

MEMORANDUM OF AGREEMENT SUPPORTING A PERFORMANCE BASED PLANNING PROCESS

This Memorandum of Agreement (MOA) is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter "NDDOT", and the Fargo-Moorhead Metropolitan Council of Governments, hereinafter "MPO", and the city of Fargo, hereinafter "Public Transportation Operator".

PURPOSE AND SCOPE

The purpose of this MOA is to support a performance-based approach to the metropolitan transportation planning and programming process as specified in 23 USC 134 and 135, 49 USC 5303 and 5304, 23 CFR 450, and 49 CFR 613.

RESPONSIBILITIES

To the extent practicable, NDDOT, the MPO and the Public Transportation Operator will work cooperatively to develop and share:

- Information related to transportation performance data.
- Selection of performance targets.
- Reporting of performance targets.
- Specific procedures identifying performance-based planning and target setting (attached).

CONTRACTUAL OBLIGATIONS

This MOA is not a legally binding agreement and creates no legally binding obligations for any party. Any party may, upon written notice, amend, or discontinue its role outlined in the MOA. Because of this mutual desire to proceed, each party fully intends to make a good faith effort to achieve the goals described above including working together to comply with federal and state laws.

EFFECTIVE DATE

This MOA shall be effective when all appropriate signatures have been obtained by NDDOT, the MPO, and the Public Transportation Operator.

MODIFICATION

Any amendments to this MOA must be mutually agreed to in writing.

TERMINATION

The terms of this MOA may be terminated by any one of the parties by giving 30 days written notice to each of the other parties. This MOA will remain in effect until terminated as provided in this clause, or until replaced by a new MOA.

The parties hereto execute this Memorandum of Agreement through their authorized representatives:

FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTS

Arland Rasmussen
Name (Type or Print)

[Signature]
Signature

Policy Board chair
Title

5/17/18
Date

PUBLIC TRANSPORTATION OPERATOR: City of Fargo, ND

ATTEST by:

Steve Sprague
Name (Type or Print)

[Signature]
Signature

Auditor
Title

5.21.18
Date

Tim Mahoney
Name (Type or Print)

[Signature]
Signature

Mayor
Title

5-21-18
Date

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

APPROVED as to substance by:

Paul m. Benning
Local Government Engineer (Type or Print)

[Signature]
Signature

6-11-18
Date

for title Ronald J. Henke
Director (Type or Print)

[Signature]
Signature

6/15/18
Date

APPROVED as to execution this
17th day of June 2018
ATTORNEY GENERAL
By [Signature]
SPECIAL ASST. ATTORNEY GENERAL

Performance-Based Planning and Target Setting Procedures

Effective Date: When MOA fully executed

Last Revision: May 2018

**NDDOT
ORIGINAL**

Overview

Purpose Statement

Federal law and regulations (23 USC 134 and 135, 23 CFR 450) direct the State DOT, MPOs and public transportation operators to jointly agree upon and develop specific written provisions for cooperatively:

- Developing and sharing information related to transportation performance data
- Selecting performance targets
- Reporting performance targets
- Reporting performance used in tracking process toward attainment of critical outcomes for the MPO region
- Collecting data for the State asset management plan for the National Highway System.

This document details the procedures the State DOT, MPOs and public transportation operators will use related to performance planning. The document is divided into separate sections related to each performance planning area:

- National Performance Management Measures for the Highway Safety Improvement Program (23 CFR 490, Subpart B)

Each section provides a brief background, identifies to whom the requirement applies, and lists the responsibilities of each affected party.

Additional sections will be added to address at a later date:

- National Performance Management Measures for Assessing Pavement Condition (23 CFR 490, Subpart C)
- National Performance Management Measures for Assessing Bridge Condition (23 CFR 490, Subpart D)
- National Performance Management Measures to Assess Performance of the National Highway System (23 CFR 490, Subpart E)
- National Performance Management Measures to Assess Freight Movement on the Interstate System (23 CFR 490, Subpart F)
- Transit Safety (to be added once final rules published)
- Transit Asset Management (49 CFR 625)
- State asset management plan (23 CFR 515)

NDDOT, the MPOs and the public transportation operators agree to follow these procedures, regularly review and update the procedures as needed according to their respective Memorandums of Agreement.

NDDOT Local Government Division will retain the master copy of this document and all previous versions. Electronic copies are provided to the MPOs and public transportation operators after each revision. Additional copies are available upon request.

Sections not applicable to North Dakota at this time and will not be addressed with this MOA:

- National Performance Management Measures for Assessing the Congestion Mitigation and Air Quality Improvement Program – Traffic Congestion (23 CFR 490, Subpart G)
- National Performance Management Measures for Assessing the Congestion Mitigation and Air Quality Improvement Program – On-Road Mobile Source Emissions (23 CFR 490, Subpart H)

Highway Safety Improvement Program Performance

Background

There are five performance measures identified in 23 CFR 490.207(a):

- Number of fatalities
- Rate of fatalities
- Number of serious injuries
- Rate of serious injuries
- Number of non-motorized fatalities and non-motorized serious injuries

The measures apply to all public roadways. State DOTs and MPOs must annually establish performance targets for these measures.

Applicability

The requirements of the Highway Safety Improvement Program apply to:

- NDDOT
- MPOs

Responsibilities

NDDOT

NDDOT is the lead in developing the performance targets. NDDOT will:

- Develop targets annually in cooperation with the MPOs.

- Coordinate with the MPOs on the establishment of targets to ensure consistency, to the maximum extent practicable. This includes at least one meeting, in the spring, with the MPOs to discuss/gather feedback on the proposed targets for the upcoming reporting year.
- Provide fatality and serious injury data to the MPOs as available and when requested.
- Update the MPOs, as needed or requested, on the status of the performance targets.
- Report the targets to FHWA in the State's HSIP annual report no later than August 31.
- Provide a copy of the submitted HSIP annual report to the MPOs.

MPOs

Each MPO will:

- Develop targets annually in cooperation with NDDOT.
- Coordinate with NDDOT on the establishment of targets to ensure consistency, to the maximum extent practicable.
- Establish a target for each performance measure for all public roadways in their metropolitan planning area within 180 days of NDDOT's submittal of the HSIP to FHWA by either:
 - Agreeing to plan and program projects so that they contribute toward the accomplishment of the State DOT safety target for that performance measure, or
 - Committing to a quantifiable target for that performance measure.
- Submit the resolution(s) approving the targets to NDDOT Local Government Division. The resolution must clearly identify/state each target.
- If the MPO committed to a quantifiable target different from the state target, annually report to NDDOT Local Government Division on target achievements.