

STATE OF NEBRASKA
Minutes of the
Board of Public Roads Classifications and Standards

April 16, 2021

Nebraska Department of Transportation,
Central Headquarters Building Auditorium, Room 139A
1500 Highway 2, Lincoln, Nebraska

Meeting and Hearings Notices:

- Statewide news release emailed and posted on Nebraska Department of Transportation website, April 9, 2021.
- Event posted on the State of Nebraska website (Public Meeting Calendar), April 9, 2021.
- Tentative agenda emailed to each board member and interested persons, April 9, 2021.
- Meeting agenda kept current and on public display in Liaison Services Section, Room 123B, Nebraska Department of Transportation, 1400 Highway 2, Lincoln, Nebraska.
- Meeting agenda posted in the main entrance of the Nebraska Department of Transportation's 1500 Highway 2 building, April 16, 2021.
- Relaxation of Standards hearing notice emailed to NDOT, Holt and Thayer Counties, April 9, 2021.

Board members present:

Roger Figard, Lincoln, Chairman
James A. Litchfield, Wakefield, Vice Chairman
Barbara Keegan, Alliance
John F. Krager, Omaha
Lisa Kramer, Kennard
Steven D. Rames, Norfolk
Timothy W. Weander, Omaha
Edward R. Wootton, Sr., Bellevue

Board members absent:

LeRoy G. Gerrard, Stromsburg (*term expired 11/30/2019 – serves until replaced*)
Mick Syslo, Lincoln
Congressional District 3 representative position vacant. Member Tagge passed away
11/20/2020.

Staff members present:

LeMoyne D. Schulz, Board Secretary & Highway Local Liaison Coordinator, NDOT, Lincoln
Barbara Hasterlo, Office Associate, Liaison Services Section, UNL, LTAP/NDOT, Lincoln

Others in attendance:

Mike Owen, Roadway Design, NDOT, Lincoln

Tony Kessler, Roadway Design, NDOT, Lincoln
Syed Atallah, Roadway Design, NDOT, Lincoln
Kyle Christensen, Roadway Design, NDOT, Lincoln
Roger Hoffs, Thayer County Highway Superintendent
Jeff Wagner, Mainelli-Wagner, Lincoln, for Holt and Thayer Counties
Steve McCullough, JEO Consultants, Lincoln, for the Nebraska Department of Transportation

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Chairman Figard called the meeting to order at 9:00 a.m. The meeting was open to the public.

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Chairman Figard made the following announcements in compliance with the Open Meetings Act.

- A copy of the Open Meetings Act is available for inspection and is posted by the entrance to this room.
- The Meeting Agenda and a copy of all materials that were provided to the Board Members, prior to the start of this meeting, are available on the table by the entrance to this room.
- A sign in sheet is available. Visitors are not required to sign, but are encouraged to do so.

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There were no changes from the originally published agenda.

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Mr. Wootton moved to approve the September 24, 2020 meeting minutes. Mr. Weander seconded the motion. Members Keegan, Krager, Litchfield, Rames, Weander, Wootton and Figard voted YES. Member Kramer abstained. Members Gerrard and Syslo were absent. The motion carried.

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Final Status of the submission of the 2019 Annual Certification of Program Compliance and Signing Resolution.

- Ninety-three (93) County, 529 Municipal and NDOT certifications have been received.

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At 9:13 a.m., the Board heard the Thayer County request for a Relaxation for County Project No. C-85(409). *(The hearing was held in an informal format, Thayer County having declined the option of a formal hearing.)* The request is for a Relaxation of Standards for Construction of a Ford – Low Water Crossing, on a Minimum Maintenance road, as specified in its letter of February 19, 2021, and County Resolution No. 1876, adopted July 29, 2020, and received by email on February 19, 2021. Mr. Hofts presented the request. No one appeared in opposition. The hearing concluded at 9:18 a.m. The Board then considered the request.

Mr. Wootton moved to grant in whole, the Thayer County relaxation. Mr. Litchfield seconded the motion. Members Keegan, Kramer, Krager, Litchfield, Rames, Weander, Wootton and Figard voted YES. Members Gerrard and Syslo were absent. The motion carried with the requisite majority vote.

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At 9:20 a.m., the Board heard the Holt County request for a Relaxation for County Project No. Honey Creek C-45(532). *(The hearing was held in an informal format, Holt County having declined the option of a formal hearing.)* The request is for a Relaxation of the 428 NAC 2 – 001.03H, New and Reconstructed – County Road Systems Standards, on a Major Collector/Other Arterial road, as specified in its letter of April 8, 2021, and County Resolution 2021-11, adopted March 31, 2021, and received by email on April 8, 2021. Mr. Wagner presented the request. No one appeared in opposition. The hearing concluded at 9:42 a.m. The Board then considered the request.

Mr. Weander moved to grant the Holt County relaxation, in view of the peculiar, special or unique local situation presented whereby the application of a specific Minimum Design Standard would work a special hardship. Mr. Rames seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Rames, Weander, Wootton and Figard voted YES. Members Gerrard and Syslo were absent. The motion carried with the requisite majority votes.

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At 9:44 a.m., the Board heard the NDOT request for a Relaxation for Project No. STP-97-3(104), C.N. 61569, Mullen South. *(The hearing was held in an informal format, NDOT having declined the option of a formal hearing.)* The request is for a Relaxation of the 428 NAC 2 – 001.02R, Resurfacing Restoration and Rehabilitation (3R) Rural – State Highway System Standards, on a Major Arterial/Major Collector State Highway, N-97, as specified in NDOT letter of September 14, 2020. Mr. Owen and Mr. McCullough presented the request. No one appeared in opposition. The hearing concluded at 10:36 a.m. The Board then considered the request.

Mr. Weander moved to grant the NDOT relaxation, in view of the peculiar, special or unique local situation presented whereby the application of a specific Minimum Design Standard would work a special hardship. Ms. Keegan seconded the motion. Members Keegan, Krager, Litchfield, Rames, Weander, Wootton and Figard voted YES. Member Kramer voted NO. Members Gerrard and Syslo were absent. The motion carried with the requisite majority votes.

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Biennial Election of Officers

Chairman Figard announced the election of officers as the next item of business (*terms commencing at the conclusion of today's meeting*).

Nominations were opened for Chairperson, Vice Chairperson and Secretary.

Mr. Wootton moved to keep all elected officers in their current positions for a two-year term, as follows:

Chairperson	Roger Figard
Vice Chairperson	Jim Litchfield
Secretary	LeMoyne Schulz

Ms. Kramer seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Rames, Weander, Wootton and Figard voted YES. Members Gerrard and Syslo were absent. The motion carried.

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Other business:

- There was no Legislative Report.
- Implementation of LB113 (2017), LB339 (2017), LB1009 (2018), LB82 (2019), LB174 (2021) and other Statutes; and changes to the Board's Operating Procedures and 428 NAC 1 and 2 Regulations.
 - Repeal of 428 NAC 3, 4 and 5 Regulations. Chairman Figard reported the regulations are under review by the Attorney General.
 - Action on Practical Design Sub-committee recommendations. Chairman Figard updated the board on the Sub-committee's progress, to date, and asked the board to vote on the adoption of the Sub-committee recommendations.

Mr. Wootton moved to adopt the Practical Design Sub-committee's recommendations for use in a practical design program. Mr. Litchfield seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Rames, Weander, Wootton and Figard voted YES. Members Gerrard and Syslo were absent. The motion carried. (*Attachment #1*)

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There was no correspondence and general information to report.

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There were no comments from the Audience.

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Acknowledgement of Visitors.

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The next tentative meeting will be held on June 18, 2021 at 9:00 a.m., in the Nebraska Department of Transportation Central Headquarters Building Auditorium, Room 139A, 1500 Highway 2, Lincoln, Nebraska.

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There being no further agenda items, Chairman Figard adjourned the meeting at 11:27 a.m.

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LeMoyne D. Schulz
Secretary for the Board
<https://dot.nebraska.gov/business-center/lpa/boards-liaison/>

Nebraska Board of Public Roads Classifications and Standards

An INTRODUCTION to MULTI-PROJECT PROGRAMS OR STRATEGIES using Practical, Flexible, or Context Sensitive Design

The purpose of this document is to provide background information on multi-project programs or strategies, involving design approaches termed “practical”, “flexible” or “context sensitive.” In common parlance these may be called “flexible design” or “practical design.” In this document the term “roadway” is used in a general sense referring to state highways, county roads and municipal streets, and the term “program” means a program or a strategy.

Acronyms Used

AASHTO American Association of State Highway Transportation Officials

B-LS Boards Liaison Services Section

NAC Nebraska Administrative Code

NBCS Nebraska Board of Public Roads Classifications and Standards

NDOT Nebraska Department of Transportation

TRB Transportation Research Board

What Is a Multi-Project Program and What Is Its Statutory Basis?

A multi-project program as the name suggests involves either more than one roadway project or roadways that have similar characteristics (criteria driven). If the program results in not meeting Nebraska Board of Public Roads Classifications and Standards (NBCS) standards set out in Title 428 Nebraska Administrative Code (NAC) Chapter 2 (428 NAC 2), Nebraska statute [§39--2113\(7\)](#) requires the Nebraska Board of Public Roads Classifications and Standards (NBCS) to work with the program proponent to establish the program. Program proponents can be the Nebraska Department of Transportation (NDOT), a county or a municipality. This is different than a relaxation of standards request, which applies to only one project and must conform to regulation 428 NAC 2-004.

MULTI-PROJECT PROGRAMS (continued)

Multi-project programs reflect a **performance-based** approach to the design of highways, roads, and streets that is more flexible than strict reliance on geometric standards (roadway cross section, gradient, and linear curvature). This approach has been implemented nationally in the past few years. Some reasons:

- Research which supports the approach. Keys to its acceptance are improved knowledge of the relationship between geometric design features and
 - traffic operations, as reflected in the Transportation Research Board's (TRB) *Highway Capacity Manual*, and
 - crash frequency and severity, as reflected in the *Highway Safety Manual* from the American Association of State Highway Transportation Officials (AASHTO).
- To meet today's transportation needs and challenges, including funding and right-of-way constraints.

It is a recognition that project development is more than just geometric design, the basis of NBCS standards design criteria. Design standards are a good starting point for design decisions; however, it may not always be beneficial or reasonable to construct roadways to meet all standards. Projects on existing roadways often are limited in scope and available funds and utilizing performance-based flexible design is intended to help project stakeholders to make the most of project investments. The 7th Edition (2018) of *A Policy on Geometric Design of Highways and Streets* from AASHTO, commonly known as the "Green Book" lists and explains factors, beyond geometric design, that are considered during project development. Its policy explains the evolution of design indicating that AASHTO now "encourages flexible design, which emphasizes the role of the planner and designer in determining appropriate design dimensions based on project-specific conditions and existing and future roadway performance than on meeting specific nominal design criteria . . . this may have led to overdesign, constructing projects that were more costly than they needed to be or were inappropriate for the roadway context."

Multi-project programs or strategies are allowed in Nebraska since the passage of [LB82](#) by the 2019 Nebraska Legislature; specifically, Section 5 of that bill which is encoded now in the statute [§39--2113\(7\)](#) as follows.

(7) In cooperation with the Department of Transportation, counties, and municipalities, the board is authorized to develop, support, approve, and implement programs and project strategies that provide additional flexibility in the design and maintenance standards. Once a program is established, the board shall allow project preapproval for all projects that conform to the agreed-upon program. The programs shall be set out in memorandums of understanding or guidance documents and may include, but are not limited to, the following:

MULTI-PROJECT PROGRAMS (continued)

(a) Practical design, flexible design, or similar programs or strategies intended to focus funding on the primary problem or need in constructing projects that will not meet all the standards but provide substantial overall benefit at a reasonable cost to the public;

(b) Asset preservation or preventative maintenance programs and strategies that focus on extending the life of assets such as, but not limited to, pavement and bridges that may incorporate benefit cost, cost effectiveness, best value, or lifecycle analysis in determining the project approach and overall benefit to the public; and

(c) Context sensitive design programs or similar programs that consider the established needs and values of a county, municipality, community, or other connected group to enable projects that balance safety while making needed improvements in a manner that fits the surroundings and provides overall benefit to the public.

§39-2113(7) is about achieving appropriate final designs, using public funds effectively, and providing a net positive benefit to the public. An implied outcome is the improvement of our highway, road, and street network by applying cost savings to other parts of the network, i.e., putting money where it is most needed.

The Bigger Picture

There are three ways of dealing with any roadway design and maintenance activity that does not meet NBCS standards:

- A. Relaxation of Standards (for a specific project or work)
- B. Multi-Project Program or Strategy
- C. Change the standards

There are regulated processes for A (428 NAC 2-004) and C (rulemaking), but not for B.

How Is a Multi-Project Program Different Than Relaxation of Standards?

Although a multi-project program may seem like a relaxation of standards because they both involve requests to not meet Board standards, they are different in some respects. A multi-project program request

1. Is not regulated by the relaxation of standards process as defined in 428 NAC 2-004.
2. Applies to multiple projects or works, while a relaxation of standards typically applies to only one work or project or a phased work or project.

Regarding #2 above, if a request involves only one project or work, it must use the relaxation of standards process set out in 428 NAC 2-004. For some multi-project program requests, it may ultimately be determined that it would be more appropriate to bring each project to the NBCS individually.

Who Can Work with the NBCS to Establish a Multi-Project Program?

Adopted by the NBCS on April 16, 2021

MULTI-PROJECT PROGRAMS (continued)

The NDOT, any County or any Municipality can apply for a multi-project program, as is the case for a relaxation of standards request.

Why Request a Multi-Project Program?

If an entity has a recurring situation where meeting NBCS standards is more costly than the benefit of meeting them, then the entity can consider applying for a multi-project program. There are different reasons to request multi-project programs, such as when:

- There is little or no gain building to a Board standard criterium or criteria with no significant, relevant crash history. This is criteria driven and avoids building to the standard just for the sake of building to the standard, i.e., “if it ain’t broke don’t fix it.”
- The decision is believed to not substantially or materially reduce the overall safety performance, driver expectancy and uniformity across the entire roadway network. Mitigation features might offset the change in performance resulting from not meeting the standard.
- Community needs and values are important considerations, such as context sensitive design. The benefits of context sensitive design are often more qualitative than quantitative.

The above list is not comprehensive.

How Does the NDOT, County or Municipality Request a Multi-Project Program?

A request for a multi-project program is submitted to the NDOT Boards Liaison Services Section (BLS), the same as for relaxation of standards requests, but the process is different. Much of the same information required for a relaxation of standards request is also required for a multi-project program but unlike a relaxation of standards request, there is an application form.

It is important to include enough information for the Board of Public Roads Classifications and Standards (NBCS) to make an informed decision. Requests and presentations need to be thorough and objective, providing facts, supporting data, and justification. There needs to be more justification than simply not being able to afford to build to standards. An overall benefit to society must be demonstrated and reasonably justified. This may be done by quantifying overall benefits and cost effectiveness of the program.

How Does the NBCS Process a Multi-Project Program Request?

A committee composed of NBCS Board members reviews the request. The committee makes a recommendation at a meeting of the full Board. If the request moves forward, a memorandum of understanding is drafted and signed by the NDOT, county or municipality. Then the NBCS Board signs at a subsequent Board meeting.

Adopted by the NBCS on April 16, 2021

MULTI-PROJECT PROGRAMS (continued)

What Does the NBCS Consider When Working with an Applicant?

When there are recurring situations, sometimes meeting all NBCS standards is not consistent with flexible or practical design. Design considerations, including purpose and need, may create a focus on one or two standards that are difficult to meet. There needs to be a balance between public safety, the uppermost concern of the NBCS, and any allowance of flexibility in the Board's standards. **Using a safety conscious design process, maintaining uniformity throughout the road network, being strategic with taxpayers' money, and improving the overall network are cornerstone principles of this process.**

State statute §39-2113(7) addresses general types of programs or strategies such as practical design, asset preservation and context sensitive design. In deciding whether or not to approve such requests, the Board of Public Roads Classifications and Standards (NBCS) will have many things to consider – the current status of the roadway(s), functional classification, traffic volume, compliance with driver expectancy and system safety and uniformity, estimated overall benefit(s) to the traveling public, good use of taxpayer money with the assumption that any cost savings will be applied to maintain or improve other parts of the network, and many more.

Typically, the applicant will provide an analysis with costs and benefits documented to show an overall benefit to the public. There may be features (improved roadway geometry, signing, delineation, roadside safety, etc.) added to mitigate the effects of not meeting a design criterium; these are typically the result of integrating safety conscious design into the engineering phase of the project(s).

A multi-project program can be more complicated than a one-project relaxation of standards. The NBCS wants to be careful to avoid unintended consequences or set precedents that could be problematic later.

Checklist – Primary Considerations for the Board to consider a Multi-Project Program or Strategy – each item explained below the checklist

- 1. Achieves a substantial overall benefit or a “net” positive benefit.
- 2. Roadway is already reasonably improved.
- 3. Focuses funding on the primary problem or need.
- 4. Reasonably consistent with driver expectancy and system uniformity.
- 5. Results in cost savings that could be applied toward other capital and/or system preservations improvements.

See below for more explanation.

MULTI-PROJECT PROGRAMS (continued)

1. Achieves a substantial overall benefit or a “net” positive benefit.

Nebraska law requires that any program will provide a substantial overall benefit or a net positive benefit. For a program to meet this requirement it must include roadway improvements or features that will leave the roadway in a “better” or improved condition. Obtaining this result is likely to require the balancing of meeting standards and making more direct improvements in exchange for the reduced cost of meeting the standard in question. Programs can be creative in utilizing roadway improvements that have been shown by experience or research to bring more benefit for the cost. An example would be a rumble strip outside the edge line.

Accordingly, the program applicant must clearly identify the benefits and show that when compared to the elements that will not meet standards, the program has a substantial overall benefit, or a “net” positive benefit.

2. Roadway is already reasonably improved.

NBCS standards arose out of a societal desire for the State’s highways, roads and streets to be designed and constructed with a focus on obtaining as much safety/uniformity as possible at a cost the governing entity could afford. Roadways that have been constructed in compliance with the historic design standards (whether New or Reconstructed or 3R) and the industry’s prevailing standard of care at the time it was constructed may meet that societal balance. That is, if the roadways in the proposed program are consistent with other roadways within the same functional classification across the network.

Accordingly, the description of the program should make it clear that the program only applies to roadways that have been previously constructed to meet standards, criterium or formal guidelines that were in effect when the roadway or group of roadways were improved.

3. Focuses Funding on the Primary Problem or Need.

Nebraska law states that a flexible or practical (or similar) program is intended to focus funding on the primary problem or need in constructing projects. If a segment of roadway has a reasonably improved cross section, a program can allow analysis of the primary problem or need that should be addressed on that segment. For example, a program could be structured with a focus on the condition of the surfacing without meeting all standards. The other improvements to be made along with surfacing improvements could be used to meet the net positive benefit requirement.

Accordingly, programs should describe how the program will focus on a primary problem or need.

MULTI-PROJECT PROGRAMS (continued)

4. Reasonably consistent with Driver Expectancy and System Uniformity.

The original mission of the NBCS also related to developing a system where roads used for similar purposes would be uniform throughout the State. That means not surprising or confronting the road user with something not consistent with similarly classified roads in the network, something unfamiliar or uncharacteristic. A local road in Box Butte County should look much the same to a motor vehicle operator as a local road in the same classification in Dakota County. Applicants should be able to show that driver expectancy will be reasonably maintained with the program. Justification (analysis, industry guidelines and standards of care, research) must be provided for each non-standard value. For example, conformity to guidelines adopted by the AASHTO; for NDOT programs and strategies, refer to State statute §39-1316.

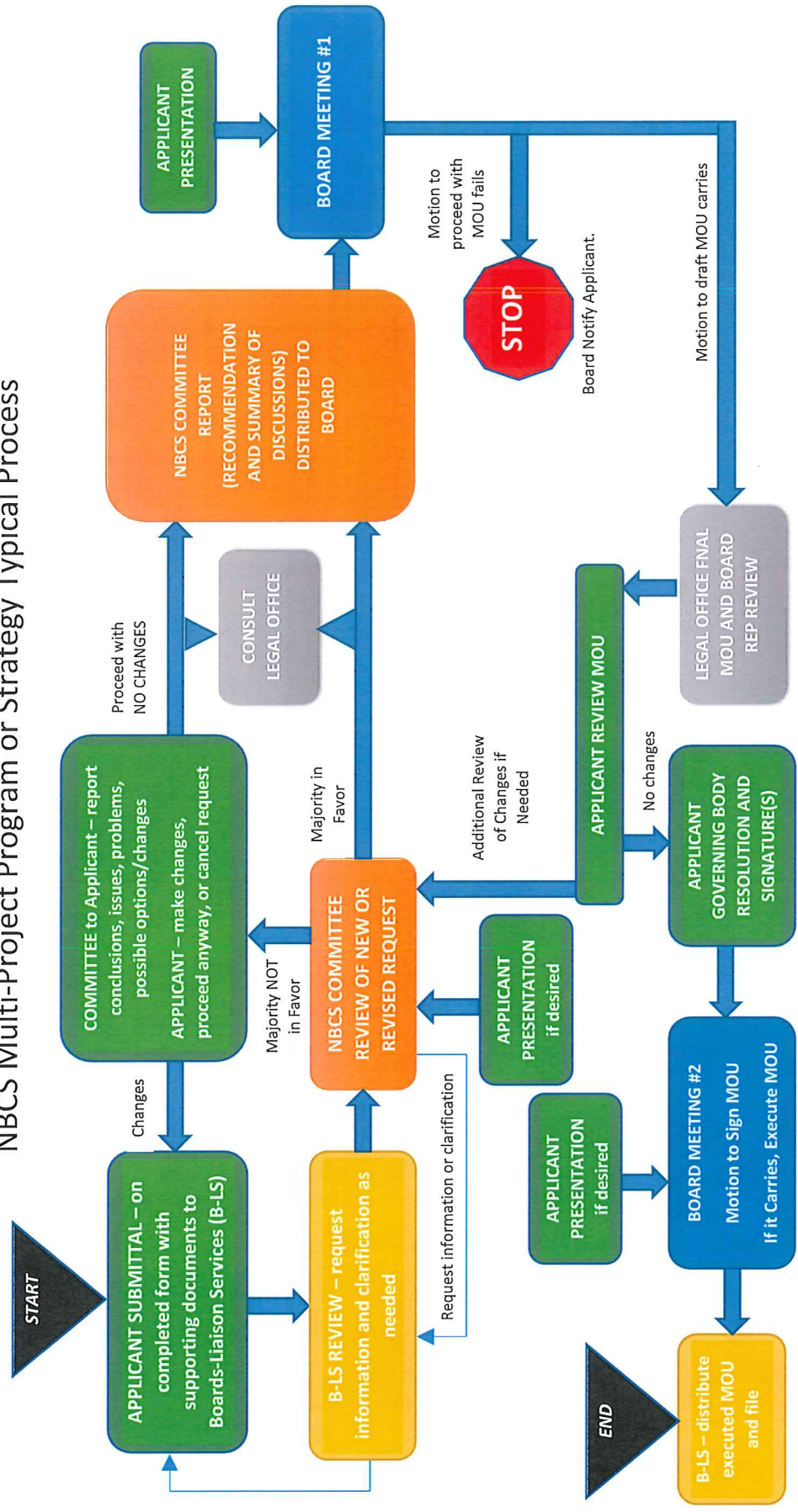
Accordingly, a program should result in roadways that are reasonably consistent with driver expectancy and uniformity within the system.

5. Results in cost savings that could be applied toward other capital and/or system preservations improvements.

Cost savings alone will not lead to approval of a program request. Practical or flexible design allows limited funding to be spread over more improvement projects. A program proposal should show the link between the program and the benefit to the transportation system. The Board encourages the applicant to apply savings from programs and strategies on other needed capital improvements or system preservation needs.

Accordingly, a program is not approved on cost savings alone but in conjunction with benefits to the entire roadway network.

NBCS Multi-Project Program or Strategy Typical Process



Adopted by the NBCS on April 16, 2021 (note: chart is a guide, and does not preclude adjustments for unique applications)

Request for Multi-Project Program or Strategy
Practical, Flexible or Context Sensitive Design

Review the entire form before filling it out; see attached instructions. Attach additional sheets as needed.

<p>1. <i>Requesting Entity/Entities (NDOT, Counties and/or Municipalities may request)</i></p>
<p>2. <i>Describe the proposed Program or Project Strategy and the implementation timeframe.</i></p>
<p>3. <i>Identify known locations included in this request, and state if they are the only locations being requested.</i></p>
<p>4. <i>Identify conditions, commitments, mitigation strategies and limitations proposed to ensure public safety.</i></p>
<p>5. <i>Describe potential effects on safety, operations, and driver expectations.</i></p>
<p>6. <i>Attach an engineering analysis quantifying the net positive benefits the public can expect to receive.</i></p>

Request for Multi-Project Program or Strategy

Practical, Flexible or Context Sensitive Design

Instructions Applicable to the NBCS form Request for Multi-Project Program or Project Strategy

1. Requesting Entity/Entities. Identify all entities submitting this request. Only NDOT, Counties and Municipalities may apply.
2. Description of the proposed Program or Project Strategy. Describe the program, the need(s) and purpose(s) of the work, and if the intent is to **focus funding on the primary problem or need**. Explain why the program makes good common sense. Include an estimated timeframe for implementation.
3. Known Locations Included in Request. Describe applicable project or work locations; attach map(s) as appropriate. Include all known locations where NBCS minimum design standards will not be met. State if these are the only locations being requested or if there may be other locations. All locations, known or unknown, should be materially similar, i.e. functional classification, topography, soil type, etc.). **Identify which NBCS standards (year) they were built to.**
4. Identification of proposed conditions, commitments, mitigation strategies and limitations. Include details regarding features (improved roadway geometry, signing, delineation, roadside improvements, etc.) that will be changed or added to mitigate the effects of not meeting NBCS standards.
5. Effect on safety, operations, and driver expectancy. Describe and quantify how implementation is estimated to affect crashes (frequency and severity) and operations of affected highways, roads, and streets; compare existing vs. proposed vs. meeting NBCS standards. Explain and quantify how safety of the driving public will be affected, compared to the existing condition. Include a history of crashes and an analysis (trends) as appropriate. The amount of crash data should be consistent with the facility or situation, for example, a low volume road may need five or ten years of data instead of three. **Address the issue of system uniformity, for driver expectancy, after implementation;** the roadway should be substantially like other similar functional classifications of roads across the State.
6. Engineering Benefit and Cost Analysis. Attach an engineering analysis which (a) estimates the **net positive benefits and cost savings** the public can expect. For all proposals, include a direct comparison of estimated costs of the proposed Program or Project Strategy to the estimated costs of meeting all NBCS standards. Benefits and costs may be expressed in terms of unit of length (per mile, etc.) if that is more appropriate and consistent with the requested work. The basis for cost estimates must be included, i.e. there needs to be a reasonable level of detail not just totals. Estimated benefits and savings which include crash cost reductions will use NDOT's latest crash cost figures unless there is justification for using different figures. Estimated costs may include the cost of delay, such as inflations costs and maintenance costs to maintain the roadway during the delay. For proposals that cannot reasonably be estimated in terms of dollars, benefits can be detailed in terms of community needs and values; this might be the case, for example, for some context sensitive designs. **COST SAVINGS ALONE MAY NOT BE ENOUGH TO GAIN BOARD APPROVAL.** Benefits (to society, the traveling public and taxpayers) compared to costs could weigh heavily in the Board's decision, as much or more than estimated cost savings. It would be helpful to **explain how those cost savings will be allocated or applied to the transportation network to obtain positive benefits via other improvements, programs, or projects.**
7. Explain the rationale for not meeting NBCS standards. Identify each MDS standard value, the reason(s) for not meeting the standard, along with each requested non-standard value. State the justification (analysis, industry guidelines and standards of care, research) for each requested non-standard value.

NOTE: The Board of Public Roads Classifications and Standards intends to approve only programs or strategies that have a net estimated safety benefit and a clearly demonstrated overall net positive benefit to the public.

The NBCS Reserves the Right to Request Additional Information

Adopted by the NBCS on April 16, 2021