



October 2, 2014

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590

**RE: Docket No. FHWA–2013–0037; FHWA RIN 2125–AF52;
FTA RIN 2132–AB10**

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Federal Highway Administration (FHWA) & Federal Transit Administration (FTA) Notice of Proposed Rulemaking (NPRM) on Statewide, and Nonmetropolitan Transportation Planning; Metropolitan, Transportation Planning, published June 2, 2014 at 79 FR 31784.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA-member transit systems.

APTA speaks for its members. Its Board of Directors reiterated that fact on March 9, 2013, when it adopted the following statement: “While APTA encourages its members to provide specific examples or impacts in support of the association's positions, APTA crafts its comments to represent those of all APTA members. The association goes to great lengths to ensure its regulatory comments represent the consensus views of our members. Every APTA member has the opportunity to review drafts, participate in discussions, and assist in crafting those consensus comments. In short, we speak with a single voice and, when the rare instance occurs that we cannot reach consensus, we do not speak at all. APTA's comments are those of our more than 1,500 members. This consensus-based method of crafting regulatory comments is a factor underlying APTA's selection as one of Washington's most trusted brands in a broad survey conducted by the National Journal and we encourage all federal agencies to recognize the representative nature of the association's regulatory comments.”

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General Comments

We appreciate the continuing efforts of both FTA and FHWA to carry out the mandates of MAP-21 constructively, allowing maximum flexibility to accommodate the vast differences in transit, highway, and planning operations across the country. The integration of performance measures, asset management, safety, and state of good repair data into the planning process can improve outcomes in communities of all sizes. In addition, we are generally supportive of the use of scenario planning for consideration as a public engagement tool should the MPO elect to use it in the development of the metropolitan transportation plan. Moreover, ensuring transit representation throughout the planning process is vital to creating strong, integrated, efficient transportation systems in those communities.

While we fully support these efforts, we caution that implementation must happen with an eye to the many other related regulations flowing from MAP-21 that have yet to be promulgated. FTA and FHWA should remain receptive to future additions, deletions, and adjustments to this regulation that may be required during the evolution of the performance management framework derived from the MAP-21 legislation.

The overarching concern we believe FTA and FHWA must keep in mind is that these changes in the planning process must not slow project development and should, in fact, accelerate project development through more consistent, complete information flow.

Target Setting Must be Flexible and Agency-Unique

Transit agencies operate with differing management structures, operating environments, across varying modes and sizes. Performance measurements that do not take into account these divergent operating situations would be doomed to failure. Individual agencies must be allowed to set their own targets and those targets must be simple, understandable, and high-level to be meaningful to the process. Attempting to homogenize targets at the Metropolitan Planning Organization (MPO) level would add no value to the process and would, in fact, effectively tie the MPO's hands on funding allocations. In addition, targets should be set to encourage constant improvement rather than some concrete, objective goal. Establishing strict, objective goals encourages goal-setters to aim low and achieve some plateau not necessarily linked to quality. This regulation should simply direct MPOs to effectively integrate goals, measures, and targets of their transit and highway providers into the planning process.

Performance Measures Must be Programmatic

We caution FTA and FHWA against attempting to impose project-by-project performance measures. The frequency with which projects are updated would impose unnecessary costs on project sponsors without concomitant benefit. Moreover, project-specific documentation would likely render the transportation improvement programs (TIP) unmanageable. We believe this regulation must call for programmatic performance measures.

Performance Measures Must Not Create Additional Unfunded Burdens

New Performance Management regulations should utilize existing data collection and reporting mechanisms and not create standards outside of the existing structure. Creating new data collection and reporting requirements would be expensive, confusing, potentially duplicative, and ultimately counterproductive.

Performance Management Must Recognize Plan Timing and Duration Differences

The regulation should recognize the unique timing, durations and requirements of State Transportation Plans, Metropolitan Long Range Plans and Individual System Transit Asset Management Plans. FTA and FHWA should not attempt to alter those unique processes to somehow make them fit neatly together.

Performance measures should be updated when the TIP is developed and should not require updating when the TIP is amended. The frequency of TIP amendments would otherwise create a tremendous burden with little – if any – added value.

Performance measures should remain unchanged over a number of years. The source of these performance measures, the TAM, is unlikely to change significantly from year to year so updating should not be necessary on an annual basis.

Transit Representatives on MPOs Must Not Serve in Multiple Capacities

APTA appreciates the broad latitude afforded MPOs in the latest FTA/FHWA guidance. This latitude accounts for varying governance models. We believe that, in this regulation, FTA and FHWA must reinforce that guidance and categorically state that an MPO member based on elective or appointed office that coincidentally sits on a transit board does NOT fulfill the MAP-21 requirement. Assigning a local official, tasked with representing their jurisdiction on the MPO, to now advocate a different, perhaps contrary position as the representative of public transportation providers creates an inherent conflict of interest. The transit representative must be a member of the MPO solely as the transit representative.

Additionally, FTA/FHWA guidance should clarify through which mechanisms the transit representation on MPO boards will be reviewed by the FTA.

Finally, FTA and FHWA should clarify the limitation of the statutory exemption from transit representation and insist that any claim for such exemption must be publicly documented to be effective. Experience since the guidance was issued has shown that some MPOs claim exemption with no public justification or discussion, flying in the face of the legislative intent to promote dialogue and public discussion.

Metropolitan Planning Agreements

The regulation should clarify who are the public transportation provider(s) that will be party to the Metropolitan Planning Agreement.

Additionally, areas with multiple MPOs should be encouraged to coordinate across urbanized areas through informal means. Requiring formal coordination would likely duplicate existing structures in many areas and this coordination must remain flexible given the diversity of affected regions. In any case, performance measures should be managed within, not across, MPOs.

We believe FTA and FHWA can best support and assist MPOs, states, and transit agencies in this process by supporting peer exchanges, technical assistance, and the sharing of best practices, training materials, and other resources. In any case, FTA should not supplant the existing online tools already established to facilitate intrastate information sharing in many states. There may be an opportunity to create an online registry to facilitate interstate sharing without creating additional burdens on states and agencies already sharing on an intrastate basis.

We appreciate the opportunity to assist FTA and FHWA in this important endeavor. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarsch@apta.com.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael P. Melaniphy". The signature is fluid and cursive, with a prominent initial "M".

Michael P. Melaniphy
President & CEO

MPM/jpl:jr