

# REPORT ON CERTIFICATION THAT THE TRANSPORTATION PLANNING PROCESS COMPLIES WITH APPLICABLE FEDERAL LAWS AND REGULATIONS

## 2012

Prepared by: Lincoln City-Lancaster County Planning Department  
Assistance by: Lincoln Public Works & Utilities Department,  
City-County Health Department, Nebraska Department of Roads  
Reviews: Metropolitan Planning Organization (MPO)  
Technical Committee and Officials Committee

### BACKGROUND

The *Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU) became law on August 10, 2005 and is the most recent authorization for surface transportation investment in the United States for the 6-year period from FY 2004-2009 plus extensions through FY 2012. This builds on the two previous national transportation bills and continues the requirement to annually certify to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) that the planning process is addressing the major issues facing the metropolitan area and that the process is being carried out in conformance with applicable federal Urban Transportation Planning laws and regulations. The U.S. Department of Transportation has provided guidance in published rules for the planning and environmental provisions in a final notice of rulemaking on the statewide and metropolitan transportation planning and programming process in the Code of Federal Regulations [Federal Register / Vol. 72, No. 30 / February 14, 2007 / Final Rule].

### COMPLIANCE EVALUATION

The following are the applicable federal laws and regulations, as contained in the Federal Register / Vol. 72, No. 30 / February 14, 2007 / Final Rule, Section 450.334(a) *Self-Certifications and Federal Certifications*, for which the transportation planning process is to comply. FHWA and FTA has oversight responsibilities on the planning process and determines, through appropriate and independent reviews, that the planning process conforms to applicable federal laws and regulations prior to approval of federal aid FHWA and FTA – highway, transit, and other transportation projects.

(1) Section 134 of title 23 USC and Section 5303 of title 49 USC - requires a continuing, cooperative, and comprehensive transportation planning process and consideration of all modes of transportation.

The MPO is responsible for conducting a continuous, cooperative, and comprehensive transportation planning process (3C) for all of the Lincoln Planning Area. The MPO plans for the movement of both people and goods within the planning area by all modes of travel, including highways, public transportation, bicycles, and pedestrian. It also plans for the intermodal connections (such as airports, bus, railroad, and pipeline terminals) linking these modes.

Continuing - In order to provide sound bases for decisions regarding transportation-related plans, continuing monitoring and surveillance programs are carried out. Data collection and analysis includes population, socio-economic data, dwelling units, land uses, traffic and transportation system

data, transit ridership and transit-related measures, parking, air quality, airline passengers and operations, vehicle and bicycle accident data, and system capacity information. A comprehensive review of the long-range transportation plan is conducted in conjunction with the Comprehensive Plan amendment and modification process.

Cooperative - Agreements for conducting the transportation planning process are contained in the Memorandum of Understanding between the City of Lincoln, Lancaster County, the City-County Planning Commission, and the State of Nebraska Department of Roads in cooperation with FHWA and FTA, as executed by all parties in 1977. The local public transit operation, StarTran, is a division of the City of Lincoln Public Works and Utilities Department. City, county, state, and federal representatives are included as members of the MPO Technical and Officials Committees.

Corrective Action: The Lincoln MPO planning agreements need to be updated to clearly define the roles and responsibilities of the MPO and the State and reflect the current planning process. The Lincoln MPO initiated a review to update the MPO's prospectus and planning agreements. The new *MPO Management Plan* (prospectus) was adopted by the MPO on September of 2009. The updated planning agreements have been drafted and coordinated by the City of Lincoln and Lancaster County to be used in combination with the Management Plan to define roles and responsibilities of the City, County and State in the MPO 3C process. The draft agreement was submitted to the Nebraska Department of Roads for review in June of 2010. This is currently under review by NDOR.

Comprehensive - The transportation planning and implementation process, is generally described in the *Long-Range Transportation Plan* and the *Lincoln City-Lancaster County Comprehensive Plan*, and the public participation process is identified in the *Public Participation Plan*. The details are outlined in the Lincoln MPO Management Plan, in conjunction with the *Unified Planning Work Program*, which recognizes the interrelationships between transportation, land use, social, economic, and environmental factors. The objective is the development and maintenance of transportation systems compatible with the overall development goals of the Lincoln planning area within the planning period.

The Lincoln MPO *Long Range Transportation Plan* includes specific plans for the Lincoln Area Pedestrian, Bicycle and Trails Facilities; Future Urban Street and Road Network Plans which include the Functional Street and Road Classifications, Urban Area Street Improvements, and County Road Improvements; a Goods and Freight Movement Plan; and generalized plans for Public Transportation, Railroads, and Airports and Airfields. The Plan also contains an Intelligent Transportation Systems element and a Transportation Systems Management Strategy. The current Lincoln MPO Transportation Plan and Technical Documentation was adopted December 1, 2011.

(1) The Federal Transit Act (Section 5303 of title 49 USC) requires nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal financial assistance and participation by minority business enterprise in transportation programs.

StarTran, the public transportation provider in Lincoln, is a division of the City of Lincoln Public Works and Utilities. A number of semi-public and private service providers also provide special transportation services to the general public and/or clients. StarTran contracts with a local private transportation provider to afford StarTran a supplement to the Handi-Van Program to accommodate service requests from eligible clients.

StarTran continues to support the efforts for a coordinated special transportation system. Past efforts include support for transportation services provided by the League of Human Dignity and support for medical transportation services. A coordinated system will improve the efficiency and allow the community to better meet the transportation needs of persons with disabilities

In order to increase efficiency and effectiveness of public transportation services, StarTran has implemented the recommendations resultant from the approved Transit Development Plan. The purpose of this study effort was to identify near- and long-term policies and action items for enhancing transit service in Lincoln. An integral part of this completed study included public involvement and the development of near- and long-term transit service alternatives, updated service standards and policies, management options, and funding options. StarTran implemented the revised route structure in June 2008.

The StarTran portion of the draft *FY 2013-2016 Transportation Improvement Program (TIP)* was forwarded to local and national private-for-profit operators to provide notice of proposed transportation plans and programs and to provide an opportunity for private operators to review and comment on the proposals and propose privately operated services for Lincoln's transit program. The City of Lincoln encourages participation of the private sector, including minority business enterprise, in the planning process, the provision of services, and the promotion of more economical service alternatives.

*Coordinated Transit-Human Services Transportation Plan.* As a result of new provisions in SAFETEA-LU, the Federal Transit Administration (FTA) implemented three programs that eligible recipients may apply for supporting funding. These initiative programs include the Elderly Persons and Persons with Disabilities Program (Section 5310), Job Access and Reverse Commute Program (Section 5316) and New Freedom Program (Section 5317). As a condition for receiving funding under these programs, proposed projects must be derived from a locally developed public transit human services transportation plan.

The Lincoln MPO Technical Advisory Committee developed this plan with the assistance of the Community Services Initiatives: Basic and Emergency Needs Coalition, held a public hearing on the draft *Coordinated Transit-Human Services Transportation Plan* and was adopted by the MPO on October 30, 2007. A competitive selection program was developed by the Technical Committee *Project Selection Task Force* for these FTA programs. The initial “call for projects” was issued on February 1, 2008 and proposals were scored against evaluation criteria assessing their ability to achieve the strategies or activities set forth in the *Coordinated Plan*.

The fourth “call for projects” for these FTA programs was issued on June 1, 2011. The proposals were reviewed and ranked by the *Project Selection Task Force* according to the evaluation criteria set forth in the *Coordinated Plan*. The *Task Force* recommendations were reviewed by the MPO Technical Advisory Committee and accepted by the Officials Committee for project programming.

The “call for projects” for 2012 FTA JARC and New Freedom programs has been delayed subject to FTA program funding allocations for the MPO. Current FTA apportionment has only identified partial funding for programs, limiting the MPO’s FY 2012 contract authority. Current authorization provides contract authority for the period October 1, 2011 through March 31, 2012. The established project selection process will initiate a new call upon notification of complete FTA program funding.

(2) Sections 174 and 176c) and (d) of the Clean Air Act, as amended (42 USC 7504, 7506c) and (d)) and 40 CFR part 93, which requires the joint preparation of an implementation plan to address attainment of air quality standards determined to have not been met.

Since February of 1989, Lincoln has been designated by U.S. EPA as being in attainment for all the National Ambient Air Quality Standards (NAAQS). An ambient air quality monitoring program, operated by the LLCHD, monitoring for Carbon Monoxide (CO), particulate matter less than 2.5 microns in diameter (PM2.5), and ozone has been in place for many years. In addition to monitoring activities, the Lincoln-Lancaster County Health Department (LLCHD) also conducts periodic computer modeling exercises to quantify transportation related air emissions.

LLCHD continues to monitor ambient air for CO, PM2.5, and Ozone. Data is recorded and reviewed to assess the impact of emissions from mobile sources. A comprehensive emission inventory is conducted on a regular basis using standard EPA-approved models and emission calculation methods. The LLCHD works with the Lincoln-Lancaster County Planning Department, the Public Works and Utilities Department and the Nebraska Department of Roads to understand and quantify emissions related to the local transportation system.

(3) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1), 49 CFR part 21; and (4) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity; and (6) 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts; and (8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance; and (9) the Title VI assurance executed by each State under Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and (10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

The *Public Participation Plan* together with the MPO Management Plan, *Unified Planning Work Program* and *Environmental Justice Action Strategy* ensures that no person will be excluded from participation in the planning process and in the development of plans and programs. The MPO Prospectus states that "particular attention will be given to impacts upon specific identifiable minority groups in relationship to Title VI of the Civil Rights Act 1964, as executed by the State of Nebraska in 1965, and Title VIII of the Civil Rights Act of 1968, as executed by the State of Nebraska in 1969."

The selection of private consultants for transportation planning related contractual projects utilizing FHWA/State PL funds is coordinated by the City Purchasing Department; reviews of all proposals are conducted by the City EEO Officer to assure compliance with applicable Title VI regulations. Per FTA guidelines under Title VI StarTran has developed a plan for providing meaningful access to Limited English Proficient individuals.

Public Participation Plan. The updated Public Participation Plan (PPP), designed to meet the requirements of 23 CFR §450.316, was initiated in 2009 and included stakeholder and public review, incorporated FHWA Comments into the draft and all comments were taken into consideration for the final plan. The PPP was adopted by the MPO on November 16, 2010. The adopted PPP resulted in a NDOR, FHWA and FTA finding that this plan is based upon the Statewide and Metropolitan Planning processes and is substantially compliant with 23 CFR Part 450.

Long Range Transportation Plan. The development of the current *2040 Long-Range Transportation Plan* and *Lincoln City-Lancaster County Comprehensive Plan*, included a series of joint Public Open House activities held throughout Lincoln and within the rural community to initiate input. Comments and survey data were solicited to obtain community thoughts on transportation issues. The planning process included identification of the social, economic, and environmental impacts for alternative sketch transportation plans. Information was reviewed by the Planning Commission to provide direction within the planning process and to ensure broad community involvement. Newsletters were distributed and planning materials were posted on the City-County InterLinc Web site. Open Houses on alternative transportation networks were held to gain input and provide information on the plan options to provide for public input with Public Hearings held by the Lincoln-Lancaster Planning Commission. The *Transportation Plan* was adopted by the Lincoln MPO on December 1, 2011.

(5) Section 1101(b) of the SAFETEA-LU (Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects.

A "Disadvantaged Business Enterprise Program" is being updated by the City of Lincoln-StarTran for submission to FTA. The City of Lincoln-StarTran DBE program meets the requirements of the Department of transportation regulations and the annual update requirements.

The selection of private consultants for transportation planning related contractual projects utilizing FHWA/State PL funds is coordinated by the City Purchasing Department; reviews are conducted by the City's DBE Officer to assure compliance with applicable MBE requirements.

(7) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR parts 27, 37, and 38), which call for special efforts to plan public mass transportation facilities and services that can effectively be utilized by elderly and handicapped persons.

In response to the August 22, 1991 DOT regulations to implement the transportation portions of the Americans with Disabilities Act (ADA), the *1996 Complementary Paratransit Plan Update - Lincoln, Nebraska* was developed. This plan updated the Lincoln special transportation program for persons with disability and compared the current paratransit program with the ADA regulations. StarTran has revised the Handi-Van eligibility guidelines/procedures to better comply with federal ADA transportation requirements. The eligibility process is based upon one's functional physical and/or mental ability to utilize accessible regular transit services, based upon a review of a revised application which emphasizes function ability - not disability. Application reviews, routine eligibility determination, and travel training is conducted by League of Human Dignity staff. The eligibility process was implemented in November 1999. To date, the City of Lincoln / StarTran meets all requirements of the ADA and is in full compliance.

Public Participation Process - The city, since 1978, has had an established citizen review and participation program. Since September, 1991, special transportation program contracts have been executed between the City of Lincoln and the League of Human Dignity, Inc. "for the provision of an appeals mechanism and mechanism for continuing public participation in relation to the special transportation programs for the handicapped of StarTran."

Pedestrian Facilities Plan for ADA Compliance. The City of Lincoln underwent an investigation for compliance with the *American with Disabilities Act* in meeting the requirement for installation of

curb ramps at existing pedestrian walkways. The City of Lincoln hosted Civil Rights Training for staff to assure sensitivity and knowledge of laws governing the stewardship of the *American with Disabilities Act*, established quality assurance training and developed a Pedestrian Master Planning document that is under review.

Appropriate requirements of the February 14, 2007 Federal Register (Vol. 72, No. 30), Final Rules and Regulations (23 CFR Part 450 and 49 CFR Part 613) of SAFETEA-LU (Pub. L. 109-59):

- Designation of a Metropolitan Planning Organization (MPO) with representation by principal elected officials

On March 22, 1974, the State of Nebraska designated the City of Lincoln as the Metropolitan Planning Organization (MPO). A Memorandum of Understanding was executed between the city, county, state, and Planning Commission, in cooperation with the FHWA and FTA, concerning transportation planning in the Lincoln Metropolitan Area. In the Memorandum of Understanding, the cooperating agencies agreed to proceed in accordance with provisions for the transportation planning process as identified in appropriate federal laws and regulations and as documented in the Lincoln MPO Management Plan (prospectus). The Lincoln MPO adopted the MPO Management Plan in September of 2009.

The development of new interagency planning agreements are being coordinated by the MPO with the City of Lincoln, Lancaster County and the State of Nebraska to better define the roles and responsibilities of the key agencies in the MPO 3-C planning process. A draft agreement was submitted to the Nebraska Department of Roads for review and comment in June of 2010 and is currently under review.

Transportation Management Area Status. Based on the results of Census 2000 published on May 1, 2002, the Lincoln Urbanized Area obtained a population of over 200,000 and according to Federal regulations (23 USC 134), on July 8, 2002 the Lincoln MPO was designated by the FHWA and FTA as a Transportation Management Area (TMA).

- Description and documentation of anticipated expenditure of urban transportation planning funds, with MPO endorsement

The *FY 2011-2012 Lincoln-Lancaster County Unified Planning Work Program (UPWP)* includes descriptions of anticipated expenditures of urban transportation planning funds including FTA Sections 5303 and 5307 funds and FHWA/State PL Funds. The UPWP provides detailed descriptions of the planning products, including time frames, activity costs, funding sources, activity support and deadlines when deliverable products can be expected. Revisions to the UPWP are incorporated to include the changes to planning work activities as needed. This program was approved by the Officials Committee and endorsed by the MPO.

- Transportation plan describing policies, strategies and facilities or changes in facilities, with analysis of transportation system management strategies to make more efficient use of existing transportation systems; as endorsement of the transportation plan by the MPO

The *2040 Long Range Transportation Plan* for the Lincoln MPO was coordinated with the Lincoln City and Lancaster County land use and future growth plans and other area planning

documents. All transportation modes are considered with plans Pedestrian, Bicycle and Trails facilities; Future Urban Street and Road Network Plans which include the Functional Street and Road Classifications, Urban Area Street Improvements, and County Road Improvements; a Goods and Freight Movement Plan; and generalized plans for Public Transportation, Railroads, and Airports and Airfields. The plan reflects road improvement types according to specific street design standards, identifying the number of lanes and the right-of-way required for a proposed improvement. Key elements include a detailed financial plan, an “illustrative” list of transportation projects, and environmental mitigation strategies based on consultation with stakeholders and interest groups. The current *Transportation Plan* was reviewed at a series of public hearings by the Lincoln-Lancaster Planning Commission and adopted by the Lincoln MPO on December 1, 2011.

Intelligent Transportation Systems Regional Architecture. The Lincoln MPO advanced the development and application of ITS across the region to increase highway safety, mobility, security, economic health and community development and preservation of the environment. The *ITS Regional Architecture Plan* outlines the Stakeholder Involvement and an Outreach Plan. The final report was submitted to the FHWA for concurrence and accepted in August of 2005. The ITS Regional Architecture Plan is a key element of the MPO Transportation Planning process and implements the ITS strategies of the long range Transportation Plan.

- Transportation Improvement Program with MPO endorsement

The *FY 2012-2015 Lincoln-Lancaster County Transportation Improvement Program* (TIP) was approved by the Technical Committee on May 19, 2011 and a Public Hearing was held at the Planning Commission on May 25, 2011. The MPO Officials Committee approval and MPO endorsement was June 23, 2011.

The draft *FY 2013-2016 TIP* is in the process of being reviewed and acted upon in conjunction with this MPO self-certification process. The MPO Technical Committee and Officials committee reviews are expected to be completed by June 15, 2012.

Corrective Action: The TIP financial plan must be upgraded to incorporate the full scope of projects and the programming process. The project programming process is detailed in the financial element of the Transportation Plan and Technical Documentation adopted December 1, 2011. TIP format modifications were made in FY 2011-2014 that included showing (a) total project costs, (b) reference to the financial element in the Transportation Plan and (c) project costs in year of expenditure dollars. These were further developed in the FY 2012-2015 TIP. The MPO, with its planning partners, are currently working on documenting the project selection criteria and process for the TIP. This includes incorporating the criteria or actual strategies/projects directly from Transportation Plan and the Congestion Management Process.

The TIP document includes greater discussion of how the TIP implements or advances major projects as an extension of the LRTP. Staff is developing a detailed transportation project programming process that will include strategies for selecting projects using criteria from the Congestion Management Process and the updated LRTP. This prioritization process will be fully detailed and incorporated in the annual updating process for the TIP.

- Certification by the MPO and the State that the planning process is being carried on in conformance to appropriate Federal laws and regulations

MPO Self-Certification Review. In accordance with 23 CFR Part 450.334 and 450.220 of the *Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU), each MPO is to annually certify to the FHWA and FTA that the planning process is addressing the major issues facing the area and is conducted in accordance with all applicable federal requirements.

FHWA/FTA Joint TMA Review. The Lincoln MPO was designated by the FHWA and FTA as a Transportation Management Area (TMA) July 8, 2002 which requires a detailed review of the MPO transportation planning process on a four-year cycle. This review determines whether the planning process is meeting required provisions of Federal laws.

The federal Quadrennial Certification Review of the Lincoln MPO was conducted by the FHWA and FTA on May 5-6, 2009 with the final “FHWA/FTA Joint Certification Review” report presented to the MPO Officials Committee on September 24, 2009. The result included six commendations, seven programmatic recommendations (PRs) and 12 corrective actions (CAs). The federal team conditionally certified the transportation planning process for the Lincoln Metropolitan area with the understanding that the solutions to the CAs will be addressed in a specified time frame and outlined in a federally approved “Action Plan.” The MPO *Action Plan* addressing the Certification Review received FTA/FHWA Concurrence on April 16, 2010.

The next FHWA/FTA Joint TMA Certification Review for the Lincoln Metropolitan Area transportation planning process is programmed on a four-year cycle and is to take place in 2013.

MPO Self-Certification Review Findings. Based upon the MPO staff review and evaluation, conditions as identified in the MPO *Action Plan for Addressing the Quadrennial Certification Report*, and in accordance with 23 CFR Part 450.334 and 450.220 of SAFETEA-LU, the Lincoln MPO Transportation Planning Process is in compliance with applicable Federal laws and regulations.

## **RECOMMENDATION:**

As a result of the above compliance evaluation, the MPO Technical Advisory Committee recommendation is that the Lincoln Metropolitan Planning Organization endorse this compliance evaluation report and certify that the Transportation Planning Process for the Lincoln MPO Planning Area, with conditions identified in the Lincoln MPO *Corrective Action Work Plan for Addressing the Quadrennial Certification Report*, is substantively meeting the requirements of 23 CFR 450.334(a), *Self-Certifications and Federal Certifications*, as published in Federal Register/Volume 72, No.30/February 14, 2007/Final Rule.