

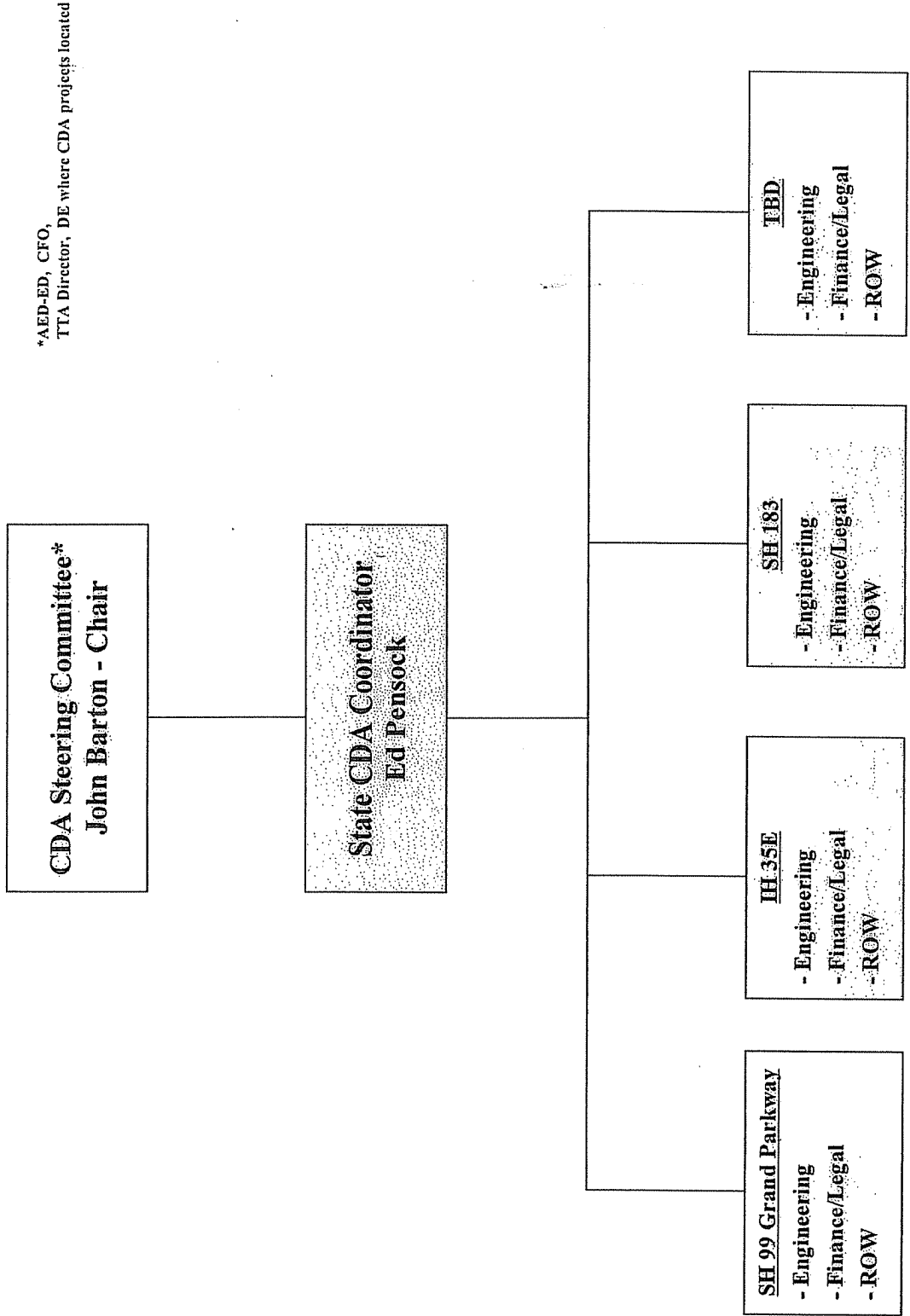
SB 1420 Committees

- Statutory requirements (effective date of September 1, 2011)**
 - Applies to TxDOT toll projects in which a private entity has a financial interest in the project's performance
 - Committee must include representatives from TxDOT, any local toll project entity for the area in which the project is located, the MPO, and any city or county that provides project funding or ROW
 - Committee is responsible for determining the distribution of the project's financial risk, the method of financing the project and the tolling structure and methodology
- Comments are solicited on proposed Rules**
- Rules are scheduled to be considered for final adoption by Commission in August 2011**

Organization & Structure

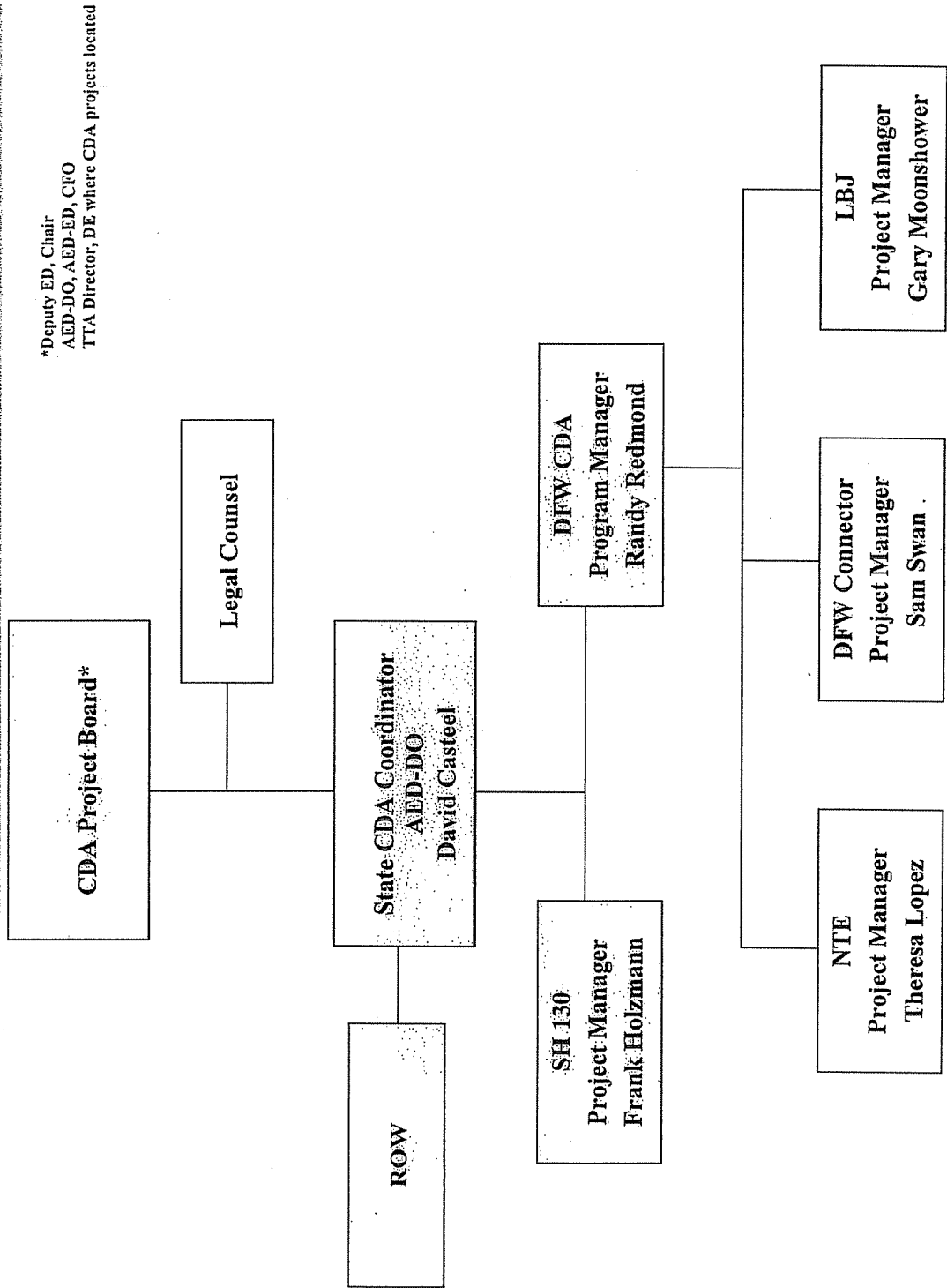
PPP Project Procurement & Implementation

Current Organization - Procurement

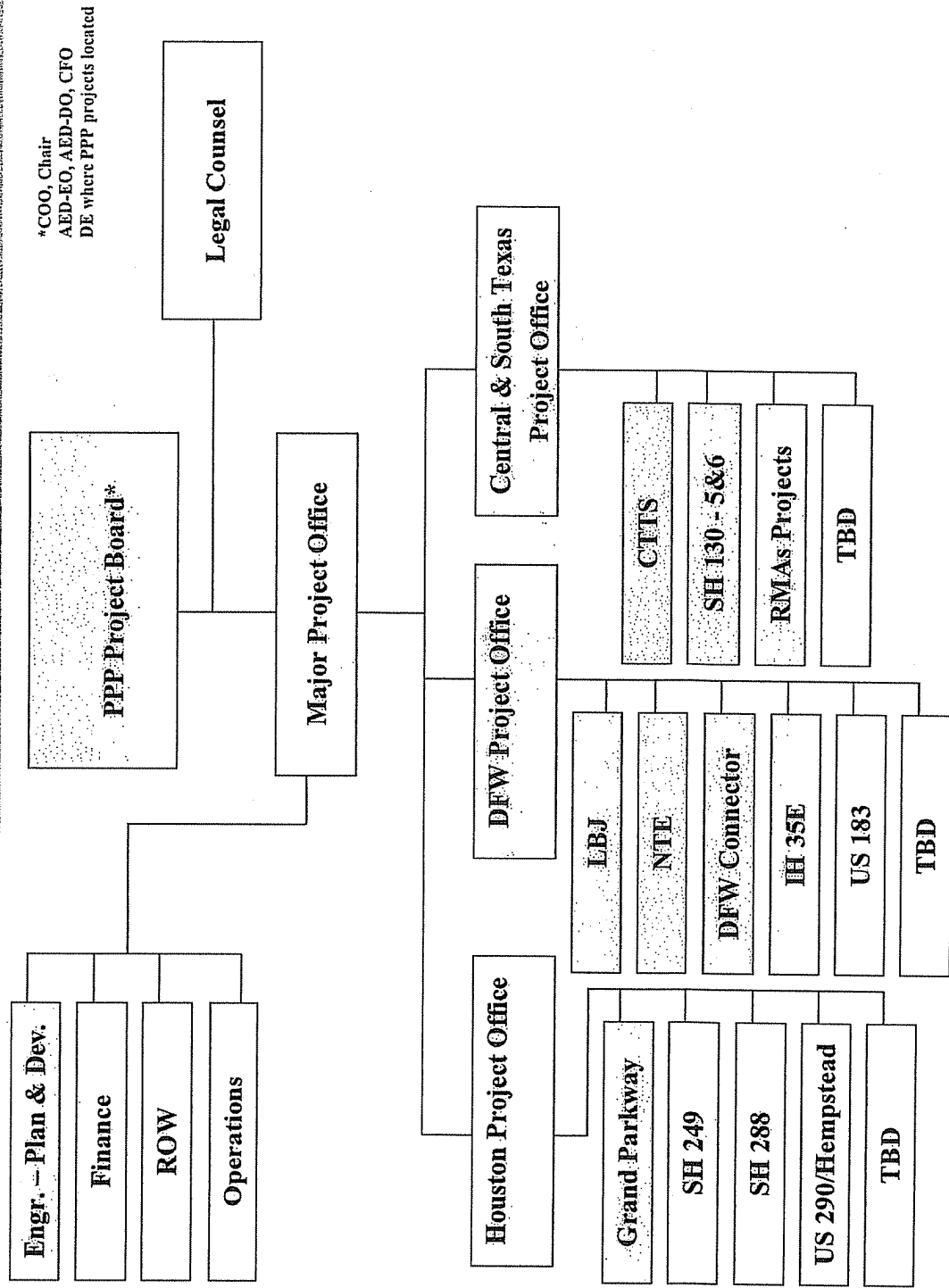


*AED-ED, CFO,
TTA Director, DE where CDA projects located

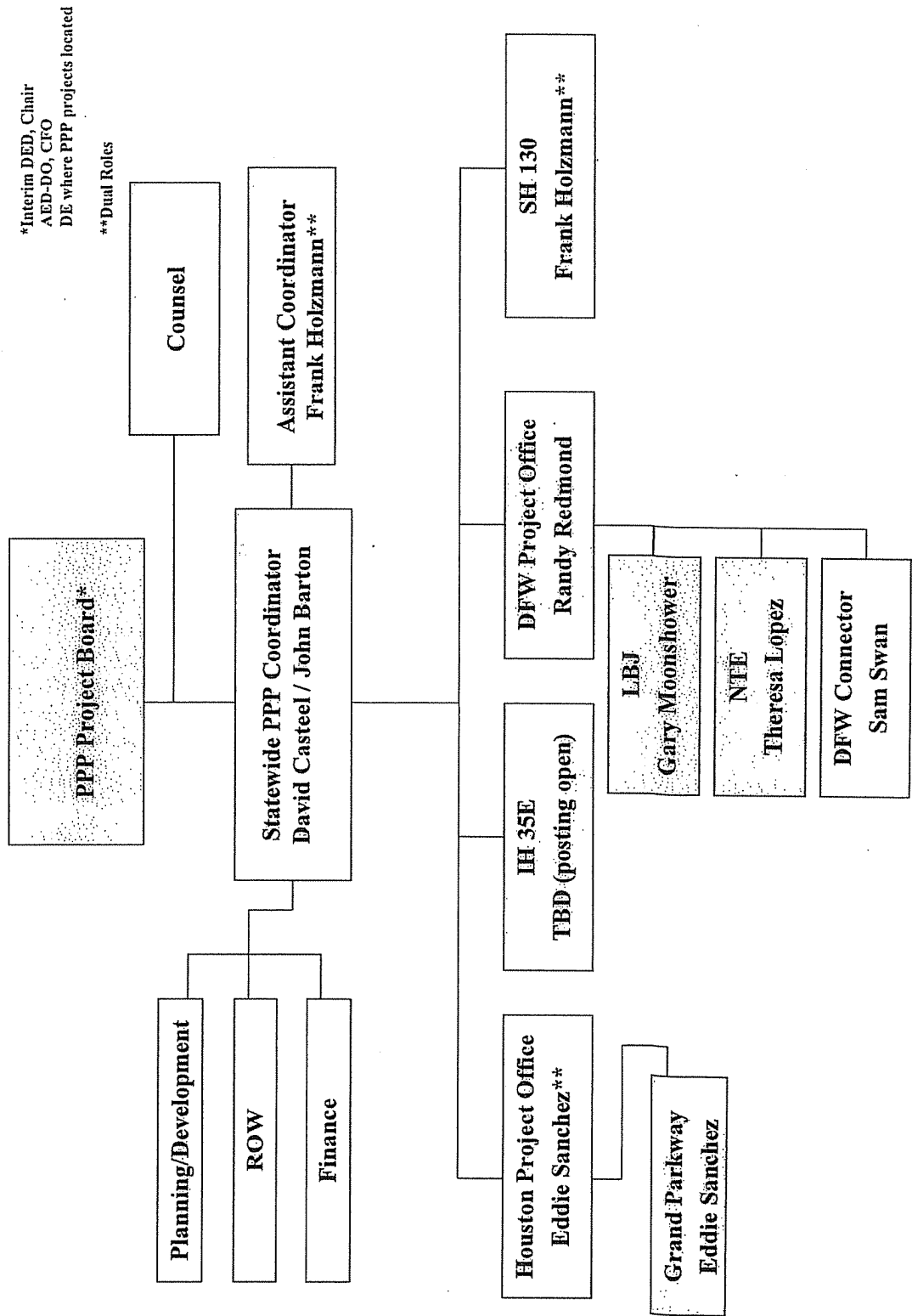
Current Organization - Implementation



Proposed Long - Term Organization

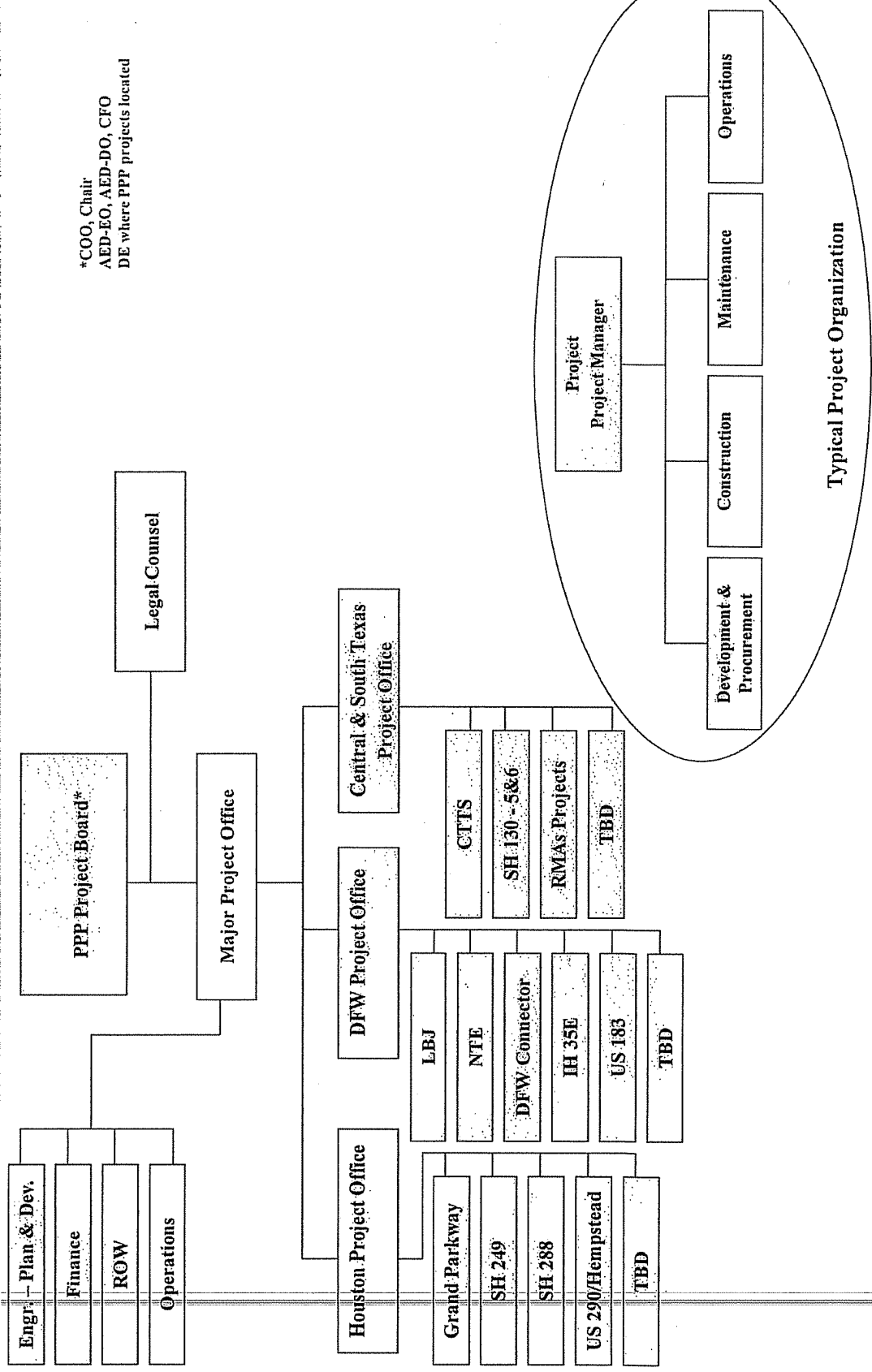


Interim Organization



*Interim DED, Chair
AED-DO, CFO
DE where PPP projects located
**Dual Roles

Detailed Long - Term Organization



Scott, Rider

From: Dallas Regional Mobility Coalition [info@dallasmobility.org]
Sent: Friday, September 09, 2011 3:01 PM
To: info@dallasmobility.org
Subject: TxDOT's Organizational Structure for PPPs
Attachments: John Barton - TxDOT PPPs Oversight Structure.pdf

Dear Dallas Regional Mobility Coalition Executive Committee Members,

Attached are the slides Mr. Barton presented at today's meeting that outline the purpose of the SB 1420 committees and the new organizational structure for Public-Private Partnership procurement and implementation. You can also find this in the presentation tab of the member-only section of the web site (www.dallasmobility.org). If you need help logging in, please let me know.

Best,

Amanda Wall
Cooksey Communications, Inc.
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972-580-0662 x24 - Office
972-580-0852 - Fax

9/9/2011

These sections are being repealed to delete the language within the rules and conditions of mandatory supervision because recent case law states this language applies to all offenders whether on parole or mandatory supervision.

No public comments were received regarding adoption of these repeals.

The repeal of these rules are adopted under §§508.036, 508.0441 and 508.045, Government Code. Section 508.036 authorizes the board to adopt rules relating to the decision-making processes used by the board and parole panels. Sections 508.0441 and 508.045 authorize the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to mandatory supervision and to act on matters of release to mandatory supervision.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 29, 2011.

TRD-201103493

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Effective date: September 18, 2011

Proposal publication date: June 24, 2011

For further information, please call: (512) 406-5388



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 1. MANAGEMENT

SUBCHAPTER A. ORGANIZATION AND RESPONSIBILITIES

43 TAC §1.1, §1.2

The Texas Department of Transportation (department) adopts amendments to §1.1, Texas Transportation Commission, and §1.2, Texas Department of Transportation, concerning organization and responsibilities. The amendments to §1.1 and §1.2 are adopted with changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (36 TexReg 4535).

EXPLANATION OF ADOPTED AMENDMENTS

Title 43, Texas Administrative Code, §1.1 and §1.2 essentially track statutory language and provide basic information concerning the duties of the Texas Transportation Commission (commission) and the department. Several Acts of the 82nd Legislature, Regular Session, 2011, made various changes to those duties. Therefore, §1.1 and §1.2 must be revised to reflect those changes. The bill numbers cited in this preamble reference the numbers assigned to bills by the 82nd Legislature during its Regular Session held in 2011.

Amendments to §1.1, subsection (b)(1)(J), update the entities for which commission approval of a toll project that is to become a part of the state highway system is not required under Transportation Code, §362.055. Section 126 of H.B. No. 2702,

which updates statutory population brackets to take into account the new data contained in the 2010 federal census, amends Transportation Code, §362.055 changing the population of an excepted county from more than 1.5 million to more than 2 million. The amendments to subparagraph (J) change the county population in accordance with the statutory changes. The language added in subparagraph (J) is intended to more clearly inform the reader of the other exceptions found in Transportation Code, §362.055.

Amendments to §1.1, in their final form, delete subsection (b)(1)(R), relating to the approval of recommendations submitted by the chair under subsection (d)(1)(F). The requirement for subsection (d)(1)(F) was contained in Transportation Code, §201.053(b), which was repealed by Section 24 of S.B. No. 1179. Therefore, subsection (b)(1)(R) must be deleted. This amendment was inadvertently omitted from the proposed rules.

Amendments to §1.1 delete subsection (b)(1)(U), relating to the Trans-Texas Corridor, because H.B. No. 1201 repealed the authority for the establishment and operation of the corridor. The amendments also delete subsection (b)(1)(W), relating to a report to the legislature about statutory changes to improve the operation of the department, because Section 99 of S.B. No. 1420 repealed Transportation Code, §201.0545, which was the basis for subparagraph (W). The amendments to §1.1 add a new subsection (b)(1)(U), which provides that the commission will establish a compliance program that is required by Transportation Code, §201.451, as added by Section 15 of S.B. No. 1420.

The subparagraphs within §1.1(b)(1) are redesignated as required to accommodate the changes made to that paragraph.

Amendments to §1.1 delete subsection (d)(1)(C) and (E), relating to reports to the governor, and subsection (d)(1)(F), relating to the review of and recommended changes to the department's organizational structure. Those requirements were contained in Transportation Code, §201.053(b), and were repealed by Section 24 of S.B. No. 1179. The amendments also delete subsection (d)(1)(K), relating to a report to the governor and the legislature on the commission's legislative recommendations about the operation of the department. That provision was based on Transportation Code, §201.0545, which was repealed by Section 99 of S.B. No. 1420. The subparagraphs of subsection (d)(1) are redesignated accordingly.

Amendments to §1.1, subsection (d)(3), reflect the changes made in Section 9 of S.B. No. 656. That bill abolished the Coastal Coordination Council and requires the commissioner of the General Land Office to establish the Coastal Coordination Advisory Committee. Natural Resources Code, §33.2041(b)(1)(F), requires the chair of the commission to designate a representative of the department to that committee. Paragraph (3) is revised accordingly.

Amendments to §1.2, subsection (a)(2), indicate that the executive director of the department will employ a chief financial officer of the department. Section 7 of S.B. No. 1420 adds new Transportation Code, §201.1075, relating to the functions and duties of the department's chief financial officer. The amendments to subsection (a)(2) recognize the existence of that statutorily required position. The cross reference at §1.2(c) is corrected.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

Natural Resources Code, §33.2041, and Transportation Code, §201.1075, §201.451, and §362.055.

§1.1. *Texas Transportation Commission.*

(a) Commission.

(1) The Texas Department of Transportation is governed by the Texas Transportation Commission, consisting of five commissioners appointed by the governor with the advice and consent of the senate.

(2) The governor designates one commissioner as the chair of the commission.

(b) Commission responsibilities.

(1) The Texas Transportation Commission, with the advice and recommendations of the executive director, will:

(A) plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads;

(B) lay out, construct, maintain, and operate a modern state highway system;

(C) develop a statewide transportation plan that contains all modes of transportation, including highways and turnpikes, aviation, mass transportation, railroads and high-speed railroads, and water traffic;

(D) award contracts necessary for the improvement of the state highway system, as provided by Transportation Code, Chapter 223, and §§9.10-9.21 of this title (relating to Highway Improvement Contracts);

(E) encourage, foster, and assist in the development of public and mass transportation in the state;

(F) encourage, foster, and assist in the development of aeronautics in the state and encourage, aid, and assist in the establishment of airports, airstrips, and air navigational facilities in the state;

(G) fulfill the local sponsorship requirements of the Gulf Intracoastal Waterway as agent for the state;

(H) provide for the development and operation of toll projects on the state highway system;

(I) approve a toll project constructed by a private entity or corporation if the project connects to the state highway system;

(J) approve the construction of a toll project by a governmental or private entity other than a county with a population of more than 2 million people, a local government corporation created by such a county, or a regional tollway authority, if it is to become a part of the state highway system;

(K) appoint an internal auditor for the department who shall report directly to the commission on the conduct of departmental affairs;

(L) adopt rules for the operation of the department;

(M) divide the department into districts to accomplish the department's functions and the duties assigned to it;

(N) carry out such transportation functions as may be delegated by the governor pursuant to applicable federal law;

(O) establish policy necessary to carry out the duties and functions of the department and the commission;

(P) administer the state infrastructure bank;

(Q) organize the department into divisions to accomplish the department's functions and duties assigned to it;

(R) plan and make policies for the location, construction, maintenance, and operation of rail facilities;

(S) administer the Texas Mobility Fund as a revolving fund to provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways, and for the construction of other transportation projects;

(T) approve the creation of regional mobility authorities;

(U) establish a compliance program; and

(V) perform other duties required by law.

(2) The commission may, consistent with applicable law, delegate one or more of the functions listed under paragraph (1) of this subsection to the executive director. The executive director may further delegate such functions to one or more employees of the department.

(c) Attendance at meetings. Each commissioner shall: attend at least half of the regularly scheduled meetings that the commissioner is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(d) Chair of the commission.

(1) The chair of the commission, with the advice and recommendations of the executive director and the executive director's staff, shall:

(A) preside over commission meetings, make rulings on motions and points of order, and determine the order of business;

(B) represent the department in dealing with the governor;

(C) report suggestions made by the governor for departmental operations to the commission;

(D) designate one or more employees of the department as a civil rights division of the department and receive regular reports from the division on the department's efforts to comply with civil rights legislation and administrative rules;

(E) create subcommittees, appoint commissioners to subcommittees, and receive the reports of subcommittees to the commission as a whole;

(F) appoint a commissioner to act in the chair's absence;

(G) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation;

(H) oversee the preparation of an agenda for each commission meeting and ensure that a copy is provided to each commissioner at least seven days before a regular meeting; and

(I) perform any other duties assigned by law.

(2) The chair may, consistent with applicable law, delegate one or more of the functions listed under paragraph (1) of this subsection to the executive director, who in turn may further delegate such functions to one or more employees of the department.

(3) The chair will designate a person to serve as a representative of the department on the Coastal Coordination Advisory Committee.

§1.2. Texas Department of Transportation.

(a) Executive director.

(1) The commission will elect an executive director for the department who shall be skilled in transportation planning and development and in organizational management. The executive director, as the chief executive officer of the department, is authorized to administer the day-to-day operations of the department. The executive director may hold that position until removed by the commission.

(2) To assist in discharging the duties and responsibilities of the executive director, the executive director may organize, appoint, and retain such administrative staff as he or she deems appropriate, including the chief financial officer of the department.

(3) The executive director shall:

(A) serve the commission in an advisory capacity, without vote;

(B) submit quarterly, annually, and biennially to the commission detailed reports of the progress of public road construction, public and mass transportation development, and detailed statement of expenditures;

(C) hire, promote, assign, re-assign, transfer, and, consistent with applicable law and policy, terminate staff necessary to accomplish the roles and missions of the department;

(D) notify the chair of grounds for removal of a commissioner if the executive director knows that a potential ground for removal exists, or, if the potential ground for removal relates to the chair, notify another commissioner;

(E) under the direction and with the approval of the commission, prepare a comprehensive plan providing a system of state highways; and

(F) perform other responsibilities as required by law or assigned by the commission.

(4) The executive director may, consistent with applicable law, delegate one or more of the functions listed under paragraph (3)(B) - (F) of this subsection to the staff of the department.

(b) Department staff. The staff of the Texas Department of Transportation, under the direction of the executive director, is responsible for:

(1) implementing the policies and programs of the commission by:

(A) formulating and applying operating procedures; and

(B) prescribing such other operating policies and procedures as may be consistent with and in furtherance of the roles and missions of the department;

(2) providing the chair and commissioners administrative support necessary to perform their respective duties and responsibilities, including:

(A) assigning staff to assist commissioners;

(B) providing necessary office space and equipment;

(C) furnishing in-house legal counsel;

(D) providing all information and documents necessary for the commission to effectively perform its responsibilities; and

(E) preparing an agenda under the direction of the chair, providing notice, and transcribing commission meetings and hearings as required by the Texas Open Meetings Act, Government Code, Chapter 551; and

(3) performing all other duties as prescribed by law or as assigned by the commission.

(c) Divisions. Consistent with commission direction provided under §1.1(b)(1)(Q) of this subchapter, the executive director shall organize the department into headquarters operating divisions and offices reflecting the various functions and duties assigned to the department, and shall designate a division or office director who shall administer each division or office.

(d) Districts.

(1) District office. The department is divided into geographical districts, each containing one district office. Each district is administered by a district engineer who is a registered professional engineer and is appointed by the executive director.

(2) Area office. A district contains one or more area offices, each of which is responsible for carrying out the department's primary functions at the local level for a designated geographical area. Each area office is normally administered by an area engineer who shall be a registered professional engineer.

(3) Project office. A district may contain one or more project offices, which is normally responsible for a specific project within an area.

(e) Regional Support Centers. The department has four regional support centers, which provide operational and project development support functions to the districts. The regional support centers are located in Fort Worth, Houston, San Antonio, and Lubbock.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2011.

TRD-201103472

Bob Jackson

General Counsel

Texas Department of Transportation

Effective date: September 15, 2011

Proposal publication date: July 15, 2011

For further information, please call: (512) 463-8683



CHAPTER 2. ENVIRONMENTAL POLICY
SUBCHAPTER A. ENVIRONMENTAL
REVIEW AND PUBLIC INVOLVEMENT FOR
TRANSPORTATION PROJECTS

43 TAC §§2.1, 2.2, 2.5, 2.12, 2.16, 2.19

The Texas Department of Transportation (department) adopts amendments to §2.1, General; Emergency Action Procedures, §2.2, Definitions, §2.5, Public Involvement, §2.12, Environmental Impact Statement (EIS), §2.16, Mitigation, and §2.19, Rail Transportation Project, all concerning Environmental Review and Public Involvement for Transportation Projects. The amend-

ments to §§2.1, 2.2, 2.5, 2.12, 2.16, and 2.19 are adopted without changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (36 TexReg 4537) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

House Bill No. 1201, Acts of 82nd Legislature, Regular Session, 2011, repealed the authority for the establishment and operation of the Trans-Texas Corridor and removed all references in state statutes to the Trans-Texas Corridor. The purpose of these amendments is to remove all provisions in Chapter 2 of the rules of the department relating to the Trans-Texas Corridor. The effect of these amendments in conjunction with amendments to other chapters of the department's rules being simultaneously considered by the Texas Transportation Commission (commission) is the removal of all provisions in department's rules relating to the Trans-Texas Corridor.

Amendments to §2.1, General; Emergency Action Procedures, remove the reference in subsection (b)(2) to a construction or operation project of a facility that is part of the Trans-Texas Corridor and to Transportation Code, Chapter 227, which related to the corridor and was repealed by H.B. No. 1201. The amendments to subsection (c) remove all references in that subsection to sections in Transportation Code, Chapter 227.

Amendments to §2.2, Definitions, remove the definition of Trans-Texas Corridor and renumber the following definition appropriately.

Amendments to §2.5, Public Involvement, remove subsection (e)(9) relating to the notice of availability of a Final Environmental Impact Statement (FEIS) for a Trans-Texas Corridor project and redesignate the following paragraph accordingly.

Amendments to §2.12, Environmental Impact Statement (EIS), remove subsection (e)(2) relating to the contents of a Draft Environmental Impact Statement (DEIS) for a Trans-Texas Corridor project and redesignate the following paragraphs accordingly.

Amendments to §2.16, Mitigation, remove subsection (b)(6), which provides for compensatory mitigation of an adverse environmental impact resulting from a Trans-Texas Corridor project and redesignate the following paragraph accordingly.

Amendments to §2.19, Rail Transportation Project, remove the references to Transportation Code, Chapter 227 in subsections (a) and (c).

COMMENTS

No comments were received on the proposed amendments.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

None.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2011.

TRD-201103473

Bob Jackson
General Counsel
Texas Department of Transportation
Effective date: September 15, 2011
Proposal publication date: July 15, 2011
For further information, please call: (512) 463-8683

CHAPTER 9. CONTRACT AND GRANT MANAGEMENT SUBCHAPTER A. GENERAL

43 TAC §9.6

The Texas Department of Transportation (department) adopts amendments to §9.6, concerning Contract Claim Procedure for Comprehensive Development Agreement. The amendments are adopted without changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (36 TexReg 4539) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

House Bill No. 1201, Acts of 82nd Legislature, Regular Session, 2011, repealed the authority for the establishment and operation of the Trans-Texas Corridor and removed all references in state statutes to the Trans-Texas Corridor. The purpose of these amendments is to remove all provisions in Chapter 9 of the rules of the department relating to the Trans-Texas Corridor. The effect of these amendments in conjunction with amendments to other chapters of the department's rules being simultaneously considered by the Texas Transportation Commission (commission) is the removal of all provisions in the department's rules relating to the Trans-Texas Corridor.

Amendments to §9.6, Contract Claim Procedure for Comprehensive Development Agreement, remove the reference to Transportation Code, §227.023.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

None.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2011.

TRD-201103474
Bob Jackson
General Counsel
Texas Department of Transportation
Effective date: September 15, 2011
Proposal publication date: July 15, 2011
For further information, please call: (512) 463-8683

CHAPTER 21. RIGHT OF WAY

The Texas Department of Transportation (department) adopts amendments to §21.10, Negotiations, §21.13, Highway Right-of-Way Values, §21.14, Qualifications of Real Estate Appraisers and Other Technical Experts or Estimators, §21.111, Definitions, and §21.118, Relocation Review Committee, all concerning department land acquisition procedures. The amendments to §§21.10, 21.13, 21.14, 21.111, and 21.118 are adopted without changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (36 TexReg 4540) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

Title 43, Texas Administrative Code (TAC), Chapter 21, Subchapter A, Land Acquisition Procedures, was adopted to prescribe requirements for the acquisition of real property by the department in accordance with Property Code, Chapter 21, Subchapter B, Procedure. Senate Bill 18 (SB 18), 82nd Legislature, Regular Session, 2011, amended Property Code, §21.0111 and added Property Code, §21.0113 to require certain procedures be followed in connection with offers for real property made by entities with eminent domain authority, such as the department. The adopted amendments are necessary to comply with the provisions of SB 18 and to clarify existing language.

Amendments to §21.10 include multiple changes. The first change in §21.10(a) deletes the provision that a property owner will be provided with a copy of existing appraisal reports that were used in determining the final valuation offer, as the provision conflicts with the procedures required by SB 18. Second, new §21.10 adds negotiation procedures required by SB 18. Specifically, new subsection (b) requires the department to make a bona fide offer to acquire real property voluntarily and requires the offers be in writing and advise owners of their disclosure rights.

New subsection (c) requires that an initial offer include copies of all related appraisal reports prepared in the previous ten years that were produced or acquired by the department and be sent to the property owner by certified mail, return receipt requested.

New subsection (d) requires that the final offer be equal to or greater than the amount of an appraisal by a certified appraiser of the value of the property being acquired and any damages to any of the owner's remaining property. It also requires that the final offer include a copy of the appraisal the final offer is based on, the conveyance document to be signed by the property owner, and a copy of the statutorily required landowners' bill of rights statement, unless such items have been previously provided. Finally, it provides that the department will not make a final offer before the 30th day after the date of delivery of the initial offer.

New subsection (e) requires the department to give the property owner 14 days after the date of the final offer to respond to the offer before filing a petition of condemnation.

The last sentence of current §21.10(a) and paragraphs §21.10(a)(1), (2), and (3) are redesignated as new subsection (f), and current §21.10(b) is redesignated as new subsection (g).

New subsection (h) of §21.10 provides that for the purposes of §21.10 a document is considered delivered on the earlier of the delivery date on the certified mail receipt or the fifth day after the date the document, properly addressed with postage paid, is deposited with the United States Postal Service. This provision allows for certainty in determining when the department can make a final offer or begin a condemnation proceeding.

Amendments to §21.13 delete the original heading "Highway Right-of-Way Values" and add new heading "Valuation for Real Property to be Acquired", and delete the phrase "right-of-way" and replace it with "real property", to clarify that the section applies to all acquisitions of real property by the department. A new provision is added providing that the approved values used for the final offer will be determined based on a written appraisal by a certified appraiser, as required by SB 18.

Amendments to §21.14 delete the phrase "In the acquisition of highway right-of-way" and add the language "used in the acquisition of real property for highway purposes" to clarify that the section applies to all acquisitions of real property for highway purposes, not just right-of-way. The word "are" is deleted and replaced with "must be" to clarify that the department must approve qualifications of real estate appraisers and other technical experts or estimators. Finally, the amendments add a requirement that the qualifications of a real estate appraiser must include a requirement that the appraiser be certified, as required by SB 18.

Amendments to §21.111 clarify the definition of "Relocation Review Committee" by removing provisions regarding the appointment and composition of the committee and moving those provisions to §21.118.

Amendments to §21.118 add new subsection (a) to set forth the process for the appointment of members of the Relocation Review Committee. The amendments require the executive director to appoint at least three persons as members of the Relocation Review Committee. The amendments also establish that in order to be eligible for appointment to or service on the committee, a person may not be below the level of department division director, office director, or district engineer, and may not be directly involved with the relocation assistance program. The amendments designate the existing provisions of §21.118 as new subsection (b).

COMMENTS

No comments on the proposed amendments were received.

SUBCHAPTER A. LAND ACQUISITION PROCEDURES

43 TAC §§21.10, 21.13, 21.14

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §203.051, which provides the commission with the authority to acquire real property on behalf of the department.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 203.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2011.

TRD-201103475

Bob Jackson
 General Counsel
 Texas Department of Transportation
 Effective date: September 15, 2011
 Proposal publication date: July 15, 2011
 For further information, please call: (512) 463-8683

◆ ◆ ◆
**SUBCHAPTER G. RELOCATION
 ASSISTANCE AND BENEFITS**

43 TAC §21.111, §21.118

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §203.051, which provides the commission with the authority to acquire real property on behalf of the department.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 203.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2011.

TRD-201103476

Bob Jackson

General Counsel

Texas Department of Transportation

Effective date: September 15, 2011

Proposal publication date: July 15, 2011

For further information, please call: (512) 463-8683

◆ ◆ ◆
**CHAPTER 24. TRANS-TEXAS CORRIDOR
 SUBCHAPTER B. DEVELOPMENT OF
 FACILITIES**

43 TAC §24.11, §24.12

The Texas Department of Transportation (department) adopts the repeal of §24.11, Comprehensive Development Agreements, and §24.12, Environmental Review and Public Involvement concerning Trans-Texas Corridor. The repeals are adopted without changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (36 TexReg 4543) and will not be republished.

EXPLANATION OF ADOPTED REPEALS

House Bill No. 1201, Acts of 82nd Legislature, Regular Session, 2011, repealed the authority for the establishment and operation of the Trans-Texas Corridor and removed all references in state statutes to the Trans-Texas Corridor. The purpose of these amendments is to repeal all provisions in Chapter 24 of the rules of the department, which relate to the Trans-Texas Corridor. The effect of these repeals in conjunction with amendments to other chapters of the department's rules being simultaneously considered by the Texas Transportation Commission (commission) is

the removal of all provisions in the department's rules relating to the Trans-Texas Corridor.

Changes repeal §24.11 and §24.12, the two sections in Chapter 24, Trans-Texas Corridor.

COMMENTS

No comments on the proposed repeals were received.

STATUTORY AUTHORITY

The repeals are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

None.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2011.

TRD-201103477

Bob Jackson

General Counsel

Texas Department of Transportation

Effective date: September 15, 2011

Proposal publication date: July 15, 2011

For further information, please call: (512) 463-8683

◆ ◆ ◆
**CHAPTER 25. TRAFFIC OPERATIONS
 SUBCHAPTER I. SAFE ROUTES TO SCHOOL
 PROGRAM**

43 TAC §25.501

The Texas Department of Transportation (department) adopts amendments to §25.501, concerning the definitions in the Safe Routes to School Program. The amendments to §25.501 are adopted without changes to the proposed text as published in the June 10, 2011, issue of the *Texas Register* (36 TexReg 3588) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

The department administers the federal Safe Routes to School Program to enhance safety in and around school areas through a comprehensive program designed to improve the bicycle and pedestrian safety of school age children.

The current definition of "political subdivision" as contained in §25.501 is limited to municipalities and counties. The department is aware that there are other types of political subdivisions in the state, such as municipal utility districts, that may wish to apply for and be awarded funding for Safe Routes to School projects within their jurisdictions.

The amendments to §25.501 delete the current definition for "political subdivision." The department will rely on common usage of the term and existing state law to determine those entities that qualify as political subdivisions and, as such, eligible to apply for and receive Safe Routes to School program funding.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.614, which authorizes the commission to adopt rules to implement a Safe Routes to School program.

CROSS REFERENCE TO STATUTE

Transportation Code, §201.614.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2011.

TRD-201103478

Bob Jackson

General Counsel

Texas Department of Transportation

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For further information, please call: (512) 463-8683



CHAPTER 27. TOLL PROJECTS

SUBCHAPTER A. COMPREHENSIVE DEVELOPMENT AGREEMENTS

43 TAC §27.2

The Texas Department of Transportation (department) adopts amendments to §27.2, Definitions concerning Comprehensive Development Agreements. The amendments are adopted without changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (36 TexReg 4548) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

House Bill No. 1201, Acts of 82nd Legislature, Regular Session, 2011, repealed the authority for the establishment and operation of the Trans-Texas Corridor and removed all references in state statutes to the Trans-Texas Corridor. The purpose of these amendments is to remove all provisions in Chapter 27 of the rules of the department relating to the Trans-Texas Corridor. The effect of these amendments in conjunction with amendments to other chapters of the department's rules being simultaneously considered by the Texas Transportation Commission (commission) is the removal of all provisions in the department's rules relating to the Trans-Texas Corridor.

Amendments to §27.2 remove paragraph (15)(B) relating to a facility or a combination of facilities on the Trans-Texas Corridor being an eligible project for the purposes of 43 TAC Chapter 27, Subchapter A and redesignate the following subparagraphs accordingly.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

None.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Bob Jackson

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Texas Department of Transportation

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SUBCHAPTER H. DETERMINATION OF TERMS FOR CERTAIN TOLL PROJECTS

43 TAC §§27.90 - 27.92

The Texas Department of Transportation (department) adopts new §27.90, Purpose, §27.91, Definitions, and §27.92, Financial Terms, concerning Determination of Terms for Certain Toll Projects. New §27.90 is adopted without changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (36 TexReg 4549) and will not be republished. New §27.91 and §27.92 are adopted with changes to the proposed text as published in the July 15, 2011, issue of the *Texas Register* (36 TexReg 4549).

EXPLANATION OF ADOPTED NEW SECTIONS

Transportation Code, §228.013, added by Senate Bill 1420, 82nd Legislature, Regular Session, 2011, requires, for certain department toll projects in which a private entity has a financial interest in the project's performance, that the distribution of the project's financial risk, the method of financing for the project, and the tolling structure and methodology be determined by a committee comprised of representatives from the department, any local toll project entity for the area in which the project is located, the applicable metropolitan planning organization, and each municipality or county that provides revenue or right of way for the project. The new sections prescribe the process for a committee's issuance of its determination.

The new sections define the circumstances in which a committee must be established and the process for the issuance of a report containing the committee's determination. The terms determined by a committee will affect the project procurement and the terms of the comprehensive development agreement for the toll project. Accordingly, a determination must be issued as soon as practical after a procurement has been authorized. The new sections only apply to projects developed under comprehensive development agreements. Based on the terms of agreements that have been used by the department for the development, construction, and operation of toll projects, a private entity will only have a financial interest in the performance of a project developed under a comprehensive development agreement.

New §27.90 describes the purpose of the new sections.

New §27.91 defines words and terms used in the new sections.

New §27.92 provides that the new sections only apply to a department toll project that will be developed under a concession agreement or an availability payment contract. Of the comprehensive development agreements entered into or contemplated to be entered into by the department, only a concession agreement or an availability payment contract provides a private entity with a financial interest in the project's performance.

New §27.92 limits the applicability of the new sections to a department toll project for which funds allocated to a metropolitan planning organization or local funds are expected to be used to pay for project costs, property of a municipality or county is expected to be used as project right of way, or a municipality or county is expected to pay for the acquisition of right of way for the project. It is in the state's interest to have a determination issued as soon as possible. It may not be possible at that time to know with certainty whether funds allocated to a metropolitan planning organization or city or county funds will be used to pay for project costs. Accordingly, new §27.92 provides that new Subchapter H of Chapter 27 applies if those funds are expected to be used to pay project costs.

Transportation Code, §228.013 does not define what funds are dedicated to or controlled by a region, municipality, or county. The only funds a regional body has responsibility for allocating to department toll projects are the funds the Texas Transportation Commission (commission) allocates to metropolitan planning organizations. Funds of a city or county that are granted to the municipality or county by the department and not used to meet local participation requirements would not be dedicated to or controlled by the municipality or county. This construction of the statute is consistent with the department's understanding that the purpose of the statute is to provide local and regional stakeholders with a say in project terms that affect the risk of loss of local and regional funds committed to a project.

As the requirements of Transportation Code, §228.013 only apply to department toll projects, new §27.92 provides that for a project subject to the primacy determination process established in Transportation Code, Chapter 373, Subchapter B, the committee shall be formed after the department exercises its option under that subchapter to develop, finance, construct, and operate the project. New §27.92 provides that the membership of a committee will be determined after the commission authorizes the department to initiate a procurement for a toll project subject to the new sections.

New §27.92 also provides that a committee shall submit a report to the department's executive director prior to the date the department issues a request for qualifications for a toll project, except for a project for which the department and a local toll project entity have agreed on the terms and conditions for the project under Transportation Code, §228.0111, or for which a local toll project entity has waived its option to develop, construct, and operate the project. For those projects, many of the terms to be considered by a committee have already been settled. The report for those projects must be submitted prior to the date the department issues a request for proposals for the project. The terms determined by a committee will affect the project procurement, the delivery method used, and the terms of the comprehensive development agreement for the toll project. Accordingly, a determination must be issued as soon as practical after a procurement has been authorized. Delay in issuing a request for qualifications or request for proposals and entering into an agreement for the delivery of a toll project will result in

additional costs and increased congestion because of the delay in completing those needed projects and will affect the ability of private entities to put together proposer teams.

New §27.92 also provides that if a department toll project is subject to a market valuation agreement, market valuation waiver agreement, or similar agreement entered into under Transportation Code, §228.0111, or a toll project agreement entered into under Transportation Code, §373.006, the report may not include determinations that are inconsistent with the provisions of the agreement that relate to the determinations to be included in the report. Such an agreement will include agreed terms and conditions for the development, construction, and operation of a toll project, or other terms that relate to the development, construction, and operation of a toll project. Those terms have already been settled and the local toll project entity, the department, and the applicable region are relying on the terms of those agreements in their planning and budgeting efforts.

In order to have a determination issued as soon as possible, the membership of a committee could be determined before it is clear whether a particular entity is required to be represented. New §27.92 provides that a committee will be comprised of one member appointed by each metropolitan planning organization and local toll project entity within whose boundaries all or part of the proposed project may be located, and one member appointed by each city and county which has provided local funds to pay for project costs or has provided property of the city or county for use as project right of way, or has submitted to the department an order or resolution adopted by the city council or county commissioners court committing local funds or property to the project.

New §27.92 provides that a report issued by a committee will contain a determination concerning the distribution of project financial risk, which is defined as the allocation of revenue risk for a toll project between the department and the private entity with which the department enters into an agreement for the project. New §27.92 also provides that a report issued by a committee will contain a determination concerning the method of financing for the project, which is defined as a determination of whether the project should be funded with private or public funding or a combination of private and public funding. Transportation Code, §228.013 does not define those provisions. The definitions in the new sections are consistent with the department's understanding that the purpose of the statute is to provide local and regional stakeholders with a say in project terms that affect the risk of loss of local and regional funds committed to a project.

New §27.92 provides that a report issued by a committee will also contain a determination concerning the project's tolling structure and methodology, unless the project is subject to a regional tolling policy. Regional tolling policies have been adopted by certain metropolitan planning organizations that include, among other things, policies on toll rates and toll rate escalation. The membership of a metropolitan planning organization's policy board generally will include the municipalities, counties, and local toll project entities that would be part of a committee established under Transportation Code, §228.013.

New §27.92 provides that all members of a committee must utilize their best efforts to support the generation of a report, and if a committee does not submit a report by the date the department is scheduled to issue a request for qualifications or request for proposals, as applicable, for a project, the department will use any business terms applicable to the project that have been adopted by the metropolitan planning organization and that relate to the

determinations to be included in the report. As discussed above, the membership of a metropolitan planning organization's policy board generally will include the entities that would be part of a committee.

New §27.92(f)(5) has been revised to delete language that incorrectly indicated that these committees are advisory committees.

New §27.92 includes provisions relating to committee meetings and administrative support of a committee that are intended to ensure the efficient operation of the committee, including having a division or office of the department schedule meetings for the committee and having the committee chair and the department finalize meeting agendas. A committee's report may only discuss items that are within the committee's jurisdiction. Notices of meetings must comply with the requirements of the Open Meetings Act. The department shall provide information to the committee, including the project procurement schedule, necessary for a committee to issue a report in a timely manner.

New §27.92 defines a quorum of a committee as one half or more of the number of members appointed to the committee and provides that a committee may act only by majority vote of the members present at the meeting and voting. These provisions will ensure that a committee is able to carry out its functions in a timely manner.

New §27.92 provides that a committee will cease to exist after submitting its report, but that the department may reconvene a committee if changed circumstances may result in a change in the committee's determinations.

COMMENTS

Comments on the proposed new sections were received from Allen Clemson, Executive Director, North Texas Tollway Authority (NTTA).

Comment:

Because other toll authorities may enter into comprehensive development agreements, the NTTA requests that the definition of comprehensive development agreement in §27.91 be revised to clarify that these rules apply only to comprehensive development agreements between the department and a private entity, as authorized by Transportation Code, §223.201(a)(1).

Response:

The requested change has been made, with a revision that recognizes that the department is authorized to enter into comprehensive development agreements under various provisions in Transportation Code, Chapter 223, Subchapter E, not just Transportation Code, §223.201(a)(1).

Comment:

NTTA requests that §27.92(a) be amended to provide that the rules apply only to a department toll project, as this mirrors the provisions of Transportation Code, §228.013.

Response:

The requested change has been made.

Comment:

NTTA requests that §27.92(b) be amended to provide that for a project subject to Transportation Code, Chapter 373, Subchapter B, a committee shall be formed after the department exercises its option under that subchapter to develop, finance, construct, and operate the project. These changes make it explicit

that a committee will be formed after the department has elected to deliver the project. Only when the department exercises its option is the project a department project, as specified by Transportation Code, §228.013.

Response:

The requested change has been made.

Comment:

NTTA requests that §27.92(b)(3) be amended to provide that a committee will consist of one member appointed by each city or county that has provided or will provide local funds to pay for right of way acquisition or other project costs or to acquire right of way for the project, or has provided or will provide property of the city or county for use as project right of way. NTTA states that there does not seem to be a requirement in the statute for an agreement with the department in order to qualify for representation on the committee. Instead, the focus is much more practical and singular--whether funds or right of way provided by the municipality or county will be used on the project. Second, it appears that the support itself does not have to be prospective, as the rules indicate; only the use of the donation is stated in the future tense.

Response:

The department agrees that the support does not need to be prospective, and has revised the rules to provide that a city or county may appoint a member to a committee if the city or county has provided local funds to pay for right of way acquisition or other project costs or to acquire right of way for the project, or has provided property of the city or county for use as project right of way. In order to have a determination issued as soon as possible, a committee will be formed and members appointed as early as possible in the procurement process. It is possible that the membership of a committee could be determined before it is clear whether a particular entity is required to be represented. Accordingly, the department believes it is reasonable and appropriate to require some assurance the city or county will actually be providing funding or property for the project. The rules have been revised to provide that, in order to be able to appoint a member, a city or county that has not already provided local funds or property for the project must submit to the department an order or resolution adopted by the city council or county commissioners court committing local funds or property to the project.

Comment:

NTTA states that Senate Bill 1420 does not indicate that the commission is to select a committee's chair and vice-chair. Typically committees elect their own officers. NTTA requests that §27.92(c) be amended to remove the provisions authorizing the commission to appoint a chair and vice-chair, or to delegate that responsibility to the committee, and to provide that the committee will elect a chair and vice-chair.

Response:

Section 27.92(c) has been changed to provide that a committee will, subject to the commission's concurrence, elect a chair and vice-chair. The requirement for commission concurrence is necessary in order to ensure the efficient operation of the committee and issuance of a report, and the timely completion of a project procurement.

Comment:

NTTA notes that §27.92(d)(3) of the proposed rules requires a project's tolling structure and methodology to be consistent with agreements finalized under the former Senate Bill 792, 80th Legislature, 2007, market valuation process, and states that while that is appropriate, it does not go far enough in two respects. First, after a local toll project entity has waived its right to deliver a project on terms negotiated pursuant to the market valuation process and pursuant to a market valuation waiver agreement, the committee should not be allowed to alter any of those terms--not just tolling structure and methodology. Second, new Transportation Code, §373.006 authorizes the department and a local toll project entity to agree to any "alternative to the primacy determination process." A committee should not be allowed to override those agreements. The local toll project entity, the department, and the applicable region are reasonably relying on the terms of those agreements in their planning and budgeting efforts.

NTTA requests that §27.92(d) be amended to provide that if a project is subject to a market valuation agreement, market valuation waiver agreement, a memorandum of understanding regarding market valuation, or similar agreement, or to a toll project agreement under Transportation Code, §373.006, between the department and a local toll project entity, the committee's report must not include determinations that are inconsistent with the provisions of such an agreement or toll project agreement that relate to the determinations to be included in the report.

Response:

The requested changes have been made with minor changes in wording, including recognizing that the market valuation agreement or similar agreement must have been entered into under Transportation Code, §228.0111.

Comment:

NTTA states that consistent with the statutory expectations of Senate Bill 1420, a committee should have a clear mandate to use good-faith efforts to issue a report. Insofar as the statute makes the issuance of a report mandatory, the provision anticipating a "Failure to submit report" may be problematic. NTTA requests that §27.92(e) be amended to provide that all members of the committee will utilize their best efforts to support the generation of a report.

Response:

The requested change has been made.

Comment:

NTTA states that Senate Bill 1420 does not indicate that the department controls a committee's agenda. Committee members should be able to bring matters before the committee, provided they are consistent with applicable law and these rules. NTTA requests that §27.92(f)(2) be amended to provide that an agenda item requested by a committee member will be included on a committee meeting agenda unless the chair of the committee properly determines its inclusion would conflict with applicable law or these rules, and to remove the requirement for department approval of the agenda item.

Response:

The proposed rules include the requirement for chair and department approval to add an agenda item in order to ensure the efficient operation of the committee and issuance of a report, and the timely completion of a procurement. Transportation Code, §228.013 does not define a number of things relating to the op-

eration of a committee and the process for the issuance of a determination that the commission needed to define by rule. No change has been made.

Comment:

The NTTA states that sometimes it is only after a matter has been raised for discussion that it becomes apparent that the matter is beyond the scope of the committee's mandate. Limiting discussion to matters within the committee's jurisdiction could chill such deliberations. It is clear that the committee's ultimate report should be limited to matters within the committee's jurisdiction. The NTTA requests that §27.92(f)(2) be amended to provide that a committee's report may only discuss items that are within the committee's jurisdiction.

Response:

The requested change has been made.

STATUTORY AUTHORITY

The new sections are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §223.209, which requires the commission to adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in projects, and promote confidence among those participants.

CROSS REFERENCE TO STATUTE

Transportation Code, §223.209 and §228.013.

§27.91. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Availability payment contract--A comprehensive development agreement under which payments are made to a private entity from project and other revenue to compensate the private entity for capital, operating, and financial costs, which may be based on the private entity's performance under the agreement.
- (2) Commission--The Texas Transportation Commission.
- (3) Committee--A committee established under this subchapter.
- (4) Comprehensive development agreement--An agreement with a private entity authorized under Transportation Code, Chapter 223, Subchapter E that, at a minimum, provides for the design and construction, reconstruction, extension, expansion, or improvement of a toll project and may also provide for the financing, acquisition, maintenance, or operation of a toll project.
- (5) Concession agreement--A comprehensive development agreement under which a private entity agrees to develop, finance, and construct a toll project, and to assume operation or maintenance responsibilities for a toll project, in exchange for rights to revenue of the project.
- (6) Department--The Texas Department of Transportation.
- (7) Executive director--The executive director of the department or the executive director's designee.
- (8) Local funds--Funds of a city or county, any other funds paid by a city or county to meet local participation requirements, and

money deposited in a subaccount created under Transportation Code, §228.012.

(9) Local toll project entity--Has the meaning assigned by Transportation Code, §373.001.

(10) Metropolitan planning organization--The organization or policy board of an organization created and designated under 23 U.S.C. §134 and 49 U.S.C. §5303, as amended, to make transportation planning decisions for a metropolitan planning area in which a toll project is located and to carry out the metropolitan transportation planning process.

(11) Toll project--Has the meaning assigned by Transportation Code, §201.001.

§27.92. *Financial Terms.*

(a) Applicability. This subchapter applies only to a department toll project that will be developed under a concession agreement or an availability payment contract, and for which:

(1) funds allocated to a metropolitan planning organization are expected to be used to pay for project costs;

(2) local funds are expected to be used to pay for project costs; or

(3) property of a city or county is expected to be used as project right of way or a city or county is expected to pay for the acquisition of right of way for the project.

(b) Formation and membership of committee. For a project subject to Transportation Code, Chapter 373, Subchapter B, the committee shall be formed after the department exercises its option under that subchapter to develop, finance, construct, and operate the project. The membership of a committee shall be determined after the commission authorizes the department to initiate a procurement for a toll project that provides for the potential delivery of the project through a concession agreement or an availability payment contract. A committee consists of the following members:

(1) one member appointed by each metropolitan planning organization within whose boundaries all or part of the proposed project may be located;

(2) one member appointed by each local toll project entity within whose boundaries all or part of the proposed project may be located;

(3) one member appointed by each city and county which has:

(A) provided local funds to pay for right of way acquisition or other project costs or to acquire right of way for the project, or has provided property of the city or county for use as project right of way; or

(B) submitted to the department an order or resolution adopted by the city council or county commissioners court committing local funds or property to the project; and

(4) one member appointed by the executive director to represent the department.

(c) Officers. The committee will, subject to the concurrence of the commission, elect a chair and vice-chair by majority vote of the members of the committee.

(d) Duties. A committee established under this subchapter shall submit a report to the executive director before the date the department issues a request for qualifications for the toll project, except for a project for which the department and a local toll project entity have

agreed on the terms and conditions for the project under Transportation Code, §228.0111, or for which a local toll project entity has waived its option to develop, construct, and operate the project, in which case the report shall be submitted before the date the department issues a request for proposals for the project. If the project is subject to a market valuation agreement, market valuation waiver agreement, or similar agreement entered into under Transportation Code, §228.0111, or a toll project agreement entered into under Transportation Code, §373.006, the report may not include determinations that are inconsistent with the provisions of the agreement that relate to the determinations to be included in the report. A report shall contain the following determinations:

(1) the distribution of project financial risk, which is the allocation of revenue risk for a toll project between the department and the private entity with which the department enters into an agreement for the project;

(2) the method of financing for the project, which is a determination of whether the project should be funded with private or public funding or a combination of private and public funding; and

(3) unless the project is subject to a regional tolling policy, the project's tolling structure and methodology.

(e) Failure to submit report. All members of a committee will utilize their best efforts to support the generation of a report. If a committee does not submit a report by the date the department is scheduled to issue a request for qualifications or request for proposals, as applicable, for a project, the department will use any business terms applicable to the project that have been adopted by the metropolitan planning organization and that relate to the determinations to be included in the report.

(f) Meetings.

(1) Meeting requirements. The department's Office of General Counsel will submit to the Office of the Secretary of State notice of a meeting of the committee at least eight days before the date of the meeting. The notice will provide the date, time, place, and purpose of the meeting. A meeting of a committee will be open to the public. A committee will follow the agenda set for each meeting under paragraph (2) of this subsection.

(2) Scheduling of meetings. Meeting dates, times, places, and agendas will be set by the office designated under subsection (g) of this section. Any committee member may suggest an agenda item, provided that the agenda item must be approved by the chair of the committee and the department. A committee's report may only discuss items that are within the committee's jurisdiction. The office designated under subsection (g) of this section will provide notice of the time, date, place, and purpose of meetings to the members, by mail, email, telephone, or any combination of the three, at least eight calendar days before each meeting. All meetings must take place in Texas and must be held in a location that is readily accessible to the general public.

(3) Committee action. A quorum of the committee is one half or more of the number of members appointed to the committee. A committee may act only by majority vote of the members present at the meeting and voting.

(4) Record. Minutes of all committee meetings shall be prepared and filed with the executive director. The complete proceedings of all committee meetings must also be recorded by electronic means.

(5) Public information. All minutes, transcripts, and other records of the committees are records of the department and as such,

are subject to disclosure under the provisions of Government Code, Chapter 552.

(g) Administrative support. For each committee, the executive director will designate an office or division of the department that will be responsible for providing any necessary administrative support essential to the functions of the committee. The department will provide project information and other information to the committee to assist the committee in carrying out its duties, including the project procurement schedule.

(h) Duration. After a committee submits the report described in subsection (d) of this section, the committee ceases to exist. The department may, in its discretion, reconvene a committee if changed circumstances may result in a change in the committee's determinations.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Bob Jackson

General Counsel

Texas Department of Transportation

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