



Via Email and U.S. Mail

October 2, 2026

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FHWA, Minnesota Division
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Subject: 2026 Regional Solicitation for Federal Transportation Funds
Compliance with Current Federal Policy

Dear Ms. Brookins and Mr. Meyer:

I am writing in response to your joint letter dated August 26, 2026, on the above-referenced topic. In your letter, you addressed concerns that the Metropolitan Council's Regional Solicitation for Federal Transportation Funds (the "Regional Solicitation") may not be in alignment or compliance with current federal policy or antidiscrimination law. This response is intended to explain that although the Council disagrees with those suggestions of noncompliance, we are nevertheless recommending adoption of your proposed amendments to the Regional Solicitation in the interests of clarity. A copy of the proposed amended Regional Solicitation Community Considerations document is enclosed for your information.

Compliance with Federal Antidiscrimination law

Specifically, your letter suggested that the Council was out of compliance because the Solicitation's Community Considerations criteria could be read as prioritizing federal financial assistance based on race, color, or national origin, in violation of 49 CFR Part 21 and Title VI of the Civil Rights Act of 1964. A similar suggestion was previously raised by Scott County in its letter dated March 30, 2026. I previously responded to Scott County in a letter dated April 3, 2026, a copy of which is enclosed for your reference.

In that prior letter, I pointed out that the Council is compliant with all federal transportation planning requirements and provided context about the Community Considerations criteria being used in the Solicitation. That context included the fact that all parties, including Scott County, agreed with the importance of evaluating Community Considerations as part of the Regional Solicitation. I also pointed out that the Regional Solicitation's definition of community includes "all populations" and that applications were asked to address the data and context of engagement with and benefits to "all people near and adjacent to the proposed projects." I also noted that the Regional Solicitation provided no recommendation or guidance that scorers award points based on the presence of specific populations; rather, a high scoring application is one that reflects an understanding of a community's demographics, context, and transportation history, and incorporates that understanding into its proposals.

The Community Considerations criteria does not score applications on the basis of race, color, or national origin, but instead the criteria uses three measures based upon the following:

1. the applicant's knowledge of the people who live, work, go to school and access destinations near the proposed project;
2. how the applicant has engaged with people, businesses and other organizations in the project area regarding the project need and what future engagement will occur and,
3. how the project will benefit and impact the people, businesses and organizations in the project area.

In addition to the Community Considerations, other scoring criterion and measures consider the benefits to other users of the proposed project. These include safety measures, the regional truck corridor priorities measure, and travel delay reduction and reliability measures.

The Community Considerations measures do not award points or funding priority on the basis of race or national origin; they are not intended for that purpose. Instead, the Community Considerations measures are intended to allow applicants to demonstrate that their project has merit for **all** members of their community. All of the Council's work, including the scoring of the Solicitation, is subject to the Council's general prohibition against discrimination, which provides that Council members as well as members of its advisory committees or boards are prohibited from illegal discrimination.

Clarifying Amendments to the Regional Solicitation Scoring Criteria

Despite these disagreements with your letter, we are recommending that the Transportation Advisory Board (TAB) review and recommend a revised Community Considerations criteria description and scoring guidance for the Council to adopt in order to clarify the intent of the Community Considerations measures. A draft version of the revised Community Considerations description and scoring document is submitted with this letter containing the intended updates. This update also includes language specifically reiterating the Council's preexisting prohibition against illegal discrimination. The edits specifically respond to the direction provided in your letter as follows:

- Scoring prompts have been removed along with references to the foundational policies.
- References to the environmental justice framework and historical harms are removed.
- The definition of community has been removed.

- The Council's prohibition against illegal discrimination in the scoring of the solicitation has been reiterated and highlighted

Next Steps for the Regional Solicitation

As you know, the Regional Solicitation is a multi-year competitive process involving our TAB which includes local elected government and agency officials from throughout the region. TAB spent approximately one year designing and approving the application, including a robust public comment process. The application process opened in late April and closed on June 25, 2026, over 170 applications were submitted and scoring had commenced prior to receipt of your letter. Incorporating these revisions will thus require reopening and repeating portions of this complex process.

As per our usual process, we will bring the revised draft Community Considerations document to the TAB and its technical committees for their review, input and recommendation. The TAB's recommendation will subsequently be presented to the Council for approval likely in December. Once the revised Community Considerations description and scoring guidance has been adopted, we will reopen the application for the purpose of allowing applicants an opportunity to revise and resubmit their responses to these measures. We will then move into the scoring process which will include holding a training session with scorers on the revised measures and scoring guidance, and directing that they review and rescore the applications using the revised document containing your recommended changes. The Transportation Advisory Board (TAB) will then review potential funding options and recommend a program of projects for funding with final program selection by the Metropolitan Council in approximately early summer 2027.

Our region has a longstanding history of constructive work between the Council, MnDOT and the USDOT in fulfillment of federal transportation planning requirements. These revisions represent a strong effort to clarify our compliance with all applicable federal requirements and continue the Regional Solicitation without further delay. We look forward to advancing this process and bringing forward a successful result for the entire region.

Sincerely,



Robin Hutcheson
Chair, Metropolitan Council

CC: Nancy Daubenberger, Commissioner, MNDOT
TAB Members

COMMUNITY CONSIDERATIONS

Measures Description

Introduction

The Community Considerations measures focus on the nearby communities who will both use and be impacted by the project, while other Solicitation measures such as the regional truck corridor priorities, delay reduction and reliability, and safety measures, focus primarily on the project users. The Community Considerations criteria and measures are meant to provide applicants the opportunity to share the story of their proposed project as it relates to the nearby communities it will serve and impact.

The Community Considerations responses should explain:

- Who lives, works, and utilizes destinations near the proposed project;
- How they have been, and will be, engaged on the proposed project, and
- How they will benefit from and be impacted by the proposed project.

Prohibition against Illegal Discrimination

Metropolitan Council policy prohibits illegal discrimination based on the protected classes of race, color, creed, religion, national origin, sex, marital status, public assistance status, sexual orientation, genetic information, disability, age, or membership or activity in a local human rights commission. Illegal discrimination will not be tolerated.

The Regional Solicitation and related procedures, including scoring of applications, may not be used to exclude any person, group, or applicant from participation in, deny any person, group, or applicant the benefits of, or otherwise discriminate against any person, group, or applicant in connection with the Regional Solicitation on the basis of race, color, or national origin, or any other protected class. See *also* 49 CFR part 21, and Title VI of the Civil Rights Act of 1964. No applicant may be scored lower than a similarly situated applicant on the basis of race, color, national origin, or any other protected class.

COMMUNITY CONSIDERATIONS

Measures	Rating/Points	%
A. Community Data and Context Describe the project area's community data and context including using census and other local data to describe who lives, works and utilizes destinations near the proposed project and identify important regional and local destinations the community members access regularly. Relate the community data to the project purpose. Supplement widely available demographic data with community-specific information via additional maps or descriptions.	Low / Low-Medium / Medium / Medium-High / High	33% (6.7 points)
B. Community Needs and Future Engagement Describe how the project was identified, and how it addresses a community need. Community needs may be identified through long-range or strategic planning, community surveys, formal or informal meetings and conversations with community members or neighborhood groups, outreach, and other means. Describe any discussion with communities, and how it contributed to identifying the project need. Describe how community engagement will occur throughout the project. Reference the engagement spectrum of public participation (inform, consult, involve, collaborate, empower) and identify levels that apply. Describe and link (if possible) documented organizational structures that support future engagement on the project; these structures could include policies, procedures, financial or staff resources, or other documents.	Low / Low-Medium / Medium / Medium-High / High	33% (6.7 points)
C. Community Benefits Provide a description of the anticipated project benefits and how these benefits address the needs of the identified communities. Describe how the project will mitigate and address any potential impacts on the identified communities.	Low / Low-Medium / Medium / Medium-High / High	33% (6.7 points)
Final rating/score		100%

COMMUNITY CONSIDERATIONS

Scoring Rubric

Applicants will receive a High, Medium/High, Medium, Medium/Low, or Low rating for each of the three measures. The expectations should be considered as cumulative, i.e., Medium builds on Low; High builds on Medium. Scoring via this rubric will be based exclusively on the application materials provided.

A. Community Data and Context

The project application...

Low	Medium	High
- Includes general census data on communities. - Has a basic list of important destinations without demonstrating local knowledge. - Has a project area description but lacks community insight or context.	- Has local maps and/or description beyond census data. - Has data or maps that demonstrate detailed knowledge of the nearby communities. - Describes housing and business types near the project including multi-family and affordable housing locations. - Links data to project purpose.	- Has granular, neighborhood-scale data and context on communities. - Identifies community assets and locations (i.e. parks, schools, churches) & significant destination sites validated through engagement. - Has data on how community travels and accesses important destinations and how the project will improve transportation. - Has data on any community history related to the transportation system.

COMMUNITY CONSIDERATIONS

B. Community Needs and Future Engagement

The project application...

Low	Medium	High
- Does not link past planning and information-gathering work with communities to identify project need. - References planning work that is too broad to practically influence project need. - Does not include description of input and interactions with communities that helped identify the project need. - Does not include description or commitment to future engagement efforts with communities.	- Describes how the project need was identified through planning and information-gathering work with communities. - Describes how input from communities helped identify the project need and purpose. - References engagement spectrum of public participation and identifies future community engagement activities. - Describes how nearby communities will be included in future engagement efforts.	- References documented organizational policies, procedures and commitments that support future engagement with communities on the project, e.g.: - Policy, procedure, and/or budget to compensate engagement participants. - Formal, approved engagement plan. - Project goals that address impacts shaped by community input. - Commitment to financial opportunity for local businesses and contractors. - Advisory committee charter. - Dedicated project engagement staff. - Other governing board or council action demonstrating a commitment to community considerations.

COMMUNITY CONSIDERATIONS

C. Community Benefits

The project application...

Low	Medium	High
• Does not describe project benefits for identified communities. • Describes benefits in general terms. • Does not acknowledge potential project impacts and how they will be addressed.	• Describes benefits for nearby communities. • Ties benefits directly to community-identified needs. • Describes how benefits were identified through engagement. • Includes mitigation plans for project impacts.	• Describes how project improves access to important destinations identified by community. • Describes how project includes elements to mitigate impacts. • Describes how project improves safe access to priority destinations. • Describes how project adds context-sensitive features beyond transportation needs.



April 3, 2026

Commissioner Jon Ulrich
Chair, Scott County Board of Commissioners
200 Fourth Avenue West
Shakopee, MN 55379-1220

Subject: Scott County 3-30-2026 Letter to USDOT regarding the Transportation Advisory Board
Regional Solicitation Process

Dear Chair Ulrich:

I am writing in response to Scott County's recent letter to the USDOT Secretary expressing concerns with the region's proposed design of its Regional Solicitation for Federal Funds.

First, thank you for your on-going participation on both the Regional Solicitation Policymaker Work Group and the Transportation Advisory Board (TAB) over the past 2.5 years as these groups worked to redesign the Solicitation. These groups, representing the voices of elected local government, technical experts and the public, served as the effort's key decisionmakers. The Metropolitan Council disputes your characterization of the Regional Solicitation criteria and the Transportation Advisory Board process included in your letter.

The Council serves as the region's lawfully designated Metropolitan Planning Organization under 23 USC 134, as FHWA and FTA reaffirmed as recently as March 2025.¹ The Council remains compliant with all federal transportation planning requirements. The TAB is created under state law (Minnesota Statutes Section 473.386) to advise the Council on transportation planning matters. The TAB has primary responsibility for designing and recommending the Solicitation to the Council for approval.

Under longstanding agreed upon regional practice, the Council can either agree without modification to the TAB's recommended Solicitation design or send it back for reconsideration. Because TAB's membership includes a majority of local elected officials along with agency, modal and citizen representatives, this practice assures that local representatives have the primary voice in deciding how the region's federal funds are allocated to local projects.

At the March 18, 2026 TAB meeting that included a representative from Scott County elected leadership, on a voice vote with almost unanimous support, the TAB accepted the proposed Solicitation public comment report and recommended that the Council approve its updated

¹ *March 2025 Metropolitan Council Transportation Management Area Planning Certification Review*. "Over the years, FHWA and FTA have received several inquiries regarding the Council's composition In response to the inquiries, FHWA and FTA have consistently noted that the Council was designated as the MPO before December 18, 1991, and has not been redesignated since. This allows the Council to qualify for the exemption under 23 USC 134(d)(4) regarding MPO composition requirements. The 2024 TMA certification review upholds this determination."

Solicitation design. The TAB's action followed a two-year process that included multiple rounds of public engagement, a formal 45-day comment period, policymaker work group meetings, and broad participation from local governments and the public.

During the Solicitation redesign process, there was considerable discussion by TAB of the proposed Community Considerations criteria and measures, specifically whether these measures should comprise 15% or 20% of project scores. The TAB recommended 20% while Scott County preferred 15% weighting for this measure. For roadway projects the other 80% of the scoring uses measures for safety, reliability, excessive delay, freight, and multimodal connections. In the application category for Roadway Congestion Management Projects, 45% of the points are for delay reduction, reliability, and freight, 30% are for safety and multimodal connections and 5% are for natural resource considerations. These 80% measures relate to freight and people movement through project areas, while 20% of project scores relate to the experiences of nearby people and communities.

We'd like to clarify three specific issues raised in Scott County's letter that are not supported by the record of the solicitation design process:

1. In the USDOT letter, Scott County suggests that it submitted comments to the Council and TAB in opposition to the Community Considerations criteria. The attached resolution sent by Scott County expresses support for these criteria (third comment bullet): *"Community Considerations are important and should remain part of the scoring framework, however we are concerned that the current 20% weight outweighs core technical objectives within each funding category."* This comment rightfully led us to believe that the county was in support of Community Consideration measures but had an issue with the weighting or value of the measures. The TAB discussed and voted on the measures weighting and chose to set it at 20%.
2. Scott County suggests that it requested, and that the Council declined, a specific request for a USDOT review of the Community Considerations measures. We are not in receipt of any record indicating a specific request to seek federal review of these measures. Criteria included in the regional solicitation is consistent with federal guidelines, therefore no additional review of local decision-making would be expected.
3. In its letter to USDOT, Scott County suggests that the Community Considerations engagement measure is narrowly defined to outreach to only specific communities and that projects will be evaluated only from this feedback.

The definition of Community includes all populations adjacent to and impacted by a project. Applicants are asked to address the data and context of, engagement with, and benefits to, all people near and adjacent to proposed projects. The solicitation provides no recommendation or guidance that scorers award points based upon the presence of specific populations.

While we recognize that Scott County has expressed concerns, the TAB's recommendation reflects a broad, multi-year regional process and was supported by its membership, including local elected officials.

I hope you will consider this letter as part of the longstanding constructive work between Scott County and the Metropolitan Council. I look forward to when we can discuss these, and other matters of our mutual regional benefit, in person.

Sincerely,

A handwritten signature in blue ink that reads "Robin Hutcheson". The signature is fluid and cursive, with the first name "Robin" and last name "Hutcheson" clearly legible.

Robin Hutcheson
Chair, Metropolitan Council

CC: Senator Amy Klobuchar
Senator Tina Smith
Representative Angie Craig
USDOT
Scott County Commissioners
Anoka County Chair Schulte
Carver County Chair Workman
Dakota County Chair Halverson
Washington County Chair Bigham
Met Council Representative Deb Barber
Met Council Representative Wendy Wulff