMER: Hearing none, do I have a motion?

MR. SALAZAR: This is J.R. I move to approve.

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

MR. UNDERWOOD: Second.

MS. BLOOMER: I have a motion from J.R., a second from Brad.

Roll call. Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

All right. I think that leaves us with one section left in Exhibit D which is on page 80, section 31.37, the Rural Transportation Assistance Program, which starts on line 14. Bobby.

MR. KILLEBREW: Yes. And other than the other comments we've been talking about, changing non-urbanized to rural and some of the clarity type things, the only
change we made in this section actually is on page 81, line 12. The current language was fairly restrictive where it said that research and statewide technical assistance projects will be competitively advertised and evaluated by department personnel, we're changing that to may be competitively advertised and evaluated by department personnel.

The reason for this is that we do contracts a lot with universities, with the University of Texas or Texas A&M and so forth, and so those are not competitively procured type services, we do those through the Interagency Contract Act, so we need to change that "will" to a "may" so we technically get back on track.

MS. BLOOMER: Okay. Any questions from the committee? If not, do I have a motion?

MR. UNDERWOOD: So moved.

MS. BLOOMER: Brad made a motion, I'll second the motion.

Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?
MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

All right. That takes care of Exhibit D.

Moving on to Exhibit E -- hold on, there is an Exhibit F.

MR. KILLEBREW: These will go quick, Michelle, I promise.

In Exhibit E, beginning on page 1, we have a brand new program, in section 31.38, the Rural Transit Safety Program. This is a new program that is required out of MAP-21. This piece in the TAC that you see before you today, all new language, does mirror the language that's in MAP-21 and also the language that was in the concept paper.

Just as a matter of FYI, the department, TxDOT, is responsible for ensuring that the ’5311 agencies have certified public safety transit plans, so we do need to have new text in here that talks about this. We know FTA hasn't finished all their rules and regulations on this, but this does give us the general authority to carry it out once FTA gets their act together. And that's the new section.

MS. BLOOMER: Are there any questions on section 31.38?

(No response.)
MS. BLOOMER: Bobby, do you think we could go ahead and take section 31.42 as well?

MR. KILLEBREW: If we can have a motion on this section, and then I'll do the next group of sections all together.

MS. BLOOMER: Okay.

MR. UNDERWOOD: I would move to approve that section.

MS. BLOOMER: 31.38?

MR. UNDERWOOD: Yep.

MS. BLOOMER: Okay. I'll second that motion.

Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

Okay. Moving on to the next section, 31.41.

MR. KILLEBREW: 31.40, actually, Michelle. It's on page 2 towards the bottom on line 21 of Exhibit E, public involvement. This is another section, when we started working on this, that got a little too busy on the
page, so we're repealing section 31.40 and replacing it with the new text you see here. This is a section that references applicable federal laws. A lot of the repeals and things had to do with JARC and New Freedom being taken out of MAP-21, so again, by the time we deleted some old text and revised this, it was a little busy. So what you see here is the new requirements under MAP-21.

There is a special reference regarding JARC and New Freedom because we still administer those programs, and so we had to, on page, beginning on line 5, going through line 12, craft some language that says if it's JARC or New Freedom, it's basically under the SAFETEA-LU requirements because those don't exist under MAP-21. So that would be this piece on public involvement.

Continuing on to private sector participation which is on page 4, line 8, this is just a Code Construction Act change in the way that they list the references to the United States Code.

On page 4, continuing down to line 14, you'll see section 31.42. Again, this is another section, when we started working on this, it seemed more reasonable and legible just to repeal the entire section and draft a new one. The old 31.42 listed several pages of federal requirements, and we did some research on those to see how the department does this in other areas of its business,
and we've recreated 31.42 to be a much shorter, streamlined version. As you'll see, it's only a few lines, compared to the several pages. But this also allows us to keep this list a little bit more current because as soon as we publish a very long list of all the federal requirements, something changes somewhere and we're out of date again. So by doing this the way we've done it, it does fit with the way the department does it for other programs and it will cover everything we need to do for transit.

If you flip over to page 13 of Exhibit E, down on line 18 there will be a section on contracting requirements. We've made a few changes in this section. Our public transportation coordinators are now division employees, so we have updated this section to reflect they're no longer working in the district offices, and that type of correction will appear in the remaining sections as they go through. I may not mention them, but we've gone through and taken out references to people working in the district and now they work for the division.

And also in 31.43, actually on the next page, page 14 down on line 15, there's been some text that's been stricken. In regards to subcontracts in excess of $25,000, it had some pro forma grant type language that
had to be included. That language is actually included in our master grant agreement, so to put that contractual type language in the Administrative Code didn't follow the normal department process and how they listed things, and so we've taken that out of the Administrative Code, but it does, again, appear in our master grant agreement that every subrecipient signs with TxDOT if they're getting transit grant funding from us. We also found out that this list is not up to date in the Administrative Code, the list in the master grant agreement is up to date.

MR. UNDERWOOD: Where does this $25,000 threshold come from? Was this our old procurement threshold?

MR. KILLEBREW: That I don't know the answer to.

MR. UNDERWOOD: I'm just thinking because we've changed all our procurement to 50 now.

MR. GLEASON: If you fall under the Local Government Code, it's 50. This would be for entities who did not.

MR. UNDERWOOD: That's right. Okay.

MR. KILLEBREW: Continuing on to page 15 at the top of the page, line 1, section 31.44, procurement requirements, there's been some changes in this section. The sections actually appear on the next page which is
page 16, beginning on line 3. A less intensive
procurement process is identified here for goods and
services or equipment valued with a total cost of $3,000
or less not requiring quotes or offers from the three
sources. This actually is a process that was introduced
some time ago but we're updating the TAC now to meet
current practice.

The next section is 31.45, and 31.45 is just
grammar and/or word edits.

And 31.48 which is on page 19, line 14, there
are only grammar changes in this section or word edits.
There were a few changes in 31.48 -- I misspoke here. In
31.48 there were some grammar and word changes, as well as
there were some additional things regarding the
department's collection of data. These are actually on
page 20, starting on line 22 and continues on to page 23.
We had to add some text in here regarding the collection
of data for the transit asset management plan. We also,
with JARC and New Freedom being repealed out of MAP-21 yet
we still have providers out there that are still getting
money from us, we had to add some text in here that talked
about those type of entities still reporting to us.

We also had to add some text now that '5310
money, at least a portion of it is going directly to the
large urbanized areas, under state statute, whoever those
large urbanized areas select as their transit subrecipients for '5310 must also report to the department. So we've had to add text in various areas under these responsibilities to clarify the reporting of the performance measure data and of the reports either required by federal law or by state law.

And finally, on page 25 of this exhibit, on line 6 there's also some clarifying language in here that deals with the drug and alcohol program requirements, again for those JARC and New Freedom recipients who are still getting money from us under prior authorizations before MAP-21.

So you see we had to make lots of changes to accommodate pre MAP-21 and post MAP-21 type situations, so there's lots of writing you'll see there, but that's what the changes were for this section.

The next section is on page 27, line 8 which deals with the transportation needs of clients of health and human service agencies and the coordination of services. We updated a reference, actually on line 20 of that page, to the department's plain regulations. The department changed its place in the Administrative Code so we needed to update our reference to that section.

And that's all of Exhibit E.

MS. BLOOMER: Are there any questions from the
committee on the remainder of Exhibit E?

(No response.)

MS. BLOOMER: Okay. Do I have a motion for approval of the remainder of Exhibit E from page 2, line 21 through the end of page 29, and that's eight sections.

MS. CRAIN: So moved.

MS. BLOOMER: Okay. I have a motion. Do I have a second? I'll second that.

Roll call. Rob?

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

All right. Moving on to our final exhibit, Exhibit F.

MR. KILLEBREW: This is Bobby again.

Exhibit F, page 1, line 2, we have a new section which deals with asset management. This is a new section that as created under MAP-21. The language in this section mirrors what's in MAP-21, it also mirrors what was in the concept paper that was discussed by PTAC.
And the department is responsible in this area for certifying all the subrecipients' asset management plans so we do need to have this in the Administrative Code to give us the authority to do this.

This is another area where FTA has not written all the rules and regulations, but this general authority will allow us to carry out this program once those rules and regulations are satisfied under the FTA.

I can continue with the next section that would be the last section.

MS. BLOOMER: Yes, please continue.

MR. KILLEBREW: Okay. The next section is actually on page 2 of Exhibit F, starting on line 17 with disposition. The majority -- let me refer you to, actually, under this same section, it's page 4, line 5 -- the majority of dispositions and activities that happen with vehicles is usually through a sale or through auction, but there are times when a transit operator is getting rid of a vehicle and it's more appropriate for us to relocate that vehicle with another subrecipient. And so we've added clarifying language here that talks about transferring to another recipient the FTA funds and that's done in a couple of places in this section, and that's just to clarify that that's our intent when we still have a vehicle that has useful life in it, instead of going
through a sale or an auction, we may want that subrecipient just to relocate it with another FTA-funded subrecipient.

MS. BLOOMER: This is Michelle. Can I ask a question? Because by specifically saying another recipient of FTA funding, we're limiting the number of entities that provide transportation that could receive that vehicle. So for instance, Catholic Charities is not another recipient of FTA funding, and hence, would not be eligible to receive transfer of vehicles from another transportation provider. Am I reading that correctly?

MR. KILLEBREW: There are exceptions to this which is my next comment in this area, Michelle.

MS. BLOOMER: Okay. Sorry.

MR. KILLEBREW: That's okay. Actually on page 5, beginning on line 11, there was an exceptions piece that got deleted right there. We've added that to the very end, so if you flip all the way over to the last page, page 8, you'll see an exception paragraph there, and that allows the department to consider things on a case-by-case basis. So it's not 100 percent that it has to go to a recipient of FTA transit funding, so in the cases where it's better used by someone who is not a direct recipient of FTA funding, the department can consider those type of transfers as well.
MS. BLOOMER: Okay.

MR. UNDERWOOD: Are you okay with that, Michelle.

MS. BLOOMER: I am.

Are there any questions from the committee on Exhibit F? If not, do I have a motion for approval of Exhibit F, as presented?

MR. SALAZAR: This is J.R. I move to approve.

MS. BLOOMER: All right. I have a motion. Do I have a second?

MR. STEPHENS: I'll second.

MS. BLOOMER: Okay. I have a second from Rob. We'll do roll call. Rob, I'm assuming you're an aye.

MR. STEPHENS: Aye.

MS. BLOOMER: Christina?

MS. CRAIN: Aye.

MS. BLOOMER: Brad?

MR. UNDERWOOD: Aye.

MS. BLOOMER: J.R.?

MR. SALAZAR: Aye.

MS. BLOOMER: Michelle, aye.

Okay. Bobby, correct me if I am wrong, but I think that takes care of item 4.

MR. KILLEBREW: Michelle, you are correct.
Congratulations.

MS. BLOOMER: Woo-hoo! Thank you all. We made it through. So just to clarify, the action we are taking is to make comment, and our comment is we're good with all the sections minus the changes we mentioned in certain sections.

MR. KILLEBREW: Yes. And just to let the committee know, what we'll do now is the department will consider the committee's comments. If we concur with the comments, we'll just make the edits to the Administrative Code draft that you're seeing, and it will go forward to the commission with committee approval. If the department disagrees with the committee comments, then we'll note that in the preamble that the committee did make the comment but the department did not concur, and so that will be in the preamble as well. I think we're probably agreeing with your comments, though. So the next version you see of this will probably be in a little bit different order, it may have a different page number because we may add and remove text.

It is scheduled to go to the commission at the end of this month, so keep your eyes open and we'll certainly send you all a copy once we have that made available to us from the legal counsel folks.

Looking at the timeline, this will be published
in the Texas Register on August 9 and the public comment period will begin on that day. Again, we have one public hearing that we're going to hold during the public comment period. The next time PTAC gets back together, typically this group doesn't want to meet until all the public comments have been received, so your next meeting -- and I'm kind of jumping a little bit maybe ahead of Michelle on the agenda -- your next meeting will be after the public comment closes, so I'm guessing it's probably going to be towards the end of September time-wise. If anybody has got conflicts or whatever, but we'll get Rebecca to target a date for the group to meet again.

MR. UNDERWOOD: Eric, whenever this goes before the commission for comment in the first initial time, do you need a representative from PTAC there in case there's questions or anything like that at the commission to talk about the work we've done?

MR. GLEASON: I don't need a representative. I think the committee can choose to have one there. I think the commission appreciates when the advisory committee does attend, and certainly if you wish to make comment, that's fine as well.

MR. UNDERWOOD: Especially something this large, all the proposed rules, I think it might be beneficial for us to have someone there.
MR. GLEASON: I was going to ask the committee that question before we left today, but now that we're on that.

MR. UNDERWOOD: Okay.

MR. GLEASON: But before we get there, if I may, I do want to thank the committee for what I consider to be an exceptional level of engagement on this. I think we started this, what, before the end of last calendar year in some fashion or another. We've had a lot of outreach, we've had a lot of discussions, 152 pages of changes to the Code, that is a phenomenal amount of work, and quite honestly, I don't recall another standing department advisory committee doing something of a similar nature. So I do want to thank you all. Christina, Rob, on the phone, thank you so much for your time today, and your commitment to this is quite an accomplishment.

MR. UNDERWOOD: And I'd like to also say if look at all the work that's been done here, the staff has done a tremendous job in translating some of the ideas and flippant comments that we've had throughout this process, and really sincerely appreciate all the work they've done, it's huge.

MR. GLEASON: And back to your first question, I think there are two opportunities in this process that the committee can choose to address the commission, you
can choose to do both, if you wish. The first would be at this July meeting where these are recommended to be adopted as proposed rules, and then the second would be at the end of the process at what we're now reading as the October meeting when they would be up for final adoption. So any form of communication is an option for the committee at this point in time.

MR. KILLEBREW: And if I may also weigh in, as individuals, not as a committee, but as individuals you are certainly able to participate in the public comment process. So if you feel you need to weigh in as an individual, I'd encourage you to do so during the public comment period by submitting a comment, or at the public hearing as well.

MR. GLEASON: There is one thing on the agenda is that a discussion of these or a summary of changes is on our agenda next week at our semiannual business meeting with transit providers, and so I'm imagining that conversation, you might hear through there or we might hear constructive criticism of what is being moved forward. But nothing about what we're talking about here today will change because of that conversation, this is the last say, if you will, with respect to that. So we may very well hear, you know, some level of discontent among the people with some specifics, and the trick will
be when we do enter the formal comment period following commission action in July, they will need to reflect those concerns via the formal comment period.

MS. BLOOMER: So was there a consensus of the committee, do we need to take action related to committee members attending the July 25 commission meeting and then the October, or can we handle that sort of offline?

MR. GLEASON: The thing I think you would need to do here today would be you ought to just sort of generally go over what you think the content of the comments would need to be if you do choose to either in written format or to verbally deliver some comment to the commission, I think that maybe you ought to discuss it generally.

MS. BLOOMER: Brad, did you have a recommendation for written or verbal.

MR. UNDERWOOD: I'd like to have -- I don't know if I need to say this in a motion or just in general -- I'd like to have J.R. represent us at the commission meeting and verbally speak for us and just reiterate the work that's been done and appreciation and how we recommend these and we're in agreement on them.

MR. SALAZAR: I won't be here.

MR. UNDERWOOD: You will be here. Look, you'll be back.
MR. SALAZAR: That's when I land.

MS. BLOOMER: Well, I think since Brad is making the recommendation, maybe you would be willing, Brad, to represent the Public Transportation Advisory Committee at the July 25 meeting to give our verbal support of the proposed rules.

MR. UNDERWOOD: I would have no problem with that, however, I will be out of town that week.

(General talking and laughter.)

MS. BLOOMER: We're all going to be out of town: I'm out of town, J.R. is out of town, you're out of town.

MR. UNDERWOOD: I'd like to recommend Rob Stephens do this on our behalf.

MR. STEPHENS: That's a pretty jam-packed week for me too. I don't want to commit right now. I don't have anything on the schedule but I know it's coming. I don't think I'm going to be available, guys. I appreciate the vote.

MS. BLOOMER: The other option, too, would be to sort of postpone and see what happens. Obviously, in the preamble you're going to mention that is in support of the rules that are being presented.

MR. KILLEBREW: Yes.

MS. BLOOMER: And then we can wait and see what
feedback we get at the July semiannual meeting, the
comments we receive at the public meeting, and then
everybody hold that last week in October to go to Austin
in support of final adoption of the rules.

MR. STEPHENS: That's good.

MS. CRAIN: That sounds good. Why don't we do
that.

MS. BLOOMER: Okay. Then I think we'll go with
that recommendation.

If there are any other items. Let's see,
public comment, I don't believe we have anybody from the
public.

We talked about the next date being late
September, I believe you said.

MR. KILLEBREW: Normally you would have a
meeting -- because you have scheduled meetings now, there
would be one at the end of this month, but I think since
PTAC met now, you probably don't want to meet again at the
end of this month.

MS. BLOOMER: So we would meet at the end of
September anyway. Right?

MR. KILLEBREW: You would meet after the public
comment period. We can schedule that to be your next
meeting, unless there is a need to meet earlier.

MS. BLOOMER: We did them quarterly -- no, we
MR. KILLEBREW: You did them every other month.

MS. BLOOMER: We had a regularly scheduled meeting at the end of July. The next regularly scheduled meeting would be at the end of September, which would be close to when you need us to meet.

MR. KILLEBREW: Yes.

MS. BLOOMER: Okay. So we'll either keep our regularly scheduled date or some other date around that time frame, and Rebecca will let us know.

MR. KILLEBREW: Yes.

MS. BLOOMER: Any other business today? Six minutes early. Do I have a motion to adjourn?

MR. UNDERWOOD: So moved.

MR. SALAZAR: Second.

MS. BLOOMER: I have a motion and a second.

All those in favor?

(A chorus of ayes.)

MS. BLOOMER: All right. Thank you so much.

(Whereupon, at 3:24 p.m., the meeting was concluded.)
CERTIFICATE

MEETING OF: Public Transportation Advisory Committee
LOCATION: Austin, Texas
DATE: July 9, 2013

I do hereby certify that the foregoing pages, numbers 1 through 95, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Transportation.

07/10/2013
(Transcriber) (Date)

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