Action Transmittal

Transportation Advisory Board

Committee meeting date: November 18, 2026 **Date:** November 9, 2026

Action Transmittal: 2026-51

Adopt Revisions to the Community Considerations Criterion, Measures, Scoring Guidance and Solicitation Process for the 2026 Regional Solicitation

To: Transportation Advisory Board

From: Technical Advisory Committee

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Requested action

Recommend that TAB adopt the revised Community Considerations criterion, measures, scoring guidance and Solicitation process for all 2026 Regional Solicitation federal and active transportation application categories to provide clarity as requested by the USDOT and to complete the project selection process.

Recommended motion

That the Transportation Advisory Board adopt the revised Community Considerations measures and scoring guidance and use Option 3, Clarify and Rescore Existing Responses, for all 2026 Regional Solicitation federal and active transportation application categories as preferred actions in response to the USDOT request for changes to the Solicitation and to complete the selection process.

Background and purpose

The Regional Solicitation Evaluation was a three-year process to update the structure, criteria, and measures to implement the policy and direction of the 2050 Transportation Policy Plan (TPP). The 2026 Regional Solicitation Federal and Active Transportation (AT) Solicitation application packages reflect the feedback from 120 events with the region's policymakers, technical experts, community organizations, and the public. The Policymaker Work Group, Technical Steering Committee, and the Special Interest Working Groups recommended the application package that was presented to the Transportation Advisory Board (TAB) and Metropolitan Council for adoption and approval.

At its January 2026 meeting, the TAB adopted the criteria, measures and scoring guidance for both the 2026 Federal Regional Solicitation and Active Transportation Solicitation and approved releasing the applications for public comment. Following the public comment period, at its March 18, 2026, meeting, the TAB recommended the Council approve release of the applications with changes resulting from the public comments. The Council subsequently approved and released the applications on April 22, 2026. The call for projects opened on May 7, 2026, and closed June 25, 2026. For the Regional Solicitation Active Transportation funding categories, 83 applications were submitted by 41 unique agencies requesting $143 million. For the Regional

Solicitation Federal funding categories, 92 applications were submitted by 37 unique agencies requesting $574 million.

On March 30, 2026, Scott County sent a letter (Attachment 1) to the United States Department of Transportation (USDOT) regarding the Community Considerations criterion within the Regional Solicitation and its potential misalignment with current federal transportation policies. In a letter to the Council dated August 26, 2026 (Attachment 2), the USDOT asserted that the Regional Solicitation's Community Considerations criterion is not in compliance with federal law, and specifically requested the following modifications:

- Eliminate race-based prioritization: Remove any scoring prompts and foundational policies that grant priority or assign points based on race or ethnicity (49 CFR Part 21).
- Remove the "environmental justice" framework: Delete scoring metrics that reward subjective analyses of historical harms or grievances (49 CFR Part 21).
- Broaden the definition of "community": Expand the definition of community to include all users of the transportation system, such as commuters and commercial vehicles, rather than excluding non-local users (no regulatory citation).

On October 2, 2026, the Council sent a response letter to USDOT (Attachment 3), which stated the Council maintains it is compliant with all federal laws but is committed to clarifying our compliance through revisions to the Community Considerations background, measures description and scoring guidance, and providing new applicant and scorer training to clarify the intent of the measures. The proposed revised language was included in the Council response and is shown in Attachment 4.

The revisions directly address the USDOT-requested modifications and include the following:

- Scoring prompts have been removed along with references to the foundational policies.
- References to the environmental justice framework and historical harms have been removed.
- The definition of "community" has been removed.
- The Council's adopted prohibition against illegal discrimination has been added and highlighted.

On November 9, 2026, FHWA emailed the Council to confirm that the Regional Solicitation is now compliant with all federal laws after a review of the proposed revisions to Community Considerations sent by the Council on October 2, 2026. FHWA recommended one minor text edit, which is now incorporated into the revisions shown in Attachment 4. A formal letter from FHWA is expected prior to the TAB meeting and will be shared with members once it is received.

Relationship to regional policy

TAB develops and issues a Regional Solicitation for federal funding and active transportation regional sales tax funding. The Regional Solicitation applications were created through the Regional Solicitation Evaluation process, which updated the structure, criteria, measures and scoring to align with the adopted Imagine 2050 Regional Development Guide and 2050 Transportation Policy Plan. The updated Solicitation package was adopted by TAB and approved by the Metropolitan Council in early 2026.

Staff analysis

Revisions to the Community Considerations criterion, measures and scoring guidance and the process for completing the Solicitation project selection will follow the TAB and Council's normal adoption and approval process. If TAB adopts and the Council approves a response different than what was described in the Council's October 2, 2026, response letter, a new letter will be sent to USDOT outlining the adopted response.

Also, based on conversations with local FHWA and FTA staff, the selection of projects for the Active Transportation funding cannot continue to move forward separate from the federal funding application categories because the USDOT concerns apply to any funding program using the Community Considerations criterion, measures and scoring guidance as originally drafted,

regardless of funding source. As a result, the adopted action will affect both the Regional Solicitation federal and active transportation application categories.

In the TAC's recommended approach Option 3, Clarify and Rescore Responses, the anticipated timeline and process would include:

1. Adoption and approval of revised Community Considerations criterion description and scoring guidance:
    a) October 22nd meeting of the TAC Funding & Programming (F&P) Committee
    b) November 4th meeting of the Technical Advisory Committee (TAC)
    c) November 18th meeting of the Transportation Advisory Board (TAB)
    d) November 23rd meeting of the Transportation Committee and
    e) December 2nd meeting of the Metropolitan Council
2. December: Training session with Community Considerations scorers on the revised criterion, measures and scoring guidance.
3. December/January: Community Considerations scoring committee rescores all applications with revised guidance.
4. January: TAC F&P Committee considers scoring appeals for quantitative scores.
5. February: TAC F&P Committee approves final scores and committees begin discussion of options for selection of a program of projects.
6. April/May: TAB approves selection of a program of projects for both federal funding and Active Transportation sales tax funding.
7. May/June: Council concurs with the TAB's adoption of a program of projects for federal funding and Active Transportation sales tax funding.

Barring any further unforeseen delays, these schedule changes would likely have limited impact on the ability for project sponsors to deliver federally funded projects in 2030 and 2031. However, some active transportation regional sales tax-funded projects intended for construction in summer 2027 may be delayed until the 2028 construction season.

Committee comments and action

At its October 21, 2026, meeting, the TAB reviewed the Council's proposed approach as part of an information item. In addition to the Council's proposed approach to revising the measures and scoring guidance (Option 2 below), the TAB discussed four other options. The five total options were then brought to TAC F&P the next day. Scott County passed out a letter at the TAB meeting, which is shown in Attachment 5.

At its October 22, 2026, meeting, the TAC Funding & Programming (F&P) Committee recommended a preference for Options 2 and 3 as described below. All five options will be discussed at TAC, along with the F&P comments on the five options. Regardless of the approach approved, there is a two to three-month minimum delay from the original schedule, with some options adding more time. Members raised concerns that the revised process could prevent active transportation projects from proceeding in 2027. Staff confirmed that grant agreements could be executed retroactively, allowing reimbursement for eligible work that began before formal grant execution. However, applicants would need to know they had been selected, and proceeding before selection would carry financial risk.

F&P members mostly focused their discussion on the risk and delay associated with each option. Some advantages and disadvantages noted below reflect interpretation of issues raised by F&P members and also additional points raised by policymakers and agency staff in follow-up conversations. The five options and advantages and disadvantages of each option are summarized below:

1. **Option 1 - Continue Original Course**: Move forward with the originally adopted solicitation package (i.e., do not make changes based on the USDOT letter).

Advantages discussed:

- Moves forward with a solicitation package adopted by TAB and approved by the Council, which is aligned the 2050 TPP.
- Least initial delay but may end up resulting in the most delay if USDOT or others potentially seek future legal challenges.

Disadvantages discussed:

- Does not address USDOT comments and may result in future legal challenges.
- Selected projects from this process might have uncertainty and risk in moving forward with project development due to the potential of the USDOT seeking legal challenges or withholding funding (due to the MPO not being responsive to USDOT concerns).
- If the Council is declared to be out of compliance, it may put other funding approvals in jeopardy such as a delay or denial of the larger TIP/STIP, or other necessary USDOT project/process approvals.

2. **Option 2 - Clarify, Reopen, and Rescore Responses**: Revise Community Considerations description and scoring guidance language to address USDOT concerns, reopen applications and allow applicants to revise their submitted responses as desired. Scorers will be retrained on the revised scoring guidance and will rescore all responses under the revised guidance.

   Advantages discussed:

   - Responsive to USDOT compliance concerns as articulated and requested in its August letter reducing risk of further federal compliance issues.
   - Process allows applicants to respond to the revised measures reducing risk of due process challenges by disappointed applicants.
   - Moderate delay while minimizing risk of future USDOT concerns with the process.

   Disadvantages discussed:

   - USDOT may ask for further revisions later in the process, which could add delay to the process. Since the meeting, the Council received confirmation of compliance from FHWA.
   - May give agency applicants that are also Community Considerations scorers an unfair advantage in revising responses having reviewed all the initial responses and draft scoring.
   - Potential fairness issue by allowing applicants who might not have initially responded well a second chance to improve their responses.
   - Some agencies may not have the staff capacity or resources (i.e., funding for a consultant) to review and resubmit responses.
   - Reopening applications will require additional time, effort and funding for applicant and scorer outreach and training on the revised measures.

3. **Option 3 - Clarify and Rescore Existing Reponses**: Revise Community Considerations description and scoring guidance language to address USDOT concerns, retrain scorers on the revised guidance and rescore all existing application responses, but do not allow applicants to revise their previously submitted responses.

   Advantages discussed:

   - Responsive to USDOT compliance concerns as articulated and requested in its August letter reducing risk of further federal compliance issues to the same extent as Option 2.
   - Saves approximately one month compared to Option 2 by not reopening the applications, so acts as a hybrid option between Options 2 and 4.
   - Saves applicants time and resources by not having to resubmit responses.

Disadvantages discussed:

- USDOT may ask for further revisions later in the process, including asking that we allow applicants to resubmit responses to the revised measures, which could add additional delay to the process. Since the meeting, the Council received confirmation of compliance from FHWA.
- Potential applicant fairness issue by not allowing applicants to revise their responses to align with the revised language (though F&P identified that Option 2 also has some applicant fairness issues as noted above).
- Does not reduce the risk of due process challenges by disappointed applicants.
- Rescoring applications will require additional time and resources for scorer outreach and training on the revised measures.

4. **Option 4 - Remove Community Considerations Measures**: Remove the Community Considerations criterion and measures and move forward with the remaining measures.

   Advantages discussed:

   - Potentially less delay by 1-2 months than Options 2 and 3 (if none of the risks below are realized).

   Disadvantages discussed:

   - Goes beyond what was asked for in the USDOT letter, which also encourages using planning factors such as public engagement considerations, ADA accessibility and connectivity of affordable housing to job centers.
   - May not be a viable path forward for the active transportation sales tax funds, which have a state requirement (i.e., geographic equity in project benefits, with an emphasis on communities that are historically and currently underrepresented in local or regional planning), which was being met through inclusion of the Community Considerations measures. New discussion and articulation of how the state requirements are being met will need to occur (which could potentially lead to additional delay of the AT application).
   - Increases legal compliance risk for state requirements for active transportation application categories.
   - Would likely result in a different mix of projects (focused on the more technical measures) that are funded due to removing 20% of the points from the total score.
   - Fairness issue with applicants who chose to submit projects that would have scored well on Community Considerations and also with applicants who chose not to submit projects based on the inclusion of these measures.
   - Creates a reputational risk by dropping a core element of the Regional Solicitation, which went through a multi-year agency and public participation process.
   - A significant change that if we adhere to normal processes would warrant a new public comment period which would add additional delay.

5. **Option 5 - Begin a New Process**: Effectively end the 2026 Regional Solicitation. Adopt a new solicitation package for federal and AT funds and release a new call for projects.

   Advantages discussed:

   - Could be responsive to USDOT compliance concerns depending on what is ultimately approved by TAB and the Council in a new solicitation package.

   Disadvantages discussed:

   - Inefficient use of applicant resources given the 175 applications that were submitted.
   - Would require agency staff time and financial resources to resubmit applications and participate in scoring committees again.
   - Requires process time to determine how to revise the Solicitation package, readopt, include a public comment period, and release a new Solicitation.

- Introduces more delay than the other options and would push project selection into 2028.
- Reduces project development time for federal projects and does not allow for the opportunity to construct any AT projects in 2027.
- Introduces additional risk to the AT program as the state legislature could redirect the funding since the funding is not being allocated to projects in a timely manner.
- Would need to revise timing for future federal and AT Solicitations (as the next federal Solicitation was planned for 2028 when this Solicitation would just be concluding).

At its November 4, 2026, meeting, the Technical Advisory Committee recommended a preference for Community Considerations Option 3, Clarify and Rescore Existing Responses, for all 2026 Regional Solicitation federal and active transportation application categories as preferred actions in response to the USDOT request for changes to the Solicitation and to complete the selection process.

Members expressed concern with the lack of definition of "risk," given that different participants could have different ideas of the types of risks and who is experiencing the risks. Members discussed various dimensions of risk including:

- Funding risks:
  - Impoundment of federal transportation funding in the region or statewide.
  - Impoundment of other federal funding, including county or state social service funding.
  - Revocation of active transportation sales tax funds by the state legislature.
- Legal risks:
  - USDOT legal action against the Council for perceived non-compliance. Since the TAC meeting, the Council received confirmation of compliance with the Community Consideration revisions from FHWA.
  - Actual or potential applicant perceived fairness issues and due process concerns.
  - Removal of Community Considerations may result in questions about whether the seven AT requirements in state law are being met.
- Reputational and process risks:
  - The process was transparent and included extensive engagement with the public, potential applicants, technical committees, TAB, and the Met Council to develop the adopted solicitation package. Complete removal of Community Considerations is a major change that runs counter to what was originally vetted and approved.
  - The region has an adopted policy plan that has made commitments to community engagement; excluding some form of community considerations measures is not consistent with the adopted vision, values, and goals of Imagine 2050 and the 2050 Transportation Policy Plan.
  - Delays to the 2026 Regional Solicitation process will likely preclude a 2027 solicitation for active transportation funds.
  - Delays to the Evaluation of the 2026 Solicitation study limit the types of changes that can be incorporated into the 2028 solicitation for federal funds.
  - Delays may affect coordinated projects and reduce the efficiency of delivery

Scott County requested a modified version of Option 5 that would keep existing applications in consideration but allow for new applications to compete too. Further, they argued that "community" needed to be redefined to include through-drivers as opposed to just removing the definition and letting the applicant define "community."

There were different opinions on whether Option 4 would be viable; it would remove the problematic criterion but may go beyond what was asked in the USDOT letter, which stated: "We

strongly recommend that you replace the revoked metrics with universally permissible statutory planning factors, such as robust public engagement, Americans with Disability Act (ADA) accessibility, and connectivity between affordable housing and job centers."

Option 4 may also be subject to longer delays if a public comment process is required due to removing a core element of the scoring. Additional delays may be incurred if a separate measure needs to be developed for the active transportation application categories to maintain compliance with state legislative language.

Members discussed the possibility of treating the Active Transportation funding differently than the federal funds to expedite selection on the Active Transportation projects; however, feedback from USDOT suggests both funding programs are impacted. Members also discussed the fairness of removing measures that were included when applicants submitted the original application, along with the logistics of facilitating re-application. Whether most of the options would require opening the process to all applicants is likely to be TAB's decision.

Routing

To	Action Requested	Date Completed *(Scheduled)*
TAC Funding & Programming Committee	Review and recommend	October 22, 2026
Technical Advisory Committee	Review and recommend	November 4, 2026
Transportation Advisory Board	Review, adopt	*November 18, 2026*
Metropolitan Council Transportation Committee	Review and recommend	*November 23, 2026*
Metropolitan Council	Review and approve	*December 2, 2026*