

January 2, 2003

To: Metropolitan Policy Committee
From: Tom Schwetz
Subject: Draft ACT Guidelines – Letter of Comment

The OTC has developed the attached draft document *Formation and Operation of Area Commissions on Transportation* (Attachment 2 - ACT Guidelines) to provide answers to common questions about the purpose, formation and function of area commissions and to encourage a reasonable degree of consistency statewide in their role and operation. The OTC is currently taking public comment on the draft guidelines document through January 31, 2003. These Draft ACT Guidelines were distributed at MPC's December 12th meeting. At its December 12th meeting, MPC also agreed to form a subcommittee to work on a model for citizen involvement that would help to meet the ACT guidelines.

Staff has developed a draft letter of comment for review by MPC (Attachment 1 – Draft Letter of Comment). This memo highlights the primary issues raised in the draft letter of comment. It also outlines logistical questions associated with the formation of the subcommittee.

Background on ACTs and Previous Local Discussions

The concept for area commissions grew out of policy language in the Oregon Transportation Plan regarding intergovernmental coordination, private/public partnerships, and public participation, information and education. The intent of forming ACTs was to improve communication and interaction between the OTC and local stakeholders. The ACT guidelines establish statewide a consistent structure for that communication and interaction. The main purpose of ACTs is to advise OTC on transportation policies and issues and to contribute to the development of ODOT's statewide transportation improvement program (STIP) by making recommendations and prioritizing solutions to transportation problems in the Area.

Approximately three years ago (December '99 – March '00) the Lane County Board of Commissioners, the LCOG Board, and MPC engaged in a discussion regarding the merits of forming an ACT in Lane County. At that time, it was acknowledged that Lane County was in a unique situation in that it is a single county ODOT Area. This raised questions about the need to form an ACT in Lane County. It was agreed that there was no interest in forming an ACT and MPC directed staff to develop options to improve the process the region uses to establish and communicate its transportation priorities to the OTC. The process agreed to by MPC, the LCOG Board, and the Board of Commissioners is attached (Attachment 3 – Coordination of STIP Priorities in Lane County). Essentially, MPC establishes STIP priorities for the MPO area which are blended with priorities from the rest of Lane County and approved by the Board of Commissioners for forwarding to ODOT.

MPC Letter of Comment on Draft Guidelines

As noted at the December 12th meeting, OTC Commissioner Foster provided an overview of OTC's objectives and expectations regarding ACTs at the Oregon Regional Councils Association (ORCA) meeting held in Ashland on October 17, 2002. Foster indicated that OTC would not require ACTs, though OTC will give significant weight to recommendations from ACTs that follow the procedures described in the draft guidelines document. Geographic areas that do not have an ACT or MPO must adhere to the same standards of accountability as ACTs and demonstrate to the OTC that recommendations were developed in accordance with ACT obligations and process.

The draft document was developed with the input of a 17-member Stakeholder Committee that is currently assisting ODOT with review of the STIP process. The Oregon Transportation Commission (OTC) appointed the Stakeholder Committee in response to stakeholders' requests in March 2000. The committee provided an assessment of issues related to the current STIP process and developed a paper identifying problems and recommendations for process improvements. Several of the recommendations centered on clarification of the ACT processes. ODOT Staff prepared a first draft of the revised document based on a number of factors, including:

- The Stakeholder Committee's recommendations related to the ACTs
- The current "Guidelines for the Establishment of the Area Commissions on Transportation"
- The charters of the existing ACTs, and
- State and federal policies

Committee and OTC feedback was solicited and incorporated into the second draft which was reviewed by the Stakeholder Committee at its October 23rd meeting. Minor clarifications were made to the document from input received at the meeting. The Stakeholder Committee, while not reaching consensus on the document, recognized the importance of seeking input from a larger group of stakeholders before proceeding with revisions. The committee identified several key questions that they hoped to get input on during the public review of the draft guidelines. These questions are laid out in the ODOT cover memo (part of Attachment 2) and by sections in the draft document that best fit the issue.

The draft letter of comment (Attachment 1 – Letter of Comment) focuses on two issues associated with Question 3 (Are the standards governing ACT membership and voting workable and appropriate?). **First, the Guidelines should more clearly articulate the underlying objectives and desired outcomes of ACT formation.** To the extent that areas that do not have an ACT or MPO will be expected to adhere to the same standards of accountability as ACTs and to demonstrate to the OTC that recommendations were developed in accordance with ACT obligations and process, the guidelines should clearly state in broad terms those objectives and obligations.

Second, the Guidelines should clearly articulate that flexibility exists in how Areas structure their process to meet the underlying objectives in the Guidelines. Commissioner Foster's remarks indicate that OTC's primary concern is that areas engage in a process that is consistent with the objectives in the ACT guidelines. Local agencies should have the ability to structure a process that most efficiently and effectively meets the state's objectives based on the local circumstances. In this context, the guidelines should focus on the broad objectives and process and should not be prescriptive with respect to structure (membership, etc.).

A similar situation exists with federal guidelines for the MPO planning process. In order to be workable nationwide, federal requirements for MPOs include guidelines for extensive public involvement, but stay away from requiring any given structure to accomplish that involvement. These requirements are summarized in the Code of Federal Regulations as follows:

The metropolitan transportation planning process shall “Include a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions, and supports early and continuing involvement of the public in developing plans and TIPs”

In like manner, the ACT guidelines should focus on process and outcomes and provide the flexibility for local agencies to develop the structure that best works in the local context. While Attachment C of the ACT Guidelines provides for flexibility in how public involvement is done, Section IV. ACT Structure and Membership is too prescriptive.

Question 10 in the draft Guidelines relates to ACT coordination with MPOs (What should be the form of coordination between the MPOs and ACTs? Is the draft document clear?). The guidelines encourage cooperation and coordination between ACTs and MPOs and require an MPO representative to be on the ACT. However, the guidelines do not adequately describe the federally-mandated role of the MPO in establishing STIP priorities within the MPO boundaries. Federal regulations provide that the MPO TIP (reflecting the STIP priorities of the MPO region) must be included, without modification, directly or by reference in the STIP. This suggests that the ACT priorities as submitted to ODOT need to reflect related MPO priorities in a manner that retains the MPO’s ranking of projects within the MPO area. This is similar to the existing process used to coordinate STIP priorities in Lane County.

MPC Subcommittee

At its December 12th meeting MPC members agreed by consensus to form a subcommittee to work on a model for citizen involvement that would help the area to meet the ACT guidelines. Commissioner Green, Councilor Hatfield, and Board Member Wylie volunteered to serve on the subcommittee. Mayor Torrey suggested that City Councilor Bonny Bettman also serve. Councilor Hatfield asked that each governmental representative bring a citizen member to also serve on the subcommittee.

To begin work on the formation of the subcommittee, staff is seeking guidance on the following issues:

- a. Scope and charge of subcommittee
- b. Appointment of citizen members – how should this be done?
- c. Approximate first meeting date – staff estimates that the first meeting could take place in early January. While dependent upon the scope of the committee’s charge, staff expects that 4 meetings should be adequate to complete its work.
- d. Approximate report back date from the subcommittee – staff would suggest a target of the May MPC meeting (May 8th) for reporting back to MPC.
- e. Role of L-COG staff for the subcommittee process – it is assumed that LCOG staff would facilitate the subcommittee meetings with support from TPC staff as appropriate.

Action Requested: Review draft letter of comment on draft ACT Guidelines and approve (with changes from MPC) for submittal to OTC. Provide guidance to staff on subcommittee formation, scope, and schedule.

Attachments

Attachment 1 – Draft Letter of Comment

Attachment 2 – ACT Guidelines (with cover letter from Commissioner Foster)

Attachment 3 – Coordination of STIP Priorities in Lane County

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MEMO ON DRAFT ACT GUIDELINES.DOC
Last Saved: January 2, 2003*

Attachment 5a – 1 Draft Letter of Comment

January 9, 2003

Mr. Steven H. Corey, Chair
Oregon Transportation Commission
355 Capital Street, NE, Room 101
Salem, OR 97301-3871

Chair Corey and Members of the Commission:

Representing the Eugene-Springfield MPO, the Metropolitan Policy Committee appreciates the opportunity to work with the Oregon Transportation Commission and the Oregon Department of Transportation in the review of the guidelines for the formation and operation of Area Commissions on Transportation. At both their December 12, 2002 and January 9, 2003 meetings, MPC members discussed the draft ACT guidelines and offer comments below on questions 3 and 10 in the document.

Question 3 - Are the standards governing ACT membership and voting workable and appropriate?

MPC's comments focus on two issues associated with Question 3. **First**, the Guidelines should more clearly articulate the underlying objectives and desired outcomes of ACT formation. To the extent that areas that do not have an ACT or MPO will be expected to adhere to the same standards of accountability as ACTs and to demonstrate to the OTC that recommendations were developed in accordance with ACT obligations and process, the guidelines should clearly state in broad terms those objectives and obligations and OTC's desired outcomes for the ACT process.

Second, the Guidelines should clearly articulate that flexibility exists in how Areas structure their process to meet the underlying objectives in the Guidelines. OTC Commissioner Foster provided an overview of OTC's objectives and expectations regarding ACTs at the Oregon Regional Councils Association (ORCA) meeting held in Ashland on October 17, 2002. Commissioner Foster's remarks indicate that OTC's primary concern is that areas engage in a process that is consistent with the objectives in the ACT guidelines. Local agencies should have the ability to structure a process that most efficiently and effectively meets the state's objectives based on the local circumstances. In this context, the guidelines should focus on the broad objectives and process and should not be prescriptive with respect to structure (membership, etc.).

A similar situation exists with federal guidelines for the MPO planning process. In order to be workable nationwide, federal requirements for MPOs include guidelines for extensive public involvement, but stay away from requiring any given structure to accomplish that involvement. These requirements are summarized in the Code of Federal Regulations as follows:

The metropolitan transportation planning process shall “Include a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions, and supports early and continuing involvement of the public in developing plans and TIPs”

In like manner, the ACT guidelines should focus on process and outcomes and provide the flexibility for local agencies to develop the structure that best works in the local context. While Attachment C of the ACT Guidelines provides for flexibility in how public involvement is done, Section IV. ACT Structure and Membership is too prescriptive regarding the structure by which local areas conduct their process.

Question 10 - What should be the form of coordination between the MPOs and ACTs?

The guidelines encourage cooperation and coordination between ACTs and MPOs and require an MPO representative to be on the ACT. However, the guidelines do not adequately describe the federally-mandated role of the MPO in establishing STIP priorities within the MPO boundaries. Federal regulations provide that the MPO TIP (reflecting the STIP priorities of the MPO region) must be included, without modification, directly or by reference in the STIP. This suggests that the ACT priorities as submitted to ODOT need to reflect related MPO priorities in a manner that retains the MPO’s ranking of projects within the MPO area. This is similar to the existing process used to coordinate STIP priorities in Lane County. The draft document could clarify the relationship between MPOs and ACTs by adding language that acknowledges the MPOs role in setting STIP priorities.

While we do not anticipate forming an ACT in Lane County, we do feel that it is important to establish and apply a consistent set of guidelines statewide for input to OTC. Clear objectives, desired outcomes, and flexibility are important elements to include in those guidelines to make them more workable in all areas of the state. We look forward to working with the Commission further on this important issue.

Sincerely,

Bill Dwyer, Chair
Metropolitan Policy Committee



Oregon
John A. Kitzhaber, M.D., Governor

Transportation Commission
201 West Main Street, #4A
Medford, Oregon 97501

November 8, 2002

TO: Interested Stakeholders File Code:
PLA

FROM: Stuart Foster
Oregon Transportation Commission

SUBJECT: Formation and Operation of the
Area Commissions on Transportation

The Oregon Transportation Commission (OTC) has asked the Oregon Department of Transportation (ODOT) to update the document that describes formation and operation of the Area Commissions on Transportation (ACTs). The OTC would appreciate your input on the attached draft. Please submit comments by January 31, 2003 to the address below:

Jerri Bohard, Manager
Planning Section
Transportation Development Division
Oregon Department of Transportation
555 13th Street NE
Salem, OR 97301-4178
Email: jerri.l.bohard@odot.state.or.us

The draft document was developed with the input of a 17-member Stakeholder Committee that is currently assisting ODOT with review of the STIP process. The Oregon Transportation Commission (OTC) appointed the Stakeholder Committee in response to stakeholders' request in March 2000. The OTC helped frame the purpose and objectives of the Stakeholder Committee.

The committee provided an assessment of issues related to the current STIP process and developed a paper identifying problems and recommendations for process improvements. Several of the recommendations centered on clarification of the ACT processes. The meeting summaries, presentation materials and the report that the STIP Process Stakeholder Committee submitted to the Commission can be found on the web at: www.odot.state.or.us/stakeholderstip.

Formation and Operation of the ACTs

Staff prepared a first draft of the revised document based on a number of factors, including:

- The Stakeholder Committee’s recommendations related to the ACTs
- The current “Guidelines for the Establishment of the Area Commissions on Transportation”
- The charters of the existing ACTs, and
- State and federal policies

Committee and OTC feedback was solicited and incorporated into the second draft which was reviewed by the Stakeholder Committee at its October 23rd meeting. Minor clarifications were made to the document from input received at the meeting. The latest working draft is attached.

The Stakeholder Committee, while not reaching consensus on the document, recognized the importance of seeking input from a larger group of stakeholders before proceeding with revisions. In addition to asking for your general review and comments, the committee identified the following key questions that they would like you to consider as you review the draft “Formation and Operation of the Area Commissions on Transportation.” The questions are laid out by sections in the draft document that best fit the issue. The questions are also inside the draft under the appropriate section to assist in your review.

Section II. Roles and Responsibilities

1. Is the document consistent in its expectation on how ACTs are to consider all modes and aspects of the transportation system? (See Attachment A, Glossary of Terms)
2. Should the OTC seek transportation policy recommendations from ACTs in addition to STIP project selection recommendations?

Section IV. Act Structure and Membership

B. Membership

3. Are the standards governing ACT membership and voting workable and appropriate?
 - Which non-governmental stakeholders should ACTs be required to have as voting members.
 - Which non-governmental stakeholders should ACTs be encouraged to consider as voting members?
 - Should there be a technical advisory committee to ACTs? If so, who should be involved?

Section V. Operations of the Act

B. Responsibilities of ODOT to Acts

4. What are the advantages/disadvantages of ODOT voting as an ACT member?
 5. What are the appropriate ODOT staff responsibilities/obligations to the ACT?

Section VI. Basis for Decisionmaking

6. Should the OTC seek transportation policy recommendations from ACTs in addition to STIP project selection recommendations? (Repeat of question 2, above.)
7. How can the ACTs achieve statewide perspective and why is statewide perspective important to apply to the ACT recommendations?
8. What level of involvement should the ACTs have regarding bridge, and preservation projects?

Section VII. Coordination

A. Oregon Transportation Commission

9. Is sufficient communication between the ACTs and the OTC taking place?

G. MPOs

10. What should be the form of coordination between the MPOs and ACTs? Is the draft document clear?

The Stakeholder Committee plans to meet again on March 6, 2003 to complete a recommendation to the OTC regarding the "Formation and Operation of the ACTs." Comments are due by January 31, 2003, which allows time for staff to compile the comments for the committee members prior to the March meeting. The Commission will take action after the Stakeholder Committee has completed their work.

If you have any questions about the draft document, or if you would like a Planning Section staff member to attend one of your local meetings, please contact Jerri Bohard at (503) 986-4165 or Linda Willnow at (503) 986-4168.

FORMATION AND OPERATION OF AREA COMMISSIONS ON TRANSPORTATION (ACTS)

INTRODUCTION¹

The Oregon Transportation Commission (OTC) established the Area Commissions on Transportation (ACTs) to improve communication and interaction between the OTC and local stakeholders who share a transportation focused community of interest. That dialogue will include the OTC, local officials, legislators, the business community and appropriate stakeholders and the Oregon Department of Transportation (ODOT).

By increasing stakeholder commitment and understanding of transportation programs, funding and issues, the department expects to:

- Broaden opportunities for advising the OTC on policy issues
- Improve project selection decisions and coordination at the local level
- Broaden the regional transportation perspective
- Increase stakeholder support for and commitment to projects
- Control project costs
- Support timely completion of projects
- Meet expectations for quality projects
- Facilitate private sector capital investments

The OTC adopted *Formation and Operation of Area Commissions on Transportation*² to provide answers to common questions about the purpose, formation and function of area commissions and to encourage a reasonable degree of consistency statewide in their role and operation.³ The document is intended to provide statewide consistency for the ACTS while balancing local needs for flexibility and uniqueness. Each ACT will adopt Operating Agreements to further define its operating procedures. Areas addressed include the following:

Mission

Roles and Responsibilities

Authority

ACT Structure and Membership

Operations of the ACT

Basis for Decision Making

Coordination

¹ This draft of the *Formation and Operation of Area Commissions on Transportation (ACTs)* includes italicized questions from a memo to Interested Stakeholders from Stuart Foster, OTC Commissioner, dated November 8, 2002.

² This statement assumes future adoption of this document by the OTC

³ See Attachment B for a list of key questions to be addressed in a proposal for formation of an ACT.

As the need arises, the OTC may review this document and update as appropriate.

The OTC will give significant weight to recommendations from the ACTs that follow the procedures described in this document. Geographic areas that do not have an ACT or MPO must adhere to the same standards of accountability as ACTs and demonstrate to the OTC that recommendations were developed in accordance with ACT obligations.

In order to clarify the document, a glossary was prepared which defines the terms regional, transportation system and a series of verbs used throughout the document. The verbs convey varying levels of action or responsibility and include the following: must, shall, will, should, and may. See Attachment A, Glossary of Terms, for further definition and usage examples.

I. MISSION

The mission of the ACTs is to provide a forum for the discussion and coordination of current and future transportation issues and to make recommendations to the OTC. An ACT plays a key advisory role in the development of the Statewide Transportation Improvement Program (STIP). The ACTs shall recommend priorities for state transportation infrastructure and capital investments based on state and local transportation plans related to the Area.

II. ROLES AND RESPONSIBILITIES

Questions Related to this Section:

3. *Is the document consistent in its expectation on how ACTs are to consider all modes and aspects of the transportation system? (See Attachment A, Glossary of Terms)*
4. *Should the OTC seek transportation policy recommendations from ACTs in addition to STIP project selection recommendations?*

ACTs have a primary role of making recommendations to the OTC regarding project selection for projects of Area or regional significance. ACTs may also be requested to provide input to the OTC on projects of statewide importance and on statewide policy issues. At a minimum, ACTs shall perform the following:

- Provide a forum to advance the public's awareness and understanding among all transportation stakeholders of transportation issues.
- Establish a public process that is consistent with state and federal policies and rules.
- Provide recommendations to the OTC regarding program funding allocations for the STIP.
- Prioritize Area Modernization project recommendations for the STIP based on state and local transportation plans related to the Area.
- Make recommendations to ODOT regarding special funding opportunities and programs.
- Communicate and coordinate regional priorities with other organizations, including the following:
 - Other ODOT Regions and ACTs
 - Metropolitan Planning Organizations (MPOs)
 - Community Solutions Teams (CSTs)
 - Regional Partnerships and Regional Investment Boards
 - ODOT advisory committees
- In deliberations, consider the transportation system. (See glossary for definition, page 13.)
- Advise the OTC on state and regional policies affecting the Area's transportation system.
- Provide documentation to the OTC of the public process and resulting recommendations forwarded by the ACT including alternatives for solutions and outcomes of decisions.

- Provide a report to the Oregon Transportation Commission at least once every two years.

In addition to the above, ACTs may choose to provide advice on activities such as:

- ODOT corridor plans or local transportation system plans (TSPs) that contain projects of regional significance (for example, a new highway bypass).
- Projects for other STIP funding programs including Preservation, Safety, Bridge, Operations, Public Transportation, Bicycle/Pedestrian, Federal Lands Highways, and Fish Culverts.
- Proposed ODOT policies & their implementation (e.g., bypass policy, expressway designations, project selection criteria, etc.)
- Input into prioritization of long-range planning projects (especially refinement plans) in the ODOT regional planning work programs.
- Establishment and monitoring of benchmarks for regional transportation improvements.
- Other transportation related policy or funding issues relevant to a particular ACT that would benefit from the coordinated committee discussion afforded by the ACT structure.

III. AUTHORITY

The Area Commissions on Transportation are advisory bodies chartered under authority of the Oregon Transportation Commission. The OTC may charter an ACT when it demonstrates, and as long as it maintains, a structure consistent with the requirements contained in this document. The OTC retains oversight and final decision-making authority to assure efficient management of the state transportation system. ACTs will apply a statewide perspective to address the transportation system (glossary, page 13) with primary focus on the state transportation system. ACTs may also consider regional and local transportation issues. Multi-ACT collaboration may be requested to facilitate broader consideration of regional issues. The needs of urban and rural areas may be different and discussions may include ACT representatives from more than one ODOT Region to help focus discussions on corridor or system needs.

An ACT is a voluntary association of government and non-government transportation stakeholders and has no legal regulatory authority. The ACT process and resulting recommendations shall comply with relevant laws, regulations and policies.

IV. ACT STRUCTURE AND MEMBERSHIP

A. Geographic Coverage

Because the ACTs (and, where applicable, the MPOs) are primary advisors to the OTC with regard to transportation policies and programs which effect them, the OTC strongly encourages coverage of the State with respect to ACT or MPO representation.

The OTC recognizes that there is strength in member familiarity with regional issues, and thus, expects that an ACT will encompass an area that geographically represents all its interests. The rationale for ACT boundaries should be consistent with a “geographical community of interest” regarding the state transportation system and coordinated with existing regional inter-governmental relationships. Shared

interest might include a similarity of population, economy, land use, infrastructure needs, contiguous boundaries, commute shed, political and programmatic interests, and collaborative opportunities. Geographical boundaries of an ACT or MPO may change over time and if this occurs, an amendment to the boundaries will be negotiated and agreed upon by the affected parties, and a formal request for change will be submitted in writing to the OTC for approval. Each ACT will develop an Operating Agreement and this agreement will articulate the rationale for their specific boundaries.

B. Membership

Questions Related to this Section:

5. *Are the standards governing ACT membership and voting workable and appropriate?*
 - *Which non-governmental stakeholders should ACTs be required to have as voting members.*
 - *Which non-governmental stakeholders should ACTs be encouraged to consider as voting members?*
 - *Should there be a technical advisory committee to ACTs? If so, who should be involved?*

An ACT will have a voting membership which is reflective of its population and interest groups and be broadly representative of those impacted by ACT recommendations. At a minimum, ACT representation will include at least 50% elected officials from the area. Representation shall include City, County, and MPO officials within the ACT boundaries. Tribal Governments, and elected Transit and Port officials shall also be invited to participate as voting members. The remainder of the representation shall be from interested stakeholders which may represent, but are not limited to: freight, bicycle, pedestrian, public transportation, public interest advocacy groups, environmental, land use, local citizens, business, non-profit organizations, etc. ODOT is a voting member of an ACT. Members should be carefully selected so that transportation recommendations are coordinated with other local and regional community development activities, creating consensus within the area on transportation issues and priorities.

In addition to the voting membership, each ACT will include appropriate ex officio, non-voting members such as the Oregon Transportation Commissioners, legislators, members of the Community Solutions Team, representatives from pertinent governmental agencies such as US Forest Service, BLM, Fish and Wildlife, Department of Environmental Quality, Department of Land Conservation and Development, Department of Aviation, local Congressional aides, representatives of each city and county road district or department, and other representatives of regional groups that have an interest in transportation issues such as housing advocates, Regional Partnerships and Regional Investment Boards, law enforcement agencies, etc. The ACT will give equal consideration to non-voting member comments and recommendations.

The ACT should encourage participation of adjacent ACTs and consider inviting representatives as ex-officio, non-voting members. Adjoining ACTs should be included on all mailing lists and be invited to attend all ACT meetings.

As an ACT experiences membership turnover, it should review representation to ensure continued balance of all groups the committee represents. When providing reports to the OTC, ACTS will be asked to describe how they have met the membership guidance.

V. OPERATIONS OF THE ACT

ACT Operating Agreements

ACT operating agreements must clarify the roles and processes between members, agencies, ODOT and the OTC. They are intended to specify how members will be selected and define membership beyond that required in this document. Operating agreements shall provide for a wide solicitation for non-elected membership, and specify the solicitation process used. In addition, Operating Agreements shall specify when, where and how meetings will be conducted, officers and terms of office, whether or not alternates will be allowed, the public involvement processes which the ACT will use, number of members required to constitute a quorum, decision making process (for example, consensus or majority vote), steering committee authority and whether Technical Advisory Committees will be used and how they will be constituted. The Operating Agreements shall clarify that ACTs are advisory bodies that make recommendations to the Oregon Transportation Commission.

Responsibilities of ODOT to ACTs

Questions Related to this Section:

6. *What are the advantages/disadvantages of ODOT voting as an ACT member?*
6. *What are the appropriate ODOT staff responsibilities/obligations to the ACT?*

ODOT shall assign a senior manager with good communication skills as its representative to the ACT. The role of the ODOT representative shall include but not be limited to the following:

- *Serve as a communication liaison between the ACT, ODOT Region, and ODOT Director's Office.*
- *Coordinate timely preparation of agenda items for action by the ACT.*
- *Provide technical and policy information in a timely manner to assist the ACT in carrying out its roles and responsibilities.*
- *Provide information on project status.*
- *Coordinate presentations and education regarding state and federal programs and priorities.*
- *Advise the ACT of ODOT views during program and project discussions.*
- *Staff support as agreed upon (see Section V. C).*

- *Advise on specialized programs such as transportation safety, bicycle and pedestrian, passenger rail and freight, public transportation, scenic byways, motor carriers and local government relationships.*
- *The ODOT senior manager is a voting member of an ACT.*

Staffing and Financial Support

An ACT must be staffed either by ODOT or an organization with which ODOT could contract administrative services. The ACT and ODOT will jointly agree on how the ACT will be staffed. ODOT will provide planning staff assistance to the ACT and financial support for administration of the area commission in an amount sufficient to meet OTC expectations.

Public Involvement

The Public Involvement section of this document provides a higher level of specificity than other portions of the document. The goal is to achieve statewide consistency through an open, understandable process that meets state and federal public involvement policies, while continuing to recognize the regional differences in project priorities. The minimum and preferred public involvement/information standards are shown in Attachment C for many of the ACT procedures and operations. In its biennial report to the OTC, the ACT will need to describe how it meets the minimum standards.

The ACT public involvement process shall seek out and consider the needs of those traditionally underserved by existing transportation systems, such as low income and minority households. Title VI is a part of the Civil Rights Act of 1964.⁴ It ensures that no one is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, national origin, age, sex, disability or religion. In 1994, President Clinton issued the Executive Order on Environmental Justice which requires identification of high and adverse human health or environmental effects of programs, policies and activities on minority and low-income populations. Environmental Justice is achieved within the framework of existing laws, especially Title VI. The ACTs must follow all relevant federal requirements for public involvement, including Title VI and Environmental Justice requirements, and all applicable ODOT policies.

For ACTs to fulfill their advisory role in prioritizing transportation problems and solutions and recommending projects, the ACTs need to involve the public and stakeholders in their decision-making processes. As the ACTs consider local, regional and statewide transportation issues, it is important that they use the appropriate level of public involvement and/or public information. To comply with federal Environmental Justice requirements, the public involvement process needs to identify a strategy for engaging minority and low income populations in transportation decision-making.

⁴ For more information regarding Title VI and the Civil Rights Act of 1964, contact ODOT Civil Rights at (503) 986-4350 or on the Web at <http://www.odot.state.or.us/civilrights>.

Meeting materials and facilities shall be accessible to those with disabilities pursuant to ADA standards.

The responsibility for developing agendas, distributing materials, taking minutes, website maintenance and other duties related to ACT public involvement shall be covered in the joint agreement identified in Section V. C, Staffing and Financial Support.

VI. BASIS FOR DECISION MAKING

Questions Related to this Section:

10. *Should the OTC seek transportation policy recommendations from ACTs in addition to STIP project selection recommendations? (Repeat of question 2, above.)*
11. *How can the ACTs achieve statewide perspective and why is statewide perspective important to apply to the ACT recommendations?*
12. *What level of involvement should the ACTs have regarding bridge, and preservation projects?*

The ACT shall function as an advisory body to the OTC. The ACT process and resulting recommendations shall comply with relevant laws, regulations and policies. When ACTs are considering recommendations relative to the STIP, their recommendations must comply with the policies and standards adopted by the OTC. When ACTs are providing recommendations on policy, they have greater latitude in formulating their response.

Recommendations shall be based on state, local and federal adopted transportation plans, policies and procedures including, but not limited to:

- *Oregon Transportation Plan and supporting mode plans (e.g., Oregon Highway Plan and Oregon Public Transportation Plan)*
- *Oregon Public Meetings Law, ORS 192.610 to 192.690 (See State of Oregon, Department of Justice, Attorney General's Public Records and Meetings Manual)*
- *State corridor and facility plans*
- *Transportation Planning Rule, OAR 660-012*
- *Transportation system plans*
- *MPO Regional Transportation Plans*
- *Federal transportation planning regulations*
- *Local government plans, regulations, and ordinances*
- *Project selection criteria and prioritization factors approved by the OTC, including Oregon Transportation Management System data*
- *State Agency Coordination Program, OAR 731-15*
- *Additional criteria established by the OTC*

ACTs may use additional criteria to select and rank projects provided the criteria do not conflict with any criteria established by the OTC. If an ACT chooses to use additional criteria, they must inform those developing project proposals about the criteria. ACTs shall apply regional and statewide perspectives to their considerations, refining recommendations after consultation with any adjacent metropolitan planning organization.

Recommendations to the OTC shall be documented and forwarded to the OTC with the factors used to develop the recommendation, including any additional criteria used by the ACT in forming its recommendation. Documentation developed by a member whose recommendations were not incorporated into the final ACT recommendations will be forwarded to the OTC with other materials documenting ACT recommendations. Recommendations to the OTC will be made in accordance with the approved STIP Development Timeline (on the web at: <http://www.odot.state.or.us/stip/>).

The OTC will provide feedback to the ACTs regarding decisions that were made based on the ACT recommendations.

ODOT has established special committees and processes to apply Oregon Transportation Management System information for the identification, prioritization and development of bridge replacement/rehabilitation and pavement preservation projects. The role of the ACT in regard to these projects shall be to review the recommended lists of projects and to provide information to ODOT regarding any special circumstances within the area that may apply to the prioritized list.

Federal regulations require MPOs to select transportation projects within the MPO boundaries from a limited pool of projects identified in the financially constrained regional plan. ACTs may draw from a larger pool of projects found in local transportation system plans, which are not necessarily financially constrained.

VII. COORDINATION

Because of the fundamental importance placed on recommendations by the ACTs, coordination shall be a primary obligation and ACTs are expected to meet a high standard in this area. To ensure that recommendations have been reviewed for local, regional and statewide issues and perspectives, ACTs need to communicate with others that may have knowledge or interest in the area. Working with a broad representation of stakeholder groups should also help provide a balance between local/regional priorities and statewide priorities. ACT coordination should include, but not be limited to the following groups:

- *Oregon Transportation Commission*
- *Other ACTs within and across ODOT Regions*
- *ODOT Advisory Committees*
- *Community Solutions Teams*
- *Regional Partnerships and Regional Investment Boards*
- *Tribal Governments*
- *MPOs*
- *Local Governments and Port Districts*
- *Stakeholder groups (e.g., environmental, business)*

It is recommended that the ACT develop a diagram or flowchart showing the numerous relationships within the ACT. The diagram should be available at each meeting of the ACT.

A. Oregon Transportation Commission

Questions Related to this Section:

13. *Is sufficient communication between the ACTs and the OTC taking place?*

ACTs will provide a report to the OTC at least once every two years. The report will provide an opportunity for the Commission to review the ACT charter, operating agreements and proposed work program. If modifications are required to comply with new or updated OTC direction (e.g., revising processes to conform to the revised “Formation and Operation of Area Commissions on Transportation (ACT)”), changes will be incorporated at that time. An ACT or the OTC may initiate additional communication on an as-needed basis.

ACTs will forward their recommendations and supporting information to the OTC for consideration.

An OTC liaison is assigned to each ACT.

B. ACTs Within and Across ODOT Regions

ACTs will coordinate with other ACTs, as needed for recommendations to the OTC that may have a regional impact (e.g., priorities along a specific highway corridor). To facilitate regular communications, adjacent ACTs should be included on the ACT mailing lists and invited to all ACT meetings. Meeting agendas and minutes should be provided to adjacent ACTs. The ACT should consider adjacent ACT representatives for inclusion as ex-officio members.

C. ODOT Advisory Committees

ACTs are encouraged to keep ODOT’s specialized standing committees (e.g., rail, freight, public transportation, bicycle, scenic byways) informed and to seek their comment on major policies and programs under consideration. Representatives should be included on the ACT mailing lists and invited to all ACT meetings. The committees have a mutual obligation to provide information to the ACTs regarding processes, technical data, and recommendations specific to the program area.

D. Community Solutions Teams

Since 1995, five state agency directors, serving as the Governor's Community Solutions Team (CST), have been actively engaged in developing an integrated and collaborative approach to community development. The standing agencies of the CST include:

- Oregon Department of Transportation (ODOT)
- Oregon Housing and Community Services (OHCS)
- Oregon Economic and Community Development Department (OECDD)
- Department of Land Conservation and Development (DLCD)
- Department of Environmental Quality (DEQ).

Representatives of Community Solutions Teams should be included on the ACT mailing lists and invited to all ACT meetings.

Regional Partnerships and Regional Investment Boards

Regional Partnerships and Regional Investment Boards are composed of local partners in two or more counties and the cities, ports, and tribes within those counties who agree to work together to provide a forum for coordination of economic and community development planning and investments so that strategies and processes for economic and community development are leveraged to the greatest extent possible to meet agreed upon priority issues, challenges and goals.

Representatives of Regional Partnerships or Regional Investment Boards should be included on the ACT mailing lists and invited to all ACT meetings. ACTs are encouraged to either be one and the same with a Regional Partnership or be organized to work effectively with and contribute to the work of a Regional Partnership.

Tribal Governments

OTC recognizes that Tribal Governments represent sovereign nations. ACT recommendations need to consider the needs of the Tribal Governments, as well as coordination with projects being developed by the Tribal Governments. To provide this coordination and understanding, a tribal representative shall be invited as a voting member of the ACT, as applicable.

MPOs

Questions Related to this Section:

10. What should be the form of coordination between the MPOs and ACTs? Is the draft document clear?

MPOs develop a Transportation Improvement Program (TIP) that approves all projects that are regionally significant or that include federal funds, by year and by phase within the MPO planning areas. ACTs are encouraged to cooperate with MPOs to assure better understanding and coordination of projects inside and outside the MPO boundaries and to improve the decision-making process. An MPO representative shall be included on the ACT if within the same geographic area as an ACT.

Local Governments and Port Districts

Transportation recommendations need to be coordinated with other local and regional community development activities. ACT representation shall include elected and port officials from the area. ACT representatives of these groups are responsible for providing regular updates to their respective organizations on actions and recommendations being considered by the ACTs.

Stakeholder Groups

While it may be impractical to include representatives from every stakeholder group on the ACT, the ACT needs to make a concerted effort to hear the concerns and recommendations of stakeholders prior to making decisions regarding recommendations to the OTC. The ACT will provide easy access to technical materials and supporting documentation considered by the ACT during its decision-making process and shall consider and respond to public input received during the planning and program development process. (See Section V, Subsection D., “Public Involvement”).

ATTACHMENT A

Glossary of Terms

Regional—Describes Oregon Department of Transportation geographic regions. Regional includes considerations of other communities, regional movements and patterns of transportation that can be areas outside the state.

Transportation System—The transportation system includes the following modes and aspects:

- Air, marine, rail (freight and passenger)
- Highway (trucks, buses, cars)
- Transit
- Bike/Pedestrian

To consider all modes and aspects of the transportation system in decision making, ACTs would take into account the provision of elements and connections between air, marine, rail, highway, transit bike and pedestrian facilities.

Verbs:

Obligation—This category of terms shows the ACTs' responsibility to ensure the outcome to the OTC. The terms that fall within this category include:

- Must
- Shall
- Will

Encouraged—This category of terms provides the ACTs some flexibility with their responsibilities to the OTC. The terms that fall within this category include:

- Should

Permitted—This is the most flexible category of terms. It allows the ACTs to decide whether or not to engage in evaluation of the particular situation. Terms that fall within this category include:

- May

ATTACHMENT B

How An Act Is Established

Local elected officials and staff work together with the ODOT region manager and the OTC member representing the area to develop a proposal for the formation of an Area Commission on Transportation (ACT). The proposal should address the key questions listed below. The proposal is circulated among local jurisdictions for comment, revision and eventually expressions of support. The State Community Solutions Team reviews the proposal for coordination with the Regional Partnership Initiative. The Oregon Transportation Commission reviews the proposal. Once the Commission accepts the proposal, it adopts a resolution providing a provisional charter for the Area Commission on Transportation. The ACT selects its members and begins to function as an official advisory body to the Oregon Transportation Commission.

Key Questions to be addressed in an ACT Proposal

The Oregon Transportation Commission expects that for an ACT to be effective it will represent the political environment of the area. Therefore, each ACT may look and function somewhat differently than another. However, each proposal for an ACT should address at least the following questions:

1. What is the rationale for the geographic boundaries of the proposed ACT?
2. What are the proposed voting and ex-officio membership categories and how do they ensure coordination with existing regional public agencies?
3. Is the membership broadly representative of local elected officials and inclusive of other key stakeholders and interests (see Section IV, Subsection B, “Membership”)? If key representation is not included, explain the justification.
4. How would the ACT coordinate with adjacent ACTs and involve state legislators?
5. If in the future the counties in the area choose to become a “Regional Partnership” within the Oregon Community Development Initiative, how would the ACT function in relationship to the Regional Partnership?
6. What is the proposed work program of the ACT?
7. How will the ACT meet the minimum public involvement standards as shown in Attachment C of this document?
8. Who would help guide the work program and agendas of the ACT? Indicate the general operational structure.
9. How would the ACT secure technical assistance on transportation issues?
10. Who would provide support staff to the ACT?

ATTACHMENT C

Public Involvement

1. Meeting Notification--Timely notice of ACT meetings allows for broader participation by the general public and stakeholder groups.

The *minimum standard* for meeting notification is one (1) week for all ACT or ACT sponsored meetings where decisions will be made. Notification should be made through the local media sources (newspaper, radio and TV) and by sending meeting notices to those on the ACT mailing list. As appropriate to the area, provide public meeting notices in languages other than English.⁵ In addition to the normal notification procedures, the minimum standard of notification when the ACT is conducting or sponsoring a special meeting (e.g. STIP or OTIA meetings), requires paid advertising in the ACT area. The ACTs must develop a mailing list of special interest groups in the ACT area.

The *preferred standard* for ACT meeting notification includes posting notices at local public institutions (city hall, libraries, community centers, etc.) and email updates to interested parties. Posting meeting notices on the ACT website, along with links to meeting agendas and past meeting minutes, is also preferred. The ACT website also needs to be updated with information relevant to any special meeting including the meeting agenda and technical materials/supporting documentation.

2. Meeting Schedule--A regular meeting schedule increases the opportunities for public and stakeholder involvement through its predictability.

If regularly scheduled meetings are not possible, the *minimum* standard is to provide extra public notification for each meeting by following the preferred method of meeting notification.

The *preferred* standard is to hold regularly scheduled ACT meetings (e.g., meeting at 1:00 p.m. on the last Thursday of each month).

3. Meeting Location--ACT meetings should be held in locations that are easily accessible by the general public, and contain adequate seating and facilities to encourage their attendance.

When selecting a location for the ACT meeting, the *minimum* standard is an Americans with Disabilities Act (ADA) accessible location. In establishing outreach activities for specific projects or topics, consider locations that would be frequented by that community (e.g., social service organizations, schools).

⁵ A Governor's task force is currently working on methodology for meeting the federal requirements for Limited English Proficiency. Public involvement at the ACTs will need to comply with the guidance developed.

The *preferred* standard would be a location that is easily accessible by public transportation.

4. Meeting Materials--For the public and stakeholders to truly participate, to give informed input in the decision-making process, they need access to technical materials and supporting documentation. Purely informational materials may be provided at the meeting.

The *minimum* standard for decision items is to distribute information to everyone in attendance at the ACT meeting. As appropriate to the area, provide meeting materials in languages other than English.

The *preferred* standard for decision items is to provide technical materials and supporting documentation one week prior to the ACT meeting. These materials can be distributed through the ACT website and/or through the mail.

5. Agenda--When preparing the ACT meeting agenda, consideration needs to be given to the public and stakeholder groups that are interested in providing input or comments.

The *minimum* standard is to provide a time on each agenda for general public comment. The public shall be provided opportunities to speak to the merits of proposals before the ACT and to forward their own proposals. Public comment may be taken at any time during the ACT meeting.

The *preferred* standard is to provide an advance agenda one week prior to the ACT meeting, either on the ACT website and/or through the mail. For action items, consider posting an electronic mailing address and encouraging public comment through this medium. Copies of all correspondence received prior to the meeting should be available for ACT members and the public at the meeting.

6. Meeting Minutes--Minutes shall be prepared for all ACT meetings, with decision items documented.

After each ACT meeting the *minimum* standard is to prepare and distribute the minutes one (1) week prior to the next ACT meeting. The previous meeting's minutes should also be available at the next meeting. As appropriate to the area, provide meeting minutes in languages other than English.

The *preferred* standard is to post minutes from the meeting on the ACT website.

The ACT public involvement process shall demonstrate explicit consideration and response to public input during the planning and program development process.

Attachment 5a – 3 – Coordination of STIP Priorities in Lane County

Coordination of STIP Priorities in Lane County

1. MPC adopts Eugene- Springfield metro area priorities based on TPC recommendation (prior to this meeting, MPC members optionally get direction on project priorities from their respective Boards and Councils).
2. MPC forwards metro priority list to Board of County Commissioners with the understanding that the Board of County Commissioners will not reorder the metro priorities, only blend rural priorities into the list.
3. Lane County Public Works, on behalf of the Board of County Commissioners, sends notice to small cities, ports or other organizations explaining that the County will be assembling a countywide ODOT STIP priority list and requesting input.
4. Small cities, etc. send project priorities to Lane County Public Works.
5. Lane County Public Works develops a “blended” rural and metro list for review.
6. Lane County representatives take countywide priority list to MPC for review and discussion (prior to this meeting, MPC members optionally get direction on the countywide project priorities from their respective Boards and Councils).
7. The Board of County Commissioners adopts blended countywide priority list.
8. One County Commissioner serves as the Lane County area representative at the ODOT Region 2 roundtable priority setting meeting. This representative may be one of the two Lane County representatives to MPC.