

**Partnership for Sustainable Communities:
Summary of Relevant Federal Planning Requirements
and Options for Improved Coordination**

White Paper

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Table of Acronyms

CAA	Clean Air Act
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations
DOT	U.S. Department of Transportation (unless part of phrase “State DOT”)
EPA	U.S. Environmental Protection Agency
ESG	Emergency Shelter/Solutions Grants
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
HOPWA	Housing Opportunities for Persons with AIDS
HUD	U.S. Department of Housing and Urban Development
IUP	Intended Use Plan
MPO	Metropolitan Planning Organization
NAAQS	National Ambient Air Quality Standards
QAP	Qualified Allocation Plan
SIP	State Implementation Plan
SRF	State Revolving Fund
STIP	Statewide Transportation Improvement Program
TCM	Transportation control measure
TIP	Transportation Improvement Program
USC	United States Code

1. Introduction

1.1. The Partnership for Sustainable Communities

In June 2009, the U.S. Environmental Protection Agency (EPA) joined with the U.S. Department of Housing and Urban Development (HUD) and the U. S. Department of Transportation (U.S. DOT) to form the Partnership for Sustainable Communities. The goal of the Partnership is to improve access to affordable housing, to provide more transportation options, and to lower transportation costs, all while protecting the environment. Using a set of guiding livability principles, the three participating agencies will coordinate Federal housing, transportation, water quality, and other infrastructure investments to protect the environment, promote equitable development, and help to address the challenges of climate change.

The six guiding livability principles are as follows:

1. Provide more transportation choices;
2. Promote equitable, affordable housing;
3. Enhance economic competitiveness;
4. Support existing communities;
5. Coordinate and leverage Federal policies and investment; and
6. Value communities and neighborhoods.

1.2. Purpose of Paper

This paper supports the fifth of the livability principles by summarizing the planning requirements of EPA, HUD, and DOT that pertain to land use, affordable housing, transportation, and environmental protection. It then describes the barriers that discourage better coordination or integration of the planning activities undertaken to comply with these Federal requirements. The paper then offers some options for how Federal regulations, policies, and programs could be changed to allow and encourage more integrated or comprehensive planning by local, regional, and State governments. In addition to encouraging more comprehensive plans, these changes could also allow communities to target Federal funds in a more coordinated fashion.

This paper was prepared for EPA's Office of Policy, Economics, and Innovation. Although it is intended to assist the Partnership for Sustainable Communities, this paper is not a product of the Partnership itself.

1.3. Scope of Paper

This paper focuses on the HUD, DOT, and EPA planning requirements that directly affect land-use decisions. Although the U.S. Treasury Department is not in the Partnership for Sustainable Communities, this paper includes a planning requirement of a crucial Treasury Department

affordable housing program. With the exception of the brownfields program, the paper does not address requirements for local or site-specific plans, but rather describes requirements for plans that are Statewide or regional in scope. With regard to transportation planning, the paper discusses only planning requirements for surface transportation. Although there are Federal planning requirements for other modes (e.g., airport master planning), planning for surface transportation infrastructure is most relevant to the goals of the Partnership.

2. Relevant Agency Planning Requirements

This section of the paper summarizes by agency the Federal planning requirements that are relevant to the goals of the Partnership for Sustainable Communities. For each agency, the descriptions of the specific planning requirements are followed by a brief summary of the regulatory and programmatic context in which the agency has established the planning requirements. These summaries also address the extent to which each agency's planning activities are already coordinated or integrated with other planning efforts described in the paper.

2.1. EPA

2.1.1. Relevant EPA Planning Requirements

Intended Use Plans for Clean Water State Revolving Funds

Description of Plan: The Clean Water Act and its implementing regulations require that each State prepare an annual IUP for its Clean Water SRF each year. The primary purpose of the IUP is to identify the intended uses of the funds available to the SRF in the next year. An IUP must contain a list of projects that the State expects to fund in the coming year. It must also describe the criteria and method used to select the listed projects.

Relevance to the Partnership: Decisions about the allocation of Clean Water SRF funds can affect development patterns, because the funds are widely used to finance municipal wastewater treatment projects. SRFs are also a funding source for projects to control nonpoint source pollution and to protect estuaries.

Federal Funds Contingent on Required Planning: States must prepare IUPs annually to remain eligible for Federal Clean Water SRF capitalization grants, which are awarded pursuant to 40 CFR subpart K. As long as Federal capitalization of the Clean Water SRFs continues, U.S. EPA has implicit authority to approve or disapprove State IUPs as a part of the grant award process.

Who Prepares the Plan: The State instrumentality that is administering the Clean Water SRF, usually a State department of environment or public health.

Planning Time Horizon: A State IUP must include a list of the projects to be assisted in the first fiscal year that begins after the date of the plan. The plan must also include the short-term and long-term goals of the SRF.

Frequency of Plan Updates: Annually.

Existing Coordination Mechanisms: The IUP must be made available to the public for review and comment, but there are no requirements for interagency coordination. In October 2000, EPA published a document titled, *Potential Roles for Clean Water State Revolving Fund Programs in Smart Growth Initiatives*.¹ This document offers voluntary guidance to States interested in coordinating the distribution of Clean Water SRF loans with State and local smart growth policies and initiatives.

Statutory Reference: 33 USC 1386(c)

Regulatory Reference: 40 CFR 35.3150

Intended Use Plans for Drinking Water State Revolving Funds

Description of Plan: Each year a State must prepare an IUP describing how it will direct funds available from its Drinking Water SRF program. It must identify the projects to be funded, describe the criteria the State uses to prioritize projects for funding, and indicate how the State will use set-aside funds. States must give highest priority to projects that address the most serious risks to public health, are necessary to achieve regulatory compliance, and assist systems most in need on a per-household basis.

Relevance to the Partnership: Drinking Water SRF funding decisions can affect development patterns, because the funds are widely used to finance drinking water treatment projects.

Federal Funds Contingent on Required Planning: A State must prepare an annual IUP as long as its Drinking Water SRF or set-aside accounts remain in operation. States must also submit an IUP prior to the award of a Federal Drinking Water SRF capitalization grant. These grants are awarded pursuant to 40 CFR subpart L.

Who Prepares the Plan: The State instrumentality that is administering the Drinking Water SRF, usually a State department of environment or public health.

Planning Time Horizon: The IUP must contain a list of projects that are expected to receive funding during the next fiscal year. It must also include a comprehensive list of projects that are expected to receive assistance after the next fiscal year.

Frequency of Plan Updates: Annually.

Existing Coordination Mechanisms: The IUP must be made available to the public for review and comment, but there are no requirements for interagency coordination.

Statutory Reference: 42 USC 300j-12(b)

¹ U.S. EPA, *Potential Roles for Clean Water State Revolving Fund Programs in Smart Growth Initiatives*, October 2000, EPA 832-R-00-10, <http://www.epa.gov/owm/cwfinance/cwsrf/smartgro.pdf>.

Regulatory Reference: 40 CFR 35.3555

Brownfields Reuse/Redevelopment Plans

Description of Plan: A brownfields reuse/redevelopment plan identifies a probable end use for a contaminated site (or sites) that is protective of health and the environment. The plan then outlines the steps to be taken to get through the various stages of site clean-up to redevelopment and reuse of the site. A critical element of such a plan is the identification of institutional controls. Capping often involve placement of a building slab or parking lot over contamination left in place, which influences site and structural configuration. A community- or area-wide reuse/redevelopment plan usually includes criteria for prioritizing clean-up of multiple brownfield sites.

Relevance to the Partnership: Redevelopment of brownfields is one way to promote infill development and to reduce urban sprawl, while at the same time reducing risks to public health and the environment. Brownfields are often located near affordable housing and other amenities, but are underutilized due to concerns about potential health risks and liability from past environmental contamination.

Federal Funds Available for Planning: Planning is not required to receive brownfields funding from EPA, but it is one of the activities that can be funded by an EPA brownfields assessment grant.² These grants are awarded pursuant to 42 USC 9604(k)(2).³ However, proposals that budget the majority of grant funds for site assessments are preferred over those that focus on planning or inventory activities. An assessment grant can be site-specific or "community-wide" (i.e., funding the assessment of at least five brownfield sites).

Who Prepares the Plan: Eligible grant recipients include State, local, and tribal governments. Also eligible are redevelopment agencies, land clearance authorities, regional councils, and other quasi-governmental entities.

Planning Time Horizon: Not specified.

Frequency of Plan Updates: Not specified.

Existing Coordination Mechanisms: EPA encourages grant applicants to show how a brownfield project will complement and enhance broader community development strategies and how the project relates to a community's master plan, development plan, or growth plan. EPA also encourages applicants to coordinate brownfield projects with other types of plans and programs, including special economic zones, Main Street programs, and industrial area plans.⁴ Many grant applicants emphasize such links by submitting public and private letters of support. In addition,

² U.S. EPA, "Brownfields and Land Revitalization: Assessment Pilots/Grants," http://www.epa.gov/brownfields/assessment_grants.htm, accessed March 23, 2010.

³ U.S. EPA's guidelines for its brownfields assessment grants are available at: <http://www.epa.gov/brownfields/applicat.htm>.

⁴ U.S. EPA (Region 3), "Helpful Hints for Preparing Your Brownfields Funding Proposal," <http://www.epa.gov/reg3hwmd/bf-lr/bfgrants/hints.html>, accessed on February 16, 2010.

the required public participation process provides an important avenue for stakeholders to push for planning links.

Statutory Reference: 42 USC 9604(k)(2)

Regulatory Reference: None.

Clean Air Act State Implementation Plans and Transportation Conformity Determinations

Description of Plan: A State Implementation Plan (SIP) is the air quality plan that explains how a non-attainment or maintenance area will meet the requirements of the Clean Air Act (CAA). A nonattainment or maintenance SIP is required for each pollutant for which an area is violating or has violated the National Ambient Air Quality Standards (NAAQS). Pollutants covered by the NAAQS are: ozone, particulate matter, lead, carbon monoxide, nitrogen oxides, and sulfur dioxide. A SIP contains many elements, including the regulations and any other measures a State will use to bring nonattainment areas into attainment and a demonstration that those measures will lead to attainment by the required date. Nonattainment areas that meet all CAA requirements and have monitored air quality data to show that they are attaining the relevant NAAQS may submit a redesignation request and a maintenance SIP that contains, among other items, sufficient measures to ensure that the area does not violate the NAAQS in the future.

The CAA requires an area's long-range transportation plan, Transportation Improvement Program (TIP, described below), and Federally funded or approved projects to conform to the purpose of the SIP. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations of the NAAQS, worsen existing violations, or delay timely attainment of the air quality standards or other interim reduction milestones.

Relevance to the Partnership: Transportation and air quality planning are closely linked through Federal laws and regulations that seek to reduce mobile source emissions. In nonattainment and maintenance areas, the MPO is required to make conformity determinations for transportation plans and TIPs whenever they are updated or amended to add projects that are not exempt from the conformity requirements. Upon the MPO's determination, FHWA and FTA then jointly make conformity determinations on those documents, as well as for specific projects receiving FHWA or FTA funding support. In addition, States are required to include all projects from MPO TIPs in the Statewide Transportation Improvement Program (STIP), including all transportation control measures (TCMs) that are covered. The State must also include in a SIP all TCMs to reduce mobile source emissions, including those resulting from increased transit and reduced private motor vehicle use or to change traffic flow or congestion conditions (e.g., adding High Occupancy Vehicles lanes). The SIP also includes motor vehicle emissions budgets, which effectively serve as a limit on the emissions that can be generated by an area's planned and programmed transportation system.

Federal Funds Contingent on Required Planning: In air quality nonattainment and maintenance areas, the ability of State and local agencies and transit operators to receive funding from FHWA

(as authorized in 23 U.S.C.) and FTA (as authorized in 49 U.S.C. 53) is dependent on the transportation conformity determinations made by the MPO, FTA, and FHWA, per the CAA.

Nature of Federal Planning Requirement: States are required to prepare a SIP for each area that EPA designates as being in “non-attainment” with a particular NAAQS. The SIP must demonstrate how the NAAQS will be attained. EPA is required to review and approve or disapprove SIPs. The SIP is to be developed by the State air quality agency in consultation with local air quality agencies, State and local transportation agencies, MPOs, and other agencies, as appropriate. If a State does not submit a SIP, then EPA can make a finding to that effect and eventually must issue a Federal Implementation Plan if the State does not respond to the finding with a SIP submission in the allotted time.

There are conformity consequences for not submitting a SIP according to the CAA's deadlines or EPA disapproval of a submitted SIP, including limiting the expenditure of federal dollars for projects that are already included in the long-range transportation plan and TIP. In addition, separate from the conformity process, CAA sanctions are imposed automatically if certain SIP deficiencies are not corrected within 18 months to 2 years. A limit on the use of federal highway funds is one of these sanctions. When a highway sanction is imposed, only specific categories of transportation actions that are exempt from conformity requirements may proceed toward final construction and implementation.⁵

Who Prepares the Plan: A State air quality agency prepares the SIP. MPOs and FTA/FHWA, in consultation with State and/or local environmental agencies prepare the conformity determinations.

Planning Time Horizon: A State's SIP planning window varies according to pollutant and, for some pollutants, the severity of the problem. Depending on the pollutant or severity of the problem, nonattainment areas have from 3 to 20 years to reach attainment. Transportation conformity determinations for transportation plans and TIPs include a regional emissions analysis that estimates the emissions from all current and proposed projects over the timeframe of the transportation plan, and, in most cases, compares those project emissions to the motor vehicle emissions budgets in the SIP. In isolated rural nonattainment and maintenance areas, a regional emissions analysis is required to cover the timeframe of the State long-range transportation plan or at least 20 years into the future.

Frequency of Plan Updates: States are required to update and submit their SIPs to EPA if EPA issues a revised NAAQS, if the classification of their attainment severity changes, or if EPA issues a “SIP Call” under its CAA authorities. Transportation conformity determinations for transportation plans and TIPs are required at least every 4 years, and more frequently when transportation plans or TIPs are amended mid-cycle. Conformity determinations are also required within 2 years of EPA approving or finding as adequate a new SIP motor vehicle emissions budget.

⁵ FHWA, “Air Quality Planning for Transportation Officials: Sanctions,” <http://www.fhwa.dot.gov/environment/aqplan/aqplan11.htm>, accessed March 24, 2010.

Existing Coordination Mechanisms: A State air quality agency is required to coordinate with the State DOT, the MPO, and other State and local air quality and transportation agencies during the development of the SIP. In addition, the transportation conformity process described above requires FHWA and FTA to make conformity determinations for long-range transportation plans, TIPs, and Federally funded or Federally approved projects in nonattainment and maintenance areas. EPA and State and local air quality agencies, as well as other relevant agencies, have a consultative role in the analysis and determinations that are required for these conformity determinations.

In terms of long-range transportation plans and TIPs, the joint conformity determination of FHWA and FTA is based on a quantitative demonstration that projected motor vehicle emissions from the planned transportation system do not exceed the motor vehicle emissions budget established in the SIP. The emissions budget provides the upper limits for emissions in specific years that serve as milestones intended to bring the area into attainment of the air quality standards or to ensure maintenance of the standards. If the emissions resulting from implementing the transportation plan or TIP cannot meet the motor vehicle emissions budget, then changes may need to be made to the SIP or to the long-range transportation plan or TIP. Otherwise, if conformity is not determined according to the timeframes established in the CAA and its implementing regulations, a conformity "lapse" will occur after a 1-year grace period.⁶

Statutory References: 42 USC 7410(k)(2); 42 USC 7502 et seq.; 42 USC 7506(c).

Regulatory References: 40 CFR Parts 51 and 93 subpart A.

2.1.2. Summary of EPA Planning Requirements

The EPA planning requirements described above are distinct from each other in that they relate to different environmental or public health concerns and have different statutory origins. Currently, there is a very wide range in the extent of coordination or integration of the plans required by EPA. The process for developing SIPs under the Clean Air Act involves extensive, formal consultation and cooperation among air-quality regulators and transportation planners. In contrast, there are no requirements for interagency coordination or consultation during development of the IUPs required by the two water SRF programs.⁷ The brownfields program falls somewhere between these two extremes. EPA currently encourages applicants for brownfields assessment grants to demonstrate consistency with plans for the same geographic area, including plans that address housing issues. However, there is no formal requirement for grant applicants to do so.

⁶ FHWA, "Air Quality Planning for Transportation Officials: Transportation Conformity," <http://www.fhwa.dot.gov/environment/aqplan/aqplan12.htm>, accessed February 2, 2010. EPA's website also has information on the conformity regulations and policy guidance; see: <http://www.epa.gov/otaq/stateresources/transconf/index.htm>.

⁷ Federal law does allow States to coordinate the two SRF programs with each other, however. For example, States are allowed to transfer some funds between their Drinking Water and Clean Water SRFs, which gives them the flexibility to direct funds where they are most needed.

2.2. DOT

2.2.1. Relevant DOT Planning Requirements

Statewide Long-Range Transportation Plans

Description of Plan: A document resulting from a Statewide process of collaboration and consensus regarding a State's transportation system.

Relevance to the Partnership: A State's long-range transportation plan serves as the defining vision for the State's transportation systems and services, including transportation improvements outside of urban areas.

Federal Funds Contingent on Required Planning: To receive Federal funds, highway and transit projects must be consistent with approved Statewide and metropolitan transportation plans.⁸

Who Prepares the Plan: State DOTs, in consultation with affected non-metropolitan local officials with responsibility for transportation.

Planning Time Horizon: At least 20 years.

Frequency of Plan Updates: States are required to continually evaluate, revise, and periodically update their long-range transportation plans "as appropriate."

Existing Coordination Mechanisms: The governing Federal statute and regulations contain extensive requirements for consultation, coordination, and public participation:

- A State DOT must provide for participation by local officials from non-metropolitan areas. The procedures for this participation must conform to a documented process for consulting with non-metropolitan officials representing units of general purpose local government and local officials with responsibility for transportation. The documented process must be separate and discrete from the public involvement process and must provide an opportunity for participation in the development of the Statewide long-range transportation plan, as well as the Statewide Transportation Improvement Program (STIP, described below).⁹
- A Statewide long-range plan must be developed in consultation with Indian Tribal Governments.¹⁰
- A Statewide plan must be developed, as appropriate, in consultation with State, Tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.¹¹

⁸ 23 CFR 450.216(k) and 23 CFR 450.324(g).

⁹ 23 CFR 450.210(b) and 23 CFR 450.214(g).

¹⁰ 23 CFR 450.214(h).

¹¹ 23 CFR 450.214(i).

- A State DOT must consult with Federal, State, and Tribal agencies on potential environmental mitigation activities and areas and must include a discussion in the Statewide plan.¹²
- A State must have a documented public involvement process for its long-range plan and its STIP that provides reasonable opportunities for the following groups to be involved: citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties.¹³
- Public involvement at the community level is critical for identifying the attributes of livable and sustainable communities that the plan must address. The State's public involvement process must include a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services.¹⁴

Statutory References: 23 USC 135 and 49 USC 5304.

Regulatory Reference: 23 CFR 450.210 to 450.214.

Statewide Transportation Improvement Programs (STIPs)

Description of Plan: A short-term program or list of individual highway and transit transportation improvements scheduled to be funded by FTA under Chapter 53 of Title 49 or by FHWA under Title 23. A STIP is based on the State's long-range transportation plan, is constrained by estimates of the funds expected to be available, and includes all projects contained in the metropolitan area transportation improvement programs (TIPs) of individual MPOs.

Relevance to the Partnership: A STIP indicates which surface transportation projects are most likely to be undertaken in a State over the next 4 years. It programs FHWA and FTA funding for designated recipients in the State.

Federal Funds Contingent on Required Planning: Only projects in a STIP approved by FHWA and FTA are eligible for funds administered by FHWA or FTA.¹⁵

Who Prepares the Plan: State DOTs, in consultation with affected non-metropolitan local officials with responsibility for transportation.

¹² 23 CFR 450.214(j).

¹³ 23 CFR 450.214(k).

¹⁴ 23 CFR 450.210(a)(1)(viii).

¹⁵ 23 CFR 450.216(k) and 23 CFR 450.324(g). There are a few exceptions to this requirement; these are listed in 23 USC 450.216(g) and §450.218(d).

Planning Time Horizon: At least 4 years, but if the STIP covers more than 4 years, FHWA and FTA consider the projects in the additional years as “informational” only.

Frequency of Plan Updates: At least every 4 years.

Existing Coordination Mechanisms: Each Metropolitan Transportation Improvement Program (TIP) (see below) must be included without change in the STIP, directly or by reference, after approval of the TIP by the MPO and the Governor. For each non-metropolitan area in the State, the STIP must be developed in consultation with affected non-metropolitan local officials with responsibility for transportation.

A TIP in a nonattainment or maintenance area must have a U.S. DOT (FHWA/FTA) transportation conformity determination before inclusion in the STIP. In areas outside a metropolitan planning area but within an air quality nonattainment or maintenance area containing any part of a metropolitan area, projects must be included in the regional emissions analysis that supported the conformity determination of the associated metropolitan TIP before they are added to the STIP.¹⁶

Statutory References: 23 USC 135 and 49 USC 5304.

Regulatory Reference: 23 CFR 450.216.

Metropolitan Long-Range Transportation Plans

Description of Plan: A document resulting from a regional process of collaboration and consensus regarding a region's transportation system. A metropolitan long-range transportation plan makes estimates of a region's future transportation needs and identifies the investments that should be made given available funding.

Relevance to the Partnership: A metropolitan long-range transportation plan serves as the defining vision for a metropolitan area's transportation systems and services, incorporating the region's projected land uses.

Federal Funds Contingent on Required Planning: To receive Federal funds, highway and transit projects must be consistent with approved Statewide and metropolitan long-range transportation plans.¹⁷

Who Prepares the Plan: Metropolitan Planning Organizations (MPOs)

Planning Time Horizon: At least 20 years.

Frequency of Plan Updates: At least every 4 years in air quality nonattainment and maintenance areas and at least every 5 years in attainment areas.¹⁸

¹⁶ 23 CFR 450.216(b).

¹⁷ 23 CFR 450.216(k) and 23 CFR 450.324(g).

Existing Coordination Mechanisms: The governing Federal statute and regulations contain extensive requirements for consultation, coordination, and public participation:

- The MPO must consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.¹⁹
- The MPO must develop and use a documented public participation plan during development of a long-range transportation plan and a TIP that provides reasonable opportunities for the following groups to be involved: citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties.²⁰
- In metropolitan areas that are in nonattainment for ozone or carbon monoxide, the MPO must coordinate the development of a long-range transportation plan with the process for developing transportation control measures (TCMs) in a SIP.²¹
- In nonattainment and maintenance areas for transportation-related pollutants, the MPO and U.S. DOT (FHWA and FTA) must make a conformity determination on any updated or amended transportation plan in accordance with the CAA and EPA transportation conformity regulations.²²
- The MPO must involve Federal land management agencies when appropriate.²³

Statutory Reference: 23 USC 134 and 49 USC 5303.

Regulatory Reference: 23 CFR 450.316 to 322.

Metropolitan Transportation Improvement Programs (TIPs)

Description of Plan: A short-term program or list of individual highway and transit transportation improvements that is based on the metropolitan long-range transportation plan and is constrained by estimates of the funds expected to be available.

Relevance to the Partnership: A TIP indicates which surface transportation projects are most likely to be undertaken in a metropolitan area over the next 4 years and programs the capital transportation funds for the region.

Federal Funds Contingent on Required Planning: After a TIP is approved by the MPO and the State's Governor, the State must include the TIP in its STIP without any amendments.²⁴ Only

¹⁸ 23 CFR 450.322(c).

¹⁹ 23 CFR 450.322(g).

²⁰ 23 CFR 450.316(a).

²¹ 23 CFR 450.322(d).

²² 23 CFR 450.322(l).

²³ 23 CFR 450.316(d).

projects in a STIP approved by FHWA and FTA are eligible for funds under USC title 23 (highways) or 49 USC Chapter 53 (mass transit).²⁵

Who Prepares the Plan: MPOs.

Planning Time Horizon: At least 4 years, but if the TIP covers more than 4 years, FHWA and FTA consider the projects in the additional years as “informational” only.

Frequency of Plan Updates: At least every 4 years. The update cycle must be compatible with the State’s development and approval process for its STIP.²⁶

Existing Coordination Mechanisms: In nonattainment and maintenance areas for transportation-related pollutants, the MPO and U.S. DOT (FHWA and FTA) must make a conformity determination on any updated or amended transportation plan in accordance with the CAA and EPA transportation conformity regulations.²⁷

Statutory Reference: 23 USC 134 and 49 USC 5303.

Regulatory Reference: 23 CFR 450.324 to 450.330.

Unified Planning Work Program (UPWP)

Description of Plan: A UPWP is a statement of work that identifies the short-term planning priorities and activities to be carried out within a metropolitan planning area. At a minimum, a UPWP includes a description of the planning work and resulting products, who will perform the work, time frames for completing the work, the cost of the work, and the source(s) of funds.

Relevance to the Partnership: The UPWP lists the planning studies and work activities that support development and maintenance of a regional plan and short-range program for a sustainable, livable community.

Federal Funds Contingent on Required Planning: Planning activities for which FHWA PL and FTA Section 5305 funding is sought must be listed in the MPO-approved UPWP.²⁸

Who Prepares the Plan: MPOs, in coordination with local governments and transit agencies.

Planning Time Horizon: 1 or 2 years.

²⁴ 23 CFR 450.326(b). As noted above in the discussion of STIPs, a TIP in a nonattainment or maintenance area must have a U.S. DOT (FHWA/FTA) transportation conformity determination before the TIP can be included in the STIP.

²⁵ 23 USC 450.330(d). There are a few exceptions to this requirement; these are listed in 23 USC 450.324(c) and 450.328(f).

²⁶ 23 CFR 450.324(a).

²⁷ 23 CFR 450.324(a).

²⁸ 23 CFR 450.308(b).

Frequency of Plan Updates: Every 1 or 2 years.

Existing Coordination Mechanisms: Preparation of the UPWP takes place through the coordinated metropolitan planning process.

Statutory References: None.

Regulatory References: 23 CFR 450.104 and 450.308(b) and following sections.

Coordinated Public Transit-Human Services Transportation Plans

Description of Plan: A coordinated public transit-human services transportation plan that identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes. It provides strategies for meeting the identified needs, and prioritizes transportation services for funding and implementation.

Relevance to the Partnership: These plans support the first of the partnership's six guiding livability principles, that of providing more transportation choices for citizens of a community.

Federal Funds Contingent on Required Planning: Projects selected for funding under the Federal Elderly Individuals and Individuals with Disabilities (49 USC 5310), Job Access and Reverse Commute (49 USC 5316), and New Freedom (49 USC 5317) programs must be derived from a locally developed, coordinated public transit-human services transportation plan, which must be prepared in a manner consistent with the applicable Statewide and metropolitan planning processes.

Who Prepares the Plan: State DOTs, MPOs, local governments, or transit authorities. The agency leading the planning process does not have to be the designated grant recipient.

Planning Time Horizon: Not specified.

Frequency of Plan Updates: At a minimum, the coordinated plan should follow the update cycles for metropolitan transportation plans (i.e., 4 years in air quality nonattainment and maintenance areas and 5 years in air quality attainment areas).

Existing Coordination Mechanisms: FTA strongly encourages coordination and consistency between the local coordinated public transit-human services transportation plan and metropolitan or Statewide transportation planning processes. To be eligible for funding, projects in urbanized areas seeking funds under Sections 5310, 5316, or 5317 must be included in the area's metropolitan long-range transportation plan, the TIP, and the STIP. Projects outside urbanized areas must be included in, or be consistent with the Statewide long-range transportation plan and must be included in the STIP.

Statutory References: 49 USC 5310(d)(2); 49 USC 5316(g)(3); 49 USC 5317(f)(3).

Regulatory References: 23 CFR 450.208(g) and 450.306(g).

State Rail Plans

Description of Plan: The purposes of a State rail plan are as follows:

- To set forth State policy involving freight and passenger rail transportation (including commuter rail operations) in the State;
- To present priorities and strategies to enhance rail service in the State that benefits the public; and
- To serve as the basis for Federal and State rail investments within the State.²⁹

Relevance to the Partnership: State rail plans guide the investment of Federal and State funds in passenger and freight rail infrastructure. These funding decisions affect the transportation choices afforded to a State's residents, as well as economic competitiveness of communities. In addition, State rail plans should include a general analysis of rail's environmental impacts in a State, including congestion mitigation, air quality, land-use, energy use, and other community impacts.³⁰

Federal Funds Contingent on Required Planning: Projects receiving Federal capital investment grants to support intercity passenger rail service under 49 USC 24402 must be part of a Federally approved State rail plan.³¹

For FY 2010, Congress appropriated up to \$50 million for grants to support planning for high-speed intercity passenger rail. These funds can be used to complete State rail plans. The funds can also be used to prepare passenger rail corridor investment plans, which consist of a service development plan and corridor-wide environmental documentation.³²

Who Prepares the Plan: State rail transportation authorities, which are defined as the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of a State's rail plan.³³

Planning Time Horizon: Not specified.

Frequency of Plan Updates: State rail plans must be revised and submitted for approval to U.S. DOT no less frequently than every 5 years.³⁴

Existing Coordination Mechanisms: Federal law requires the following types of coordination:

²⁹ 49 USC 22703(a).

³⁰ 49 USC 22705(a)(4).

³¹ 49 USC 24402(b)(1) and (c)(1)(A).

³² The Notice of Availability was published in the Federal Register on April 1, 2010 (75 FR 16564-16574). It is available on the Federal Railroad Administration's website at: <http://www.fra.dot.gov/Pages/475.shtml>.

³³ 49 USC 22701(4).

³⁴ 49 USC 22702(b)(4).

- A State rail plan must be coordinated with other State transportation planning goals and programs, including the Statewide long-range transportation plan.³⁵
- A State must provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of their State rail plans.³⁶
- While preparing the plan, a State must review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities in the region in which the State is located. A State must include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.³⁷

Statutory References: 49 USC chapters 227 and 244.

Regulatory References: None.

2.2.2. Summary of DOT Planning Requirements

A considerable degree of coordination already occurs among the various State and regional transportation plans described above. As noted above in the discussion of EPA planning requirements, there is also a very tight linkage between air quality and transportation planning. In addition, Federal laws and regulations already require State DOTs and MPOs to consult with a range of stakeholders. These stakeholders include environmental and natural resources agencies. However, housing agencies and authorities are not explicitly listed in the governing laws and regulations.

2.3. HUD

2.3.1. Relevant HUD Planning Requirements

State Consolidated Plans

Description of Plan: A State Consolidated Plan outlines the State's overall policies and objectives for housing and community development. It serves as a management tool that helps the State, local governments, and citizens assess performance and track results.

Relevance to the Partnership: The HUD formula programs allow a significant range of eligible uses. Within the regulatory guidelines established for each HUD formula program, States have the flexibility to establish priority housing and community development activities that will be funded based on the overall needs detailed in current population data. These funding areas must directly address decent housing, sustaining a suitable living environment, and the expansion of economic opportunities.

³⁵ 49 USC 22703(b).

³⁶ 49 USC 22704(a).

³⁷ 49 USC 22704(b).

Federal Funds Contingent on Required Planning: A HUD-approved Consolidated Plan is a requirement for four formula grant programs: Community Development Block Grant (CDBG), Housing Opportunities for Persons with AIDS (HOPWA), HOME Investment Partnerships (HOME), and Emergency Shelter/Solutions Grants (ESG). In addition, the following HUD programs require that grantees have a HUD-approved Consolidated Plan or that a grant application include a certification that the application is consistent with a HUD-approved Consolidated Plan:

- Low-Income Housing Preservation Program (when administered by a State agency);
- Supportive Housing for the Elderly;
- Supportive Housing for Persons with Disabilities;
- Supportive Housing Program;
- Single Room Occupancy Housing;
- Shelter Plus Care;
- CDBG – Small Cities;
- Revitalization of Severely Distressed Public Housing;
- John Heinz Neighborhood Development Program;
- Lead-Based Paint Hazard Reduction Program;
- Grants for Regulatory Barrier Removal Strategies and Implementation; and
- Competitive grants under HOPWA.³⁸

Who Prepares the Plan: States will designate a lead agency to take primary responsibility for preparing the plan, in consultation with other agencies such as housing finance authorities, and homeless and human service agencies. The lead agency will be responsible for all public comment, publication, and coordination of public hearings. This will vary from State to State, depending on the manner in which community development and housing programs have historically been administered.

Planning Time Horizon: In the strategic plan component, the State must summarize the priorities and specific objectives the State intends to initiate and/or complete during the time period covered by the strategic plan (e.g., 3 to 5 years) describing how the proposed distribution of funds will address identified needs. The action plan component summarizes the annual objectives the State expects to achieve during the forthcoming program year.

Frequency of Plan Updates: The summary of the citizen participation and consultation process, the action plan, and the certifications must be submitted annually. The housing and homeless needs assessment, market analysis, and strategic plan must be submitted at least every 5 years, or as agreed upon by HUD and the jurisdiction.³⁹

Existing Coordination Mechanisms: The lead State planning agency must consult with State or local health and child welfare agencies to examine existing data related to lead-based paint hazards and poisonings.⁴⁰ The plan must explain whether the cost of housing or the incentives to

³⁸ 24 CFR 91.2(b). Several other HUD programs listed in 24 CFR 91.2(b) no longer receive applications.

³⁹ 24 CFR 91.15.

⁴⁰ 24 CFR 91.110.

develop, maintain, or improve affordable housing in the State are affected by its policies, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment.⁴¹ States are encouraged to identify areas where geographically targeted revitalization efforts are carried out through multiple activities in a concentrated and coordinated manner.⁴²

Statutory Reference: 42 U.S.C. 12705.

Regulatory Reference: 24 CFR 91 Subpart D.

Local Consolidated Plans

Description of Plan: A Local Consolidated Plan establishes a unified vision for local housing and community development actions. It typically sets forth program goals, specific objectives, annual goals, and benchmarks for measuring progress.

Relevance to the Partnership: Metropolitan cities and urban counties determine the eligible uses of funds based on regulatory guidelines established under each HUD formula grant program. Under the Consolidated Plan regulations, each unit of local government has the flexibility to establish priority housing and community development activities that will be funded based on the overall needs detailed in current population data. The formula HUD programs allow a significant range of eligible uses; however, local governments can select or limit those that can receive funding. These funding areas must directly address decent housing, sustaining a suitable living environment, and the expansion of economic opportunities.

Federal Funds Contingent on Required Planning: A HUD-approved Local Consolidated Plan is a requirement for four HUD formula grant programs: CDBG, HOPWA, HOME, and ESG. As listed above under State Consolidated Plans, a number of other HUD programs require that grantees have a HUD-approved Consolidated Plan or that grant application include a certification that the application is consistent with a HUD-approved Consolidated Plan.

Who Prepares the Plan: Typically a lead agency within a local government takes responsibility for overall preparation and coordination of the Consolidated Plan. In larger jurisdictions, a housing and community development agency coordinates the planning and executes the funded activities. In smaller jurisdictions, funded activities may be executed by a variety of departments, including social services, public works, and economic development agencies.

A HOME Consortium must also submit a Consolidated Plan to receive Federal funding. A HOME consortium is an organization of geographically contiguous units of general local government that are acting as a single unit of general local government for purposes of the HOME program. Local governments participating in the CDBG program can also be members of a HOME Consortium.

⁴¹ 24 CFR 91.310(d).

⁴² 24 CFR 91.315(g).

Planning Time Horizon: In the strategic plan component, the applicant must summarize the priorities and specific objectives the State intends to initiate and/or complete during the time period covered by the strategic plan (e.g., 3 to 5 years) describing how the proposed distribution of funds will address identified needs. The action plan component summarizes the annual objectives the applicant expects to achieve during the forthcoming program year.

Frequency of Plan Updates: The summary of the citizen participation and consultation process, the action plan, and certifications must be submitted annually. The housing and homeless needs assessment, market analysis, and strategic plan must be submitted at least every 5 years, or as agreed upon by HUD and the jurisdiction.⁴³

Existing Coordination Mechanisms: As with States, local governments are required to consult with State or local health and child welfare agencies to examine existing data related to lead-based paint hazards and poisonings. The plan must explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment.⁴⁴ Jurisdictions are also encouraged to identify locally designated areas where geographically targeted revitalization efforts are carried out through multiple activities in a concentrated and coordinated manner.⁴⁵

When preparing the description of priority non-housing community development needs, the local government must, “to the extent practicable,” notify adjacent units of general local government.⁴⁶ In addition, Federal regulation states that the local government “should” consult with adjacent units of general local government, including local government agencies with metropolitan-wide planning responsibilities, “particularly for problems and solutions that go beyond a single jurisdiction.” Finally, the local government must submit the non-housing community development plan must to the State, and to the county, if the jurisdiction is a CDBG entitlement grantee other than an urban county.⁴⁷

Statutory Reference: 42 U.S.C. 12705.

Regulatory Reference: 24 CFR 91Subparts C and E.

2.3.2. Summary of HUD Planning Requirements

The Federal regulations governing preparation of Consolidated Plans (24 CFR 91) include requirements for consultation with public and private agencies responsible for social and homeless services, health and environmental agencies charged with addressing lead based-paint hazards in housing, and adjacent units of local government and metropolitan planning

⁴³ 24 CFR 91.15.

⁴⁴ 24 CFR 91.210(e).

⁴⁵ 24 CFR 91.215(g).

⁴⁶ The non-housing community development plan is limited to CDBG grantees.

⁴⁷ 24 CFR 91.100.

organizations to address broad community development initiatives, including transportation and public infrastructure. The regulations do not specifically require collaboration between housing and transportation or environmental planners.

2.4. Treasury

As noted earlier, the following Treasury Department planning requirement is included in this paper because it is tied to an important source of Federal support for affordable housing.

2.4.1. Relevant Treasury Planning Requirements

Qualified Allocation Plans for Low-Income Housing Tax Credits

Description of Plan: Qualified Allocation Plans (QAPs) identify the type, location, and other characteristics of the affordable housing that is needed in a State. A QAP must describe the selection criteria to be used to allocate Federal tax credits to affordable rental housing developments.

Relevance to the Partnership: Because Federal tax credits are a crucial element of the financing for affordable housing developments, the method of allocating the credits has a definite influence on development patterns. Tax credit projects often require other types of government assistance in order to proceed. Thus, the priorities established for the tax credit program have a direct impact on how other housing programs are implemented.

Federal Resources Contingent on Required Planning: Federal tax credits cannot be allocated to an affordable housing development unless the allocation is made pursuant to an approved QAP.

Who Prepares the Plan: State housing finance agencies.

Planning Time Horizon: 1 year.

Frequency of Plan Updates: Annually.

Existing Coordination Mechanisms: The governing Federal statute does not require any formal interagency coordination or consultation during development of a QAP. However, the statute does require a public review process and requires that one of the selection criteria set forth in a QAP be “project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan.”⁴⁸ Federal statute also requires QAPs to include a preference for projects located in “qualified census tracts,” the development of which will contribute to a “concerted community revitalization plan.”⁴⁹

Statutory Reference: 26 USC 42(m)

⁴⁸ 26 USC 42(m)(1)(C)(iii).

⁴⁹ 26 USC 42(m)(1)(B)(i)(III). Qualified census tracts are defined as tracts either in which 50 percent or more of the households have income less than 60 percent of the area median gross income or with a poverty rate of 25 percent or greater.

Regulatory Reference: 26 CFR 1.42-1T

2.4.2. Summary of Treasury Planning Requirements

As discussed above, federal law does require that States use some selection criteria that are consistent with the livability principles of the Partnership for Sustainable Communities. However, federal law does not require States to coordinate the development of their QAPs with other Statewide or regional planning efforts. Despite the lack of stronger Federal requirements in this area, there is evidence that States are voluntarily incorporating “green” and “livability” criteria into their QAPs.

The environmental group Global Green USA has documented an increase in the extent to which States have incorporated such criteria in their QAPs. However, the group’s analysis shows a wide range among States, with some lagging far behind the others.⁵⁰ It is not clear whether this trend is a result of better coordination between State housing finance agencies and State and local agencies involved in environmental protection and transportation.

⁵⁰ Global Green USA, *Making Affordable Housing Truly Affordable Green Building Criteria in 2009 State Low Income Housing Tax Credit Programs*, January 2010, http://www.globalgreen.org/i/file/Green%20Urbanism/GGUSA_QAP2009.pdf, accessed Feb. 19, 2010.

3. Barriers to Better Coordination of Planning and Options for Overcoming Them

3.1. Cross-Agency Barriers and Options

3.1.1. Jurisdictional Barriers

Two of the primary barriers to coordinating or integrating planning initiatives across transportation, environment, land use, and housing are: (1) the sheer number of jurisdictions that could claim a seat at the planning table, and (2) the mismatch in the geographic scales at which these jurisdictions operate. For example, for a metropolitan area, the MPO, comprised of local elected officials, plays a central role in coordinating, prioritizing, and identifying funding for transportation projects. In contrast, regional land use planning and permitting decisions are generally carried out by multiple local authorities with no single coordinating or funding agency.⁵¹ Local elected officials are understandably most concerned in assisting their constituents; it is therefore not surprising that they can be reluctant to participate in regional or cross-jurisdictional planning initiatives.

Another type of jurisdictional barrier occurs at the Federal level. As was highlighted earlier in this paper, the Treasury Department has jurisdiction over the Low-Income Housing Tax Credit Program, but it is not yet participating in the Partnership for Sustainable Communities.

3.1.2. Financial Barriers

Financial constraints are another reason for a lack of coordinated or integrated planning. Even in the best of times, it can be difficult for agencies to find the funds for planning. Now, in troubled economic times, public funds are even scarcer. Unless dedicated funds are made available, expanding the scope or scale of planning activities is likely to be seen as an unaffordable luxury. It is unlikely that States and units of local government will be willing to share resources or engage in broader planning initiatives without some real incentives, such as those envisioned in the Sustainable Communities Planning Grant Program.

Limitations on how Federal and State funds can be used also serve as barriers to coordinated or integrated planning. At the State level, the typical method of fund distribution does not encourage communities to work cooperatively outside their borders on regional approaches to housing, transportation, or environmental projects. States often only entertain applications on behalf of a single community and don't consider pooling of resources or consolidation of effort to address regional problems. Federal programs perpetuate this problem when they limit the extent to which Federal grant funds can be used outside the jurisdiction of the grant recipient.

⁵¹ Association of Metropolitan Planning Organizations, *Noteworthy MPO Practices in Transportation and Land Use Planning Integration* (Final Report), April 2004, p. 7, http://www.ampo.org/assets/library/4_ampotranlanduserptfinal05.pdf, accessed February 15, 2010.

3.1.3. Other Programmatic Barriers

Federal requirements regarding planning horizons and the update cycles also can make it harder to coordinate or integrate planning efforts. For example, the Intended Use Plans for Clean Water and Drinking Water SRF programs must show planned projects for the next fiscal year, while a metropolitan TIP has a required planning horizon of at least 4 years and long-range transportation plans must look out at least 20 years. Similar mismatches occur with required update cycles; some federal programs require annual updates to plans, while others allow longer periods of time to elapse between planning efforts.

3.1.4. Cross-Agency Options to Overcome Barriers

In general, EPA, DOT, and HUD planning requirements are tied to receipt of Federal funds. Thus, the three agencies have two main options to advance the goal of integration or coordination of planning. First, the agencies can enhance current planning requirements, in essence asking grant recipients to do more coordination of planning efforts to continue receiving funds from existing Federal sources. A second option is to make additional funds available to those State and local agencies that are willing to undertake the extra work to integrate or coordinate their planning activities. Below we propose ways to apply these options to specific EPA, HUD, DOT, and Treasury programs.

3.2. Agency-Specific Barriers and Options

3.2.1. EPA

Require Livability Preferences in IUPs for State Water SRF Programs

EPA could require State Clean Water and Drinking Water SRF programs to give preferences to projects that support the goals of the Partnership for Sustainable Communities. For example, EPA could require States to give preference to projects that serve communities with strong growth management policies in place.

Type of Change Needed: Regulatory and perhaps statutory. It appears that a minimum, EPA would need to revise its regulations to implement this change. It is possible that statutory changes would also be required.

Increase Support for Community-Level Brownfields Activities

EPA's current guidelines for brownfields grants encourage but don't mandate that brownfield reuse/redevelopment projects be coordinated or consistent with local plans. EPA could add such a requirement to the brownfields grants programs. In addition, brownfields grants are typically awarded for clean-up and redevelopment of individual sites. EPA could shift more of its grant awards to applicants who present community-level applications that address multiple brownfields sites and are tightly linked with local plans. EPA's FY 2011 budget request shows that the agency is already moving in this direction. EPA has requested an increase of \$38 million

to assess and address multiple brownfields sites within underserved and economically disadvantaged communities, thereby advancing area-wide planning and cleanups.⁵²

Efforts in this area may be complicated by the fact that recipients of EPA's brownfields grants are not limited to public agencies but can include entities as diverse as nonprofit organizations, port authorities, and universities. These recipients may have limited capacity to integrate their efforts with local plans, or they may have different end-use objectives than local planners.

Type of Change Needed: Administrative or statutory (appropriations). This step could probably be advanced at least partially by administrative changes. However, EPA's 2011 budget request suggests that it may be necessary (or at least advisable) to seek action by Congressional appropriators.

3.2.2. DOT

Add Housing to Federal Rules Regarding Transportation Planning

Federal statutes and regulations already specify that transportation planners seek input from a range of stakeholders including "affected public agencies" and that they address a number of "planning factors" including accessibility and mobility. Also, as explained earlier in the paper, the transportation planning process is tightly linked with the air-quality planning process. Efforts to link transportation planning with other types of environmental planning have accelerated in recent years. The Federal interagency guidebook *Eco-Logical*⁵³ is one result of these efforts; the FHWA webpage on Planning and Environmental Linkages⁵⁴ provides many other examples.

Most evidently lacking is a strong linkage between planning for transportation and planning for housing. Such a linkage could be strengthened by statutory and regulatory changes to the transportation planning process to add housing-related goals to the list of planning factors and to require transportation planners to reach out specifically to housing planners.

Type of Change Needed: Statutory. Statutory changes would be required to amend the planning factors and/or requirements for public involvement and agency coordination.

Encourage Wider Use of Federal Transportation Planning Funds for Integrated or Coordinated Planning Efforts

In 2008, FHWA and FTA issued guidance that clarify how Federal transportation planning funds could be used to support the integration of transportation planning with land-use and other types of planning.⁵⁵ Although the guidance does not explicitly mention planning for housing, it does

⁵² EPA, *FY 2011 EPA Budget In Brief*, p.45.

⁵³ U.S. DOT, *Eco-Logical: An Ecosystem Approach to Developing Infrastructure Projects*, April 2006, http://www.environment.fhwa.dot.gov/ecological/eco_index.asp, accessed March 24, 2010.

⁵⁴ FHWA, "Planning and Environment Linkages," <http://www.environment.fhwa.dot.gov/integ/index.asp>, accessed March 24, 2010.

⁵⁵ FHWA/FTA, "FHWA/FTA Planning Program Funds to Support Integration of Transportation, Land Use, and Climate Change," memorandum dated November 17, 2008, <http://www.fhwa.dot.gov/planning/plnInduse.htm>, accessed April 5, 2010.

mention planning to foster smart growth and transit-oriented development, as well as planning to address climate change. DOT could encourage State DOTs and MPOs to use federal transportation planning funds to support planning efforts that look at land-use and housing issues as well.

Type of Change Needed: Administrative. Current statutes, regulations, and guidance allow transportation planning funds to be used for integrated or coordinated planning efforts. DOT and HUD could take administrative actions to promote wider use of this flexibility.

Use of Transportation Funds to Address Brownfields as Part of Transportation Projects

In 1998, U.S. DOT revised its policy on hazardous waste and contaminated sites to encourage participation in transportation projects that include the use and redevelopment of contaminated sites when appropriate. Previously, under interim guidance issued in 1988, U.S. DOT emphasized the avoidance of all contaminated properties as a first consideration during the FHWA NEPA process and other related transportation development activities.⁵⁶ Despite the fact that the revised brownfields policy has been in place for 12 years, there remains a need for better publicity about and consistent application of the policy. At the local level, little practical understanding yet exists of the opportunities to leverage brownfields redevelopment and transportation improvements simultaneously. Better information is needed to ensure that localities fully understand that transportation funds can be used to clean up brownfields only as part of a transportation project, and that no separate funding exists.

Type of Change Needed: Administrative. No statutory or regulatory changes would be required.

3.2.3. HUD

Reward Communities that Link Consolidated Plans with Other Plans

Currently, the requirement for preparation of a Consolidated Plan is a “pass-fail” or threshold requirement. A grantee is not rewarded with extra funds or regulatory flexibility for doing extra work to coordinate with transportation and environmental planners. HUD could establish a competitive grant program to reward communities that engage in coordinated or integrated planning.

Type of Change Needed: Statutory. The HUD grant programs in question are based on statutory formulas, so a statutory change would be needed to change the allocation of funds. In addition, due to the HUD Reform Act, competitions can be a lengthy process. Alternatively, HUD could make regulatory changes that reward formula grant recipients some type of regulatory flexibility or other types of incentives.

Follow Through on Brownfields Policy Change

⁵⁶ FHWA, Memo on Policy Revision to Support Brownfields Economic Redevelopment Initiative, 1998, <http://www.fhwa.dot.gov/environment/bnflmem.htm>, accessed March 24, 2010.

HUD has recently revised its policies to make it easier for FHA-insured multifamily housing to be developed on formerly commercial and industrial sites. This change will allow sites that are often well-located but underdeveloped to be reclaimed and revitalized to provide affordable housing near transit stations and other amenities.⁵⁷ Consistent, practical implementation of this policy change should be facilitated by EPA's expertise and assistance.

Type of Change Needed: Administrative. No statutory or regulatory changes would be required.

3.2.4. Treasury

Require States to Include Sustainability or Livability Criteria in QAPs

The Federal government could require States to include livability or sustainability in the selection criteria for their QAPs. There is a recent precedent for this type of change. The Housing and Economic Recovery Act of 2008 (P.L. 110-289) added energy efficiency and historic nature to this list. As mentioned earlier, the environmental group Global Green USA has documented an increase in the extent to which States have incorporated "green" criteria in their QAPs, including several that are directly relevant to the livability principles of the Partnership for Sustainable Communities. However, the group's analysis shows a wide range among States, with some lagging far behind the others.⁵⁸ Therefore, a change in Federal law could accelerate this trend.

Type of Change Needed: Statutory. This change would require a statutory amendment, because the required criteria are listed in 26 USC 42(m)(1)(C).

⁵⁷ Partnership for Sustainable Communities, "Partnership in Action," January 2010, http://www.epa.gov/smartgrowth/pdf/2010_0105_partnership-in-action.pdf, accessed March 24, 2010.

⁵⁸ Global Green USA, *Making Affordable Housing Truly Affordable Green Building Criteria in 2009 State Low Income Housing Tax Credit Programs*, January 2010, http://www.globalgreen.org/i/file/Green%20Urbanism/GGUSA_QAP2009.pdf, accessed Feb. 19, 2010.