

VOLUME II, SECTION VI. G.
STATE REQUIREMENTS FOR TRANSPORTATION PLANNING: TEXAS

Texas statutes permit local governmental units to join and cooperate as Regional Planning Commissions.¹ Any combination of counties, municipalities, authorities, districts or other political subdivisions may agree to establish a commission, designate a region, and plan for the development of the region.² A commission may make studies and plans to guide the unified, far-reaching development of a region while eliminating duplication and promoting economy and efficiency.³ The Texas Code thus allows cooperative planning for future development of regional transportation systems.⁴

A Regional Planning Commission or COG is defined as a political subdivision of the state, but it has no regulatory power or the authority possessed by cities, counties or other local governments. As a political subdivision, a COG is subject to state laws governing open meetings, access to public records and conduct of public officials. Participating governmental units may by joint agreement determine the number and qualifications of members of the governing body of the COG, although at least two-thirds of the members must be elected officials of participating counties or municipalities.⁵

A COG does not have power to tax, although a participating governmental unit may appropriate funds to cover a COG's costs and expenses.⁶ A COG may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental unit, the state, the federal government, or other source.⁷

A COG may assist a participating governmental unit in carrying out a plan or recommendation developed by the COG.⁸ Decisions by a commission/COG are not, however, binding on member governments. A COG may also contract with a participating governmental unit to perform a service.⁹

Texas statutes require a COG to maintain a comprehensive development planning process to assess the needs and resources of a region, formulate goals, objectives, policies

¹ Texas Local Government Code, Chapter 391: Regional Planning Commissions. The associations organized under the Regional Planning Commission law are known by several different names, including council of governments, regional planning commissions, associations of governments and area councils.

² Texas Local Government Code §391.003, §391.004

³ Texas Local Government Code §391.001(b)

⁴ Chapter 391 also delineates other purposes for local governmental cooperation, for example health and education.

⁵ Texas Local Government Code §391.006.

⁶ Texas Local Government Code §391.011.

⁷ Texas Local Government Code §391.011. In addition, Code Section 391.012 defines the requirements for a COG to qualify for state financial assistance.

⁸ Texas Local Government Code §391.004.

⁹ Texas Local Government Code §391.005.

and standards to guide the long-range physical, economic, and human resource development of a region.¹⁰ A COG must prepare plans and programs that:

- Identify alternative courses of action and the relationships among the activities in the plan;
- Specify the appropriate ordering in time of activities;
- Take into account other relevant factors affecting desired regional development;
- Provide an overall framework and guide for plans;
- Make long-range programming and capital project financing recommendations;
- Make other appropriate recommendations.¹¹

The Governor of the State of Texas designated the North Central Texas Council of Governments (NCTCOG) as the MPO for transportation planning in the Dallas-Fort Worth area in 1974. Under the Texas Code, the governor must issue guidelines to a COG directing the COG to carry out the provisions of the Code sections pertaining to regional planning commissions. An *Agreement* negotiated in 1988 between the Governor, through the Office of Budget and Planning, and the NCTCOG, as the MPO, placed the following mandates upon the MPO:¹²

- Develop or assist in the development of a multi-modal transportation planning process.
- Prepare a Unified Work Program specifying the use of Section 112 funds. Insure that transportation planning in the urbanized area is “successful, coordinated, and integrated with other comprehensive planning in the State Planning Region”.
- Use the Committee structure established pursuant to federal law¹³ as the group responsible for giving the MPO overall transportation policy guidance.
- Contract with the State Department of Highways and Public Transportation for Section 112 Planning Funds.

The MPO has established formal agreements addressing transportation planning that define the entities’ responsibilities. One such contract was made between the State of Texas Department of Transportation (TxDOT) and NCTCOG. The document, entitled *Urban Transportation Planning Contract* (the “Contract”) was initially executed in July of 1992 with a six-year renewable term. The Contract delineates responsibilities for the State and for the MPO. Under the Contract the responsibilities (shortened for inclusion here) of the MPO are:

- Utilize funds to develop and maintain a comprehensive regional transportation planning program in conformity with federal requirements.¹⁴
- Assemble and maintain staff to perform all MPO activities required by law.

¹⁰ Texas Local Government Code §391.012(b).

¹¹ Texas Local Government Code §391.001(b)(1)-(6).

¹² *Agreement* executed by the Governor and NCTCOG on August 26, 1988.

¹³ Specifically Section 134 of Chapter 1 of Title 23 U.S.C.

¹⁴ Note: The MPO is not authorized to request payment for any work it may perform that is not included in the prevailing Unified Planning Work Program.

- Designate a full-time “Transportation Planning Director” to administer the program under planning policy direction from the MPO Transportation Policy Board.
- Collect, maintain, forecast and report to the State appropriate socio-economic, roadway and travel data in cooperation with TxDOT.
- Maintain required accounting records for state and federal funds.
- Prepare all required plans, reports, programs, data and certifications.
- Maintain a Transportation Planning General Information Data Base.
- Develop a metropolitan transportation plan.
- Share information and information sources concerning transportation planning issues.

The State’s responsibilities¹⁵ (in a shortened form), through TxDOT, are:

- Make available to the MPO the appropriate federal transportation planning funds and the required local matching funds as authorized by the Texas Transportation Commission.
- Provide technical assistance and/or guidance in the collection, processing and forecasting of socio-economic data needed for traffic forecasts and planning proposals.
- Collect, process and forecast vehicular travel volume data in cooperation with the MPO.
- Jointly promote intermodal development of the state’s transportation system. Share information and information sources concerning transportation planning issues.

¹⁵ Texas Local Government Code §391.009 requires the governor and state agencies to provide technical information and assistance to members and staff of a commission to “increase...the capability of the commission to discharge its duties and responsibilities....”