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# CONNECT OREGON RULES ADVISORY COMMITTEE

## Meeting 2 Summary

October 22<sup>nd</sup>, 2018 – 1:00-4:00PM

Chemeketa Center for Business and Industry

626 High St NE, Salem, Oregon 97301

## ATTENDEES

Dave Anderson, *City of The Dalles*

Jerri Bohard, *ODOT*

Rob Eaton, *Amtrak*

Jana Jarvis, *Oregon Freight Advisory Committee, Member*

Senator Betsy Johnson, *District 16 – Scappoose*

James LaBar, *State of Oregon*

Mark Landauer, *Special Districts Association of Oregon*

Paul Langner, *Teevin Bros. Land and Timber Company*

Martha Meeker, *Oregon Aviation Board*

Deena Platman, *International Trade Systems*

Toby Van Altvorst, *Goose Lake Railway LLC*

John Vial, *Jackson County*

## STAFF

John Boren, *ODOT*

Jeanne Lawson, *JLA Public Involvement*

Ayano Healy, *JLA Public Involvement*

## OBSERVERS

11 observers, present in person

2 observers, on the phone

## WELCOME AND AGENDA

John Boren, ODOT, and Jeanne Lawson, facilitator with JLA Public Involvement, welcomed the committee and the meeting observers. RAC Committee member, Jana Jarvis participated in the meeting over the phone and Senator Betsy Johnson had an unforeseen conflict making her unable to attend the meeting in person but was able to join by phone towards the end; she entered the meeting at the end of the discussion on the process for review and role of ACTs and Modal Committees.

Committee members then introduced themselves before Jeanne and John briefly summarized the purpose of this meeting and reviewed the agenda. The agenda was as follows:

1. Recap of Meeting 1 Outcomes
2. Statewide Significance
3. Process for Review and Role of ACTs and Modal Committees
4. Public Comment
5. Wrap Up, Next Steps and Close

## RECAP OF MEETING 1 OUTCOMES

John reviewed the discussion and feedback from the September 17<sup>th</sup> meeting, which focused on gathering issues and prioritizing themes of what the RAC would focus on for future meetings. The committee's prioritization process resulted in addressing: 1) how to define *statewide significance* and, 2) how the process of review will be coordinated between ACTs and Modal Committees. These top two issues were the key points of discussion for Meeting 2.

In anticipation of the additional time needed from RAC members to provide guidance on priorities for Connect Oregon policies, John outlined the schedule for future meetings and proposed a tentative fifth meeting be scheduled to ensure that the RAC responsibilities could have enough time to be sufficiently completed. The RAC meeting schedule is as follows:

- **Meeting 1:** Monday, September 17<sup>th</sup>, 2018, 1:00p-4:00p
- **Meeting 2:** Monday, October 22<sup>nd</sup>, 2018, 1:00p-4:00p
- **Meeting 3:** Monday, November 19<sup>th</sup>, 2018, 1:00p-4:00p
- **Meeting 4:** Friday, December 7<sup>th</sup>, 2018, 2:00p-5:00p
- **(Tentative) Meeting 5:** Monday, January 17<sup>th</sup>, 2019, 1:00p-4:00p

During the review of Meeting 1 Outcomes, a committee member pointed out an error in the total points calculation that was used to prioritize the overarching issues the Committee was to address. The total points (12) awarded to the "Review process" as the top overarching theme for the Committee to address was miscalculated; the actual count for the "review process" should be 10 points. It was decided that the change in point value does not significantly change the priority level for the Committee to address the "review process" as a top issue for the Connect Oregon Program; the comment was made as a documentation note and the meeting proceeded with the agenda, as originally planned.

Jeanne reviewed and affirmed the Committee protocols and level of consensus that was established in Meeting 1 and reiterated her appreciation that committee members determined to be present for all meetings.

## STATEWIDE SIGNIFICANCE

John Boren, ODOT, used a PowerPoint (*CO-RAC-Presentation-Statewide-Significance.pptx*) to review the partial definition of "statewide significance" and to outline three possibilities (Concept 1, Concept 2, Concept 3) for better defining the term for the purposes of the Connect Oregon Program. It was also acknowledged that an improvement to defining "statewide significance" could be a composition of the

outlined concepts or introduce new concepts to the working definition. Below is a summary of the content he reviewed.

### ***Defining Statewide Significance***

*Term partially defined in statute*

- *There are certain considerations in the statute specific to mode (air, marine, rail) that help flesh out what these projects would do*
- *In (d) “Statewide significance” means a transportation project that:*
  - (A) Benefits the regional and statewide economy; and*
  - (B) Sustains employment within the community or region in which the transportation project is located beyond the employment associated with construction or implementation of the project.*
- *Doesn’t capture the scale difference between local, regional or statewide significance*
- *Several possibilities for better defining these terms:*
  - *Minimum and maximum project size (\$)*
  - *Tying it back to policies from OTP, OFP and Modal Plans*
  - *Economic analysis/projections showing impacts beyond local area*
  - *These concepts could be mixed and matched*

*1<sup>st</sup> Concept: Defining by grant size*

- *Based upon assumption that larger grant size = more significant project*
  - *In Connect Oregon 6, total project costs ranged from \$170k to \$12.9 million*
  - *Intermodal dedicated projects were ~\$25 million*
- *Can also be scaled*
  - *e.g. \$1 in the Portland metro does not go as far as \$1 in Eastern Oregon, this could be scaled by County, District, or Region size*
- *Clear delineation between Part 1 and Part 2 projects*
- *1<sup>st</sup> Concept: Example language:*
  - (g) For Part 2 Projects, the project size must meet the following thresholds:*
    - (A) In counties with a population less than or equal to 20,000, a capital investment of \$4,000,000;*
    - (B) In counties with a population greater than 20,000 but no more than 60,000, a capital investment of \$6,000,000;*
    - (C) In counties with a population greater than 60,000 but no more than 120,000, a capital investment of \$8,000,000;*
    - (D) In counties with a population greater than 120,000 but no more than 320,000, a capital investment of \$10,000,000;*
    - (E) In counties with a population greater than 320,000, a capital investment of \$12,000,000;*
- *1<sup>st</sup> Concept: Challenges*
  - *Delineations can be arbitrary*

- Removes review committees/OTC discretion from determination of statewide significance
- These cutoffs could be used as a consideration, a factor for scoring proposal and not a hard cut off
- How do we handle a project right below a threshold?
- Does not take into account that the cost of a project relative to its significance is different for air, marine, or rail projects
  - Could have different sliding scales by mode, however between this and population, it could get unwieldy

*2<sup>nd</sup> Concept: Defining by grant size*

- Ensures that a grant being awarded is towards furthering an already adopted policy from the OTP, OFP, modal plans
- Puts the onus on the applicant to demonstrate how their project is significant in the context of statewide policies
- Common requirement in other planning contexts, e.g. major land use actions/policy updates
- *2<sup>nd</sup> Concept: Example language:*

*(9) For Part 2 projects, the Commission will consider all of the following in its determination of eligible Projects to approve for receipt of funds from the Connect Oregon Fund:*

*(a) Are transportation projects of statewide significance as defined by:*

**(A) Consistency with policies and strategies of the Oregon Freight Plan, Aviation Plan, Rail Plan, Transportation Plan or other applicable modal or topic plan elements of the Oregon Transportation Plan.**
- *2<sup>nd</sup> Concept: Challenges*
  - *May be difficult for applicants without strong policy background*
    - *Requires researching policies, strategies and actions from multiple plans*
  - *Potential for a “kitchen sink” approach*
    - *Applicants may try to cite as many strategies and policies that are plausibly connected to their project as possible*
    - *Intention would be for them to focus on a limited number to cite and explain why.*
  - *Modal/topic plans have differing formats, no overarching State Economic Plan for citation*

*3<sup>rd</sup> Concept: Geography of economic impact*

- *Requires applicant through analysis or other means to demonstrate that there will be an economic impact beyond the local area.*

- 3<sup>rd</sup> Concept: Example Language
  - (9) For Part 2 projects, the Commission will consider all of the following in its determination of eligible Projects to approve for receipt of funds from the Connect Oregon Fund:
    - (a) Are transportation projects of statewide significance as defined by:
      - (B) Whether a proposed transportation project results in a measurable economic benefit outside the site’s county or region as specified in OAR 731-035-0070(2).**
- 3<sup>rd</sup> Concept: Challenges
  - Would require an economic analysis
    - Costs of analysis to be done by economic professionals
    - This was a requirement for the Dedicated projects
  - Still a level of subjectivity in comparing projects
    - E.g. some projects may economically impact larger areas, but with a lower overall magnitude

John’s presentation of the three concepts prompted committee members to ask for a review of the Connect Oregon statute.

## DISCUSSION AND QUESTIONS

The presentation of the three concepts prompted numerous points and questions that brought in new items to consider when defining statewide significance. Major items of the discussion included the question of whether jurisdictions would have the choice to submit their proposal to Part 1 or Part 2, or if this was something that would be managed by the review committees during the review process; at what point and by whom would projects be assigned to Part 1 or Part 2 funding. The issue of making “statewide significance” relevant to both large and small jurisdictions was revisited. There was discussion on the variability of costs and budget between different types of transportation as well as the variability and costs of economic analysis reports.

- *Concept #3* question: didn’t the legislation already establish that 10% of the Oregon Lottery dollars would be broken out by region?
  - *Yes, that’s the allocation; it was determined that the awards have to be allocated regionally, but Concept #3 was suggesting that the awards would be distributed to those projects that demonstrated a significant economic impact would occur not just in that region but in other parts of the state.*
- There was acknowledgement for the potential of Concept #3 to shepherd jurisdictions down the “analytical rabbit hole,” versus applying a different concept where there is more of a philosophical estimation of whether a project has the *look and feel* of being a significant project statewide.

- Jeanne reminded the Committee of a similar discussion during Meeting 1; the challenge of finding a balanced criteria that both small and larger jurisdictions could make sense of and respond to with a proposal.
- Committee members were reminded that there is still the opportunity to create a fourth concept that might be outside of the three John Boren outlined in his presentation.
- A committee member asked about the timeline for the **Marine Transportation Plan**.
  - Mark Landauer – *The money has to come first.*
  - Jerri Bohard – *There is a policy option packet being considered for the next session (which would take place June 2019) and if this gets approved, it will likely be another three years from that point until a Marine Transportation Plan is complete.*
  - Rob Eaton – *I like the idea of Concept #2; if projects are aligned with regional and state plans, this cleans up the process especially when dollars are so scarce.*
- Is Part 1 beholden to the same “statewide significance” standard as Part 2? Are Part 1 funds discretionary?
  - John B – *It does not call it out in the same way as it is described in Part 2.*
  - John Vial – *So it could be added if we wanted to do that?*
  - Jerri B – *It’s similar to the program we had before.*
  - John B – *It’s like part 2 is grafted onto what is Part 1.*
- *Although the first option, of just doing numbers sells people short, it limits the review process which was a concern from Meeting 1. The other options could be cost prohibitive for smaller jurisdictions; it is likely that they would need to hire consultants or economists just to submit a proposal, regardless if they have a project that would be of statewide significance. The Committee should reflect on what we are trying to achieve with this process.*
  - John B – *There is a possibility that, depending on the dollar amount, proposals could be funneled to Part 1 or Part 2 during the review process; this would be determined by the reviewer during the scoring process rather than the applicant. This would come with it’s own challenges but something that could be considered.*
- It should be noted that each type of transportation sector has unique equipment and corresponding costs for those items, that that should be a consideration when comparing two different sectors of transportation.
- Re: Concept #3, there is a concern that jurisdictions can hire an economist to produce an economic impact report that can be in favor of the proposal; there needs to be an independent party that could conduct its own economic impact analysis. One idea is that proposals that made it far enough through the process would undergo an ODOT-commissioned economic analysis. Would ODOT be willing to consider this approach?
  - Jerri B – *I’m unable to answer that at this point but believe that ODOT would want to review an analysis that is submitted rather than conduct one of their own.*
- There was some skepticism expressed that smaller jurisdictions would be able to propose a project that would truly meet the ultimate definition of “statewide significance”
- Creating a more explicit criteria of what “statewide significance” means is changing the game; there have been many projects before this that have been labeled as having statewide

significance but these criteria that is developed within the RAC will hold that definition to a new standard.

- Martha M – *Statewide might have a different meaning in Joseph than it does in Portland, that’s the trouble.*
- There was a concern related to the upfront costs that would be required in a submission of a large project (submitting to Part 2), and if that project were not green-lighted, that would be a sunk cost for that jurisdiction.
  - A point made about having the proposal process be two-tiered, so that jurisdictions would not have to complete costly analysis like an environmental impact statement or economic analysis to be eligible to submit; if these analyses were required, they would take place after an initial vetting process.
- Having a clear delineation of what projects are eligible to apply for Part 1 and Part 2 funding would help jurisdictions to be more strategic (and successful) in submitting proposals.

### STATEWIDE SIGNIFICANCE SMALL GROUP WORK SESSION

After John Boren’s presentation on concepts to consider for defining “statewide significance” and a brief discussion from points on the presentation, committee members were divided into three groups of 3-4 people to discuss, as a small group, and return to the larger discussion with summarized answers to the following prompts:

- *What do you see as the main pros and cons of each option?*
- *Does one option stand out as best? Or a blend?*

Small groups were provided 30 minutes to discuss the prompts, followed by a 10 minute break. All groups resumed after 40 minutes and shared the following small group summaries:

#### **GROUP 1 – Paul Langner, James LeBar, Jerri Bohard (notetaker: Katie)**

- The group had a shared experience of problems from past work on selection committees, which informed their perspective in how to define “statewide significance” for this proposal process. Proposals must address:
  - Intermodal (move something)
  - Making connections
  - Velocity/capacity/reliability
  - Address congestion/conflicts
- The group posed a question: *What was broken with process before adding non-freight modes?*

#### CONCEPT 1

##### PROS

- Clearly defined
- Potentially combine county size w/ classification of model

##### CONS

- How do you choose county?
- Can be gamed to fit thresholds
- Does not address congestion (removing freight from roads)

## CONCEPT 2

### PROS

- Good to tie to plan
- Could be other plans outside of OTP (seismic)
- Plan tie option: CEDS (Comm. Econ. Dev. Plans) approved by community

### CONS

- Plans can't be only criteria
- Plans may be outdated
- If not in plan, provide some \$? (public entities?)

## CONCEPT 3

### PROS

- Must have some level
- OK to compare analysis between freight modes

### CONS

- With applicant doing economic analysis could be skewed results

Related question: *Do economic analysis on a portion of projects? 150% list?*

## GROUP 2 – Deena Platman, Jana Jarvis (phone), Rob Eaton, John Vial (notetaker: Ayano)

## CONCEPT 1

### PROS

- Exceedingly simple, easy to implement

### CONS

- A project in middle of nowhere doesn't have "statewide significance"
- Not the right criteria for "statewide significance"
- Size doesn't mean "statewide significance" value

## CONCEPT 2

### PROS

- Excellent starting point
- Applicant can be more forward thinking in terms of timeline
- If project aligns with plans, then they have more meaning
- Defends the investment

### CONS

- Does lean toward creative writing
- Poses a challenge for projects in the private sector; private biz does not have the same access to a public plan and they access they do have may not be adequate enough

Related point: Classifications should be incorporated into evaluation process; also need to address economic impact studies and implications of this

## CONCEPT 3

### PROS

- Demonstrates that it has "statewide significance"
- If done well, can get a more defensible project
- The fact that it is subjective makes it better than just a simple algorithm

### CONS

- Difficult to prove; takes a lot of resources and time
- Costly to do
- (ideally) We need to develop a tool to demonstrate "statewide significance"
- Subjective

Related question: *Have we defined economic impact? For example, what is the scale? What is the tipping point?*

#### CONCEPT 4 (Proposed)

- A blend of C2 and C3
- Concept 1 doesn't define "statewide significance"; it might be expensive but it doesn't mean its got "statewide significance"

#### GROUP 3 – Mark Landauer, Martha Meeker, Dave Anderson, Toby Van Altvorst (notetaker: Jeanne)

- Although Group 3 did not go through the same process, they felt that they ended up around the same place as the previous two groups.
- One of their big questions was: *Can you apply to Part 1 if Part 2 is available and/or your eligible?* Determine who is responsible for determining the pot for an application.
- Concept 1 – seems discounted
- Concept 2 – seems like a good option to take and if your project has been mentioned in a plan then it should be streamlined to "of statewide significant"
  - Suggestion: If project is in a state plan its automatically in
  - CON – Undeveloped or out of date plans (ie. Marine Plan) which makes those sectors at the deficit
- Concept 3 – don't want applicants to have a barrier to entry and automatically disqualified if they don't have the resources to conduct a good economic analysis
  - Suggestion: proposals state how the project has a positive economic impact beyond the jurisdiction's region
- Group 3 felt that Concept 2 and 3 were best options but don't want to create false barriers to apply; based in Concept 2, with some of Concept 3 thrown in.
  - Must have a positive impact beyond the local economy
- Other notable discussion points:
  - Large project budget must prove "statewide significance"
  - No minimum budget for "statewide significance"
  - Self-regulate overreach on number of policies
  - Projects not in modal plans prove value through arguing policies and economic benefit

#### DISCUSSION AND QUESTIONS

After each group shared back their small group discussions with the larger group, all committee members convened for a large group discussion, weighing the options. At this point, Senator Betsy Johnson was able to join the meeting via phone and expressed her interest in reconvening with John Boren after the meeting to catch up and share thought on topics she missed. Main discussion points made was a general agreement on a working definition of "statewide significance," outlined by Group 1. See below for the outlined, working definition as well as additional discussion points:

##### Working definition of "statewide significance"

- It has to move something or someone
- Ideally with a connection (connecting between modes)

- Are you moving things faster, increasing capacity? (it can be small projects too, like tar resources like being able to rail directly into); Are you making this reliable for all types of railcars?
- Does it address congestion or conflict?

- A question was brought up if whether the above definition be applied for both Part 1 and Part 2.
- Multiple committee members added that proposal criteria should include how projects will be maintained, not just increased.
- Additional notes from flipchart:
  - Modal = Strategic
  - RSTs/Acts = regional
  - Reverse ACTs + Modals?
  - Modal staff first, then simultaneous

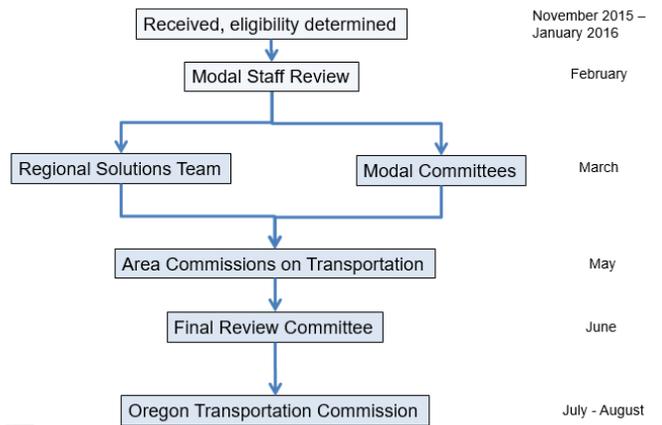
## PROCESS FOR REVIEW AND ROLE OF ACTS AND MODAL COMMITTEES

John Boren briefly reviewed the process for Connect Oregon VI and provided two alternatives for the review process: a concurrent process and a Part 2 specific process. Presentation images and notes are below:

### The Review Process

- Connect 6 was a fast timeline
- The statute requires soliciting recommendations from certain committees (see image on right), but doesn't specify the timelines and sequencing in review
- Although there are limitations to changes that can be made, the committee could look at more concurrent reviews and different reviews for Part 2 for the level/scale/breadth for project impact
  - It might be strategic to have the committees to look at things a little differently
- Concurrent approach proposal would require minimal changes
- If a Part 2-specific process was developed, one example would be that modal staff committee would take the first look at applicants with a technical review and then followed with a strategic review, ending with OTC.

### Review Process for Connect Oregon VI



### What's required per statute

- Statute requires soliciting recommendations from certain committees prior to going to OTC
  - State Aviation Board
  - Freight Advisory Committee

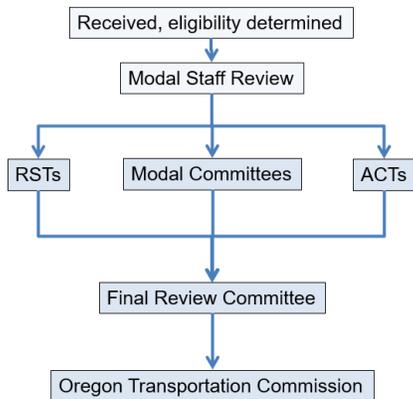
- Rail Advisory Committee
- Bicycle and Pedestrian Committee
- Applicable Area Commission on Transportation
- Regional Solutions Teams
- Does not specify the following
  - Timelines for each review
  - Sequence of the reviews
  - Meetings will be open to the public for observation. Up to 10 minutes will be set aside at each meeting to allow for brief public comments and share any written comments.

**Potential change w/in the statute’s parameters**

- More concurrent reviews to streamline the process
  - Time savings of approximately 1-2 months
- Different review process for Part 2 projects
  - Will want reviewers to take look at the projects from a more macroscopic standpoint
  - Fewer, but more complex projects
  - Potential for utilizing committees in a different fashion

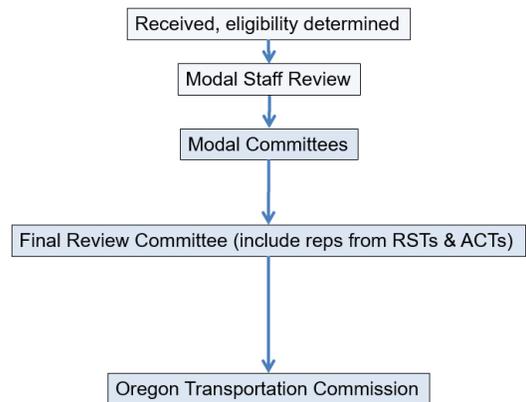
**Concurrent approach – minimal changes**

*Draft review process approach*



**Part 2 specific process**

*Draft review process approach*



**Part 2 specific highlights**

- Technical review
  - Modal staff and modal committees focus on function of larger scale projects
  - Examining more of the nuts and bolts of feasibility
- Strategic review
  - Goal of this group is to look at these projects with a broader view, which are in the best interest of the state as a whole in conjunction with other goals and strategies
  - A Final Review Committee with minimum allocations of members from RSTs and ACTs

- RST and ACT reps provide their perspectives, but in the context of a group making a statewide decision

### ***Aspirational changes to process***

- Acknowledging that some desired changes may require legislative action
- What does a more streamlined, yet sufficiently thorough process look like?
- Potential for:
  - Addition or subtraction of committees within the review pipeline
  - Changing the focus area of a given review group
  - Similar or much different process for Part 2 projects as compared to Part 1 projects

## **DISCUSSION AND QUESTIONS**

Main topics in discussion: 1) the tradeoffs and past experience with arranging proposal review concurrently or in a certain sequence and 2) revisited the question on whether applicants would choose to apply to Part 1 or Part 2 or whether that would be determined during the process by the review and selection committees.

- Question: *Was there a complaint about the process? What's the motivation to revisit this?*
  - John – *There are questions about the process of how projects are ultimately being awarded; there are questions about what committees are subordinate or superior to others, clarification.*
- Concern expressed about marginalizing the regional perspective
  - Jerri - *The committee is figuring out if Part 2 would be defined the same as Part 1.*
- Discussion on the sequencing of ACT and Modal Committees during the review process:
  - Jerri – *In the past, ODOT has tested out many different sequences and has still run into similar issues.*
  - Rob – *Historical tension between ACTs and modal committees makes me in favor of a simultaneous review for the final review committee to make decision on- possibly one that is completed independently, rather than sequential.*
- Question posed to the group: *Do you see a different process for of statewide significance (Part 2) compared to Part 1?*
  - Mark – *Everyone should be able to apply to Part 1. Applicants can self-select (into Part 2) if they want to be reviewed as a project with “statewide significance”*
  - Dave – *I agree that it doesn't need to be a separate process, but there is a concern that this will take more time.*
  - Paul – *The final review committee is honestly just rearranging the order of projects.*

## **PUBLIC COMMENT**

Jeanne welcomed observers in the audience and attending via phone to participate for the 10 minute public comment period. Among the eleven in attendance, one person participated. Below are notes from Michelle Owen, Baker City Public Works:

- Michelle sits on the NE Area on Transportation and shares that Baker City has been greatly impacted by the Connect Oregon Program. She was encouraged by Ken Patterson to attend the Connect Oregon meeting and participate and echoed the concern that the ACTs are not marginalized because they bring in a great deal of value. Michelle also hoped that aviation would not be limited.

Senator Johnson thanked Michelle for her comment and added that ACTs do have representation from technical experts; many ACTs put a lot of rigor into who is involved in their respective ACT.

## DISCUSSION AND QUESTIONS

Committee members continued to discuss the composition of who is represented on ACTs and how that relates to the review process. Additional points are below:

- o Jerri – *Each ACT is different but over time, we have been seeing that there was a lot of representation about aviation.*
- o Jana – Interested in getting a list of who is on ACTs and increasing freight representation to those ACTs that are lacking.

In regard to how projects are sorted/apply for Part 1 vs. Part 2:

- o Dave – *Maybe there's an element where the applicant can have some discretion on what Part they are applying to; maybe the applicant can choose if they want to put out that extra effort to be in Part 2 and there could be some self-sorting?*

Jeanne proposed that the committee discuss this question, however there was limited time and committee members suggested this be addressed in Meeting 3.

## WRAP UP, NEXT STEPS, AND CLOSE

Jeanne thanked the committee members for their thoughtful discussion and contributions. Before closing the meeting, she reviewed the following elements that John Boren would prepare materials and create a decision tree for the review process which would facilitate the discussion at the next meeting (Meeting 3):

- o Determining the process/writing the rules for how applicants apply to receive Part 1 or Part 2 funding.
  - Would applicants self-select or would this be decided during the review process by a review committee?
- o Making a decision on the review process that should consider the following elements:
  - Creating a screening process for applicants once they have made it through the larger process
  - Simultaneous and independent review by the ACT and Modal Committee before being reviewed by the Final Review Committee
    - The assumption is that the Final Review Committee will also have a representative from ACT and Modal Committee.

- If the review were sequenced, determining what order and timeframe each committee would have to review.