

# **STEWARDSHIP and OVERSIGHT AGREEMENT**

**FOR IMPLEMENTATION OF THE  
MOVING AHEAD FOR PROGRESS IN THE  
21<sup>st</sup> CENTURY ACT (MAP-21) P.L. 112-141**

**BETWEEN**



**AND**



**U.S. Department of Transportation  
Federal Highway Administration**

**May 14, 2015**

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**STEWARDSHIP AND OVERSIGHT AGREEMENT  
ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT  
BY AND BETWEEN  
FEDERAL HIGHWAY ADMINISTRATION, NEW HAMPSHIRE DIVISION  
AND THE  
STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION**

**SECTION I. BACKGROUND AND INTRODUCTION**

The Federal-aid Highway Program (FAHP) is a federally-assisted program of State-selected projects. The Federal Highway Administration (FHWA) and the State Departments of Transportation have long worked as partners to deliver the FAHP in accordance with Federal requirements. In enacting 23 U.S.C. 106(c), as amended, Congress recognized the need to give the States more authority to carry out project responsibilities traditionally handled by FHWA. Congress also recognized the importance of a risk-based approach to FHWA oversight of the FAHP, establishing requirements in 23 U.S.C. 106(g). This Stewardship and Oversight (S&O) Agreement sets forth the agreement between the FHWA and the State of New Hampshire Department of Transportation (NHDOT) on the roles and responsibilities of the FHWA and the NHDOT with respect to Title 23 project approvals and related responsibilities, and FAHP oversight activities.

The scope of FHWA responsibilities, and the legal authority for NHDOT assumption of FHWA responsibilities, developed over time. The U.S. Secretary of Transportation delegated responsibility to the Administrator of the FHWA for the FAHP under Title 23 of the United States Code, and associated laws. (49 CFR 1.84 and 1.85) The following legislation further outlines FHWA's responsibilities:

- Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991;
- Transportation Equity Act for the 21st Century (TEA-21) of 1998;
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005; and
- Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012 (P.L. 112-141).

The FHWA may not assign or delegate its decision-making authority to a State Department of Transportation unless authorized by law. Section 106 of Title 23, United States Code (Section 106), authorizes the State to assume specific project approvals. For projects that receive funding under Title 23, U.S.C., and are on the National Highway System (NHS) including projects on the Interstate System, the State may assume the responsibilities of the Secretary of the U.S. Department of Transportation under Title 23 for design, plans, specifications, estimates, contract awards, and inspections with respect to the projects unless the Secretary determines that the assumption is not appropriate. (23 U.S.C. 106(c)(1)) For projects under Title 23, U.S.C. that are not on the NHS, the State shall assume the responsibilities for design, plans, specifications,

estimates, contract awards, and inspections unless the State determines that such assumption is not appropriate. (23 U.S.C. 106(c)(2))

For all other project activities which do not fall within the specific project approvals listed in Section 106 or are not otherwise authorized by law, the FHWA may authorize a NHDOT to perform work needed to reach the FHWA decision point, or to implement FHWA's decision. However such decisions themselves are reserved to FHWA.

The authority given to the NHDOT under Section 106(c)(1) and (2) is limited to specific project approvals listed herein. Nothing listed herein is intended to include assumption of FHWA's decision-making authority regarding Title 23, U.S.C. eligibility or Federal-aid participation determinations. The FHWA always must make the final eligibility and participation decisions for the Federal-aid Highway Program.

Section 106(c)(3) requires FHWA and the NHDOT to enter into an agreement relating to the extent to which the NHDOT assumes project responsibilities. This Stewardship and Oversight Agreement (S&O Agreement), includes information on specific project approvals and related responsibilities, and provides the requirements for FHWA oversight of the FAHP (Oversight Program), as required by 23 U.S.C. 106(g).

## **SECTION II. INTENT AND PURPOSE OF S&O AGREEMENT**

The intent and purpose of this S&O Agreement is to document the roles and responsibilities of the FHWA's New Hampshire Division Office (FHWA or Division) and New Hampshire Department of Transportation (NHDOT) with respect to project approvals and related responsibilities, and to document the methods of oversight which will be used to efficiently and effectively deliver the FAHP.

The Project Action Responsibility Matrix, Attachment A to this S&O Agreement and as further described in Section VIII of this S&O Agreement, identifies FHWA FAHP project approvals and related responsibilities New Hampshire DOT assumes from FHWA on a program-wide basis pursuant to 23 U.S.C. 106(c) and other legal authorities. Upon execution of this agreement, Attachment A shall be controlling and except as specifically noted in Attachment A, no other agreements, attachments, or other documents shall have the effect of delegating or assigning FHWA approvals to New Hampshire DOT on a program-wide basis under 23 U.S.C 106 or have the effect of altering Attachment A.

## **SECTION III. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS ON THE NATIONAL HIGHWAY SYSTEM**

- A. The NHDOT *may assume* the FHWA's Title 23 responsibilities for design; plans, specifications, and estimates (PS&E); contract awards; and inspections, with respect to *Federal-aid projects on the National Highway System (NHS)* if both the *NHDOT* and *FHWA* determine that assumption of responsibilities is appropriate.
- B. Approvals and related activities for which the NHDOT has assumed responsibilities as shown in Attachment A will apply program wide unless project specific actions for which the Division will carry out the approval or related responsibilities are documented in

accordance with the FHWA Project of Division Interest/Project of Corporate Interest Guide (FHWA PoDI/PoCI Guide) and Attachment F. FHWA PoDI/PoCI Guide is located at: <http://www.fhwa.dot.gov/federalaid/stewardship/>

- C. The NHDOT may not assume responsibilities for Interstate projects that are in high risk categories. (23 U.S.C. 106(c)(1))
- D. The NHDOT is to exercise any and all assumptions of the Secretary responsibilities for Federal-aid projects on the NHS in accordance with Federal laws, regulations and policies.

#### **SECTION IV. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS OFF THE NATIONAL HIGHWAY SYSTEM**

- A. The NHDOT *shall assume* the FHWA's Title 23 responsibilities for design, PS&Es, contract awards, and inspections, with respect to *Federal-aid projects off the NHS (non-NHS)* unless the *NHDOT* determines that assumption of responsibilities is not appropriate. (23 U.S.C. 106(c)(2))
- B. Except as provided in 23 U.S.C.109(o), the NHDOT is to exercise the Secretary's approvals and related responsibilities on these projects in accordance with Federal laws.
- C. The NHDOT, in its discretion, may request FHWA carry out one or more non-NHS approvals or related responsibilities listed as "State" in Attachment A on a program-wide basis. For a project specific request, the State may request FHWA carry out any approval or related responsibility listed in Attachment A off the NHS. Such project-specific requests shall be documented in accordance with the FHWA PoDI/PoCI Guide.
- D. Pursuant to 23 U.S.C. 109(o), non-NHS projects shall be designed and constructed in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

#### **SECTION V. ASSUMPTION OF RESPONSIBILITIES FOR LOCALLY ADMINISTERED PROJECTS**

The NHDOT may permit local public agencies (LPAs) to carry out the NHDOT's assumed responsibilities on locally administered projects. The NHDOT is responsible and accountable for LPA compliance with all applicable Federal laws and requirements.

#### **SECTION VI. PERMISSABLE AREAS OF ASSUMPTION UNDER 23 U.S.C. 106(c)**

An assumption of responsibilities under 23 U.S.C. 106(c) may cover only activities in the following areas:

- A. Design which includes preliminary engineering, engineering, and design-related services directly relating to the construction of a FAHP-funded project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services.
- B. PS&E which represents the actions and approvals required before authorization of construction. The PS&E package includes geometric standards, drawings, specifications, project estimates, certifications relating to completion of right-of-way acquisition and relocation, utility work, and railroad work.
- C. Contract awards which include procurement of professional and other consultant services and construction-related services to include advertising, evaluating, and awarding contracts.
- D. Inspections which include general contract administration, material testing and quality assurance, review, and inspections of Federal-aid contracts as well as final inspection/acceptance.
- E. Approvals and related responsibilities affecting real property as provided in 23 CFR 710.201(i) and any successor regulation in 23 CFR Part 710.

## **SECTION VII. FEDERAL APPROVALS AND RELATED RESPONSIBILITIES THAT MAY NOT BE ASSUMED BY THE NHDOT**

- A. Any approval or related responsibility not listed in Attachment A cannot be assumed by the State without prior concurrence by FHWA Headquarters. The following is a list of the most frequently-occurring approvals and related responsibilities that may not be assumed by the NHDOT:
  - Civil Rights Program approvals;
  - Environmental approvals, except those specifically assumed under other agreements. (23 U.S.C. 326 and 327; programmatic categorical exclusion agreements);
  - Federal air quality conformity determinations required by the Clean Air Act;
  - Approval of current bill and final vouchers;
  - Approval of federally-funded hardship acquisition, protective buying, and 23 U.S.C. 108(d) early acquisition;
  - Project agreements and modifications to project agreements and obligation of funds (including advance construction);
  - Planning and programming pursuant to 23 U.S.C. 134 and 135;
  - Special Experimental Projects (SEP-14 and SEP-15);
  - Use of Interstate airspace for non-highway-related purposes;
  - Any Federal agency approval or determination under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended, and implementing regulations in 49 CFR Part 24;
  - Waivers to Buy America requirements;

- Approval of Federal participation under 23 CFR 1.9(b);
  - Provide pre-approval for preventive maintenance project (until FHWA concurs with NHDOT procedures);
  - Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations, or other contributions applied to a project;
  - Functional replacement of property;
  - Approval of a time extension for preliminary engineering projects beyond the 10-year limit, in the event that actual construction or acquisition of right-of-way for a highway project has not commenced;
  - Approval of a time extension beyond the 20-year limit for right of way projects, in the event that actual construction of a road on the right-of-way is not undertaken;
  - Determine need for Coast Guard Permit;
  - Training Special Provision – Approval of New Project Training Programs; and
  - Any other approval or activity not specifically identified in Attachment A unless otherwise approved by the FHWA, including the Office of Chief Counsel.
- B. For all projects and programs, the NHDOT will comply with Title 23 and all applicable non-Title 23, U.S.C. Federal-aid program requirements, such as metropolitan and statewide planning; environment; procurement of engineering and design related service contracts (except as provided in 23 U.S.C. 109(o)); Civil Rights including Title VI of the *Civil Rights Act*, and participation by Disadvantaged Business Enterprises; prevailing wage rates; and acquisition of right-of-way, etc.
- C. This Agreement does not modify the FHWA's non-Title 23 program approval and related responsibilities, such as approvals required under the Clean Air Act; National Environmental Policy Act, Executive Order on Environmental Justice (E.O. 12898), and other related environmental laws and statutes; the Uniform Act; and the Civil Rights Act of 1964 and related statutes.

## **SECTION VIII. PROJECT ACTION RESPONSIBILITY MATRIX**

Attachment A, Project Action Responsibility Matrix, to this S&O Agreement identifies FAHP project approvals and related responsibilities. The Matrix specifies which approvals and related responsibilities are assumed by the NHDOT under 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as approvals and related responsibilities reserved to FHWA. Deviations from Attachment A will be documented on a project by project basis with the development of a PODI oversight plan. The PODI selection process is described in Attachment F.

## **SECTION IX. HIGH RISK CATEGORIES**

- A. In 23 U.S.C. 106(c), Congress directs that the Secretary shall not assign any approvals or related responsibilities for projects on the Interstate System if the Secretary determines the project to be in a high risk category. Under 23 U.S.C. 106(c)(4)(B), the Secretary may define high risk categories on a national basis, State-by-State basis, or national and State-by-State basis.

- B. Per the date of this Agreement, the Division has determined there are no high risk categories for the NHDOT.

## **SECTION X. FHWA OVERSIGHT PROGRAM UNDER 23 U.S.C. 106(g)**

- A. In 23 U.S.C. 106(g), Congress directs that the Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out the FAHP. This program includes FHWA oversight of the NHDOT's processes and management practices, including those involved in carrying out the approvals and related responsibilities assumed by the NHDOT under 23 U.S.C. 106(c). Congress defines that, at a minimum, the oversight program shall be responsive to all areas relating to financial integrity and project delivery.
- B. The FHWA shall perform annual reviews that address elements of the NHDOT's financial management system in accordance with 23 U.S.C. 106(g)(2)(A). FHWA will periodically review the NHDOT's monitoring of subrecipients pursuant to 23 U.S.C. 106(g)(4)(B).
- C. The FHWA shall perform annual reviews that address elements of the project delivery systems of the NHDOT, which elements include one or more activities that are involved in the life cycle of project from conception to completion of the project. The FHWA will also evaluate the practices of the NHDOT for estimating project costs, awarding contracts, and reducing costs. 23 U.S.C. 106(g)(2) and (3).
- D. To carry out the requirements of 23 U.S.C. 106(g), the FHWA will employ a risk management framework to evaluate financial integrity and project delivery, and balance risk with staffing resources, available funding, and the State's transportation needs. The FHWA may work collaboratively with the NHDOT to assess the risks inherent with the FAHP and funds management, and how that assessment will be used to align resources to develop appropriate risk response strategies.

Techniques the Division and NHDOT may use to identify and analyze risks and develop response strategies include the following:

- Program Assessments;
- FIRE Reviews;
- Program Reviews;
- Certification Reviews;
- Recurring or periodic reviews such as the Compliance Assessment Program (CAP); and
- Inspections of project elements or phases.

These techniques will be carried out in a manner consistent with applicable Division Standard Operating Procedures or other control documents relating to program assessments, FIRE, program reviews, CAP, etc. Reviews may be conducted by individual FHWA staff or by teams including NHDOT staff.

**E. Program Responsibility Matrix**

Attachment B to this S&O Agreement is the Program Responsibility Matrix example that identifies all relevant FHWA program actions, and New Hampshire Division and NHDOT program contact offices.

**F. Manuals and Operating Agreements**

NHDOT manuals, agreements and other control documents that have been approved for use on Federal-aid projects are listed in Attachment C to this S&O Agreement. Any new or updated manuals for use on the Federal-aid program require FHWA review and approval/concurrence.

**G. Stewardship and Oversight Indicators**

The New Hampshire Division and NHDOT have jointly established Stewardship and Oversight Indicators (Indicators). The Indicators assist to identify if implementation of countermeasures and actions are needed when the data is moving away from the desired targets or trends. Indicators also provide documented evidence that the NHDOT assumption of responsibilities is functioning appropriately. The Stewardship and Oversight Indicators are risk-based and will be reviewed on an annual basis. The Indicators are incorporated by reference to this S&O Agreement, Attachment G.

**SECTION XI. NHDOT OVERSIGHT AND REPORTING REQUIREMENTS**

**A. NHDOT Oversight and Reporting Requirements**

The NHDOT is responsible for demonstrating to the FHWA how it is carrying out its responsibilities in accordance with this S&O Agreement. In order to fulfill this responsibility, the NHDOT will:

- Follow all processes and procedures as documented in the NHDOT Manuals approved by the New Hampshire Division for use on Federal-aid projects.
- Maintain individual Federal-aid project files that will include documentation of all required FHWA actions and NHDOT's assumed project approvals as set forth in this Agreement. NHDOT will provide FHWA access to the project files when requested.
- Provide the information, as noted in Section X. G. above to analyze the agreed upon set of Stewardship and Oversight Indicators.
- Conduct program and project reviews, as needed
- Complete quarterly/annual reports and provide program and project information, as needed.
- Work with the New Hampshire Division to implement the Supercircular (2 CFR 200) and the FHWA Project Funds Management Guide for State Grants.

- NHDOT and the New Hampshire Division, as part of the annual Risk Assessment, will assess the Program to determine if there are opportunities to improve the processes outlined.

B. NHDOT Oversight of Locally Administered Projects

- B.1. NHDOT is required to provide adequate oversight of subrecipients including oversight of any assumed responsibilities the NHDOT delegates to a LPA.

NHDOT will assign a Program Manager to oversee each program that provides funding to LPA's for transportation projects. A Project Manager (PM) will be assigned to oversee each individual project. The PM's will seek input from other NHDOT bureaus with special expertise as needed including but not limited to: Environment, Traffic, Highway Design, Bridge Design, Right-of-Way, Materials and Research, Public Works, Construction, Highway Maintenance, and Bridge Maintenance. All aspects of the projects are reviewed for compliance with the NHDOT LPA Manual and other NHDOT standards as defined in NHDOT design manuals and the NHDOT Standard Specifications for Road and Bridge Construction.

- B.2. Pursuant to 23 U.S.C. 106(g)(4), the NHDOT shall be responsible for determining that subrecipients of Federal funds have adequate project delivery systems for locally administered projects and sufficient accounting controls to properly manage such Federal-aid funds. The State DOT is also responsible for ensuring compliance with reporting and other requirements applicable to grantees making sub-awards, such as monthly reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, PL 109-282 (as amended by PL 110-252).

As required by the process defined in the LPA Manual, the sub-recipients or LPA Project sponsors will be required to designate “a Person in Responsible Charge (PiRC)”. The PiRC will be required to obtain LPA Program Certification by attending training offered by NHDOT Bureau of Planning and Community Assistance. If the LPA engages a consultant to assist with design and construction of the project, the consultant’s Project Manager and Contract Administrator will be LPA Program Certified. The LPA will be required to submit a Single Audit Report or municipal financial report in compliance with OMB circular A133. LPA project will be required to follow a process through the entire project development process that includes numerous points of contact and meetings with the project sponsor, submission of documents for review and approval, and authorizations to proceed at each step. The LPA will be required to submit monthly status reports and requests for reimbursement. The LPA will be required to execute an LPA Project Agreement with NHDOT that outlines each parties’ responsibilities and requirements.

B.3. The NHDOT acknowledges that it is responsible for sub-recipient awareness of Federal grant requirements, management of grant awards and sub-awards, and is familiar with and comprehends pass through entity responsibilities (2 C.F.R 200.331 Requirements for Pass-thru Entities). The NHDOT shall carry out these responsibilities using the following actions, programs, and processes:

NHDOT administers the day-day activities of the LPA subrecipients to ensure that federal-aid is used for authorized purposes, in compliance with Federal statutes, regulations, and follow the terms and conditions of the project agreement.

NHDOT assigns a State Project Manager (PM) to each locally administered project with the authority to enforce all requirements. The PM is responsible for project oversight in accordance with NHDOT's LPA Manual and all other actions necessary to ensure the proper performance of the NHDOT/LPA Project Agreement.

NHDOT's LPA Certification Course certifies individuals. To administer federal-aid projects in New Hampshire, LPAs must employ someone with decision-making authority who has LPA certification.

LPA requests to administer projects are sent to the NHDOT Program Manager with documentation of the following:

- Experience carrying out projects of similar size/complexity
- Staff experience and qualifications
- Ability to manage and track federal and state funds

B.4. The NHDOT shall assess whether a sub-recipient has adequate project delivery systems and sufficient accounting controls to properly manage projects, using the following actions, programs, and processes:

As outlined in LPA Manual v 2.0, Section 11 Single Audit Requirements, NHDOT has the following responsibilities as the pass-through entity:

- Send out request for certified audit reports
- Maintain a file of single audit reports, annual financial reports, and correspondence received from sub-recipients
- Evaluate single audit reports and send a copy of the single audit report to FHWA
  - For single audit reports with findings, the NHDOT Bureau of Finance & Contracts conducts additional investigations and coordination with the sub-recipient.
  - The sub-recipient must provide access to the records and financial statements as necessary.

- NHDOT Bureau of Finance & Contracts issues a management decision on audit findings within six months after receipt of the sub-recipient's audit report to ensure that the sub-recipient takes appropriate and timely corrective action. NHDOT is only responsible for preparing and issuing a management decision for finding related to the federal program with CFDA 20.205.
- B.5. The NHDOT shall assess whether a sub-recipient is staffed and equipped to perform work satisfactorily and cost effectively, and that adequate staffing and supervision exists to manage the Federal project(s), by using the following actions, programs, and processes:

As outlined in the LPA Manual v. 2.0 Section 4 and 5 the project sponsor is required to designate a Person-in-Responsible Charge (PiRC) for the project who is a full-time employee of the project sponsor. That person shall be NHDOT LPA certified by attending the NHDOT LPA Certification Training. If the project sponsor hires a consultant, the consultant's Project Manager shall be fully certified and any contract administrators shall be certified for Construction. NHDOT will monitor the status of certifications for the PiRC and consultant staff. NHDOT will continue to maintain the list of currently certified individuals.

NHDOT will continue to approve the consultant selected through a Qualification-based selection (QBS) process based on review of submitted documentation summarizing the QBS process. NHDOT will continue to approve the contractor selected by a competitive bidding process prior to the contract being awarded and after review of the bidding process and bid tabulation.

NHDOT will continue to require scoping meetings with the project sponsor and their Person-in-Responsible Charge at the beginning of the project.

- B.6. The NHDOT shall assess whether sub-recipient projects receive adequate inspection to ensure they are completed in conformance with approved plans and specifications, by using the following actions, programs, and processes:

NHDOT Project Managers (PM) or their representatives shall attend key project meetings including Pre-construction Meeting, final inspection and project progress meetings as required. The NHDOT Project Manager shall visit the project as needed during construction and oversee construction activities and records as deemed appropriate. The NHDOT PM will review and approve any change orders required during construction. The NHDOT also requires all projects to have a "Person in Responsible Charge".

- B.7. The NHDOT shall ensure that when LPAs elect to use consultants for engineering services, the LPA, as provided under 23 CFR 635.105(b), shall provide a full-time employee of the agency to be in responsible charge of the project. The NHDOT's process to ensure compliance with this requirement is documented by the following actions, programs, and processes:

NHDOT will continue to enforce the requirements of the LPA Manual, Sections 1 and 5 that require the project sponsor to provide a qualified full-time public employee to be the person in responsible charge. That person is required to have a current LPA certification by attending the training offered by NHDOT. One of the responsibilities of that person is to oversee the activities of the design consultant.

The LPA Manual outlines the QBS process which is required by NH State and Federal regulations for procuring Engineering, Architectural or Surveying consultant services. NHDOT also reviews and approves the QBS process and NTP for LPA's to begin negotiations over scope of work and fee proposals.

- B.8. The NHDOT shall ensure that project actions will be administered in accordance with all applicable Federal laws and regulations. The NHDOT will use the following process on required approvals on sub-recipient projects and approved on sub-recipient administered projects.

The activities for ensuring compliance are based on the most current version of the LPA Manual and shall include the following:

- a. Consultant selection and management shall be in compliance with Sections 12, 13 and 14 of the LPA Manual in particular and any references therein plus other pertinent references in other sections. Section 13 outlines the requirements for the qualification-based consultant selection process. Section 14 outlines the requirements and process for developing contracts including independent government estimates. Section 12 outlines the reimbursement process including invoice requirements.
- b. Environment shall be in compliance with Section 17 of the LPA Manual and any references therein plus other pertinent references in other sections. In particular, NHDOT shall require an environmental review process that meets the requirements outlined in the LPA Manual resulting in an approved environmental classification including commitments prior to completing final design. The environmental classification memo with commitments shall be included in the PS&E package submitted as part of the process seeking authorization of federal aid for construction.
- c. Design shall be in compliance with Sections 15, 16, 20, and 25 of the LPA Manual and any references therein plus other pertinent references in other sections. In particular, the design shall be done by a Professional Engineer licensed in the State of NH. The design shall meet all pertinent design requirements of NHDOT unless design exceptions are granted. The design shall be done in three phases as outlined in the LPA Manual including engineering study, preliminary plans, and final contract plans or PS&E. All phases will be reviewed and approved by NHDOT to ensure compliance. The design documents will be reviewed as necessary by other bureaus with special

expertise as needed including highway design, bridge design, environment, geotechnical, materials, traffic, rail and transit, highway and bridge maintenance, office of federal compliance, and any others as needed. The design process shall include coordination with utilities as needed for projects resulting in a utility certificate to be included as part of the PS&E submission.

- d. Civil Rights shall be in compliance with Section 22 of the LPA Manual and any references therein plus other pertinent references in other sections. In particular, NHDOT shall review with the assistance of the Office of Federal Compliance the bidding documents to ensure that the required documents are included. The LPA Project Agreement executed by NHDOT and the project sponsor will continue to include the most current civil rights requirements.
  - e. Financial management including audits and indirect cost allocation plans shall be in compliance with Section 11 of the LPA Manual and any references therein plus other pertinent references in other sections. See Section B.4 for additional information. Any parties including project sponsors or consultants shall have indirect cost rates approved by NHDOT prior to notice-to-proceed on pre-approved work defined in contracts.
  - e. Right-of-way shall be in compliance with Section 19 of the LPA Manual and any references therein plus other pertinent references in other sections. In particular, right-of-way (ROW) process for a federal aid LPA project shall be done in compliance with the current NHDOT Right-of-way Manual. A ROW certificate and all related ROW documents shall be submitted by the project sponsor to NHDOT for review and approval prior to the submission of the PS&E for authorization of funds for construction.
  - f. Construction monitoring, including Quality Control/Quality Assurance (QC/QA) shall be in compliance with the NHDOT Quality Assurance Program and any requirements listed therein. The project sponsor and their consultant shall engage qualified persons to conduct the QA program. NHDOT shall conduct assurance testing as needed to monitor that the individuals are qualified.
  - h. Contract administration including the NHDOT's responsibility to approve a sub-recipient to pursue a contract procurement method other than competitive bidding shall be handled in accordance with the LPA Manual Section 15 that outlines the process for force account and public interest findings.
- B.9. The NHDOT shall document its oversight activities for LPA-administered projects and findings, and how it will share this information with the FHWA.

The NHDOT shall continue oversight activities for LPA-administered projects based on the most current version of the LPA Manual. NHDOT has developed specific guidance, checklists, and tools as needed for specific elements of

oversight activities. These currently include the Single Audit Report procedures, invoice review checklist, PS&E checklist, environmental review checklists, project closeout checklist, etc. Projects will continue to be reviewed throughout the design process with the oversight summarized by the documents assembled as part of the PS&E submission in ProMIS and made available to FHWA for review as part of authorization of funds through FMIS. In addition, NHDOT will:

- Maintaining individual Federal-aid project files that include documentation of all required FHWA actions and NHDOT's assumed project approvals as set forth in this Agreement. NHDOT will provide FHWA access to the project files when requested.
- Conduct and document all program and project reviews, as needed
- Complete quarterly/annual reports and provide program and project information, as needed
- Work with the New Hampshire Division to implement the Supercircular (2 CFR 200) and the FHWA Project Funds Management Guide for State Grants.
- NHDOT and the New Hampshire Division, as part of the annual Risk Assessment, will assess the LPA Program to determine if there are opportunities to improve the processes outlined.

## **SECTION XII. IMPLEMENTATION AND AMENDMENTS**

- A. This S&O Agreement will take effect as of the effective date of the signature of the FHWA New Hampshire Division Administrator, who shall sign this S&O Agreement last.
- B. The Division and NHDOT agree that updates to this Agreement will be considered periodically on a case-by-case basis or when:
  - Significant new legislation, Executive orders, or other initiatives affecting the relationship or responsibilities of one or both parties to the S&O Agreement occurs;
  - Leadership, or leadership direction, changes at the NHDOT or FHWA; or
  - Priorities shift as a result of audits, public perception, or changes in staffing at either the NHDOT or Division Office.
- C. The Division and NHDOT agree that changes may occur to the contents of the Attachments to this S&O Agreement and documents incorporated by reference into the S&O Agreement. Except as provided in paragraph XII.D and E, changes to the Attachments and documents incorporated by reference will not require the Division and NHDOT to amend this S&O Agreement. The effective date of any revisions to one of these documents shall be clearly visible in the header of the revised document. This Agreement and any revised document shall be posted on the Division's S&O Agreement internet site within five (5) business days of the effective date.

- D. Any changes to the high risk categories must be documented by an amendment to this S&O Agreement.
- E. Any changes to the Project Action Responsibility Matrix must be approved by the FHWA Office of Infrastructure in writing and documented by an amendment to this S&O Agreement.

## **SECTION XIII. ISSUE RESOLUTION PROCESS**

The FHWA New Hampshire Division and NHDOT work as partners in delivering the Federal-aid transportation program in New Hampshire. It is recognized, however, that there may be times when consensus cannot be achieved between the two agencies. Whenever these situations arise, the FHWA New Hampshire Division and NHDOT agree to work together to resolve disputes in a timely manner. In those cases where a solution cannot be identified, NHDOT and the FHWA New Hampshire Division may elevate the issue to the next level in the “chain of command.” It has been agreed that only the NHDOT Commissioner or NHDOT Assistant Commissioner/Chief Engineer will make NHDOT appeals to FHWA Headquarters’ offices.

## **SECTION XIV. FRAUD, WASTE, AND ABUSE**

The reporting of fraud, waste, and abuse is everyone’s responsibility, specifically, those involved in the delivery of the Federal Aid Highway Program and for all public servants in general. As stewards of public funds, our duties involve verifying that work performed by private contractors meets the required specifications, both in materials used and in construction practices rendered. On behalf of the FHWA and NHDOT, it is expected that fraudulent activities will not be tolerated and will be reported immediately to the appropriate authorities. Proactive and effective fraud prevention and detection is a collateral duty of all public employees and citizens of the state. Pursuant to the Inspector General Act of 1978, the Office of the Inspector General (OIG) Office of Investigations, the U.S. Department of Transportation (USDOT) is responsible for conducting investigations of fraud, waste, and abuse involving FHWA programs. Any suspected fraudulent activities by federal or state employees, contractors, subcontractors, and any other participants on federally funded highway construction projects, should be reported to the FHWA New Hampshire Division and OIG.

The OIG maintains a hotline to facilitate the reporting of allegations of fraud, waste, abuse, or mismanagement in USDOT program or operations. Per the OIG Web site; “Confidentiality is established by Section 7(b) of the Inspector General Act of 1978, which precludes the IG from disclosing the identity of a DOT employee who reports an allegation or provides information, without the employee's consent, unless the IG determines that disclosure is unavoidable during the course of the investigation. Non-Department of Transportation employees who report allegations may specifically request confidentiality.”

### **Contact Information:**

OIG National Hotline **(800) 424-9071**  
OIG Regional Office-Cambridge, MA **(617) 494-2701**

**EXECUTION BY THE FHWA NEW HAMPSHIRE DIVISION OFFICE**

Executed this 14<sup>th</sup> day of May, 2015.

Signature  
/s/ Patrick A. Bauer

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Patrick A. Bauer  
Division Administrator

**EXECUTION BY THE NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION**

Executed this 14<sup>th</sup> day of May, 2015.

Signature  
/s/ William Cass

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William Cass  
Acting Commissioner

**ATTACHMENT A**  
**PROJECT ACTION RESPONSIBILITY MATRIX**  
**(As of February 6, 2015)**

The following matrix identifies Federal-aid highway program (FAHP) project approvals and related responsibilities. The matrix specifies which actions are subject to State assumption under the provisions of 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as those which are reserved to FHWA.

In the column entitled “Projects on the NHS” if an item is marked “FHWA or State,” it means the State may assume the specified approval and related responsibilities if the Division determines the assumption is appropriate. For projects on the NHS, the FHWA may retain any approval or related action in any box marked “FHWA or State” as deemed appropriate by the Division. If the FHWA retains any approval or related action in any box marked “FHWA or State”, the project is a PoDI, and will require a PoDI plan.

For the column marked “Projects off the NHS”, the State must assume all items marked “State” unless the State determines the assumption of a particular item by the State is not appropriate.

Except as expressly stated in notes to the matrix below, the State cannot assume any item marked only as “FHWA” in either column. Any item marked only “FHWA” is reserved to FHWA because it is outside the scope of 23 U.S.C. 106(c), or otherwise is reserved to FHWA by law. The NHDOT is responsible for ensuring all individual elements of the project are eligible for FAHP funding, but all final eligibility and participation determinations are retained by FHWA. While FHWA may not delegate decision-making authority to a State unless authorized by law, FHWA may authorize a NHDOT to perform work needed to reach the decision point, or to implement the decision.

<b>PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015)</b> <b>(Excluding PoDIs, which are subject to separate PoDI Plans)</b>		
<b>ACTION</b>	<b>AGENCY RESPONSIBLE</b>	
	<b>PROJECTS ON THE NHS</b>	<b>PROJECTS OFF THE NHS</b>
	<b>Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority</b>	<b>Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority</b>
Ensure project in Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP)	STATE	STATE
Identify proposed funding category	STATE (1)	STATE (1)

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Obligate funds/approve Federal-aid project agreement, modifications, and project closures (project authorizations) (Note: this action cannot be assumed by State)	FHWA	FHWA
Authorize current bill (Note: this action cannot be assumed by State)	FHWA	FHWA
Review and Accept Financial Plan and Annual Updates for Federal Major Projects over \$500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Review Cost Estimates for Federal Major Projects over \$500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Develop Financial Plan for Federal Projects between \$100 million and \$500 million. [23 U.S.C. 106(i)]	STATE	STATE
All EA/FONSI, EIS/ROD, 4(f), 106, 6(f) and other approval actions required by Federal environmental laws and regulations. (Note: this action cannot be assumed by STATE except under 23 U.S.C. 327)	FHWA (2)	FHWA (2)
Categorical Exclusion approval actions (Note: this action cannot be assumed by the State except through an assignment under 23 U.S.C. 326 or 327, or through a	FHWA (2)	FHWA (2)

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
programmatic agreement pursuant to Section 1318(d) of MAP-21 and 23 CFR 771.117(g))		
Exempt bridge from Coast Guard permit requirements (23 CFR 650.805)	FHWA	FHWA
Consultant Contract Selection	STATE (3)	STATE (3)
Sole source Consultant Contract Selection	FHWA (3)	STATE (3)
Approve hiring of consultant to serve in a “management” role (Note: this action cannot be assumed by State) [23 CFR 172.9]	FHWA	FHWA
Approve consultant agreements and agreement revisions (Federal non-Major Projects) [23 CFR 172.9]	STATE	STATE
Approve consultant agreements and agreement revisions on Federal Major Projects [23 CFR 172.9] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve exceptions to design standards [23 CFR 625.3(f)]	STATE	STATE
Interstate System Access Change [23 USC 111] (Note: this action cannot be assumed by State)	FHWA	N/A
Interstate System Access Justification Report [23 USC 111] (Note: action may be assumed by State pursuant to 23 USC 111(e))	FHWA	N/A
Airport highway clearance coordination and respective public interest finding (if required)	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
[23 CFR 620.104]		
Approve Project Management Plan for Federal Major Projects over \$500 million [23 USC 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve innovative and Public-Private Partnership projects in accordance with SEP-14 and SEP-15 (Note: this action cannot be assumed by State)	FHWA	FHWA
Provide pre-approval for preventive maintenance project (until FHWA concurs with STATE procedures) (Note: this action cannot be assumed by State)	FHWA	FHWA
Provide approval of preliminary plans for unusual/complex bridges or structures on the Interstate. [23 USC 109(a) and FHWA Policy]	FHWA (4)	N/A
Provide approval of preliminary plans for unusual/complex bridges or structures (non-Interstate). [23 USC 109(a) and FHWA Policy]	STATE (4)	STATE
Approve retaining right-of-way encroachments [23 CFR 1.23 (b) & (c)]	STATE	STATE
Approve use of local force account agreements [23 CFR 635.104 & 204]	STATE	STATE
Approve use of publicly owned equipment	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
[23 CFR 635.106]		
Approve the use of proprietary products, processes [23 CFR 635.411]	STATE	STATE
Concur in use of publicly furnished materials [23 CFR 635.407]	STATE	STATE
Make feasibility/practicability determination for allowing authorization of construction prior to completion of ROW clearance, utility and railroad work [23 CFR 635.309(b)]	FHWA for Interstate STATE for Non-Interstate	STATE
Make public interest finding on whether State may proceed with bid advertisement even though ROW acquisition/relocation activities are not complete for some parcels [23 CFR 635.309(c)(3)]	FHWA for Interstate STATE for Non-Interstate	STATE
Ensure compliant ROW certificate is in place [23 CFR 635.309(c)]	STATE	STATE
Approve Hardship and Protective Buying [23 CFR 710.503] (If a Federal-aid project) (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve Interstate Real Property Interest Use Agreements [23 CFR 710.405] (Note: this action cannot be assumed by State)	FHWA	N/A
Approve non-highway use and occupancy [23 CFR 1.23(c)]	FHWA for Interstate STATE for Non-Interstate (3)	STATE (3)

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Approve disposal at less than fair market value of federally funded right-of-way, including disposals of access control [23 U.S.C. 156] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve disposal at fair market value of federally funded right-of-way, including disposals of access control [23 CFR 710.409] (Note: 23 CFR 710.201 authorizes FHWA and STATE to agree to scope of property-related oversight and approvals for all actions except those on the Interstate System)	FHWA for Interstate STATE for Non-Interstate (3)	STATE (3)
Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations or other contributions applied to a project (Note: this action cannot be assumed by State)	FHWA	FHWA
Federal land transfers [23 CFR 710, Subpart F] (Note: this action cannot be assumed by State)	FHWA	FHWA
Functional replacement of property [23 CFR 710.509] (Note: this action cannot be assumed by State)	FHWA	FHWA
Accept Transportation Management Plans (23 CFR 630.1012(b))	STATE	STATE
Approval of System Engineering Analysis (for ITS) [23 CFR 940.11]	STATE	STATE

<b>PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015)</b> <b>(Excluding PoDIs, which are subject to separate PoDI Plans)</b>		
<b>ACTION</b>	<b>AGENCY RESPONSIBLE</b>	
	<b>PROJECTS ON THE NHS</b>	<b>PROJECTS OFF THE NHS</b>
	<b>Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority</b>	<b>Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority</b>
Approve PS&E [23 CFR 630.201]	STATE	STATE
Authorize advance construction and conversions [23 CFR 630.703 & 709] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve utility or railroad force account work [23 CFR 645.113 & 646.216]	STATE	STATE
Approve utility and railroad agreements [23 CFR 645.113 & 646.216]	STATE	STATE
Approve use of consultants by utility companies [23 CFR 645.109(b)]	STATE	STATE
Approve exceptions to maximum railroad protective insurance limits [23 CFR 646.111]	STATE	STATE
Authorize (approve) advertising for bids [23 CFR 635.112, 309]	STATE	STATE
Approve cost-effectiveness determinations for construction work performed by force account or by contract awarded by other than competitive bidding [23 CFR 635.104 &.204]	FHWA	STATE
Approve emergency determinations for contracts awarded by other than competitive bidding [23 CFR 635.104 &.204]	FHWA	STATE
Approve construction engineering by local agency [23 CFR 635.105]	STATE	STATE
Approve advertising period less than 3 weeks [23 CFR 635.112]	STATE	STATE

<b>PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015)</b> <b>(Excluding PoDIs, which are subject to separate PoDI Plans)</b>		
<b>ACTION</b>	<b>AGENCY RESPONSIBLE</b>	
	<b>PROJECTS ON THE NHS</b>	<b>PROJECTS OFF THE NHS</b>
	<b>Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority</b>	<b>Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority</b>
Approve addenda during advertising period [23 CFR 635.112]	STATE	STATE
Concur in award of contract [23 CFR 635.114]	STATE	STATE
Concur in rejection of all bids [23 CFR 635.114]	STATE	STATE
Approval of Design-Build Requests-for-Proposals and Addenda [23 CFR 635.112]	FHWA	STATE
Approve changes and extra work [23 CFR 635.120]	STATE	STATE
Approve contract time extensions [23 CFR 635.120]	STATE	STATE
Concur in use of mandatory borrow/disposal sites [23 CFR 635.407]	STATE	STATE
Accept materials certification [23 CFR 637.207]	STATE	STATE
Concur in settlement of contract claims [23 CFR 635.124]	STATE	STATE
Concur in termination of construction contracts [23 CFR 635.125]	FHWA	STATE
Waive Buy America provisions [23 CFR 635.410] (Note: this action cannot be assumed by State)	FHWA	FHWA
Final inspection/acceptance of completed work [23 USC 114(a)]	STATE	STATE
Approval of Disadvantaged Business Enterprise (DBE) Project Contract Goal set by the NHDOT under 49 CFR 26.51(d). [49 CFR 26.51(e)(3)]	STATE	STATE

<b>PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015)</b> <b>(Excluding PoDIs, which are subject to separate PoDI Plans)</b>		
<b>ACTION</b>	<b>AGENCY RESPONSIBLE</b>	
	<b>PROJECTS ON THE NHS</b>	<b>PROJECTS OFF THE NHS</b>
	<b>Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority</b>	<b>Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority</b>
Acceptance of Bidder's Good Faith Efforts to Meet Contract Goal [49 CFR 26.53] or of Prime Contractor's Good Faith Efforts to Find Another DBE Subcontractor When a DBE Subcontractor is Terminated or Fails to Complete Its Work [49 CFR 26.53(g)] (Note: this action cannot be performed by the FHWA)	STATE	STATE
Equal Employment Opportunity (EEO) Contract Compliance Review [23 CFR Part 230, Subpart D].	STATE	STATE
Training Special Provision – Approval of Project Goal for training slots or hours [23 CFR Part 230, Subpart A]	STATE	STATE
Training Special Provision – Approval of New Project Training Programs (Note: this action cannot be assumed by State) [23 CFR 230.111(d), (e)]	FHWA	FHWA

#### **FOOTNOTES:**

- (1) State is responsible for ensuring that all individual elements of the project are eligible. FHWA will check that the scope of the project as described in submitted project agreement is eligible for the category of funding sought. All final eligibility and participation determinations are retained by FHWA.
- (2) If there is a 23 U.S.C. 326 or 325 assignment or PCE agreement, decisions are handled in accordance with those assignments or agreements.
- (3) State's process and modifications to, or variation in process, require FHWA approval.
- (4) Unusual/Complex bridges and structures are those that the Division determines to have unique foundation problems, new or complex designs, exceptionally long spans, exceptionally large foundations, complex hydrologic (including climate change and extreme weather events) aspects, complex hydraulic elements or scour related elements, or that are designed with

procedures that depart from currently recognized acceptable practices (i.e., cable-stay, suspension, arch, segmental concrete, moveable, truss, tunnels, or complex geotechnical walls or ground improvement systems)

**ATTACHMENT B**  
**PROGRAM RESPONSIBILITY MATRIX**

**PROGRAM ACTION RESPONSIBILITY**

The following matrix is an example list of program actions. The Division should refer to [\(link removed\)](#)for the latest updated version which can be incorporated into the agreement or referenced as a control document. Modify the matrix to reflect the Division and State “Responsible Program Office.” The primary office of contact should be listed, rather than an individual or the approving official.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Appropriations, Allotments, Obligations	31 USC 1341(a)(1)(A)& (B); 31 USC 1517(a); 23 USC 118(b), 23 USC 121	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Budgets	State will monitor appropriations, allotments and obligations to ensure that all funding is used efficiently within each quarter and use all Obligation Authority (OA) by the end of the year.
Approval of Indirect Cost Allocation Plans (ICAPs)	2 CFR Part 200 Subpart E, ASMBC-10	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Finance	The State will certify that the ICAP was prepared in accordance with 2 CFR 200 Subpart E.
FIRE Program Activities	FHWA Order 4560.1C (or as superseded)	Ongoing		Office of Chief Financial Officer	Finance	Finance and Contracts	State will continue to provide oversight and conduct reviews to ensure Federal-aid compliance. FHWA will review and monitor. State responsibilities include multiple tasks in support of risk assessments, conducting reviews and implementation of recommendations.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Audit Coordination/FHWA Financial Statement Audit/State External Audit Reviews/State Internal Audit Reviews	FMFIA, 2 CFR Part 200 Subpart F; GAAP, CFO Act of 1990; DOT Order 8000.1C	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Audits & Investigations/ Finance and Contracts	State assures corrective action is taken to resolve audit findings and FHWA will monitor activities to ensure implementation.
Improper Payments Review	Improper Payments Information Act of 2002, PL 107-300, Improper Payments Elimination and Recovery Act of 2010, PL 111-204, Improper Payments Elimination and Recovery Improvement Act of 2012, PL 112-248	Annually		Office of Chief Financial Officer	Finance	Finance and Contracts	State will provide all information necessary to document sampled payments and FHWA offices will review and complete appropriate data submittal forms.
Transfer of Funds between programs or to other FHWA offices or agencies as requested by State	23 USC 126, 23 USC 132, and FHWA Order 4551.1	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Finance and Contracts	State will submit requests for transfer and FHWA approves and processes the funding transfers between programs, to other States, to other agencies, and to FHWA HQ, Federal Lands, or Research offices.
Reviews of State Transportation Departments Financial Management Systems - Financial Integrity	23 USC 106(g)(2)(A)	Annually	Not Applicable	Office of Chief Financial Officer	Finance	Finance and Contracts / DoIT	23 USC 106(g)(2)(A) states that the Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).
Review Adequacy of Sub-recipient Project Delivery Systems and Sufficient Accounting Controls to Manage Federal Funds	23 USC 106(g)(4)(A)(i)	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Planning and Community Assistance	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Periodic Reviews of States Monitoring of sub-recipients	23 USC 106(g)(4)(B)	As needed	Not Applicable	Office of Infrastructure	LPA Program Engineer	Planning and Community Assistance	
Approval of Increased Federal Share Agreement (Sliding Scale)	23 USC 120(b)(2)	As determined by the Federal Share Agreement	Not Applicable	Office of Chief Financial Officer	Finance	Finance and Contracts	A State must enter into an agreement with FHWA for use of the increased Federal share allowable under this section, which must be reviewed and updated periodically as agreed to in the agreement. States must demonstrate that they are in compliance with the statute and the agreement.
Prepare / Review Title VI Plan Accomplishments and Next Year's Goals	23 CFR 200.9(b)(10)	Annually	1-Oct	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division office reviews and comments.
Prepare / EEO Contractor Compliance Plan accomplishments and next year's goals	23 CFR 230, Subpart C, Attachment A, Part I, III	Annually	1-Oct	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division office reviews and comments.
Prepare / Review State Internal EEO Affirmative Action Plan (Title VII) Accomplishments and Goals	23 CFR 230.311	Annually	1-Oct	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Courtesy copy to HQ.
Review DBE Program Revisions	49 CFR 26.21(b)(2)	As needed	Not Applicable	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division sends to HCR for review and approval as
Prepare / DBE Uniform Awards and Commitment Report	49 CFR 26, Attachment B	Semi-Annual	June 1st December 1st	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division Office reviews and sends to HCR
Prepare / Annual Analysis and Corrective Action Plan (if necessary)	49 CFR 26.47(c)	Annual (as necessary)	December 31st	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division Office approves sends copy to HCR

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Prepare / State DBE Program Goals	49 CFR 26.45(f)(1)	Triennial	August 1st	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division reviews and approves; HCC provides legal sufficiency review and approval sends copy to HCR
Prepare / Review On-the-Job-Training (OJT) goals & accomplishments	23 CFR 230.111(b)	Annually	TBA	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division office reviews and comments.
Approval of OJT and DBE Supportive Services fund requests	23 CFR 230.113 & 23 CFR 230.204	Annual	TBA	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division recommends approval submits to HCR for final approval
Return of any unused discretionary grant program funding	23 CFR 230.117(2)	Annual	TBA	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division works with HCR and CFO
Prepare / Review of Report on Supportive Services (OJT & DBE)	23 CFR 230.113(g), 230.121(e), 230.204(g)(6)	Quarterly		Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division office reviews and comments.
Prepare / Review Annual Contractor Employment Report (Construction Summary of Employment Data (Form PR-1392)	23 CFR 230.121(a); Attachment D to Subpart A, Part 230, General Information and Instructions	Annually	1-Dec	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Recommendation sent to HQ for approval.
Prepare / Review NHDOT Employment Statistical Data (EEO-4)	23 CFR, Subpart C, Attachment A	Biannual	1-Dec	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Report sent to HQ quarterly for informational purposes and recommendation sent to HQ annually for approval.
Prepare / Review Annual Federal Projected Awards Reports - Historically Black Colleges & Universities/Tribal Colleges & Universities/Hispanic Serving Institutes, American Indian Alaskan Native, Asian Pacific & American	Presidential Executive Orders: 13230, 13256, 13270, 13361, 13515	Annual	TBA	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Divisions submit data to HCR who prepares report for DOCR

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Islander.							
Prepare / Review ADA Complaint Reports of Investigation	28 CFR 35.190	As needed	Not Applicable	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division office reviews, FHWA HQ approves and issues finding.
Review Americans with Disabilities Act (ADA) /Sec. 504 Program Plan accomplishments and next year's goals	49 CFR 27.11(c), EO 12250	Annually	1-Oct	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Division office reviews and comments.
Return of unexpended funds used for Summer Transportation Institutes	23 CFR 230.117(2)	Annual	August 30; however, State procurement rules may govern	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Divisions work with HCR and CFO
Prepare / Review Request for National Summer Transportation Institute (NSTI) Proposals (SOWs)	23 USC 140(b)	Annual	TBA	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Divisions recommend approval. HCR gives final approval
Prepare / Review NSTI Report (questionnaire)	23 USC 140(b)	Annual	October 15th	Office of Civil Rights	Civil Rights Specialist	Office of Federal Compliance	Divisions provide to HCR
Receipt of State Consultation Process with Tribal Governments	23 CFR 450.210(c)	As needed	Not Applicable	Office of Federal Lands Highway	Planning/Env Coordinator	Planning and Community Assistance	Informational Purposes.
Approval of Contracting Procedures for Consultant Selection	23 CFR 172.5 & 172.9	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Commissioner's Office/Design/Bridge/Planning/Community Assistance	FHWA Division Office Approval.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Determination of High Risk Categories - Limitation on Interstate Projects	23 USC 106(c)(4)(B)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Commissioner's Office/Design/Project Management	Office of Program Administration determines national categories and must concur on any State designations.
Approval of State 3R Program	23 CFR 625.4(a)(3), 23 USC 109(n)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office Approval.
Verify adoption of Design Standards (National Highway System, including Interstate)	23 CFR 625, 23 USC 109(b), 23 USC 109(c)(2), 23 USC 109(o)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design/Bridge	FHWA HQ regulatory action to adopt NHS standards.
Approval of preliminary plans of Major and Unusual Bridges on the Interstate Highway System	(M1100.A)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design/Bridge	Director of HIBT has approval of preliminary plans of Major and Unusual Bridges on the Interstate Highway System (M1100.A)
Approval of State Standard Specifications	23 CFR 625.3	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Construction/ Highway Design	FHWA Division Office Approval.
Verify State Design Exception Policy complies with FHWA Policy	23 CFR 625.3	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office Approval.
Approval of State Standard Detail Plans	23 CFR 625.3	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Construction/ Highway Design	FHWA Division Office Approval.
Approval of Pavement Design Policy	23 CFR 626.3	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Materials & Research	FHWA Division Office Approval.
Review of Value Engineering Policy and Procedures	23 CFR 627.1(b)&(c), 23 CFR 627.7 FHWA Order 1311.1B	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office Review.
Review of Value Engineering Annual Report	23 CFR 627.7, FHWA Order 1311.1B	Annual	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office collects, reviews, and submits to HQ for review and reporting.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Review and Approval of Interstate Access Requests	23 USC 111, 23 CFR 710, 74 FR 43743-43746 (Aug. 27, 2009)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office approval with concurrence from HQ on more complex access requests.
Approval of Liquidated Damages Rate	23 CFR 635.127	Every 2 years	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office Approval.
Approval of Quality Assurance Program	23 CFR 637.205	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Materials & Research	State administers, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Assure Central Laboratory accredited by AASHTO Accreditation Program or FHWA approved comparable program	23 CFR 637.209	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Materials & Research	State administers, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Assure Non-STD designated lab performing Independent Assurance sampling and testing accredited by AASHTO Accreditation Program or FHWA approved comparable program	23 CFR 637.209	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Materials & Research	State administers, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Assure Non-STD designated lab used in dispute resolution accredited by AASHTO Accreditation Program or FHWA approved comparable program	23 CFR 637.209	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Materials & Research	State administers, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Review Independent Assurance Annual Report	23 CFR 637.207	Annually	1-Mar	Office of Infrastructure	Engineering & Operations	Materials & Research	State administers, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Assure Labor Compliance - Prevailing Wage Rate	23 USC 113	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Office of Federal Compliance	FHWA Division Office Review and Approval
Determination of Eligible Preventive Maintenance Activity - Cost-Effective Means of Extending Useful Life Determination	23 USC 116(e)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office Approval
Approval of Utility Agreement / Alternate Procedure	23 CFR 645.119	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office Approval
Approval of Utility Accommodation Policy	23 CFR 645.215, 23 USC109(l), 23 USC123	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Highway Design	FHWA Division Office Approval
Review Bridge Construction, Geotechnical, and Hydraulics	23 CFR 650	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Bridge Design	
Review Plans of Corrective Action established to address NBIS compliance issues	23 CFR 650, 23 USC 144	Annually		Office of Infrastructure	Engineering & Operations	Bridge Design	Division office performs annual compliance review and reports results to HQ.
Review NBI Data Submittal	23 CFR 650 Subpart C, Annual Memo from HQ, 23 USC 144	Annually	1-Apr	Office of Infrastructure	Engineering & Operations	Bridge Design	Division resolve errors with States; States submit to HQ.
Review structurally deficient bridge construction Unit Cost submittal	23 USC 144	Annually	1-Apr	Office of Infrastructure	Engineering & Operations	Bridge Design	Submit to HQ.
Review Section 9 of the Rivers and Harbors Act Submittals (Bridge Permits)	23 CFR 650 Subpart H; 33 CFR 114 & 115	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Bridge Design	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Approval for reduction of expenditures for off-system bridges	23 USC 133(g)(2)(B)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Bridge Design	The FHWA Administrator may reduce the requirement for expenditures for off-system bridges if the FHWA Administrator determines that the State has inadequate needs to justify the expenditure.
Determination on Adequacy of State's Asset Management Plan	23 USC 119(5)	Annually beginning second fiscal year after establishment of the process		Office of Infrastructure	Engineering & Operations	Asset Management, Performance, & Strategies	
Certification and Recertification of States Process for Development of State Asset Management Plan	23 USC 119(6)	Recertification every four years after establishment of the process		Office of Infrastructure	Engineering & Operations	Asset Management, Performance, & Strategies	
Review Reporting on Performance Targets	23 USC 150(e)	Beginning four years after enactment of MAP-21 and biennially thereafter		Office of Infrastructure	Engineering & Operations	Asset Management, Performance, & Strategies	
Review National Highway System Performance Achievement Plan for Actions to achieve the targets (when State does not achieve or make significant progress toward achieving)	23 USC 119(7)	Required if State does not achieve targets (or significant progress) for 2 consecutive reports		Office of Infrastructure	Engineering & Operations	Asset Management, Performance, & Strategies	
States and sub-recipient failure to maintain projects - Notice and withholding Federal-aid Funds	23 USC 116(d)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations and LPA Program Engineer	Project Management/Project Programming	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Emergency Relief (ER) Damage Assessments and Reports	23 CFR 668 23 USC 120 and 125	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Maintenance/Highway Design	Perform with State.
Toll Credit and Maintenance of Effort (MOE) Calculation and Agreement	23 USC 120(i)	Annually		Office of Infrastructure	Finance	Finance and Contracts	State will calculate the amount of eligible toll credit and submit for approval. FHWA will review and approve the request.
Local Public Agency (LPA) Oversight	2 CFR 200.331; 23 USC 106(g)(4)	As needed	Not Applicable	Office of Infrastructure	LPA Program Engineer	Planning and Community Assistance	States are responsible to ensure that LPAs are aware of all the applicable Federal-aid Program requirements; States are responsible to ensure monitoring and oversight to assure compliance with Federal requirements. 23 USC further reinforces stressing accountability on "project delivery systems" and "accounting controls."
TIFIA Credit Program	23 USC 601-609	As needed	Not Applicable	Office of Innovative Program Delivery	Finance	Finance and Contracts	Project sponsors submit requests for credit assistance to the TIFIA JPO for review; approval by the Secretary
GARVEEs	23 USC 122; GARVEE Guidance 3/14	As needed	Not Applicable	Office of Innovative Program Delivery	Finance	Finance and Contracts	MOUs strongly suggested for each GARVEE issue. FM contacts OIPD for review/concurrence before final approval
State Infrastructure Banks	NHS Act Section 308; 23 USC 610; SIB Guidance 3/14	Annual Report	Not Applicable	Office of Innovative Program Delivery	Finance	Finance and Contracts	Division sends copy of report to OIPD. SIB submits annual report to Division Office.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Section 129 Tolling Authority Requests	23 USC 129(a)	As needed	Not Applicable	Office of Innovative Program Delivery	Finance	Finance and Contracts	At the option of the project sponsor, may execute a Tolling Eligibility MOU with the Division Office; HIN coordinates FHWA HQ review
Section 166 HOV/HOT Lanes Tolling Authority Requests	23 USC 166(d)	As needed	Not Applicable	Office of Innovative Program Delivery	Engineering & Operations	Highway Design	At the option of the project sponsor, may execute a Tolling Eligibility MOU with the Division Office; HIN coordinates FHWA HQ review
Value Pricing Pilot Program Tolling Authority Requests	ISTEA Section 1012(b)	As needed	Not Applicable	Office of Innovative Program Delivery	Engineering & Operations	Highway Design	Requests submitted to HIN to coordinate review; approval by the Administrator
Interstate System Reconstruction and Rehabilitation Pilot Program Tolling Authority Requests	TEA-21 Section 1216(b)	As needed	Not Applicable	Office of Innovative Program Delivery	Engineering & Operations	Highway Design	Applications submitted to HIN to coordinate review; approval by the Administrator
Annual Audit of Toll Facility Records and Certification of Adequate Maintenance - Report Submittal	23 USC 129(a)(3)(B); TEA-21 Section 1216(b)(5)(B); SAFETEA-LU Section 1604(b)(3)(A); ISTE A Section 1012(b)(3)	Annually		Office of Innovative Program Delivery	Finance	Finance and Contracts	Division Office to receive the reports.
Project Management Plan (Major Projects)	23 U.S.C. 106(h)(2)	Prior to first federal authorization of construction funds for a Major Project	Not Applicable	Office of Innovative Program Delivery	Division Office will conduct concurrent review with HQ Office of Innovative Program Delivery.	NHDOT or Project Sponsor will prepare and submit Project Management Plan.	Division Office will provide approval after receiving concurrence from HQ Office of Innovative Program Delivery.
Financial Plan (Major Projects)	23 U.S.C. 106(h)(3)	Prior to first federal authorization of construction funds for a Major Project and then annually.	Annually as noted in the approved Initial Financial Plan	Office of Innovative Program Delivery	Division Office will conduct concurrent review with HQ Office of Innovative Program Delivery.	NHDOT or Project Sponsor will prepare and submit annual Financial Plans.	Division Office will provide approval after receiving concurrence from HQ Office of Innovative Program Delivery.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Financial Plan (Other Projects)	23 U.S.C. 106(i)	Prior to first federal authorization of construction funds for an Other Project and then annually.	Annually as noted in the approved Initial Financial Plan	Office of Innovative Program Delivery	Division Office will review and approve Financial Plans for Other Projects in accordance with its stewardship and oversight agreement with the NHDOT or Project Sponsor.	NHDOT or Project Sponsor will prepare and submit annual Financial Plans to the Division Office, only upon request.	Other Projects are defined as projects with an estimated total cost of \$100 million or more that have not been designated as Major Projects.
Review Designation and Re-designation of Primary Freight Network	23 USC 167(d)	One year after enactment of MAP-21 and every ten years thereafter		Office of Operations	Planning	Planning	Under development, initial PFN designation scheduled for Spring 2014 completion.
Review Development and Update of National Freight Strategic Plan	23 USC 167(f)	Three years after enactment of MAP-21 and every five years thereafter		Office of Operations	Planning	Aeronautics, Rail, & Transit	OST lead
Review Freight Transportation Conditions and Performance Report	23 USC 167(g)	Two years after enactment of MAP-21 and every two years thereafter		Office of Operations	Planning	Aeronautics, Rail, & Transit	OST lead
Review HOV Operations Report for Tolted Use and Low-Emission and Energy-Efficient Vehicle Use	23 USC 166(d)	Annually		Office of Operations	Engineering & Operations	Traffic Operations	
Congestion Partnerships Assessment	Annual Memo from HQ	Annually	1-Jul	Office of Operations	Engineering & Operations	Traffic Operations	Complete with partners and forward to HQ.
Traffic Incident Management Self-Assessment	Annual Memo from HQ	Annually	1-Jul	Office of Operations	Engineering & Operations	Maintenance	Complete with partners and forward to HQ.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Work Zone Self-Assessment	Annual Memo from HQ	Annually	7/1/2013, This project is currently on hiatus and has not been determined whether it will be reestablished or not.	Office of Operations	Engineering & Operations	Traffic Operations	Complete with partners and forward to HQ.
Approval of State-Prepared Manual on Uniform Traffic Control Devices - State Traffic Control Manuals	23 CFR 655.603, 23 USC 109(d)	As needed	Not Applicable	Office of Operations	Engineering & Operations	Traffic Operations	
Review Vehicle Size & Weight Enforcement Plan	23 CFR 657.11, 23 USC 127	Annually	1-Oct	Office of Operations	Engineering & Operations	NHDOS	
Review Vehicle Size & Weight Enforcement Certification	23 CFR 657.13, 23 USC 141	Annually	1-Jan	Office of Operations	Engineering & Operations	NHDOS	
Approval of National Network Modifications	23 CFR 658.11	As needed	Not Applicable	Office of Operations	Engineering & Operations	Planning	
Intelligent Transportation System Architecture & Standards	23 CFR Part 940	As needed	Not Applicable	Office of Operations	Engineering & Operations	ITS Operations	
Approval of Work Zone Significant Project Determination	23 CFR 630.1010	As needed		Office of Operations	Engineering & Operations	Traffic Operations	
Approval of Exceptions to Work Zone Procedures for Interstate Projects	23 CFR 630.1010	As needed		Office of Operations	Engineering & Operations	Traffic Operations	
Approval of Work Zone Policy and Procedures Conformance Review	23 CFR 630.1014	At appropriate intervals		Office of Operations	Engineering & Operations	Traffic Operations	
Process Review of Work Zone Safety and Mobility Procedures	23 CFR 630.1008, 23 USC 109(e)(2), 23 USC 112(g)	Every 2 years		Office of Operations	Engineering & Operations	Traffic Operations	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Approval of State Planning Work Program and Revisions (Part 1)	23 CFR 420.111, 23 CFR 420.115, and 23 CFR 420.209	Annually	Prior to Program Period	Office of Planning, Environment & Realty	Planning	Planning	FHWA Division Office Approval.
Approval of State Research and Development Work Program (Part 2)	23 CFR 420.111, 23 CFR 420.115, and 23 CFR 420.209	Annually	Prior to Program Period	Office of Planning, Environment & Realty	Engineering & Operations	Materials & Research	FHWA Division Office Approval.
Approval of State's Distribution of Planning Funds Formula - Allocation Formulas for PL Funds	23 CFR 420.109, 23 USC 104(d)(2)(A)(i)	When Revised	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	FHWA Division Office Approval.
Review of State Public Involvement Procedures	23 CFR 450.210(a)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning/Civil Rights	Planning	FHWA Division Office Review to Assure Compliance.
Receipt of State Consultation Process for Non- metropolitan Local Officials	23 CFR 450.210(b)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Informational Purposes.
Review of Long-range Statewide Transportation Plan	23 CFR 450.214	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	FHWA Division Office Review to Assure Compliance.
Approval of Statewide Transportation Improvement Program (STIP)	23 CFR 450.216, 23 CFR 450.218(a) & (c), 23 USC 135(g)(7)	At least every 4 years	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Joint FHWA and FTA approval.
Approval of STIP Amendments	23 CFR 450.218(a) & (c)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Joint FHWA and FTA approval.
Finding of Consistency of Planning Process with Section 134 and 135	23 USC 135(g)(8), 23 CFR 450.218(b)	Concurrent with STIP approval	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	FHWA and FTA issue a joint finding concurrent with STIP approval.
Review of State Self-certification that Planning Process is in Accordance with Applicable Requirements	23 CFR 450.218(a)	Submitted with proposed STIP or STIP amendments	Not Applicable	Office of Planning, Environment & Realty	Planning/Civil Rights	Planning	Received with STIP.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Approval of Transportation Management Area (TMA) MPO Unified Planning Work Programs (UPWP)	23 CFR 450.308(b) and 23 CFR 420 (Subpart A)	Prior to Program End	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Approval of Non-TMA UPWA	23 CFR 450.308(b) and 23 CFR 420 (Subpart A)	Prior to Program End	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	May use simplified work statement.
Approval of UPWP Revisions and Amendments (All MPO's)	23 CFR 420.115	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Review of UPWP Performance and Expenditure Reports (All MPO's)	23 CFR 420.117(b)	Not more frequently than quarterly	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Approval of Report Before Publication (All MPO's)	23 CFR 420.117(e)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Waiver may be granted.
Approval to use Planning Funds outside Urbanized Areas for States Receiving Minimum Apportionment	23 USC 104(d)(1)(A)(ii)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Review of Metropolitan Planning Area Boundary (Establishment and Changes)	23 CFR 450.312	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Approval by MPO and the Governor, shape files forwarded to HQ. (Comment: No action is required by FHWA/FTA).
Review of Metropolitan Transportation Planning Organizations (MPO) Designation and Re-designation	23 CFR 450.310	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Require agreement between Governor and local governments.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Review of Metropolitan Planning Agreements (MPA) for Attainment or Entire Nonattainment Area	23 CFR 450.314(a)	When Completed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Between MPO/NHDOT/Transit Operator. Included in UPWP or Prospectus (23 CFR 450.314(d)).
Review of MPA - for MPA that do not include the entire nonattainment or maintenance area	23 CFR 450.314(b), 23 USC 109(j)	When Completed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Between MPO/NHDOT/State AQ Agency.
Review of MPO Public Participation Procedures	23 CFR 450.316(a)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Must be developed and published.
Review of Metropolitan Transportation Plan (MTP) in Attainment Areas (and Updates)	23 CFR 450.322	Every 4 years	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Review of MTP in Non-Attainment and Maintenance Areas (and Updates)	23 CFR 450.322	Every 5 years	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Review of MTP Amendments	23 CFR 450.322(c)	As Needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Air Quality Conformity Determination on LRTP in Non-attainment and Maintenance Areas	23 CFR 450.322(d)	Concurrent with LRTP updates at least every 4 years and as needed on amendments	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	After receipt of MPO determination; Joint FHWA and FTA determination; In consultation with the Environmental Protection Agency (EPA).
Review of Transportation Improvement Program (TIP)	23 CFR 450.300(a); 23 CFR 450.324(b); 23 CFR 450.328(a), 23 USC 134(j)(1)(D)	Prior to Program Period	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	No succinct Federal approval action is required for the TIP. FHWA/FTA approval of the TIP is through the STIP approval process.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Review of TIP Amendments	23 CFR 450.324(a); 23 CFR 450.328(b)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	No succinct Federal approval action is required for the TIP. FHWA/FTA approval of the TIP is through the STIP approval process.
Approval of Air Quality Conformity Determination on TIP	23 CFR 450.326; 23 CFR 450.328	At least every 4 years, or when the TIP has been modified (unless exempt projects)	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Applies to non-attainment and maintenance areas only. After receipt of MPO determination, joint determination with FTA (in cooperation with EPA).
Federal Finding of Consistency of Planning Process with Section 134 and 135	23 CFR 450.218(b); 23 CFR 450.334(a)	Concurrent with (S)TIP submittal	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	At least every four years, joint finding with FTA when TIP is submitted.
In Metropolitan Planning Areas, Review of State and MPO Self-certification that Planning Process is in Accordance with Applicable Requirements	23 CFR 450.334 (a), 23 CFR 218(a)	Annually or concurrent with the STIP/TIP cycle	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Required for all MPO's. May be included in the STIP, TIP, or UPWP, at least every 4 years.
In TMA's, Certification that Planning Process is in Accordance with Applicable Requirements	23 CFR 450.334(b), 23 USC 134(k)(5)	Every 4 years		Office of Planning, Environment & Realty	Planning/Civil Rights	Planning	Joint FHWA and FTA Certification.
Approval of Federal-Aid Urban Area Boundaries	23 CFR 470.105 (a), 23 USC 101(a)(33)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Approval of Revision of Functional Classification	23 CFR 470.105 (b)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Approval by Administrator of Interstate Additions &	23 USC 103(c)(1)(D), 23 CFR 470.111, 23 CFR 470.115 (a)	As needed	Not Applicable	Office of Planning, Environment &	Engineering & Operations	Highway Design	Approval by HQ – Administrator.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Revisions				Realty			
Approval by Office Director of National Highway System (NHS) Additions and Revisions	23 USC 103(b)(3), 23 CFR 470.113 and 470.115(a)	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	Approved by HQ - Office Director.
Review of CMAQ Annual Report	CMAQ Guidance Memo October 31, 2006	Annually	1-Mar	Office of Planning, Environment & Realty	Planning	Planning	Division provides information on CMAQ projects including: amount of obligation, project description and location, and air quality benefits. The report must be submitted via the web-based CMAQ Tracking System.
Tribal Government Consultation Process(es)	23 CFR 450.210(c)	As needed or as revised by State	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	
Annual Listing of Obligated Projects	23 CFR 450.332	Annually, no later than 90 days after September 30	30-Dec	Office of Planning, Environment & Realty	Planning	Programming	
Transportation Planning Excellence Awards		Annually	1-Feb	Office of Planning, Environment & Realty	Planning	Planning	Call for entries for the FHWA FTA Transportation Planning and Excellence Awards.
Approval of Local Technical Assistance Program (LTAP) Centers Work Plan and Budget	FHWA LTAP Field Manual	Annually	31-Mar	Office of Planning, Environment & Realty	Engineering & Operations	Planning	FHWA HQ approval.
Approval of Public Involvement Program Procedures	23 CFR 771.111(h), 23 USC 128	As needed	Not Applicable	Office of Planning, Environment & Realty	Planning	Planning	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Approval of NEPA Procedures, including Section 4(f)	23 CFR 771; 23 CFR 774; SAFETEA-LU 6007 & 6009, 23 USC 109(h)	As needed	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	
Approval of Noise Policies	23 CFR 772.7, 772.9, and 772.13, 23 USC 109(i)	As needed	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	FHWA approves State' noise abatement policy.
EIS Status Updates	FHWA Strategic Goal - EIS Timeliness	Quarterly	(Fiscal Year - Oct, Jan, Apr, Jul)	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	Monitor time required to complete EIS's. Determine projects which have exceeded recommended timeline (3 years). Identify projects which should be listed as dormant. Submit to HEPE.
Endangered Species Act Cost Report		Annually	1-Mar	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	
Exemplary Ecosystem Initiatives Applications		Annually	1-Apr	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	
Bicycle Transportation and Pedestrian Walkways	23 USC 217	As needed or requested by State	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Design/Community Assistance	
Environmental Justice	FHWA Order 6640.23	As needed or required	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	
Environmental Review Process	SAFETEA-LU Section 6002	As required for EISs and as needed for EAs	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	
Planning and Environmental Linkages	23 CFR 450.212; 23 CFR 450.318; Appendix A to 23 CFR 450	As needed	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Planning/Environment	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Public involvement/Public Hearing Program	23 CFR 771.111(h)(1)	As revised by State	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Environment/ Design/Project Management	
Section 106 of the National Historic Preservation Act	23 CFR 800	As needed or required	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	
Section 404 of the Clean Water Act	23 CFR 777; NEPA/404 MOU	As needed or required	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	
Section 6(f) of the Land and Water Conservation Fund Act	36 CFR 59	As needed or required	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Environment	
Tribal Government Consultation	36 CFR 800.16(m)	As needed or required	Not Applicable	Office of Planning, Environment & Realty	Environmental Coordinator	Planning/Environment	
Approval of Acquisitions, Appraisals, and Relocations Program and Procedures	49 CFR Part 24, The UA	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Early Acquisitions	23 CFR 710.501	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Local Public Agency Oversight	49 CFR 24.4(b); 23 CFR 710.201	As needed	Not Applicable	Office of Planning, Environment & Realty	LPA Program Engineer	Planning and Community Assistance	
Approval of Highway Facility Relinquishment	23 CFR 620.203	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Approval of ROW Disposal Authorization Request	23 CFR 710.409	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Approval of ROW Operations Manual (Organization, Policies and Procedures), Updates, and Certification	23 CFR 710.201	January 1, 2001 and every 3 years thereafter or as required by changes in State law or Federal regulation or law	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Approval of Exception to Charging Fair Market Value	23 CFR 710.403 and 23 CFR 710.409	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Approval of Interstate Real Property Use Agreements	23 CFR 710.405	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Approval of Request for Federal Land Transfer	23 CFR 710.601	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Approval of Request for Direct Federal Acquisition	23 CFR 710.603	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Approval of Outdoor Advertising Policies and Procedures, and Regulation and Procedure Approval	23 CFR 750.304, 23 CFR 750.705, 23 USC 131	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Approval of Requests to Exempt Certain Nonconforming Signs, Displays, and Devices	23 CFR 750.503	As needed	Not Applicable	Office of Planning, Environment & Realty	Engineering & Operations	Traffic Operations	
Approval of Railroad Agreement Alternate Procedure	23 CFR 646.220	As needed	Not Applicable	Office of Planning, Environment & Realty	Engineering & Operations	Design Services	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Approval of Uniform Act Waivers and Waivers from Availability of Comparable Replacement Dwelling before Displacement	49 CFR 24.7, 49 CFR 24.204(b)	As needed	Not Applicable	Office of Planning, Environment & Realty	ROW Program Manager	ROW	Requests reviewed and approved by HEPR Office Director.
Review of Uniform Relocation Assistance & Real Property Acquisition Report - (OMB Form 2125-0030)	49 CFR 24.9c & Attachment B 49 CFR 24.603	Annually	15-Nov	Office of Planning, Environment & Realty	ROW Program Manager	ROW	Submitted to FHWA Headquarters (HQ).
Review of Real Property Acquisition Statistical Report	FHWA Order 6540.1	Annually	15-Nov	Office of Planning, Environment & Realty	ROW Program Manager	ROW	
Approval of Management Process and Project Selection Procedures and Certification for Research, Development & Technology Transfer Program and Revisions to Process	23 CFR 420.115 and 23 CFR 420.209	As needed	Not Applicable	Office of Planning, Environment & Realty	Engineering & Operations	Materials & Research	FHWA Division Office Approval.
Periodic Review of States Management Process of the Research, Development & Technology Transfer Program	23 CFR 420.209	Periodic	Not Applicable	Office of Planning, Environment & Realty	Engineering & Operations	Materials & Research	FHWA Division Office Periodic Review.
Approval of Performance and Expenditure Reports for SPR Research Work Programs	23 CFR 420.117	No less frequently than annual and no more frequently than quarterly	90 Days After End Of Period	Office of Planning, Environment & Realty	Engineering & Operations	Materials & Research	FHWA Division Office Approval.
Approval of SPR research reports	23 CFR 420.117	Prior to publication unless prior approval is waved	Not Applicable	Office of Planning, Environment & Realty	Engineering & Operations	Materials & Research	FHWA Division Office Approval unless waived.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Annual Traffic Reports	Traffic Monitoring Analysis System and Traffic Monitoring Guide reporting	When Published	As needed	Office of Highway Policy information	Engineering & Operations	Traffic Operations	When Published
Approval of Annual Field Review Report	HPMS Field Review Guidelines (June 2001) Continuous Process Improvement Model for HPMS( February 2003)	Annually	1-Nov	Office of Highway Policy information	Program Management Analyst	Planning	Review memo to HQ.
Approval of Certified Public Road Mileage	23 CFR 460.3(b)	Annually	1-Jun	Office of Highway Policy information	Program Management Analyst	Planning	Each year, the Governor of each State and territory or a designee must certify Public Road Mileage. FHWA division reviews the Mileage and sends to HQ with division review /concurrence. This is reported to NHTSA for Apportionment of Safety Funds.
Approval of Data Submittal	23 CFR 420.105(b), HPMS Field Manual	Annually	15-Jun	Office of Highway Policy information	Program Management Analyst	Planning	NHDOT sends directly to Division Office and HQ.
Highway Statistics Reports	Guide to Reporting Highway Statistics			Office of Highway Policy information	Program Management Analyst	Planning	NHDOT or Division Office sends directly to HQ.
Motor Fuels Report	A Guide to Reporting Highway Statistics, Chapter 2	Due 60 days after end of each reporting month		Office of Highway Policy information	Program Management Analyst	NHDOS	
Vehicles and Drivers (561, 562, 566, and 571)	A Guide to Reporting Highway Statistics, Chapters 3, 4, 5, and 6	1-Apr	1-Apr	Office of Highway Policy information	Program Management Analyst	NHDOS	
Finance (531, 532, 541, 542, and 543 (optional))	A Guide to Reporting Highway Statistics, Chapters 8 and 9	1-Apr	1-Apr	Office of Highway Policy information	Program Management Analyst	Finance and Contracts	
Transportation Bond Referendums	A Guide to Reporting Highway Statistics, Chapter 9	When Published	When Published	Office of Highway Policy information	Finance	Finance and Contracts	

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
NHDOT / Toll Authority Audits and Published Annual Reports and Form 539 (optional)	A Guide to Reporting Highway Statistics, Chapter 10	When Published	When Published	Office of Highway Policy information	Finance	Finance and Contracts/ Planning	Annually, Due as soon as available.
Finance (536)	A Guide to Reporting Highway Statistics, Chapter 11	30-Sep	30-Sep	Office of Highway Policy information	Program Management Analyst	Planning	Biennially for odd-numbered years. Due nine months after end of reporting year
Finance (534)	A Guide to Reporting Highway Statistics, Chapter 12	15-Jun	15-Jun	Office of Highway Policy information	Program Management Analyst	Finance and Contracts	Annually for State, Biennially for local
Highway Finance and Tax Legislation	A Guide to Reporting Highway Statistics, Chapter 13	When Published	When Published	Office of Highway Policy information	Program Management Analyst	Finance and Contracts	
NHDOT Budgets and Published Annual Reports	A Guide to Reporting Highway Statistics, Chapter 13	When Published	When Published	Office of Highway Policy information	Program Management Analyst	Finance and Contracts	
Motor Fuel Oversight Review	July 24, 2001 HQ Memo	Initial baseline reports no later than December 31, 2003		Office of Highway Policy information	Program Management Analyst	NHDOS	Annual progress reports and statement of verification by June 30. Submitted via UPACS.
Review of Biennial - Toll Facilities in the United States	23 CFR 450.105(b) HPMS Field Manual	Biennially - Odd Years	June 15 (Odd Years)	Office of Highway Policy information	Program Management Analyst	Planning	Division Office sends to HQ.
State Highway Maps (Tourist)		When Published	When Published	Office of Highway Policy information	Administrative Assistant	DRED	Two copies to each Division Office and 100 copies to HQ.
Traffic Flow Maps		When Published		Office of Highway Policy information	Planning	Planning/Traffic	When Published.
Vehicle Classification Data	MAP-21, HPMS Field Manual, Traffic Monitoring Guide	15-Jun	15-Jun	Office of Highway Policy information	Program Management Analyst	Traffic	Part of Annual HPMS submittal.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Highway Use Tax Evasion Grant Awards	23 USC 143	Annual	Not Applicable	Office of Highway Policy information	Finance	NHDOS	FHWA along with the IRS will review applications and select awardees for projects designed to reduce or eliminate fuel tax evasion. FHWA will also review annual progress reports on projects.
Heavy Vehicle Use Tax (HVUT) – Certification of verifying proof-of-payment of HVUT	23 CFR 669.7	1-Jul	1-Jul	Office of Highway Policy information	Finance	NHDOS	Each year, the Governor of each State, or a designee must certify that the State is verifying that the HVUT has been paid before they issue or renew registrations on vehicles over 55,000 lbs. The HVUT program is administered by the Internal Revenue Service.
Heavy Vehicle Use Tax (HVUT) – Certification of verifying proof-of-payment of HVUT	23 CFR 669	Annual	1-Jan	Office of Highway Policy information	Finance	NHDOS	Each year, the Governor of each State, or a designee must certify that the State is verifying that the HVUT has been paid before they issue or renew registrations on vehicles over 55,000 lbs. The HVUT program is administered by the Internal Revenue Service.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Heavy Vehicle Use Tax (HVUT) – Triennial review of State program	23 CFR 669.21	Triennial	Not Applicable	Office of Highway Policy information	Finance	NHDOS	Every 3 years, the local Division Office will perform a review of the State process for verifying that the HVUT has been paid before a registration can be issued or renewed for vehicles over 55,000 lbs. The HVUT program is administered by the IRS
Permanent ATR Data	Heavy Vehicle Travel Information System Field Manual	Monthly	Monthly	Office of Highway Policy information	Engineering & Operations	Traffic	Submit monthly, within 20 days after the close of the month for which the data were collected.
Continuous Automatic Vehicle Classifier Data	Heavy Vehicle Travel Information System Field Manual	Monthly	Monthly	Office of Highway Policy information	Engineering & Operations	Traffic	Send up to one week of data per quarter
Weight and Vehicle Classification Data Collected at Weigh-in-motion sites	Heavy Vehicle Travel Information System Field Manual	15-Jun	As needed	Office of Highway Policy information	Engineering & Operations	Planning	WIM data collected at non-continuous sites during a year should be submitted by June 15 of the following year. If continuous WIM data are available, then up to one week of data per quarter.
Approval of MAP-21 compliant SHSP update within the legislatively required timeframe.	23 U.S.C. 148 (d)(2)(B)	Non Recurring	By Aug. 1 of the fiscal year after the HSIP final rule is established	Office of Safety	Engineering & Operations	Highway Design	FHWA Division Offices provide copy of SHSP process approval letter to HQ.
Highway Safety Improvement Program (HSIP) and Railway-Highway Crossing Program (RHCP) Reports	23 USC 148(h), 23 CFR 924.15	Annually	31-Aug	Office of Safety	Engineering & Operations	Highway Design	As per MAP-21 guidance, reports are due to FHWA Division Office by August 31st and to the Office of Safety by September 30.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Transportation Performance Management (TPM) for Safety	23 USC 150, 23 USC 134, 23 USC 135, 23 USC 148(i)	Annually	31-Aug	Office of Safety	Engineering & Operations	Highway Design	Per MAP-21, States and MPOs must set targets for established measures. Targets must be assessed for achievement
Review Drug Offender Driver's License Suspension Law & Enforcement Certification (Section 159)	23 USC 159 23, CFR 192.5	Annually	1-Jan	Office of Safety	Engineering & Operations	Executive Office/Highway Design/NHDOS	Certifications due to the Division Office by January 1.
Section 154/164 Compliance Status - Funds Reservation	23 USC 154 and 23 USC 164	Annually	30-Oct	Office of Safety	Engineering & Operations	Highway Design	States must submit a Shift letter to the Division Office by Oct. 30 indicating how to apply the penalty. New penalty states have additional time. The Office of Safety processes the compilation of information in a memo to the CFO.
Review Safety Belt Compliance Status	23 USC 153, 23 CFR 1215.6	Annually	Annually	Office of Safety	Engineering & Operations	Highway Design	NHTSA
High Risk Rural Roads (HRRR) Special Rule	23 USC 148(g)(1)	Annually	Annually	Office of Safety	Engineering & Operations	Highway Design	After the final FARS and HPMS data are available, FHWA HQ will inform the States if the HRRR Special Rule applies for the following FY.

Activity	Authority <sup>1</sup>	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NHDOT Responsible Program Office	Remarks
Older Drivers and Pedestrians Special Rule	23 USC 148 (g)(2)	Annually	31-Aug	Office of Safety	Engineering & Operations	Highway Design	States should include in their annual HSIP reports (due August 31st) the calculations performed, verifying whether the Older Driver Special Rule applies in the State. If the Special Rule applies to a State in a given year, the State must include in its subsequent SHSP strategies to address the increases in the fatality and serious injury rates for drivers and pedestrians over the age of 65.
FHWA Emergency Preparedness Program	Executive Order 12656 and FHWA Order 1910.2C	As needed	Not Applicable	Office of Operations	Engineering & Operations	Highway Design/Maintenance	National Programs.

<sup>1</sup> All actions taken on or after December 26, 2014, shall be governed by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. Part 200 of 2 CFR supersedes 49 CFR Parts 18 and 19, and requirements from OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in OMB guidances); Circulars A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up.

**ATTACHMENT C**  
**MANUALS AND OPERATING AGREEMENTS**

**NHDOT Manuals Applicable State Standards approved or accepted by FHWA for use on Federal-aid projects:**

NHDOT Bridge Design Manual  
NHDOT Highway Design Manual  
NHDOT Right-of-way Manual  
NHDOT Drainage Manual  
NHDOT Environmental Process Manual  
NHDOT Consultant Selection and Service Agreement Procedures  
NHDOT Utility Accommodation Manual  
NHDOT supplements to the MUTCD  
NHDOT Standard Specifications for Road and Bridge Construction, includes Materials Manual  
NHDOT Supplemental Specifications  
NHDOT Special Provisions  
NHDOT Standard Plans for Road and Bridge Construction  
NHDOT Qualified Products List Criteria  
NHDOT Work Zone Traffic Control Standard Plans  
NHDOT Construction Manual  
NHDOT Quality Assurance Program  
NHDOT Highway Traffic Noise Assessment and Abatement Policy  
Strategic Highway Safety Plan  
Highway Safety Improvement Plan  
Policy for the Permitting of Driveways and Other Accesses to the State Highway System  
Work Zone Safety & Mobility Policy and Procedures  
NHDOT Guidelines for Temporary Erosion and Sediment Control and Stormwater Management  
NHDOT Local Public Agency Manual for the Development of Projects  
Policy on Flagger and Uniformed Officer Use in Work Zones  
NHDOT Public Involvement Procedures  
STIP Revision Procedures  
NHDOT Quality Assurance Program for Municipally Managed Federal-aid Projects  
GARVEE Bond Procedures  
Current Bill System Procedures  
ITS Project Mainstreaming Procedures  
Affirmative Action Plan  
Contract Compliance Plan  
Disadvantaged Business Enterprise (DBE) Plan  
Title VI Plan  
Indirect Cost Allocation Plan (Cost Pool Composition/Eligibility)

## **Operating (Programmatic) Agreements**

Memorandum of Understanding, State of New Hampshire Department of Transportation and the US Department of Transportation Federal Highway Administration – Project Estimate Reviewing & Processing Procedures

Programmatic Categorical Exclusion Approvals

Programmatic Wetland Finding for Categorical Exclusions

Programmatic Floodplain Findings for Categorical Exclusions

Programmatic Section 4(f) Agreements

Guidance for Determining DeMinimis Impacts to Section 4(f) Resources

Programmatic Section 106 Process Agreement

Memorandum of Understanding, State of New Hampshire Department of Transportation and the US Department of Transportation Federal Highway Administration – Post Construction Funding for Implementation of Long Term Environmental Commitments

List of Recurring Planning Activities and Statistical Reporting Requirements

Memorandum of Agreement Between the Federal Highway Administration Division Offices in Connecticut, NH, Massachusetts, New Hampshire, Rhode Island and Vermont and the Federal Transit Administration, Region I

## **Work Programs**

Local/Tribal Technical Assistance Program (LTAP/TTAP)

Statewide Planning and Research I and II

Transportation Management Area/Metropolitan Planning Organization (TMA/MPO)

**ATTACHMENT D**  
**Project Oversight Designation Requirement in the Fiscal Management Information System (FMIS)**

**PoDI/State Administered** – Projects of Division Interest that are administered by the NHDOT. If specific 106(c) responsibilities are assumed by the NHDOT, the responsibilities assumed should be noted in the project description and/or remarks fields. (Projects where all six 106(c) responsibilities are retained by FHWA would need no such notation.) These are projects where FHWA will review and approve actions pertaining to one or more of the following (design; plans, specifications, and estimates; contract awards; and project inspections) and may also include additional areas of focus by the division.

**PoDI/Locally Administered** – Projects of Division Interest that are locally administered. If specific 106(c) responsibilities are assumed by the NHDOT, the responsibilities assumed should be noted in the project description and/or remarks fields. (Projects where all six 106(c) responsibilities are retained by FHWA would need no such notation.) These are projects where FHWA will review and approve actions pertaining to one or more of the following (design; plans, specifications, and estimates; contract awards; and project inspections) and may also include additional areas of focus by the division.

**Assumed/State Administered** – Projects where *responsibility for all six Section 106(c) items* is assumed by the NHDOT and the project is administered by the NHDOT. These are projects where the NHDOT has assumed responsibility for review and approval actions pertaining to all of the following: design; plans, specifications, and estimates; contract awards; and project inspections.

**Assumed/Locally Administered** - Projects where *responsibility for all Section 106(c) items* is assumed by the NHDOT and the project is administered by a local agency. These are projects where the NHDOT has assumed responsibility for review and approval actions pertaining to all of the following: design; plans, specifications, and estimates; contract awards; and project inspections.

**Other** – There may be situations that do not fit the previous categories. In cases where the project is identified as “Other,” additional details should be provided in the project description and/or remarks fields. Examples could include non-NHDOT direct recipients.

## **ATTACHMENT E** **PROGRAM SPECIFIC TOPICS**

### **1. AIR QUALITY**

#### **Transportation Conformity**

Transportation conformity is required under the Clean Air Act (CAA) Section 176(c) to ensure that Federally supported transportation activities are consistent with ("conform to") the purpose of a State's air quality implementation plan, or SIP. Transportation conformity establishes the framework for improving air quality to protect public health and the environment. Conformity to the purpose of the SIP means FHWA and Federal Transit Administration (FTA) funding and approvals are given to highway and transit activities that will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the relevant air quality standard, or any interim milestone. The conformity process applies to areas of the State that are designated as nonattainment or maintenance areas for criteria pollutants, and is applied to MPO Transportation Improvement Programs or TIPs and long-range transportation plans in nonattainment or maintenance areas, and to certain transportation improvement projects that may impact air quality. Under current law, conformity requirements apply in areas that either do not meet or previously have not met national ambient air quality standards (NAAQS) for ozone ( $O_3$ ), carbon monoxide (CO), particulate matter ( $PM_{10}$  and  $PM_{2.5}$ ) or nitrogen dioxide ( $NO_2$ ).

Environmental Protection Agency (EPA), FHWA, FTA, and State and local transportation and air quality agencies. Conformity determinations must be made at least every four years, but may occur more often if metropolitan transportation plans or TIPs are updated more frequently or amended with non-exempt projects. Also, conformity determinations must be made within 24 months after SIP motor vehicle emissions budgets are found adequate or approved, whichever is first. Project-level conformity must be determined prior to the first time a non-exempt Federal project is adopted, accepted, approved, or funded. In addition, conformity determinations must be made within 12 months of an area being designated by EPA as nonattainment for ozone, carbon monoxide, particulate matter, or nitrogen dioxide. By recent EPA actions, as of July 20, 2013 all of New Hampshire was classified as unclassifiable/attainment for the 2008 8-Hour Ozone National Ambient Air Quality Standard (the 2008 ozone standard). Also, as of July 20, 2013, the 1997 8-Hour Ozone National Ambient Air Quality Standard (the 1997 ozone standard) was revoked for transportation conformity purposes in the Boston-Manchester-Portsmouth (SE), NH area.

As a result, in New Hampshire, only the following areas are currently in maintenance status for transportation conformity purposes:

- The Boston-Manchester-Portsmouth (Southeast) New Hampshire 8-hour ozone non-attainment area;
- The Manchester carbon monoxide attainment area, with a maintenance plan; and
- The Nashua carbon monoxide attainment area, with a maintenance plan.

Thus, only the Manchester (SNHPC) and Nashua (NRPC) MPOs are now located in the carbon monoxide maintenance area and are subject to planning-level conformity requirements, and projects located in Manchester or Nashua may also require localized, hot-spot analyses.

The FHWA Division Office and FTA Region 1, in consultation with US Environmental Protection Agency (USEPA) Region 1, make joint conformity determinations on the MPO long-range transportation plans and TIPs, and updates and amendments to these documents and the STIP. Roles and responsibilities for each agency are outlined in the August 9, 2004 Memorandum Of Agreement Between The Federal Highway Administration Division Offices In Connecticut, NH, Massachusetts, New Hampshire, Rhode Island, Vermont, and The Federal Transit Administration, Region 1. Project-level conformity determinations for highway projects are typically incorporated into the NEPA process.

### **Interagency Consultation**

New Hampshire has established an interagency consultation process for planning-level conformity that takes place monthly, and is also documented in New Hampshire's STIP Revision Procedures. The Division Office is an active participant in these monthly consultations. Meetings or conference calls are coordinated by NHDOT and include all of New Hampshire's MPOs, the State Air Quality Agency (NHDES), EPA, FHWA, and FTA. The air quality exempt or non-exempt status of projects, project regional significance, and the triggering of determinations of conformity and the need to update the air quality regional emissions analysis versus relying on the previous analysis are all discussed through the interagency consultation process to support joint FHWA conformity determinations for MPO long-range plan and S/TIP updates and S/TIP amendments.

### **Congestion Mitigation and Air Quality (CMAQ) Program**

The purpose of the CMAQ program is to fund transportation projects or programs that will contribute to attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). The FHWA New Hampshire Division Office, jointly with FTA Region 1, advises and determines eligibility for inclusion in this funding program on a project-by-project basis using criteria contained in the 2008 Program Guidance issued jointly by the FHWA Office of Planning and Environment and the FTA Office of Planning. Key Division actions include participation in an advisory capacity on New Hampshire's Statewide CMAQ Advisory Committee, project eligibility determinations, and submittal of the annual State CMAQ Report to FHWA headquarters.

NHDOT will monitor MPO Plans and TIP development activities to ensure that the work is being managed and performed satisfactorily, and that conformity requirements are being met. FHWA and NHDOT will consult with EPA and the NHDES, and will work closely with each MPO in nonattainment and maintenance areas to assure the timely delivery and approval of documents relative to program delivery schedules.

FHWA will review and take action on CMAQ eligibility determinations within 30 business days of receipt. FHWA will review and comment on the draft and final conformity documentation for Metropolitan Transportation Plans and the TIP as necessary, and will work together with FTA and EPA to provide joint FHWA/FTA conformity determinations for associated MPO TIP/STIP and MPO Plan amendments and updates within a 30-60 day timeframe. This includes time for coordination with FTA and the United States Environmental Protection Agency (EPA). NHDOT will involve FHWA in decisions involving special and unusual circumstances at the earliest reasonable time to ensure that thorough and appropriate decisions can be made.

NHDOT will assist the FHWA Hampshire Division Office in preparing the annual report of each fiscal year's CMAQ program that meets the requirements of 23 USC 149 by January 31 of each calendar year. Additional guidance for preparing the annual report is discussed in the 2008 Program Guidance issued jointly by the FHWA Office of Planning and Environment, and the FTA Office of Planning.

## **2. BRIDGES AND STRUCTURES**

### **National Bridge Inspection Program (NBIS)**

FHWA Division Office will conduct an annual review to assess key areas of the NHDOT's Bridge Inspection Program for compliance with the NBIS regulations. Twenty-three (23) metrics founded in the NBIS regulations will be assessed using random statistical based sampling of bridge files, field review of bridges, review of operating policies and procedures, interviews of personnel, and review of personnel qualifications. 23 USC 151 National Bridge Inspection Program: Statutory authority for establishment of the National Bridge Inspection Standards and bridge inspector training program. 23 CFR Part 650, Subpart C establishes National Bridge Inspection Standards (NBIS) that apply to all bridges carrying vehicular traffic that are greater than 20 feet in length and located on a public road.

### **Highway Bridge Program (HBP)**

Eligibility for this program is based on bridge condition and inventory data that NHDOT submits annually to FHWA Division Office. NHDOT also annually submits bridge construction unit cost data to FHWA Division Office. The HBP funds apportioned to each State are based on the relative area of deficient bridges and the relative bridge construction unit costs. Not less than 15 percent of the apportioned funds shall be expended for projects located off the Federal-aid system. A waiver request must be approved by the FHWA Division Office for all bridges that do not meet the eligibility requirements for rehabilitation or replacement. 23 USC 144 Highway Bridge Program: Statutory authority for establishment and requirements of the Federal-Aid Highway Bridge Program, which provides funding for rehabilitation, replacement, preventive maintenance, inventory, inventory management, and inspection. It also includes Historic Bridge Program requirements. 23 CFR Part 650, Subpart D establishes the procedures for administering the Highway Bridge Program (HBP). The program was established to replace, rehabilitate, and preserve deficient bridges. While MAP-21 eliminated this program, unobligated funds which were apportioned under the HBP will continue to follow the requirements of 23 U.S.C. 144 as it existed prior to the enactment of MAP-21.

### **Innovative Bridge Research and Deployment Program (IBRD)**

Grants are distributed annually based on competitive application. NHDOT, in coordination with FHWA Division Office, identifies potential projects, prepares applications and submits them to FHWA Division Office. The FHWA Division Office reviews the applications and submits them to FHWA Headquarters with endorsement. If grant is awarded, the FHWA Division Office handles it as a non-exempt project. NHDOT prepares and submits report to FHWA Headquarters on evaluation of the innovative technology. 23 USC 503(b) establishes the Innovative Bridge Research and Deployment Program (IBRD) to demonstrate the application of innovative material technology in the construction of bridges and other structures. While MAP-21 eliminated this program, unobligated funds which were apportioned under the IBRD will continue to follow the requirements of Section 5202 (b)(2) of SAFETEA-LU as it existed prior to the enactment of MAP-21.

### **National Historic Covered Bridge Preservation Program (NHCBP)**

Grants are distributed annually based on competitive application. NHDOT, in coordination with FHWA, identifies potential projects, prepares applications and submits them to FHWA Division Office. The FHWA Division Office reviews the applications and submits them to FHWA Headquarters with endorsement. If grant is awarded, the FHWA Division Office handles as a non-exempt project. SAFETEA-LU Section 1804 continues the National Historic Covered Bridge Program (NHCBP) by providing funds to assist the States in the rehabilitation, repair, or preservation of the Nation's historic covered bridges. While MAP-21 eliminated this program, unobligated funds which were apportioned under the NHCBP will continue to follow the requirements of Section 1804 of SAFETEA-LU as it existed prior to the enactment of MAP-21.

### **Bridge Preventive Maintenance Program**

The NHDOT Bridge Preventive Maintenance Program is evaluated during the annual NBIS compliance reviews. The FHWA Division Office will review the NHDOT Annual Bridge Preventive Maintenance Work Schedule to ensure the eligibility of the proposed preservation activities. 23 USC 116 Maintenance: Establishes eligibility of title funds for preventive

maintenance. It also includes the requirement to maintain facilities constructed using Federal-aid funds and authority to withhold funds if not put in proper condition after finding of improper maintenance.

### **3. CIVIL RIGHTS**

FHWA and NHDOT are committed to effectively implementing and enforcing the Civil Rights programs within the Federal-aid Highway Program. NHDOT is obligated to ensure nondiscrimination in all programs and activities, and in the provisions of all services and benefits, as a basis for continued receipt of FHWA funds according to Titles VI and VII of the Civil Rights Act of 1964 and the codified Federal regulations that implement these acts.

FHWA and NHDOT review all Civil Rights programs work plans and program documents. FHWA will review and approve NHDOT programs on an ongoing basis through process and program reviews as well as ongoing program assessments and various program management activities. The NHDOT Office of Federal Compliance (OFC) administers the following Civil Rights programs:

- Title VI/Nondiscrimination including Limited English Proficiency and Environmental Justice
- Disadvantaged Business Enterprise (DBE) including the Small Business Element
- Equal Employment Opportunity
  - Part I – Contractor Compliance
  - Part II – State Internal Equal Employment Opportunity
- Americans with Disabilities Act/Section 504
- Supportive Services
  - DBE
  - On-the-Job Training (OJT)
  -

#### **FHWA Civil Rights Program Recurring Actions/Standard Reports**

Program Item	Authority	Due Date	Frequency	Actions	Contact Information
Affirmative Action Program; Contractor Compliance Program; DBE Program; State Internal EEO; and Title VI Program	Various	Various	Various	When the STA submits any CR Program Document for approval, the Division Office will review the document, make a recommendation to HCR, and if HCR concurs with recommendation, provide an electronic copy of the approval letter to HCR. These programs primarily reside in Divisions, but subject to HCR sampling audits	Contact Specific HQ Program Manager
HCR Dashboard	Various	Dec 1	Annual	Division Office will submit the HCR Dashboard annually after coordination with the STA	Darren Kaihlanen (405) 254-3312
Annual Federal-Aid Highway Construction	23 CFR 230.121(a);	Sept. 25	Annual	State will submit to Division office for review and verification of data. Division	Joyce Gottlieb (202) 366-

Program Item	Authority	Due Date	Frequency	Actions	Contact Information
Employment Data Report (FHWA-1392)	App. D to Subpart A, Part 230, General Info. & Instructions			Office will submit to HCR when review is complete. Forms are available at: <a href="http://www.fhwa.dot.gov/eforms/">http://www.fhwa.dot.gov/eforms/</a> .	3664
NHDOT Employment Statistical Data (EEO-4)	23 CFR, Subpart C, Attachment A	In conjunction with STA's annual EEO/AAP document	Biennial	Submitted as part of the STA's annual Equal Employment Opportunity/Affirmative Action Program document	Joyce Gottlieb (202) 366-3664
DBE Uniform Awards and Commitment Report	49 CFR 26, Attachment B	June 1 Dec 1	Semi-Annual	Division office review, verify information, concur and forward to HCR	Martha Kenley (202) 366-8110
Annual Analysis and Corrective Action Plan (if necessary)	49 CFR 26.47(c)	Dec. 31	Annual (as needed)	Division office review and forward to HCR with a recommendation.	Martha Kenley (202) 366-8110
State DBE Program Goals	49 CFR 26.45(f)(1)	August 1 (every 3 years based on schedule provided by HCR)	Triennial	Division office reviews goals and methodology, forward explanation of goals and methodology to the appropriate HCC regional office and copy HCR for legal sufficiency review. The Division Office will send the date the NHDOT goal was received by the Division, a copy of the approved decision document and a copy of the Division's letter to the NHDOT approving the methodology to HQ Office of Civil Rights.	Martha Kenley (202) 366-8110
Civil Rights Program Assessments/Annual Progress Report/Summaries	Memo from CR Assoc. Admin.	Dec 1 beginning 2013	Annual	Division Offices will work with STAs to evaluate, triennially, the implementation status of the State's core civil rights programs: Title VI/Nondiscrimination, ADA/504, Contractor Compliance, State Internal/EEO, and DBE. Through an electronic survey instrument submitted directly to HCR, Division Offices will work with the STA to evaluate the programs and provide information on progress made during the previous year. The Division Office will work with the STA to address identified deficiencies, with a priority focus on those issues receiving a red color indicator. An electronic, survey instrument will replace the annual program assessments/progress reports.	Candace Groudine (202) 366-4634
OJT and DBE Supportive Services fund requests	23 CFR 230.204	Dec 1	Annual	Upon notification from HCR, Division will notify State to submit work statement for approval in accordance the most recent guidelines issued by HCR.	Martha Kenley (202) 366-8110
Return of any unused discretionary grant program funding	23 CFR 230.117(2)	Dec 1	Annual	Division Office will send confirmation to HCR of State's commitment to obligate all funding or if funds are to be returned to HCR.	Martha Kenley (202) 366-8110

#### 4. CONSTRUCTION AND CONTRACT ADMINISTRATION

In general, NHDOT is responsible for the construction of all Federal-aid projects and for ensuring that such projects receive adequate supervision and inspection to ensure that

projects are completed in conformance with approved plans & specifications. The primary objectives of the FHWA construction-monitoring program are:

- To evaluate NHDOT's control of the projects, the quality, and progress of work.
- To maintain a close working relationship with NHDOT construction staff.
- To promote quality improvements.
- To promote work zone safety and mobility.
- To ensure that projects are completed in reasonably close conformance with the approved plans, specifications, and approved changes.
- To ensure incorporation of environmental commitments.

To better address identified risk areas and to leverage FHWA's limited resources, the FHWA NH Division will implement an annual risk-based, statistical Construction Monitoring Plan (CMP) to assure that projects are completed in reasonably close conformance to the plans and specifications (PS&E), to evaluate the quality of construction, and to promote appropriate improvements in construction quality. The implementation will include: construction inspections, reviews, and training through visible monitoring, enhanced financial oversight, and communication and outreach. A key component of the CMP is also implementation of the new Compliance Assessment Program (CAP). The CAP replaces the current requirement to conduct reviews on 10% of "delegated" active construction projects. Annually, FHWA HQ will provide a random sample of projects for the Division's review.

As a contract administration reminder, Title 23 requirements apply to all projects on the NHS, regardless of oversight process. Non-Title 23 requirements (e.g., Environmental, Civil Rights, Davis-Bacon wage rates, Disadvantaged Business Enterprises, etc.) apply to all projects and are subject to review, regardless of oversight process.

### **Public Interest Finding**

FHWA continues to support the principle of competition in the selection of materials whenever more than one equally suitable product exists to fulfill project requirements. NHDOT may specify proprietary products when they certify that there is no suitable alternative product (such as an innovative product offering better performance) or that the product is needed for synchronization. FHWA must approve, through a public interest finding (PIF), the specification of a proprietary product when other equally suitable alternatives exist.

Per Attachment A, FHWA must approve, for projects on the NHS, the cost-effectiveness determinations for construction work performed by force account or by contract awarded by other than competitive bidding.

A public interest finding of cost effectiveness (or a determination that an emergency exists) must be made, as required by 23 U.S.C. 112, when construction by some method other than competitive bidding is to be used.

A public interest finding of cost effectiveness must be made for any Federal-aid participating State force account work, except for routine minor work ( $\leq \$20,000$ ) performed by State

forces (i.e. Bureau of Traffic signs, pavement markings, signals; minor eligible maintenance work).

A public interest finding must be made for any Federal-aid participating proprietary products and State Furnished equipment or materials.

A public interest finding approval will designate the period of time it is valid for, which will typically be two years.

### **FHWA Final Inspection/Final Acceptance**

The FHWA Division Office and NHDOT will follow jointly developed Standard Operating Procedures (SOPs) established to satisfy the requirements of 23 USC 121, requiring final payments to states for projects completed under a Federal-aid project agreement, and to provide assurances that safeguards are in place that the project was completed in compliance with the terms of that agreement. The procedures will outline the two-step process used to close out Federal-aid projects: final acceptance of a Federal-aid project and the approval of the final voucher between the New Hampshire Department of Transportation (NHDOT) and FHWA.

Typically, Final Acceptance will entail a letter/memo from FHWA PoDI Projects or NHDOT Delegated Projects citing completed compilation and acceptance of the following project information:

1. NHDOT Final Acceptance Report
2. Final Construction Estimate from State PM
3. Final Inspection Report (State) with certification that punch list items have been fulfilled.
4. Materials Cert per 23 CFR 637.
5. Copies of all Approved Change Orders
6. Documentation of all claims, arbitration, and mediation
7. Verification and / or Status of Environmental Commitments
8. Utilization of DBEs.
9. Contract Time used, extensions or reductions granted, liquidated damages and/or incentives/disincentives.
10. Identification of all non-participating work.

On FHWA PoDI projects, the above information will be aggregated by NHDOT over the life of the project and submitted to the FHWA Division Office to issue a letter of final acceptance. On Delegated projects, NHDOT will aggregate the information for their own project files and only send a letter/memo of final acceptance to the Division Office with or before their request for Final Voucher.

Final Voucher will entail the following:

1. Final reconciliation of projects costs with the NHDOT and FHWA FMIS system.
2. Verification that required documentation is received in the Division Office.
3. Closing a project removes it from the “active” projects in the FHWA FMIS system.

### **Contracting: Change Orders, Supplemental Agreements and Extra Work Orders**

FHWA PoDI Projects – For all FHWA oversight (PoDI) projects or programs, FHWA shall ensure that all necessary approvals and activities are in accordance with Federal policies, practices, and standards, and Title 23, U.S.C. On PoDI projects, FHWA personnel will approve changes in contract (change orders, supplemental agreements, time extensions, claims, etc.), conduct project inspections, final inspections, and project acceptance.

Following authorization to proceed with a project, all major changes in the plans and contract provisions, and all major extra work, shall have formal approval by the Division in advance of their effective dates. However, when emergency or unusual conditions justify, the Division may give tentative advance approval orally to such changes or extra work and ratify such approval with formal approval as soon thereafter as practicable.

Furthermore, in accordance with 23 CFR 635.109, when a major item of work, as defined in the contract, is increased in excess of 125% or decreased below 75% of the original contract quantity, an adjustment excluding anticipated profit will be made to the contract. Any allowance for an increase in quantity shall apply only to that portion in excess of the 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed. The basis for the adjustment shall be agreed upon prior to the performance of the work.

On PoDI projects, FHWA's prior verbal or written approval will be sought for contract changes (including item variances), supplemental agreements, and extra work orders for those actions or independent items in excess of \$25,000 (increase or decrease to the contract). Formal written approval by FHWA of the executed document is also required.

For the purposes of this part, a major change is defined as being greater than \$25,000 (see above) or in accordance with any of the following:

If changes to the contract could potentially impact commitments made in the approved NEPA document; FHWA's approval should be obtained regardless of the dollar value. On FHWA PoDI projects, the FHWA must formally approve, in writing, all change orders, supplemental agreements, and extra work orders prior to the work being performed when the change has an impact on:

- a) The scope of the project
- b) Material modifications
- c) Adding a feature to the project
- d) Designer's intent, assumptions, calculations, etc.
- e) The original contract bid amount
- f) Contract time extensions (not pertaining to weather delays)

Appropriate independent government analysis and review should occur on all actions to ensure that the basis for comparison and determination of reasonableness is justified and documented. Actions on all projects should be reviewed by the appropriate NHDOT personnel and compared to average unit prices for similar work, prior to approval.

In establishing the method of payment for contract changes or extra work orders, force account procedures shall only be used when strictly necessary, such as when agreement cannot be reached with the contractor on the price of a new work item, or when the extent of work is unknown or is of such character that a price cannot be determined to a reasonable degree of accuracy. The reason or reasons for using force account procedures shall be documented.

Informational copies of all Change Orders, Supplemental Agreements, and Extra Work Orders on FHWA PoDI projects will be transmitted to FHWA. Project personnel are encouraged to engage in open and timely communication with FHWA throughout the life of the project, and in particular when such actions occur.

No FHWA approval is required for Supplemental Agreements, Extra Work Orders, or Change Orders on projects delegated as NHDOT oversight.

### **Experimental Features**

The Research Section acts as coordinator to NHDOT units that incorporate experimental features and “problem solving” research into their projects. The Section also acts as a clearinghouse to disseminate the information learned from the use of experimental features. The FHWA will work with NHDOT, as appropriate, to disseminate information and encourage the implementation of successfully used experimental features.

The FHWA exercises oversight for experimental features through review of the project applications prior to approval actions.

The FHWA Division Research and Technology Specialist oversees the administrative aspects and coordinates with the Division Office specialists for technical aspects.

## **5. CONSULTANT PROCUREMENT**

Pursuant to 23 CFR 1.9, Federal funds shall not be paid on account of any cost incurred prior to authorization by the Administrator to the State Highway Department to proceed with the project or part thereof involving such cost. As such, NHDOT will consult, coordinate, and seek concurrence from FHWA on PoDI projects when contemplating scope changes necessary during the engineering phase of a contract. Formal written approval for such changes during the engineering phase will be required prior to exceeding previously authorized contract amounts. This approval must be in writing and supported by the necessary documentation needed to make the approval. This provision applies to all types of contracts and work performed by State or others acting on behalf of the State, regardless of the phase of the project.

For all FHWA Oversight projects (PoDI) or programs, FHWA shall also ensure that projects or programs comply with certain non-Title 23, U.S.C. Federal-aid program requirements, such as procurement of engineering and design related service contracts and construction procurement procedures (competitive bidding). On PoDI projects FHWA personnel will concur in consultant selection, agreements, and modifications.

## **6. DESIGN**

**Design Exceptions** – Design exceptions for FHWA PoDI projects may be requested by NHDOT to FHWA, per the PoDI oversight agreement. NHDOT has assumed the responsibility to approve and document design exceptions for State Administered projects. The determination to approve a project design exception is made after due consideration is given to all project conditions and parameters. Additionally, NHDOT should document design variances where the NHDOT standard(s) is (are) not being met; however, the design satisfies the applicable AASHTO standard(s).

### **Interstate Access**

In accordance with Title 23, USC, Section 111, “the State will not add any points of access to, or exits from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary.” (Secretary refers to the Secretary of the US Department of Transportation.) Interstate Access Requests may take the form of either an Interstate Justification Report (IJR) or an Interstate Modification Report (IMR). An IJR is a request for approval to add a new interchange, new partial interchange, or new ramps to-from frontage roads on the Interstate System. An IMR is a request for approval to add or modify access points to an existing Interstate interchange. The NHDOT will prepare an Interstate Access Request for FHWA’s approval for the following actions:

1. New Interchange
2. Major modification of an existing interchange
  - a. Adding new ramp(s)
  - b. Removing ramp(s)
  - c. Changing the interchange configuration
  - d. Completing basic movements at a partial interchange
3. New partial interchanges or new ramps to-from frontage roads
4. Instituting locked gate access
5. Abandonment or closure of ramps or interchanges
6. Access requests and interchange modifications on the Turnpike System

An access point is defined as each entrance to or exit from the Interstate mainline including “locked gates.”

All Interstate Access Requests should demonstrate good design practice, constructability, and operational and safety acceptability. The formal request must come from the NHDOT with supporting documentation commensurate with the scope of the proposed access approval.

All Interstate Access Requests must address the eight (8) policy points below:

1. The existing interchanges and/or local roads and streets in the corridor can neither provide the necessary access nor be improved to satisfactorily accommodate the design year traffic demands while at the same time providing the access intended by the proposal.
2. All reasonable alternatives for design options, locations, and transportation system management type improvements (such as ramp metering, mass transit and HOV facilities) have been assessed and provided for if currently justified, or provisions are included for accommodating such facilities if a future need is identified.

3. The proposed access point does not have a significant adverse impact on the safety and operation of the Interstate facility based on an analysis of current and future traffic. The operational analysis for existing conditions shall, particularly in urbanized areas, include analysis of sections of Interstate to and including at least the first adjacent existing or proposed interchange on either side. Crossroads and other roads and streets shall be included in the analysis to the extent necessary to assure their ability to collect and distribute traffic to and from the interchange with new or revised access points.
4. The proposed access connects to a public road only and will provide for all traffic movements. Less than "full interchanges" for special purpose access for transit vehicles, for HOV's, or into park and ride lots may be considered on a case-by-case basis. The proposed access will be designed to meet or exceed current standards for Federal-aid projects on the Interstate System.
5. The proposal considers and is consistent with local and regional land use and transportation plans. Prior to final approval, all requests for new or revised access must be consistent with the metropolitan and/or statewide transportation plan, as appropriate, the applicable provisions of 23 CFR part 450, and the transportation conformity requirements of 40 CFR parts 51 and 93.
6. In areas where the potential exists for future multiple interchange additions, all requests for new or revised access are supported by a comprehensive Interstate network study with recommendations that address all proposed and desired access within the context of a long-term plan.
7. The request for a new or revised access generated by new or expanded development demonstrates appropriate coordination between the development and related or otherwise required transportation system improvements.
8. The request for new or revised access contains information relative to the planning requirements and the status of the environmental processing of the proposal.

### **Preliminary Design**

In 2010, FHWA issued Order 6640.1A clarifying the FHWA's policy regarding the permissible project-related activities that may be advanced prior to the conclusion of the National Environmental Policy Act (NEPA) process. Preliminary design activities include, but are not limited to:

1. Activities listed in the definition of preliminary design: environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials.
2. Other activities: design and engineering activities to be undertaken for the purposes of defining project alternatives; completing the NEPA alternatives analysis and review process; complying with other related environmental laws and regulations; environmental justice

analyses; supporting agency coordination, public involvement, and permit applications; development of environmental mitigation plans; development of typical sections, grading plans, geometric alignment (horizontal alignment, vertical alignment, and any clearances necessary to meet approved design criteria), noise wall justifications, bridge type/size/location studies, temporary structure requirements, staged bridge construction requirements, structural design (substructure and superstructure), retaining wall design, noise wall design, design exceptions, guardrail length/layout, existing property lines, title and deed research, soil borings, cross sections with flow line elevations, drainage, ditch designs, intersection design/configuration, interchange design/configuration, pavement design, storm/sanitary sewer design (plan/profile), culvert design, identification of removal items, quantity estimates, pavement details/elevation tables, and preliminary traffic control plans to be maintained during construction.

### **Plan Reviews and Approvals – PS&E**

On FHWA PoDI Projects, the Plans, Specification & Estimate (PS&E) Reviews are the last Design reviews done by the FHWA Division Office allowing project authorization to take place. The reviews generally utilize a checklist approach and involve a cursory design review if there was adequate FHWA involvement during the intermediate reviews leading up to the final plans. These reviews are required on all FHWA PoDI projects to assure that the project is ready for authorization. Please plan for allowing 10 working days/two weeks for Division Office review and comment. Half-size plans are preferred.

Preliminary Plan, Specifications & Estimate (PPS&E) Reviews will be done by the FHWA Division Office when plans have been developed to about 60% following slope and drain. These reviews are appropriate during the time the design concepts and major design features are being developed and finalized. The purposes of PPS&E reviews are to assure that appropriate design considerations are used during layout development, to assure that environmental commitments are observed, to assure cost-effective design alternates are considered, to maintain communication with the highway agency, and to evaluate the quality of the product.

Delegated Projects - Incidental PS&E/PPS&E reviews will be done as part of Program/Process Reviews that are in keeping with the Division's Risk Based Stewardship and Oversight Initiatives. Reviews will be done in cooperation with NHDOT timelines to the maximum extent possible.

Local Publicly Administered Projects - Incidental PS&E/PPS&E reviews will be done as part of Program/Process Reviews that are in keeping with the Division's Risk Based Stewardship and Oversight Initiatives. Reviews will be done in cooperation with NHDOT timelines to the maximum extent possible.

### **Value Engineering (VE)**

Per MAP-21, as a minimum, NHDOT will perform Value Engineering Analyses on Federal-aid projects estimated to cost \$50 million or more, and for Federal-aid bridge projects expected to exceed \$40 million. The FHWA Division Administrator – or NHDOT at its discretion - may designate other projects for which a Value Engineering Analysis is needed.

In addition, VE analyses are no longer required for non-NHS bridges and Design-Build projects.

NHDOT will include a Value Engineering Change Proposal (VECP) clause in their construction contracts to encourage contractors to propose changes in contract requirements which will:

1. Reduce project cost(s) or improve value or service at no increase or a minor increase in cost, and
2. Provide New Hampshire with innovative contractor ideas or techniques to be considered when preparing plans, specifications, and estimates on future projects.

The net savings of each proposal will be shared with the contractor at a stated reasonable rate. Reimbursement for such share is eligible for pro-rata reimbursement with Federal-aid funds. NHDOT retains the right to accept or reject all proposals and acquire all rights to use accepted VE proposals in current and future projects without restriction.

For maximum benefit, VE should be employed as early as possible in the project development/design process so that valid VE recommendations can be implemented without delaying the progress of the project or causing significant rework of completed designs.

## **7. EMERGENCY RELIEF**

Congress authorized in Title 23, United States Code, Section 125, a special program from the Highway Trust Fund for the repair or reconstruction of Federal-aid highways and roads on Federal lands which have suffered serious damage as a result of: (1) natural disasters or (2) catastrophic failures from an external cause. This program, commonly referred to as the emergency relief or ER program, supplements the commitment of resources by States, their political subdivisions, or other Federal agencies to help pay for unusually high expenses resulting from extraordinary conditions. See the Emergency Relief Manual (Federal-aid Highways) for more detail on the ER program.

1. The FHWA and NHDOT agree to each have a person/position (collateral duty) identified as the point of contact and emergency coordinator for ER events. Should an event occur, these individuals would be responsible for organizing and carrying through the appropriate agency responses and documentation.
2. The NHDOT will complete a reasonable survey of the damage (Damage Survey Summary Report) with associated program for projects with estimates of cost within 4 to 6 weeks of the event. This may vary depending on the area of impact of the disaster.
3. NHDOT is responsible for identifying, inspecting, documenting, and ensuring that all Emergency Relief (ER) Projects comply with all Federal and State requirements. ER projects for permanent repairs are subject to the project oversight criteria found in this agreement and to the following two conditions:
  - a. Any “betterment” to be incorporated into the project, for which ER funding is requested, must receive prior FHWA approval.
  - b. Any permanent repairs done incidentally with Emergency Repairs must have FHWA prior approval.
  - c. Approved permanent repair projects must follow standard federal-aid authorization

- procedures, including NEPA review and classification, inclusion in the STIP, uniform act compliance, etc.
- d. With two weeks advance notice, the FHWA Division Office should be notified and invited to all final inspections on ER Projects.
  - e. The FHWA Division Office reserves the right to conduct independent final inspections on all ER projects.

## **8. ENVIRONMENTAL**

Whether the project is FHWA Oversight (PoDI) or State Administered, where federal funding is involved, FHWA will have involvement through the environmental analysis and documentation, through NEPA approval. It is important to understand that there will be some cases where no federal funds are being used but a federal approval is required, such as Interstate access modification, which invokes NEPA. FHWA will always have approval authority for any accompanying NEPA approval, even though the project may not use federal funding.

In addition, FHWA has agreed, in coordination with the NHDOT, to delegate consultant task orders/agreements less than \$10,000 that are issued and administered through the Bureau of Environment in accordance with their internal procedures.

FHWA is required to consider the social and natural environment in accordance with the National Environmental Policy Act of 1969 (NEPA) prior to making any decisions on projects that have federal involvement; that is, federal funding or federal action (e.g. Interstate Access modifications, permitting). FHWA has a direct oversight role in implementing NEPA. FHWA and NHDOT will work together to ensure that social, environmental, and economic factors are given proper consideration along with engineering factors, in program and project decision-making. In general, under environmental actions:

- FHWA's primary role is to provide guidance and independently evaluate the adequacy of the NEPA process performed for all Federal-aid transportation projects.
- NHDOT is responsible for the environmental analyses for all Federal-aid transportation projects in the state. NHDOT will maintain qualified professional staff to conduct environmental reviews.
- NHDOT maintains documentation on environmental activities.
- FHWA assures that appropriate analyses are conducted, approval actions are timely, and public involvement is an element of NHDOT's environmental program.
- FHWA and NHDOT will continue to work together to streamline the environmental process.

## **9. FINANCIAL MANAGEMENT**

The New Hampshire Division has implemented the Financial Integrity Review and Evaluation (FIRE) program to ensure that Federal-aid funds are properly managed and effectively used in accordance with Federal policies, and that safeguards are in place to

minimize fraud, waste, and abuse. In addition, the FIRE program ensures that proper internal controls are established and followed, with objectivity and a separation of financial duties in conducting the Agency's day-to-day operations. The Division's Financial Management Team is responsible for completing the FIRE activities on an annual basis, and they coordinate with NHDOT personnel and Division staff, as necessary.

The FIRE activities consist of the following:

- 1) Financial Quality Improvement Reviews
- 2) Improper Payment Reviews
- 3) Inactive Federal-aid Projects Reviews
- 4) Single Audit Review
- 5) Other Federal Audit Findings Review (as applicable)
- 6) Annual Certification & Certification Validation
- 7) Administrative Reviews [Fund Authority; Purchase Orders & Administrative Contracts; Travel-Related Transactions; Credit Cards & Convenience Checks; Property Inventories & Capitalized Assets; and Collections & Sensitive/Controlled Documents].

NHDOT conducts various financial audits (involving respective program staff, as applicable) of external agencies receiving Federal-aid funds to ensure the proper use of these funds and that Federal and State requirements are met.

### **GARVEE Bonds**

In 2010 and 2012, NHDOT and FHWA entered into separate MOAs for the GARVEE Bond funding of the I-93 Salem to Manchester PoDI major project. Under the FAHP, once a project is selected for debt financing:

- The project is submitted to the Division Office for approval as an Advance Construction project under Section 115 of Title 23. This designation ensures that the project will follow federal-aid procedures and will preserve the eligibility to reimburse debt-related costs through future federal-aid fund obligations.
- When the project agreement is signed, a state may elect to seek reimbursement for debt service and/or related issuance costs, in lieu of reimbursement for construction costs. If a state elects to receive debt service reimbursements, a debt service schedule will be included in the project agreement. When multiple projects are funded with the proceeds of a debt issue, each project will be assigned a prorated share of the debt-related costs.
- To comply with the intent of the fiscally constrained planning process, the federal share of the debt-related costs anticipated to be reimbursed with federal-aid funds over the life of the debt obligations should be designated as Advanced Construction. The planned amount of federal-aid reimbursements (Advance Construction conversion) should be included in the STIP, in accordance with FHWA procedures.
- Periodic debt service payments (federal-aid reimbursements) on the debt obligations would represent partial conversion of designated Advanced Construction amounts to federal aid. A state can obligate such federal aid annually over the life of the permanent financing or a state can make the conversion in one lump sum upon completion to help take out construction financing. This would follow the normal procedures for conversion of an Advance Construction project.

- FHWA has, pursuant to the terms of the 2010 Memorandum of Agreement and the 2012 Memorandum of Agreement, approved the I-93 Project as a “debt-financed” project.

## **Monitoring**

Debt service and bond issuance payments will be made by the State through the New Hampshire State Treasurer's Office twice per year and pro-rated to each Individual Construction Project based upon the estimated project debt service schedule, which will be attached to the payment request. As authorized amounts change with project modifications and final bond issuance, debt service payments will be adjusted accordingly. NHDOT will submit requests and supporting documentation to FHWA at least three weeks prior to submitting the request to convert the Advance Construction and use Obligational Authority sufficient to cover the scheduled debt service payments within a fiscal year, subject to the availability of Federal-aid contract and obligation authority. In the event that only a portion of the annual Obligational Authority is provided, NHDOT will reserve a pro-rata share of the Obligational Authority for debt service payments until the full Obligational Authority is available; provided that, in any event, NHDOT will set aside each year obligation authority sufficient for scheduled payments of debt service on the Bonds and other Bond-related costs during such year. Debt service costs will be billed to FHWA through the NHDOT Current Billing System to FMIS billing process. The debt service payments can be billed to FHWA up to 4 business days (in accordance with Federal Cash Management Improvement Act (CMIA)) in advance of the payment due date. The State may request that debt service payments be paid directly to the trustee for the Bonds.

The NHDOT recognizes and acknowledges the FHWA's authority to review the NHDOT's accounting procedures and process to ensure that the NHDOT's accounting system can support the allocation of eligible principal, interest and issuance expenses back to the individual Federal-aid projects being financed under 23 U.S.C. 115 and 122 on an annual basis.

The NHDOT agrees to authorize an audit of the Federal-aid projects being financed under 23 U.S.C. § 115 and § 122 by an independent auditor, which shall be charged to Federal-aid and eligible for participation at the Federal share as authorized under 23 U.S.C. 101 (a)(3) no less than every two years, but as frequently as on an annual basis.

## **10. INTELLIGENT TRANSPORTATION SYSTEMS (ITS) Program**

### **Program Overview**

NHDOT, in consultation and cooperation with FHWA, will lead the development of ITS initiatives ITS deployments, integrations, research, and operations. NHDOT and FHWA will work cooperatively with MPOs to promote ITS planning, regional architecture development and use, and to facilitate the adoption and integration of ITS elements at the local level as may be appropriate.

NHDOT will adhere to the provision of 23 CFR 940, Intelligent Transportation System Architecture and Standards, for ITS initiatives and deployments with Federal-aid funding associated.

Per 23 CFR 940.3, an ITS project is any project that in whole or in part funds the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS User Services as defined in the National ITS Architecture. It is understood that:

- Traffic signal projects that create or modify an interconnected traffic signal system or have automated communication with other systems are ITS Projects.
- Projects or activities that utilize interconnected technology in detecting incidents and dispatching response vehicles are ITS Projects.

### **ITS Regional Architecture**

23 CFR 940.9 states that Regional ITS architectures for each of the MPO areas and statewide shall be developed and maintained to document the ITS integration strategies and guide the development of specific projects and programs. FHWA will serve as a technical resource during the development, maintenance, and use of the regional architectures, and shall be furnished a copy of the adopted regional architectures and any amendments. Regional architectures will conform to the latest version of the National ITS Architecture and comply with the provisions of 23 CFR 940.9. FHWA will make an acceptance determination based on these requirements.

### **Systems Engineering Analysis**

All ITS projects shall be based on a systems engineering analysis and shall be developed to be consistent with the accepted regional architecture. The systems engineering analysis will be on a scale commensurate with the project scope. NHDOT shall make a determination of compliance of ITS Projects with the systems engineering analysis requirement, with FHWA concurrence.

### **Project Administration**

Prior to authorization of Federal-aid funds for construction or implementation, NHDOT shall demonstrate that ITS projects conform to the National ITS Architecture and were developed using standard systems engineering practices for highway projects as may be found in FHWA's publication, 'System Engineering for Intelligent Transportation System' and other guidance acceptable to FHWA. NHDOT shall demonstrate that there is a commitment to the operation, management, and maintenance of the overall system. All ITS projects shall use applicable ITS standards and interoperability tests that have been officially adopted by the USDOT, and will use to the extent practical other ITS standards under development that have general industry acceptance or use. NHDOT shall make a determination, with FHWA concurrence, of ITS project compliance with these requirements.

NHDOT will document and maintain an ITS project development and implementation process that standardizes the Department procedures for compliance with the fore mentioned requirements of both Federal and State ITS projects. The document will include policies, guidance, and procedures that will be used internally within the NHDOT, and externally with FHWA. FHWA will review and approve all associated documents and amendments thereto. FHWA and NHDOT will jointly conduct process reviews, as appropriate, of the ITS program.

FHWA and NHDOT will establish criteria that will be used to categorize all ITS projects as either a lower-risk or higher-risk projects. Lower-risk projects will be overseen by NHDOT only and higher-risk projects will be considered FHWA PoDI Projects. For projects not

clearly fitting into either category, or that may have some components of a higher-risk project while otherwise being considered lower-risk, NHDOT will obtain FHWA concurrence on the ultimate categorizing of the project. All ITS projects will comply with the requirements of this section, however, only oversight projects will require FHWA involvement and approval of design, development, and implementation. The Departments procedures for ITS project development and implementation described earlier in this section will include any procedures for both oversight and non-oversight ITS projects.

For Congressional ITS earmark projects, FHWA will monitor pre-award activities to ensure that the project being pursued meets program purposes and other requirements and implementation processes issued by FHWA Headquarters. Congressional ITS earmark projects shall comply with the other provisions stated in this agreement unless otherwise determined by FHWA to be inapplicable.

## **11. INNOVATIVE PROJECT DELIVERY**

Innovative Program Delivery methods are new to NHDOT and the NH Division. As such, all projects utilizing innovative program delivery methods such as Design-Build, CMGC, PPP, ATC's, etc. will be FHWA Oversight. Once established procedures are in place for the innovative program delivery method, and the NH Division and NHDOT have developed a comfort level with using the method, the parties may agree to revisit the oversight designation.

FHWA supports awarding at least one project every year utilizing an innovative program delivery method.

## **12. LOCAL PUBLIC AGENCY PROGRAM AND PROJECTS**

Local Public Agency (LPA) administered Federal-aid projects are those which are, at a minimum, managed through design or construction or both, by an entity delegated to do so by a State Transportation Agency (STA). In many cases, the LPA may also manage environmental studies and documentation, appraisal and acquisition of right-of-way, the bid and award process, and the billing process.

The LPA program in New Hampshire consists mainly of programs now administered under the MAP-21 Transportation Alternatives Program (TAP). The program includes most activities previously eligible as Transportation Enhancement, Recreational Trails, CMAQ, and Safe Routes To School. We should note there are several Transportation Enhancement activities that are no longer eligible under TAP funding. Such as:

- Safety and educational activities for pedestrians and bicycles
- Acquisition of scenic easements and scenic or historic sites
- Scenic or historic highway programs (including visitor and welcome centers)
- Historic preservation as an independent activity unrelated to historic transportation facilities
- Operation of historic transportation facilities
- Archaeological planning and research undertaken for proactive planning
- Transportation museums

Although some LPA projects may be selected as FHWA PoDI projects, the majority of these projects are administered by the NHDOT. By written agreement with the local agency, NHDOT may delegate all or some project activities to local agencies, whether or not Federal-aid is used for the activity. Those activities include, but are not limited to:

- Environmental studies
- Surveying
- Procurement of consultant services
- Preliminary design
- Right-of-way acquisition
- Work by local forces (limited, as program allows) or utility companies
- Preparation of plans, specifications, and estimates
- Preparation of bid proposal package
- Advertisement for letting
- Contract administration
- Construction inspection

NHDOT is responsible, under Federal law and regulations, for all delegated activities. NHDOT will provide the necessary processes, approvals, oversight, and review to ensure that delegated projects receive adequate supervision and inspection, and that they are completed in conformance with approved plans and specifications and applicable Federal requirements. The following activities will not be delegated to local agencies:

- NEPA review and approval
- Design exception approval
- Sole source justification approval
- Plan, specification, and estimate approval
- Right-of-way certification
- DBE Goals
- Labor compliance enforcement
- Final inspection and acceptance

In the event that a Municipality holds the consultant design agreement, or does its own design and the NHDOT administers the construction contract, then this section is only valid through final design. From the PS&E forward, the State-Administered Project Development and Project Construction delegations apply as outlined in **Attachment E sections 4 and 6**. Also, if a Municipal Project is determined to have federal oversight (PoDI), it is administered like any other FHWA PoDI project.

#### **Project Development Oversight for Municipalities Summary**

Work Activity	LPA (Municipal) ACTION	NHDOT ACTION	FHWA ACTION
Project Scope/Concept	Prepare & Submit	Review & Approve	None, opportunity to comment
Project Authorization for Preliminary Engineering	Prepare & Submit	Review & Submit	Approve in FMIS
Addenda	Prepare & Submit	Review & Approve	None

<b>Work Activity</b>	<b>LPA (Municipal) ACTION</b>	<b>NHDOT ACTION</b>	<b>FHWA ACTION</b>
Concurrence in Contract Award	Prepare & Submit	Review & Concur	None
Consultant Agreement and Selection	Prepare & Submit	Review & Approve	Information
Design Exceptions	Prepare& Submit	Review& Approve	Opportunity to Comment
PS&E Approval	Prepare & Submit	Review& Approve	None
NEPA Approvals <sup>(3)</sup>	Prepare& Submit	Review & Submit	Approve
Value Engineering <sup>(4)</sup>	Prepare& Submit	Review& Approve	None
Project Authorization for Right-of-Way	Prepare& Submit	Review & Submit	Approve in FMIS
Project Authorization for Construction	Prepare& Submit	Review & Submit	Approve in FMIS
Concurrence in Contract Award	Prepare & Submit	Review & Concur	None
Rejection of Low Bidder	Prepare& Submit	Review& Endorse	Review & Concur

<sup>(1)</sup>All of the NHDOT Action items which indicate that the NHDOT shall submit to the FHWA must be endorsed by the NHDOT prior to submission to the FHWA, as applicable.

<sup>(2)</sup>A municipal project requiring Interstate Access Modification would be rare but could also include developer's projects.

<sup>(3)</sup>Approvals of Programmatic CE's have been delegated to NHDOT

<sup>(4)</sup>Value Engineering for a municipal project is rare and only applies to Structures over \$40M and projects on the National Highway System over \$50M (for all phases.).

#### **Project Construction for Municipalities Summary**

<b>Work Activity</b>	<b>LPA(Municipality) ACTION</b>	<b>NHDOT ACTION</b>	<b>FHWA ACTION</b>
Notification of Pre-construction Meeting	Prepare& Submit	Review & Attend	Information
Change Orders	Prepare& Submit	Review& Approve	None (FHWA Authorizes the funds in FMIS)
Claims <sup>(5)</sup>	Prepare& Submit	Review& Approve	None
Time Extensions	Prepare& Submit	Review& Approve	None
Suspension of Work	Prepare& Submit	Review& Approve	None
Termination	Prepare& Submit	Review& Approve	Approve (projects on the NHS). Information (projects off the NHS)
Certificate of Compliance	Prepare& Submit	Review& Approve	None
Certificate of Final Acceptance	Prepare& Submit	Review& Approve	None
Materials Certification	Submit	Prepare& Approve	None
Buy America Waiver <sup>(6)</sup>	Prepare& Submit	Review & Concur	Approve
Value Engineering Change Proposals	Prepare& Submit	Review& Approve	None
Errors & Omissions	Prepare& Submit	Review& Approve	None
Public Interest Finding	Prepare& Submit	Review& Submit	Review for information only

<sup>(5)</sup> Claims that may set legal precedence should be coordinated with the FHWA.

<sup>(6)</sup> Not needed when minimal use of foreign steel and iron materials does not exceed 0.1 percent or \$2,500, whichever is greater.

### **Local Technical Assistance Program (LTAP)**

LTAP was created to provide training and technical assistance to rural, small urban governments, and contractors that do work for local agencies on roads, bridges, and public transportation. The LTAP program is regulated under 23 U.S.C. 504(b). The Technology Transfer (T2) Center at the University of New Hampshire was established in 1986. T2 Center is the local entity that works with NHDOT and FHWA to administer LTAP to communities and organizations throughout the state.

The T2 Advisory Committee determines the direction for the New Hampshire LTAP. The Committee, consisting of UNH personnel, federal, state, and local government representatives, typically meets quarterly. The Quarterly Committee meetings review, modify, and approve the content of New Hampshire's annual local training and assistance plan, and monitor progress, discuss opportunities and needs, develop plans for future programs, and associated budget needs. New Hampshire's LTAP annual training schedule typically consists of more than ten courses. T2 Center coordinates with NHDOT and the FHWA to adapt an LTAP Management Plan based on a calendar year.

FHWA exercises its oversight responsibilities through the review and approval of the annual work plan prior to approval actions, review of work plan amendments prior to approval, participation in the T2 Steering Committee, and participation or planning of various LTAP-related activities.

NHDOT, T2 Center, and FHWA coordinate to process amendments to LTAP. FHWA also coordinates with NHDOT for program development, eligibility, and fiscal issues.

## **13. MAJOR PROJECTS**

Major Projects are those projects receiving Federal financial assistance with an estimated cost of \$500 million or more, or projects that have been identified by the United States Department of Transportation Secretary as being "Major" because of special interest. The NEPA decision for each project defines the project scope, limits, and cost for each category of project.

*Projects Costing greater than \$500 million* – These projects will be designated as FHWA oversight projects regardless of the system on which they occur. In the early development of each Major Project, NHDOT shall submit to FHWA an initial Project Management Plan (PMP). The purpose of the PMP is to define the roles, responsibilities, processes, and activities, which will result in the Major Project being completed on time, within budget, with the highest degree of quality and safety, and in a manner in which the public trust, support, and confidence in the project is maintained.

The preparation of an initial PMP during the project's environmental study is critical to ensure that the project is delivered in an efficient and effective manner. The initial PMP shall be prepared by NHDOT and submitted to the FHWA prior to the submission of the NEPA decision document for the project. The PMP is to be a living document in which revisions

will be issued as the project progresses in order to add, modify, or delete provisions, with the result being the most effectively managed project. PMP guidance is posted on the FHWA Major Project Web site.

Major Project Cost Estimates are required to be prepared and updated by NHDOT. To validate the Cost Estimates, FHWA will perform at least one review prior to approving the NEPA decision document, and another review prior to authorization of the first mainline construction contract. Additional reviews may be required any time an update of the Financial Plan or PMP shows a significant change to the Cost Estimates or schedule. Details for developing Cost Estimates can be found on the FHWA Major Project web site.

Every Major Project also requires the development and submittal of a Financial Plan. A Financial Plan is a comprehensive document that reflects the Project's cost estimate and revenue, and provides reasonable assurance that there will be sufficient financial resources available to implement and complete the project as planned. The plan should clearly explain the assumptions about both cost and revenue upon which the plan is based. Financial Plans for Major Projects shall be prepared by NHDOT and submitted to the FHWA.

The initial Financial Plan should be prepared as early in the project development process as practical. In all cases, the initial Financial Plan must be submitted and approved by FHWA before authorization of Federal-aid funding for project construction. Financial Plans are to be updated annually. The annual updates of the Financial Plan should provide information on actual costs, expenditures, and dedicated revenue in comparison to initial estimates. Additionally, updated estimates of future years' costs, expenditures, and dedicated revenue will be included. Identified funding shortfalls should be highlighted along with proposed resource solutions. Financial Plan guidance is posted on the FHWA Major Project web site.

*Projects Costing \$100 - \$500 million* – These projects are also required to have Financial Plans and annual updates of the Financial Plans prepared by the project owner. The Financial Plan should address the same items as those for Major Projects. The initial Financial Plan should be prepared as early in the project development process as practical. In all cases, the initial Financial Plan must be completed before authorization of Federal-aid funding for project construction. These projects will be designated as FHWA PoDI projects regardless of the system on which they occur. Any amount of federal funding used to reach the project threshold amount, such as federal earmarks, would invoke the Initial Financial Plan requirement.

Major Projects that have been approved for Operational Independence and Non-Concurrent Construction (per FHWA Major Project Guidance) will be treated in accordance with the new dollar amounts of each approved phase.

A Value Engineering study is required for any Federal-aid project meeting thresholds described in current legislation, excluding non-NHS bridges and Design-Build projects. The Division Administrator may require more than one Value Engineering analysis for those projects.

## **14. PREVENTIVE MAINTENANCE AND SYSTEM PRESERVATION**

Per the June 13, 2003 Agreement between NHDOT and FHWA New Hampshire, these projects remain State Administered:

### **NHS Preventive Maintenance**

This type of project includes all NHS roadways, including Interstate Highways. Preventive Maintenance projects consist of work proposed to preserve, rather than improve, the structural integrity of the pavement and/or structure. Examples of preventive maintenance activities include ACP overlays (maximum 2" thick, excluding level-up); seal coats; cleaning and sealing joints and cracks; shoulder repair; scour countermeasures; cleaning and painting steel members to include application of other coatings; steel beam repair; repair or replacement of slopes and/or riprap, restore drainage systems; cleaning and sealing bridge joints; microsurfacing; bridge deck protection; milling or bituminous level-up; pavement inlay; clean, lubricate, and reset bearings; clean rebar/strand and patch structural concrete, and seal cracks. Projects that increase the capacity of a facility or address major deficiencies along a facility are not considered preventive maintenance.

In general, all preventive maintenance projects should consider appropriate ways to maintain or enhance the current level of safety and accessibility. Isolated or obvious deficiencies should always be addressed. Safety enhancements such as the installation or upgrading of bridge rail , guardrails, and end treatments, installation or replacement of traffic signs and pavement markings, removal or shielding of roadside obstacles, mitigation of edge drop offs, the addition of paved or stabilization of unpaved shoulders, or installation of milled rumble strips, should be included in projects where they are determined to be a cost effective way to improve safety. To maintain preservation program flexibility, and in accordance with 23 U.S.C. 109(q), safety enhancements can be deferred and included within an operative safety management system or included in a future project in the STIP. In no way shall preventive maintenance type projects adversely impact the safety of the traveled way or its users.

## **15. PAVEMENTS AND MATERIALS**

The FHWA New Hampshire Division is committed to assisting NHDOT in development and implementation of their Pavement Management System (PMS). FHWA will participate in various meetings to ensure that pavement related activities, including new and rehabilitated pavement design and construction, pavement management, research, technology transfer, etc., to provide readily available support to NHDOT through our HQ and Resource Center, as well as coordination among other functional/administrative areas of the division office.

In general, FHWA will monitor the implementation, operation, and effectiveness of the PMS through joint reviews and on-going involvement.

### **Materials Quality Assurance Monitoring Program**

The FHWA Division Office monitoring of NHDOT Quality Assurance (QA) Program is structured around 23 CFR 637. The overall purpose of the monitoring program is to ensure the quality of materials incorporated into Federal-aid highway projects on the National Highway System (NHS).

For Federal-aid highway projects on the NHS, the primary objectives of the monitoring program are:

- Maintain a close working relationship with NHDOT Materials and Construction staff,
- Promote improvements when new approaches or technologies are developed and where deficiencies are identified,
- Ensure that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing, are in conformity with the approved plans, specifications, special provisions, and the NHDOT standard specifications,
- Provide oversight of construction materials and compliance with Federal requirements on a statewide basis, and
- Ensure there is adequate and qualified NHDOT staff to maintain NHDOT QA and Independent Assurance (IA) programs.

### **Oversight Activities**

The FHWA Division Office will review and approve NHDOT Materials QA Program on an on-going basis. The NHDOT Materials QA Program includes the Acceptance Program, the IA Program, the Materials Certification of projects located on the NHS, the AASHTO Accreditation Inspection Reports, the Qualified Laboratory Program, and the Qualified Sampling and Testing Personnel Program. Additionally, the FHWA Division Office will have an ongoing involvement in the development and implementation of the NHDOT's Materials QA Program. In general, the FHWA Division Office will monitor the implementation and effectiveness of the QA Program through process reviews.

### **ASSET MANAGEMENT**

Asset management is a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost. (23 U.S.C. 101(a)(2), MAP-21 § 1103)

Per MAP-21, each State is required to develop a risk-based asset management plan for the National Highway System (NHS) to improve or preserve the condition of the assets and the performance of the system. To avoid a reduction in the Federal share under National Highway Performance Program (NHPP), States are required to have developed and implemented an NHS asset management plan by the second fiscal year beginning after the USDOT Secretary establishes by regulation the process for asset management plan development. (23 U.S.C. 119(e)(1), MAP-21 § 1106)

Not less than once every 4 years, FHWA will review and recertify that the process the State used to develop and maintain the State asset management plan for the NHS meets requirements established under 23 U.S.C. 119(e)(8), MAP-21 § 1106.

## **16. PLANNING AND PROGRAMMING OVERVIEW**

Work Programs: Title 23 CFR, Part 420, Planning and Research Program Administration contains the policies and procedures for administering activities and studies undertaken by

States and Metropolitan Planning Organizations (MPO) funded through their respective Work Program or as separate projects not included in a Work Program.

1. Statewide Planning and Research (SPR) Work Program: NHDOT prepares the Work Program every two years. FHWA provides pre-program guidance, planning emphasis areas, draft review comments, approves the Work Program, and authorizes SPR funds. FHWA monitors the work throughout the cycle using day-to-day involvement as appropriate. NHDOT submits annual progress reports to FHWA consistent with 23 CFR 420.117.
2. MPO Unified Planning Work Program (UPWP): The UPWP is prepared every two years by each MPO and is reviewed by NHDOT, FHWA, and Federal Transit Administration (FTA). FHWA authorizes Planning Funds upon joint FHWA/FTA approval of the UPWPs. These funds are traditionally referred to as “PL” funds. NHDOT and FHWA monitor the Work Program through participation in MPO meetings, pre-UPWP meetings, and annual reports.

Statewide Transportation Planning: Title 23 CFR, Part 450, Subpart B, addresses the requirements of the statewide transportation planning process:

1. Statewide Long Range Transportation Planning: NHDOT develops a Statewide Long Range Transportation Plan (Transportation Plan) which considers all modes of transportation. The Transportation Plan covers at least a 20-year planning horizon, considers the planning factors as outlined in the CFR, provides an opportunity for consultation and participation by interested parties, and is coordinated with the Metropolitan Transportation Plans of each MPO.
2. Statewide Transportation Improvement Program (STIP): NHDOT develops a STIP containing all projects proposed to be funded by FHWA and FTA for a four-year period. The STIP is amended, modified, or updated by NHDOT and submitted to FHWA and FTA on an agreed-to schedule, but updates shall happen at least every four years. Projects contained in the STIP must be consistent with the Statewide Transportation Plan and the MPO plans, and must provide reasonable opportunity for consultation and participation by interested parties. Along with the STIP, NHDOT will certify that the projects in the STIP are based on a planning process that meets the requirements of 23 CFR 450.218.

Metropolitan Transportation Planning: Title 23, CFR Part 450, Subpart C, addresses metropolitan planning requirements:

1. MPO Transportation Plan: Each MPO must update its Metropolitan Transportation Plan every four years in non-attainment and maintenance areas, and every five years for attainment areas. The plan is project-specific, must be financially constrained, and must cover at least a 20-year planning horizon; include long range and short range strategies which lead to an integrated intermodal plan; include a financial plan which compares estimated revenues with costs of construction, maintenance, capital purchases, and operations; consider the planning factors as outlined in the CFR; and provide opportunity for public participation and comment.

2. MPO Transportation Improvement Program (TIP): Contains all projects proposed to be funded by FHWA and FTA for a four year period. The TIP is amended, modified, or updated by the MPO and submitted to FHWA and FTA on an agreed-upon schedule, but updates shall happen at least every four years. The TIP shall include all required information as outlined in 450.324. The TIP development process must provide a reasonable opportunity for public participation and comment. Along with the STIP, NHDOT will certify that the projects in the TIP are based on a planning process that meets the requirements of 23 CFR 450.334.

3. Traffic Monitoring: Title 23 CFR, Part 500, Subpart B provides the regulatory guidance for the development and operation of a traffic monitoring system for highways, including traffic counting, vehicle classification, and weigh-in-motion programs. The system is guided by the AASHTO Guidelines for Traffic Data Programs, augmented by the FHWA Traffic Monitoring Guide and the Highway Performance Monitoring System Field Manual. The required traffic data is collected by NHDOT (with some assistance from local agencies) and are reported electronically to FHWA through the Traffic Monitoring Analysis System (TMAS) and through the Highway Performance Monitoring System (HPMS). Some data, such as the Automatic Traffic Recorder counts, are submitted monthly, while other data, such as coverage counts are submitted annually. The FHWA works with NHDOT to ensure that the applicable regulations are being followed and that the required information is submitted in an accurate and timely fashion. FHWA conducts periodic quality control reviews and works with NHDOT to resolve any issues that might arise.

4. Highway Performance Monitoring System (HPMS): Title 23 CFR, Part 420 addresses the policy for states to provide data that support FHWA responsibilities to the Congress and to the public. The Highway Performance Monitoring System Field Manual provides instructions for collecting and reporting quality and timely data on the condition and performance of the highways and streets. The required data is collected by NHDOT (with some assistance from local agencies) and is submitted electronically to FHWA on an annual basis. The FHWA works with NHDOT to ensure that the applicable regulations are being followed and that the required information is submitted in an accurate and timely fashion. FHWA conducts periodic quality control reviews and works with NHDOT to resolve issues that might arise. FHWA must annually attest to the accuracy of the HPMS data used in the apportionment process.

5. Certification of Public Road Mileage: Title 23 CFR, Part 460 addresses the policies and procedures for identifying and reporting public road mileage for utilization in the statutory formula for the apportionment of Highway Safety funds under 23 USC 402(C). Submitted to FHWA Headquarters by June 1 of each year, the Governor or NHDOT Commissioner certifies the public road mileage in the State as of the end of the previous calendar year. In New Hampshire, the NHDOT Commissioner has been selected as the Governor's designee. The NHDOT submits it to the FHWA New Hampshire Division Office, which in turn submits it to FHWA headquarters.

6. National Functional Classification: Title 23 CFR, Part 470 describes the Federal aid Highway System, its designation, and description. NHDOT will have the primary responsibility for developing and updating a statewide highway functional classification in rural and urban areas. NHDOT shall cooperate with responsible local officials, or appropriate federal agency in the case of areas under federal jurisdiction, in developing and updating the

functional classification. Proposed changes to the National Functional Classification shall be mapped and submitted to FHWA for approval.

7. Other areas of interest: Title 23 CFR requires states to compile and submit to FHWA: (1) a Highways Statistics Report, (2) a Certification of Enforcement of Heavy Vehicle Use Tax Certification, (3) the Vehicle (Truck) Size and Weight Enforcement Certification and supporting information on related activities, and (4) a report outlining the Annual Truck Weight Characteristics Data.

### **Approved Procedures, Agreements, and Manuals**

NHDOT is required to submit to FHWA and FTA, for joint approval, a Statewide Transportation Improvement Program (STIP). Under MAP-21, NHDOT is required to update the STIP and submit for approval to FHWA and FTA at least every four years.

NHDOT and the MPO shall certify to FHWA that the planning process is addressing the major issues facing the area and is being conducted in accordance with all applicable requirements. This certification is submitted with the STIP update.

Under MAP-21, the NHDOT is required to provide for 50% statewide suballocation of funds under the Surface Transportation Program (STP) and Transportation Alternatives Program (TA). In addition, there will be STP funds suballocated for the Nashua urbanized area (UZA) due to its current Transportation Management Area (TMA) designation. MAP-21 also requires that an MPO serving a TMA select all projects except those on the NHS, which are selected by the State with MPO cooperation.

Under MAP-21, projects carried out in areas having less than 50,000 persons shall be selected from the approved STIP (excluding NHS projects, Bridge program, IM program, or under sections 5310 and 5311 of title 49) by the State in cooperation with the affected non-metropolitan local officials with responsibility for transportation, or, if applicable, through Regional Transportation Planning Organizations (RTPOs).

NHDOT will work with FHWA and New Hampshire's MPOs and non-MPO RPCs to establish procedures and agreements as necessary to ensure that these suballocation and project selection requirements are in place by May 31, 2015, at the latest.

NHDOT will monitor all SPR and UPWP activities to assure the work is being managed and performed satisfactorily and that time schedules are being met. NHDOT will submit a report annually to FHWA documenting the results of its monitoring process.

NHDOT will periodically review its statewide long-range transportation plan to assure its goals and objectives are still relevant, and that the plan still meets the requirements of 23 CFR 450.214. As NHDOT and FHWA deems it necessary, NHDOT will update or reaffirm the long-range transportation plan.

FHWA and NHDOT periodically monitor MPO plans and activities to ensure they are in conformance with all applicable federal and state guidelines.

FHWA and FTA conduct certification reviews of Transportation Management Areas (TMA) and MPO planning reviews for non-TMA areas on a four-year cycle. NHDOT will participate as a partner agency in these reviews.

NHDOT will provide FHWA (and FTA and EPA, where appropriate, at least 30 business days to review and comment on the draft and final Statewide Transportation Improvement Program, Metropolitan Transportation Improvement Program, State Planning and Research Work Program, the Metropolitan Planning Organization Unified Planning and Work Program, and the Statewide and Metropolitan Transportation Plans.

NHDOT will involve FHWA in decisions involving special and unusual circumstances at the earliest reasonable time to ensure thorough and appropriate decisions can be made cooperatively.

NHDOT will comply with all sub-grantee reimbursement requirements for PL and SPR funds in a timely manner, including the 15 business day turnaround that is required under MAP-21 for metropolitan planning funds that are requested for reimbursement by a MPO.

As a condition for receipt of Federal aid funds, NHDOT agrees to develop plans and work programs for statewide transportation planning activities, as required in 23 CFR, Parts 420 and 450, and in cooperation with Metropolitan Planning Organizations. FHWA will review these plans and programs to assure they meet applicable laws and regulations.

**Programs requiring oversight include:**

1) SPR Part 1 Program and MPO UPWPs: The SPR Part 1 Program and amendments, and MPO UPWPs and amendments, are reviewed and approved by FHWA for the SPR Program, and USDOT (FHWA/FTA) for the MPO UPWPs, the latter consistent with the current Memorandum of Agreement between the FHWA New Hampshire Division Office and FTA Region I. The SPR Part I Program is prepared on a 2 year cycle by NHDOT's Bureau of Planning and Community Assistance. A UPWP is the MPO's transportation planning work program, including all activities supported by FHWA and FTA planning funds. NHDOT will schedule SPR Part 1 Program and UPWP Review Meetings with FHWA and FTA as appropriate for the review of draft program updates. UPWP Review Meetings will include the participation of MPO staff. The purpose of having UPWP Review Meetings with each New Hampshire MPO is to help enhance interagency coordination and communication, and as such, they are attended by staff from the MPO, NHDOT, FHWA, and FTA. The meetings provide MPOs with an opportunity to highlight accomplishments from the current UPWP cycle, and present goals and activities that are planned for the upcoming UPWPs. Typically, review of any comments on the draft UPWPs from the federal agencies or NHDOT occurs at these meetings, and also provides FHWA and FTA an opportunity to discuss planning emphasis areas and answer questions. Issues discussed range from the more practical aspects of funding eligibility and billing, to actual planning activities listed in the UPWP documents. As the UPWPs in New Hampshire are also on a 2 year update cycle, the SPR Part 1 and UPWP Review Meetings should occur on a 2 year cycle, at least 2 months before SPR Part 1 and UPWP adoption, during the update process.

2) Statewide transportation planning process, including the STIP: New Hampshire DOT prepares the STIP and STIP revisions, including amendments and updates requiring FHWA

approval. Sometimes FHWA approval will be provided jointly with FTA consistent with terms of approval identified in the current Memorandum of Agreement between the Federal Highway Administration Division Offices in Connecticut, NH, Massachusetts, New Hampshire, Rhode Island, Vermont, and the Federal Transit Administration, Region I. STIP revisions will be processed and approved by FHWA (and FTA) as necessary consistent with current approved STIP Revision Procedures (March 25, 2008). These procedures also document the activities and role of New Hampshire's interagency consultation process, also referenced under the Air Quality section of this document.

- 3) Metropolitan transportation planning process: MPO long-range transportation plans and TIPs are prepared by New Hampshire's MPOs. While no approval actions are required by FHWA or NHDOT for these documents, NHDOT and FHWA will work together to ensure that New Hampshire's MPOs understand and are in compliance with requirements related to these products. This in turn will ensure that Federal STIP approval actions occur in a timely manner. NHDOT and FHWA will regularly attend monthly MPO Technical Advisory Committee (TAC) meetings to provide oversight.
- 4) Other: NHDOT also must submit other planning-related reports to FHWA. The reports include information on public road mileage for apportionment of highway safety funds; information collected from the Highway Performance Monitoring System; and information relating to the identification of Federal aid highways, the functional classification of roads and streets, the designation of urban area boundaries, and the designation of routes on the Federal aid highway systems.

## **17. RESEARCH, DEVELOPMENT and TECHNOLOGY PROGRAM**

The purpose of the program is to implement the provisions of 23 U.S.C. 307 for research, development and technology transfer programs and studies undertaken with FHWA planning and research funds.

### **State Planning and Research (SPR) Program**

The main requirements under 23 CFR 420 are to create a SPR Work Program, monitor planning and research activities, submit performance and expenditure reports, conduct peer reviews, develop and maintain an FHWA approved research and development manual, and maintain program certification. The SPR Work Program consists of two parts: (1) Part I, Planning, which is prepared by NHDOT's Bureau of Planning and Community Assistance and (2) Part II, Research, which is prepared by NHDOT's Research Section of the Bureau of Materials and Research.

New Hampshire DOT prepares the Work Program biennially. FHWA provides pre-program guidance, draft review comments, if any, approves the Work Program, and authorizes SPR funds. FHWA monitors the work throughout the year using day-to-day involvement as appropriate. New Hampshire DOT submits Annual Accomplishments and Expenditure Reports to FHWA.

### **SPR Part I**

Title 23 CFR, Part 420, Planning and Research Program Administration contains the policies and procedures for administering activities and studies undertaken by States and

Metropolitan Planning Organizations (MPOs) funded through their respective Work Program or as separate projects not included in a Work Program.

### **SPR Part II**

NHDOT is responsible for preparation and overall coordination of the Work Program in accordance with 23 CFR 420. The SPR program operates on a biennial state fiscal-year basis. NHDOT considers how to address research needs and may, at its option: 1) conduct research with in-house personnel or contracted researchers, including university, federal, or private organizations, 2) conduct research through a transportation pooled fund project wherein NHDOT or another NHDOT or FHWA is the lead agency, or 3) participate in one of the regional or national cooperative transportation research programs.

FHWA exercises its oversight responsibilities through review and approval of the biennial SPR Work Program prior to approval actions, review of SPR Work Program amendments prior to approval, and ongoing participation of its technical specialists in study technical panels. As appropriate, FHWA personnel participate in peer exchanges.

The FHWA Division Research and Technology Specialist oversees the administrative aspects and coordinates with the Division Office specialists for technical aspects.

FHWA reviews and approves an updated version of the *NHDOT RD&T<sup>2</sup> Primer - Official Manual of the Research, Development and Technology Transfer Program* when there are significant changes in the management process or new Federal regulation/policy are enacted.

Eligible SPR funded activities include:

- Engineering and economic surveys and investigations
- Planning of future highway programs and local public transportation systems, and planning of the financing of such programs and systems, including metropolitan and statewide planning
- Development and implementation of management systems, plans, and processes under the NHPP, HSIP, CMAQ, and the National Freight Policy
- Studies of the economy, safety, and convenience of surface transportation systems, and the desirable regulation and equitable taxation of such systems
- Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems
- Study, research, and training on the engineering standards and construction materials for transportation systems described in the previous bullet, including the evaluation and accreditation of inspection and testing, and the regulation and taxation of their use
- Conduct of activities relating to the planning of real-time monitoring elements
- Implementation by the Secretary of the findings and results of the Future Strategic Highway Research Program

## **18. RIGHT-OF-WAY**

All recipients of Federal assistance must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), and its amendments, on programs and projects that require real property acquisition. The Uniform Act applies whenever Federal funds are used in any phase of the program or project. The Uniform Act encourages agencies to negotiate with property owners in a prompt and amicable manner in order to avoid litigation.

While there are no oversight exemptions in the Right of Way (ROW) program, there are essentially two levels of Federal interest. On Federal-aid projects where ROW is acquired without federal funds, the Federal concern is to ensure that the rights of property owners and displaced persons are protected. On Federal-aid projects where ROW is acquired with federal funds, there is a dual Federal concern for the rights of property owners and displaced persons, as well as the stewardship of federal dollars.

49 CFR 24 provides the implementing regulations for the Uniform Act regarding appraisal, acquisition, and relocation. 23 CFR 710 provides requirements concerning the ROW operations manual, direct and indirect costs, ROW project agreements, Interstate and NHS air rights, airspace leases and joint use agreements, transfers of excess ROW, early acquisition, protective buying, hardship acquisitions, donations, functional replacements, and Federal land transfers. 23 CFR 750 provides requirements for highway beautification; 23 CFR 751 provides requirements for junkyard control; and 23 CFR 752 has requirements for roadside development.

The Division will conduct regular reviews of specific ROW activities to ensure compliance with Uniform Act requirements. The Division will also conduct process reviews and program evaluations as needed. These will be typically conducted jointly with the NHDOT.

The NHDOT is responsible for ensuring that ROW acquisitions and relocations by local agencies on Federal-aid projects are made in compliance with Federal and State requirements.

The NHDOT and the Division agree to the following roles and responsibilities regarding the listed actions. Typically, 5-7 day review times, after receipt by the Division, should be adequate.

### **Outdoor Advertising Control**

The Highway Beautification Act requires States to provide effective outdoor advertising control along certain Federal-aid highway systems. Prior to MAP-21, these highway systems were the Interstate system, the Federal-aid primary system (as it existed on June 1, 1991), and the National Highway System (NHS). Effective October 1, 2012, MAP-21 Section 1104 amended 23 U.S.C. 103 to incorporate additional routes not previously included in the NHS and created an enhanced NHS. This enhanced NHS is now subject to outdoor advertising control. The penalty for not providing effective control of outdoor advertising remains at 10 percent.

### **Junkyard Control**

Effective October 1, 2012, MAP-21 Section 1404(b) amended 23 U.S.C. 136 to require States to now provide effective junkyard control in areas adjacent to the enhanced NHS.

Section 1404(b) also amended 23 USC 136 by reducing the penalty for not providing effective control of junkyards from 10 to 7 percent.

## **19. SAFETY**

### **Highway Safety Improvement Program (HSIP)**

The HSIP is a core Federal-aid program with the purpose of achieving a significant reduction in fatalities and serious injuries on all public roads. States shall fund safety projects or activities that are most likely to achieve fatality and serious injury performance targets.

The program and policy language for implementing the Highway Safety Improvement Program (HSIP) is codified as 23 USC 148, with related policies in 23 CFR 924. Specific provisions related to the Highway Safety Improvement Program (HSIP) are also provided under section 1112 of MAP-21. Each State is required to develop, implement, and evaluate on an annual basis a comprehensive HSIP that has the objective of significantly reducing fatalities and serious injuries resulting from crashes on all public roads. Further guidance on implementing the HSIP is given through various FHWA HSIP program guidance documents.

NHDOT has the responsibility for carrying out the State's HSIP. FHWA exercises its oversight responsibilities through review of the annual program of projects, review of program processes, and review of annual reports, as well as through various approval and acceptance actions in accordance with 23 USC 148, 23 CFR 924 and other guidance as released by FHWA.

NHDOT will maintain a documented process, approved by FHWA, for programming projects that conforms to 23 USC 148 and 23 CFR 924. This documented process will be updated by NHDOT as needed. All changes to this process will be approved by FHWA.

The NHDOT will establish and maintain a multi-disciplined HSIP Steering Committee that includes local representation for the purpose of establishing program guidance and HSIP project selection and prioritization criteria; FHWA will have representation on that committee. The Committee will meet regularly throughout the year and as needed to address issues.

The NHDOT, in cooperation and consultation with FHWA, will establish and maintain an HSIP Guidance document that aligns with Federal regulation and guidance on administering a State HSIP program. The Guidance will include the methodology for establishing HSIP project selection, reevaluation of projects throughout development, and project prioritization. The Guidance will also include the tracking of goals and established measures. This guidance document will be used by the NHDOT and HSIP Committee in administering the HSIP program of projects.

In addition, NHDOT will provide project analysis/selection information to FHWA for review at the time a Federal-aid Project Agreement for an HSIP funded project is submitted to FHWA and/or during HSIP Committee meetings where projects are to be included in the HSIP program. Oversight of HSIP projects will be determined using risk based criteria determined through cooperative agreement with NHDOT, and as may be determined for any other Federal-aid highway projects as described in other sections of this Agreement.

NHDOT will manage the overall HSIP in accordance with 23 USC 148 and 23 CFR 924. NHDOT will prepare an annual report on the progress made and on the effectiveness of the HSIP. The report will be submitted to FHWA on or before August 31st of each year. The report contents will substantially follow the HSIP Reporting Guidance document developed by FHWA for this program.

### **Strategic Highway Safety Plan (SHSP)**

23 USC 148 states that safety projects funded with HSIP funds must be consistent with the SHSP. NHDOT has met the requirement to develop an SHSP. NHDOT and the SHSP steering committee will evaluate the effectiveness of the SHSP annually using the HSIP reporting process. NHDOT will revise the SHSP every three to five years, or earlier as needed.

As part of the SHSP, safety emphasis areas will be established based on safety data. FHWA and NHDOT will ensure that action plans and strategies are developed and tracked for each emphasis area and where appropriate projects are implemented that will significantly reduce the number of fatal and serious injury highway crashes.

FHWA and NHDOT will ensure that SHSP implementation efforts are developed and tracked for each emphasis area. Through crash and other safety data analysis the SHSP will be utilized to identify, prioritize, and program appropriate highway safety related projects that will correct hazardous road locations, sections, and elements.

### **Crash Data Systems and Analysis**

23 USC Section 148(c) provides that States, as part of their Strategic Highway Safety Plans, shall have crash data systems capable of identifying and determining the relative severity of hazardous locations on all public roads using criteria that the States deem most appropriate. Therefore, NHDOT and FHWA will continue to actively participate in the New Hampshire State Traffic Records Coordinating Committee (TRCC) to assist in the development of comprehensive, statewide safety data systems. NHDOT will assist the TRCC in efforts to improve Statewide system crash data. NHDOT will work with FHWA and other agencies, cities, local municipalities, and State regional planning organizations to develop a process to analyze safety data from all public roads to be included as part of the annual reporting process, by the deadline documented by FHWA. NHDOT and FHWA will actively participate in reviews of traffic records efforts.

23 USC 148 outlines specific requirements for identifying and prioritizing projects. NHDOT will continue to use crash data analysis as the foundation of the HSIP and as a major factor when making funding decisions and allocating resources. Federal-aid Safety funds will be focused on the most effective treatments at the locations with the greatest needs and potential.

### **Rail-Highway Crossing Safety**

The NHDOT will continue to administer the Rail-Highway Grade Crossing Program per 23 USC 130 and 23 USC 148. The FHWA will review this program in conjunction with the annual HSIP reporting process.

USC Section 130(g) requires each State to submit an annual report to the Secretary of Transportation on the progress being made to implement the railway-highway crossings program, the effectiveness of such improvements, an assessment of the costs of the various

treatments employed, and subsequent crash experience at improved locations. MAP-21 Section 148(g) requires States to submit to the Secretary a report that describes how improvements contributed to reducing fatalities and serious injuries at railway-highway crossings, which may be included in the Section 130 report. NHDOT will submit a report(s) annually at the time of the HSIP report submission that meets the above requirements. FHWA will review and take acceptance action on the report(s).

**Required Safety Programs** – NHDOT and FHWA will maintain a written agreement on how safety will be addressed on 3R and preventive maintenance projects in accordance with FHWA requirements. FHWA will review the use of the safety planning factor as part of our HSIP reviews and MPO certification process. FHWA and NHDOT will perform process improvement reviews of other safety program elements as needed, such as Safe Routes to School, High Risk Rural Roads, design standards, MUTCD compliance, work zones, etc.

#### **Additional Highway Safety-Related Activities:**

##### **Safety Considerations in the Statewide and MPO 3C Planning Process**

FHWA will review NHDOT and MPO compliance with 23 CFR 450.206 (2) and 23 CFR 450.306 (2) during the MPO certification reviews and HSIP related review and reporting activities.

##### **Section 159 Certification (Drug Offender's Driver's License Suspension)**

23 USC 159 and 23 CFR 192 encourage States to enact and enforce drug offender's driver's license suspensions. By January 1 of each year, the Governor shall submit written notification to the FHWA Division Administrator whether the State has enacted and is enforcing a law or whether the State opposes such a law. The NHDOT will coordinate the submission of this certification with the NH Department of Safety to FHWA.

#### **Reports**

NHDOT will annually submit required reports on the progress made and on the effectiveness of the highway safety program. These reports are comprised of the HSIP report; and the highway-railway crossing report. All of these reports are to be submitted on or before August 31st of each year.

#### **Process Reviews**

The FHWA, with assistance from NHDOT and through the annual FHWA risk assessment, will perform process improvement reviews as needed of the various safety programs.

## **20. TRAFFIC OPERATIONS**

#### **Traffic Control and Standards**

The NHDOT will adopt in a timely manner the latest version of the national Manual on Uniform Traffic Control Devices (MUTCD) as required by 23 CFR 655.603 and will submit all NHDOT proposed supplements to the FHWA for approval of substantial conformance with the MUTCD prior to implementation. NHDOT will provide and update traffic control devices on Federal-aid routes to meet the standards of the MUTCD, and approved supplements. NHDOT will develop, implement, and maintain a program acceptable to FHWA for maintaining the minimum retroreflectivity requirements in the MUTCD and for

maintaining traffic control devices in an acceptable condition on Federal-aid highways. Projects on Federal-aid highways, as well as those funded with Federal-aid funds, shall only include traffic control devices in compliance with the MUTCD and approved NHDOT supplements.

NHDOT will develop and maintain a policy and guidance on the use of Changeable Message Signs and the messages thereby put on them. The NHDOT policy and guidance shall substantially conform to the MUTCD and associated FHWA policy and guidance. The FHWA will work with the NHDOT on any updates to the policy and guidance and shall concur in any changes made thereto.

### **Work Zone Safety and Mobility (23 CFR 630 Subpart J)**

23 CFR 630 Subpart J provides guidance and establishes requirements for systematically addressing the safety and mobility impacts of work zones, and developing strategies to help manage these impacts on all Federal-aid highway projects through the development of project level Traffic Management Plans (TMP). The NHDOT and FHWA will partner in the development, implementation, and maintenance of policies, procedures, and processes to address work zone impacts both early on and throughout the project delivery process, and to expand work zone planning beyond the project work zone itself to address corridor, network, and regional issues. This effort also includes expanding work zone management beyond traffic safety and control, to encompass broader solutions that address the need for continued mobility during road construction, including operational and public outreach plans on project considered ‘Significant’ per NHDOT policy.

The NHDOT will maintain a Traffic Control Committee (TCC) for the purpose of administering the Departments work zone safety and mobility program in conformance with 23 CFR 630 Subpart J and K. FHWA will maintain an active presence on the TCC. NHDOT will conduct a process review, at a minimum of every two years, of the Departments work zone safety and mobility procedures as required by and in conformance with 23 CFR 630.1006(e).

NHDOT will participate with appropriate personnel in the FHWA facilitated annual Work Zone Self-Assessment. The Self-Assessment will use the FHWA Work Zone Self-Assessment Tool and results will be reported to FHWA Headquarters office for general analysis with other States, but will not be released to other States.

### **Temporary Traffic Control Devices (23 CFR 630 Subpart K)**

The NHDOT and FHWA will partner in the development and implementation of policies and procedures for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations. FHWA will review the NHDOT’s policies and procedures, and revision thereto, for conformance with appropriate regulations.

### **Real-Time System Management Information Program (23 CFR 511)**

NHDOT, with participation from public safety agencies, transit operators, and other operating agencies necessary to sustain mobility through the region and/or municipality, will establish a ‘Real-time Information Program’ as required by 23 CFR 511, by which they will gather and make available data for traffic and travel conditions. The program shall be consistent with the parameters defined under 23 CFR 511.309, 311, and 313.

### **Traffic Incident Management (TIM)**

NHDOT, in partnership with FHWA, will maintain a program to address traffic incidents on major highways in the State for the purpose of reducing the impact of non-recurring delays. NHDOT will partner with NH Department of Safety (State Police), NH Department of Environmental Services, NH Department of Health and Human Services, private towing associations, and others as may be appropriate, and to the extent practical, to establish statewide and regional policies and procedures for safely and quickly clearing highways of such incidents. The NHDOT, FHWA, and other partners will meet on a regular basis to address TIM issues, plan and implement training, and administer post incident reviews as may be desired.

## **ATTACHMENT F**

### **Projects of Division Interest (PODI) Selection Process**

#### **Two-step process**

Annually, FHWA and NHDOT will meet in the Fall to review the current list of PoDIs and select additional projects to be designated as PoDIs based FHWA or NHDOT goals and/or have an elevated potential to either pose a risk or present an opportunity to advance key initiatives.

**Step 1:** Using Table 1 to initially screen projects, FHWA and NHDOT will jointly identify oversight projects based on risk. These projects could also be candidates for Projects of Corporate Interest which are submitted annually for FHWA HQ approval. Please note that PoCIs are a subset of the PoDIs.

**Step 2:** Document project oversight activities that are deemed higher risk via a concise Project S&O Plan. This step can also verify activities that are of lower risks to the program or individual project (formerly known as Inherently Low Risk Projects).

NHDOT and FHWA staff will also discuss new projects as they become active to determine if they are selected as PoDI. Risk-based projects may not necessarily be what are traditionally known as Full Oversight. A risk-based example could include the selection of locally administered projects or non-NHS projects typically administered by the NHDOT that could be designated as a PoDI for FHWA oversight due to implementation of an EDC innovation. In addition, and most importantly, within that same PoDI, FHWA may only be involved in targeted areas such as PS&E, consultant procurement, etc. Furthermore, the NHDOT may, at any time, invite FHWA to participate on assumed projects.

The provisions of this Agreement do not modify FHWA's non-Title 23 program oversight and project approval responsibilities for activities such as required under the Clean Air Act as amended in 1970; the National Environmental Policy Act of 1969 (NEPA) and other related environmental laws and statutes; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; and the Civil Rights Act of 1964 and related statutes, unless expressly permitted by SAFETEA-LU Section 6004 and 6005, and MAP-21. Also, under Title 23, Planning functions cannot be delegated. In addition, since the NHDOT does not have Assumption of Responsibility for Categorical Exclusions, NEPA functions cannot be delegated.

**Table 1. Federal-aid Project Oversight Initial Project Screening**

Project Type	Description/Criteria	Oversight	Standards
Interstate Projects	New/Reconstruction $\geq$ \$10 million <sup>1</sup>	FHWA	Meet or Exceed AASHTO
	New/Reconstruction < \$10 million	State	
	3R & Other	State	
	Turnpike <sup>2</sup>	State	
	EIS Projects <sup>3</sup>	FHWA	
	Major or Unusual Structures	FHWA	
	Lower Risk Projects <sup>1</sup>	State	

Project Type	Description/Criteria	Oversight	Standards
Non-Interstate/ NHS Projects	<u>&gt;\$30 million</u>	FHWA	Meet or Exceed AASHTO
	Major or unusual structures	FHWA	
	EIS Projects <sup>3</sup>	FHWA	
	All Others	State	Meet or Exceed AASHTO or FHWA Approved Standards
Non-NHS Projects	Major or unusual structures	FHWA	Meet or Exceed AASHTO or FHWA Approved Standards
	All Others	State	
Bi-State Projects	All projects > \$5M with NH as the lead state	FHWA	Meet or Exceed AASHTO
Innovative Project Delivery	Design-Build, PPP, CMGC, or Alternate Technical Concepts, see APP. A section 11	FHWA	Meet or Exceed AASHTO
Direct Recipients	Such as TIGER projects <sup>4</sup>	FHWA	Meet or Exceed AASHTO or FHWA Approved Standards
Special Congressional Programs	All Projects <sup>5</sup>	FHWA	Meet or Exceed AASHTO or FHWA Approved Standards
ITS Projects	Higher Risk ITS Projects	FHWA	FHWA Approved Standards and 23 CFR 940
	Lower Risk (All Others)	State	

\*Note: FHWA and NHDOT may agree at any time to select other NHS or non-NHS high priority corridors or portions thereof for FHWA oversight (PoDI), including Federal-aid projects on the Turnpike System.

<sup>1</sup> Section 1503 of MAP-21 and FHWA memo *Interim Revised Guidance on Stewardship and Oversight Agreements, April 2, 2013* eliminated the prohibition on State assumption of responsibilities for new construction and reconstruction projects on the Interstate System exceeding \$1 million in cost. The memo also rescinds the inherently low risk oversight projects programmatic agreement.

<sup>2</sup> Interstate Turnpike Projects are defined as projects on Interstate signed toll sections of the NH Turnpike system, including concurrent sections of the Interstate System which are not built with federal funds. The NHDOT agrees to provide FHWA with a set of half sized plans of projects with construction estimates greater than \$1M (for informational purposes). NHDOT agrees to notify FHWA if design exceptions are being contemplated for the 13 controlling geometric elements and when Interchange Modifications are planned.

<sup>3</sup> These projects will be reviewed for FHWA oversight, based on risk, for final design and construction pending completion of the Record of Decision.

<sup>4</sup> Once a project is identified, FHWA will discuss oversight roles with NHDOT.

<sup>5</sup> Projects resulting from congressional actions such as the Recovery Act, of high political interests, or community interest.

## ATTACHMENT G PERFORMANCE/COMPLIANCE INDICATORS

This section of the Agreement identifies performance/compliance indicators that will be an integral part of the joint Federal/State stewardship/oversight agreement (See Table below). FHWA and the NHDOT jointly developed a broad set of performance/compliance indicators that both parties will use to gauge the effectiveness of the FAHP. These indicators should be used to track performance trends and to implement countermeasures/actions when the data is not moving in the desired direction. For example, countermeasures may include raising the attention level of the issue, instituting additional data and trend analysis, developing new processes or procedures, initiating additional targeted oversight activities, or implementing additional program review activities. These indicators may be revised and the targets refined

more frequently as capabilities mature, asset management plans are developed, and National Performance Management Rules and requirements are advanced.

The NHDOT will generally provide the performance/compliance indicator data to the FHWA on a schedule (TBD), although some indicator data may be provided less frequently, as agreed. The agreed upon performance/compliance indicators are identified in the table below:

**Performance/Compliance Indicators for New Hampshire**

ID	Program Area	Indicator	Description	Target
1	Planning	STIP	% of construction projects (including Grouped Projects) listed in the FY baseline Statewide Transportation Improvement Program (STIP) which is advanced (authorized in FMIS).	80%
2	Environment	Environmental Streamlining	Number of NEPA/Environmental Documents Processed % of Categorical Exclusions Processed % of Programmatic Categorical Exclusions Processed % Projects Processed Utilizing the Section 106 Programmatic Agreement	# % % %
3	Right-of-Way (R/W)	Clear R/W Certifications	% of Federal-aid construction projects with clear R/W certifications at time of construction authorization.	100%
4a	Design & Construction	Engineer's Estimate	% of advertised projects > \$1million that are within ±10% of the low bid amount at time of contract award.	>50%
4b		Advertising Schedule	% of Advertised Projects (\$ and #) Advertised On Time (within 30 days)	>75%
4c		Project Cost Growth Bid vs. Final Amounts	% Projects with Final Construction Cost within 5% of Construction Bid	>90%
4d		Contract Duration	% of Federal-aid construction projects with work completed by established contract completion date at time of award.	> 95%
4e			Number of days from substantial completion to final voucher	< 1 yr

ID	Program Area	Indicator	Description	Target
4f	Safety & Operations	Change Orders	Average CO's per project	< 5
4g		Project Audits	% Avg dollars difference from Construction Costs vs Engineering Audits (less fuel or asphalt adjustment)	< 5%
4h			Avg Engineering Audit Score of CA records	> 70
5a	Safety & Operations	Roadway Departure Fatality Rate	Roadway departure fatalities per 100 million vehicle miles traveled. (5 year rolling average).	50% reduction by 2030 from 2010 base year
5b		Highway Fatalities	# of highway related fatalities (5 year rolling average)	50% reduction by 2030 from 2010 base year
5c		Motorcycle Crash Fatalities	# of Motorcycle Crash Fatalities per year. (5 year rolling average)	50% reduction by 2030 from 2010 base year
5d		Bike/Ped Fatalities	Number of Bike and Pedestrian fatalities	Less than the National Average
6a	System Preservation	3R & Pavement Preservation	% of Total Program dollars authorized for System Preservation type projects on the Interstate.	TBD
6b			Ride Comfort Index/IRI for the Interstate	PSR > 3.5
6c			Pavement Condition Surveys completed on the NHS system every year.	(Yes)
6D			Number of lane miles per year receiving a preservation treatment both inclusive and exclusive of crack sealing.	10% of Network
7	Finance	Inactive Obligations	% of obligated but unexpended balance for all inactive projects compared to total annual apportionments.	2%
8a	Civil Rights	DBE Goal	% DBE goal met for all completed Federal-aid construction projects.	5.63%
8b		Program Management	<ul style="list-style-type: none"> <li>• Number of completed subrecipient Title VI reviews</li> <li>• Number of completed Contract Compliance reviews</li> </ul>	TBD

ID	Program Area	Indicator	Description	Target
			<ul style="list-style-type: none"> <li>• Number of graduated OJT Program trainees</li> <li>• Number of completed subrecipient ADA/Section 504 reviews</li> <li>• Number of PROW deficiencies corrected</li> </ul>	
9a	Structures	NBIP Compliance	% Full compliance with all 23 NBIP metrics	80%
9b			Element Level inspections on NHS Bridges due for inspection	100%
9c		Red List Bridges	% Structurally Deficient by Deck Area (State)	< 10% of NHS SD
9d			% of Deficient Bridges (State)	< 7%
10	MAP-21 Safety and Operations	Safety	To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.	TBD
11	MAP-21 System Preservation	Infrastructure Condition	To maintain the highway infrastructure asset system in a state of good repair	TBD
12a	MAP-21 Planning	Congestion Reduction	To achieve a significant reduction in congestion on the National Highway System	TBD
12b		System Reliability	To improve the efficiency of the surface transportation system. W33	TBD
12c		Freight Movement and Economic Vitality	To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development	TBD
13	MAP-21 Environment	Environmental Sustainability	To enhance the performance of the transportation system while protecting and enhancing the natural environment	TBD
14	MAP-21 Design and Construction	Reduced Project Delivery Delays	To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.	TBD

## **ATTACHMENT H** **GLOSSARY**

<b>3R:</b>	Resurfacing, Rehabilitation, and Restoration
<b>4R:</b>	Resurfacing, Rehabilitation, Restoration and Reconstruction
<b>AASHTO:</b>	American Association of State Highway and Transportation Officials
<b>A/C</b>	Advance Construction
<b>CAP:</b>	Compliance Assessment Program
<b>CE:</b>	Construction Engineering
<b>CMGC:</b>	Construction Manager/General Contractor
<b>CPIS:</b>	Continuous Process Improvement Study
<b>D/B:</b>	Design/Build
<b>DBE:</b>	Disadvantaged Business Enterprise Program
<b>FAHP:</b>	Federal-aid Highway Program
<b>FHWA:</b>	Federal Highway Administration
<b>FIRE:</b>	Financial Integrity Review and Evaluation Program
<b>FTA:</b>	Federal Transit Administration
<b>HPMS:</b>	Highway Performance Monitoring System
<b>HSIP:</b>	Highway Safety Improvement Program

<b>HSP:</b>	Highway Safety Program
<b>I:</b>	Interstate
<b>IM:</b>	Interstate Maintenance
<b>ISTEA:</b>	Intermodal Surface Transportation Efficiency Act of 1991
<b>ITS:</b>	Intelligent Transportation Systems
<b>LPA:</b>	Local Public Agency
<b>MAP-21:</b>	Moving Ahead for Progress in the 21st Century of 2012
<b>MPO:</b>	Metropolitan Planning Organization
<b>N/A:</b>	Not Applicable
<b>NBIS:</b>	National Bridge Inspection Standards
<b>NEPA:</b>	National Environmental Policy Act of 1969
<b>NHDOT:</b>	New Hampshire Department of Transportation
<b>NHS:</b>	National Highway System
<b>NHTSA:</b>	National Highway Traffic Safety Administration
<b>PE:</b>	Preliminary Engineering
<b>PoCI</b>	Projects of Corporate Interest
<b>PoDI</b>	Projects of Division Interest
<b>PR/PE:</b>	Process Review/Product Evaluation
<b>PS&amp;E:</b>	Plans, Specifications and Estimate
<b>ROW:</b>	Right-of-Way
<b>SAFETEA-LU:</b>	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005
<b>SHSP</b>	Strategic Highway Safety Plan
<b>SPR:</b>	Statewide Planning and Research
<b>STIP:</b>	State Transportation Improvement Program
<b>STP:</b>	Surface Transportation Program
<b>TEA-21:</b>	Transportation Equity Act for the 21st Century of 1998
<b>TS&amp;L:</b>	Type, Size, and Location
<b>USCFR:</b>	United States Code of Federal Regulations
<b>USEPA:</b>	United States Environmental Protection Agency
<b>VE:</b>	Value Engineering
<b>VECP:</b>	Value Engineering Change Proposal

**3R Project** – A type of project typically intended to extend the service life of existing highways, bridges, and related appurtenances; and/or restore safe, efficient travel on an existing facility. 3R projects are typically constructed within existing right-of-way, or require only minor acquisitions necessary to enhance safety.

**Advanced Construction (A/C)** – An authorization technique which allows a State to initiate a project using non-federal funds while preserving eligibility for future Federal-aid funds. Eligibility means that FHWA has determined that the project technically qualifies for Federal-aid; however, no present or future Federal funds are committed to the project. After an advance construction

project is authorized, the State may convert the project to regular Federal-aid funding when Federal funds are made available for the project or when additional obligation authority is allocated to it. This can be accomplished as one action, or the project may be partially converted over time. For clarification, FHWA authorization of Advance Construction does not constitute any commitment of Federal funds and the FHWA shall not reimburse the State until the project is converted.

**Apportionments** - The distribution of funds using a formula provided in law is called an apportionment. An apportionment is usually made on the first day of the Federal fiscal year (October 1) for which the funds are authorized. At that time, the funds are available for obligation by the State in accordance with the State's approved transportation improvement program.

**Assumption of Responsibilities** – The act of NHDOT to accept responsibility for carrying out and approving certain actions in the place of the FHWA. Such actions are to be taken by the NHDOT in conformance with Federal laws, regulations, and policies.

**Assumed Projects** – Federal projects that the NHDOT reviews in the place of the FHWA and has the authority to approve certain specified actions pertaining to design; plans, specifications, and estimates; contract awards; and inspections. (formerly known as Exempt or Delegated)

**Authorization** – Also known as Project Agreement per 23 CFR 630.108. Approval by the FHWA to the State Highway Department to proceed with the project or program, and thereby obligating federal funds. FHWA authorizes all federal funds regardless of oversight responsibilities. This typically occurs through a Fiscal Management Information System (FMIS) transaction. Care should be taken as 23 CFR 1.9 states “Federal funds shall not be paid on account of any cost incurred prior to authorization”.

The NHDOT and its subrecipients must obtain approval and authorization to proceed prior to beginning work on activities to be undertaken with federal funds. Authorization to proceed with the FHWA funded work in whole or in part is a contractual obligation of the Federal Government.

The Federal-aid share of eligible project costs shall be established at the time the project agreement is executed as Pro-rata or Lump Sum. The pro-rata or lump sum share may be adjusted before or shortly after contract award to reflect any substantive change in the bids received as compared to the NHDOT's estimated cost at the time of authorization.

**Betterment (Emergency Relief Program)** – With respect to Emergency Relief projects, a betterment is defined as: (i) added protective features or upgrades to existing features, such as the rebuilding of roadways at a higher elevation, the lengthening of bridges, and increasing the size of a drainage structure, or (ii) changes which modify the function or character of a highway facility from what existed prior to the disaster or catastrophic failure, such as additional lanes or added access control.

**Certification Reviews** – A review that formalizes the continuing oversight and day-to-day evaluation of the planning process.

**Change Order** – An order covering changes in the plans or quantities or both, within the scope of the contract, and establishing the basis of payment and time adjustments for the work affected by the changes.

**Compliance Assessment Program (CAP)** – The CAP uses a statistical approach to establish minimum compliance review requirements for Federal-aid highway project inspections. The CAP replaces the current requirement to conduct reviews on 10% of “delegated” active construction projects.

**Construction Engineering** – For funding purposes, the phase of a project following the Preliminary Engineering phase that begins at the time of Construction Award through project completion.

**Construction Manager/General Contractor (CM/GC)** – An innovative procurement delivery method in which the owner of a project contracts with a general contractor to serve as the construction manager by providing the owner with constructability, pricing, and scheduling information during the design process. As the design nears completion, if the owner and the construction manager are able to agree on a price for construction, they sign a construction contract and the construction manager then becomes the general contractor. CM/GC allows NHDOTs to remain active in the design process while assigning risks to the parties most able to mitigate them.

**Control Document** – Applicable laws, regulations, standards, policies, and standard specifications approved by FHWA for use on Federal-aid highway projects.

**Core Functions** – Activities that make up the primary elements of the division office’s Federal-aid oversight responsibilities based on regulations and national policies. Core functions in the division office are Planning, Environment, Right-of-Way, Design, Construction, Finance, Operations, System Preservation, Safety, and Civil Rights.

**Design-Build (D/B)** – An innovative procurement delivery method in which the designer-builder assumes responsibility for the majority of the design work and all construction activities. This provides the designer-builder with increased flexibility to be innovative, along with greater responsibility and risk.

**Locally Administered Projects** – For the purpose of the S&O Agreement, a Federal-aid project in which an entity other than a traditional NHDOT is a sub-recipient and this entity is administering the particular phase being authorized, i.e., Preliminary Engineering, ROW, or Construction. These would include projects where the non-traditional entity will either perform the work itself or enter into a contract for services or construction. NHDOT remains responsible for the local public agency’s compliance on locally administered projects.

**Local Public Agency (LPA)** – Any organization, other than a traditional NHDOT, with administrative or functional responsibilities that are directly or indirectly affiliated with a governmental body of any Tribal Nation, State, or local jurisdiction. LPAs would most often include cities or counties. However, an LPA, as defined here, could also include a State entity as well, perhaps even a part of a NHDOT. An example could include a Port Authority or Toll Authority that had not traditionally worked with the Federal-aid highway program (FAHP).

**Major ITS Projects** – Any ITS project that implements part of a regional ITS initiative that is multi-jurisdictional, multi-modal, or otherwise affects regional integration of ITS systems.

**Major Projects** – Projects with an estimated total cost greater than \$500 million (in year of expenditure dollars), or projects approaching \$500 million with a high level of interest by the public, Congress, or the Administration. The NEPA decision for each project or program of projects, defines the project scope, limits, and cost for each project.

**Major or Unusual Structure** – A major or unusual structure involves difficult or unique foundations, longer than usual spans, or design practices that depart from current practice. Examples include segmental concrete, arch, suspension, cable stayed, movable, and bridges with individual spans exceeding 500'.

**National Highway System (NHS)** - The National Highway System, as defined in 23 CFR 470 which includes the Interstate Highway System.

**New or Reconstruction (4R) Project** – A type of highway-oriented project that is designed to add capacity, modify and/or create new access points, reconstruct existing pavements and structures, or create new facilities on new location. 4R (resurfacing, rehabilitation, restoration and reconstruction) work includes the placement of additional surface material and other work necessary to return an existing roadway to a condition of structural or functional adequacy. This may include improving geometric features such as flattening curves, improving sight distance and minor roadway and/or shoulder widening.

**Obligation** - An obligation is a commitment. The Federal government's promise to pay a State for the Federal share of a project's eligible cost. This commitment occurs when the project is approved and the project agreement is executed. Obligation is a key step in financing. Obligated funds are considered "used" even though no cash is transferred.

**Oversight** – The act of ensuring that the FAHP is delivered consistent with laws, regulations, and policies.

**Performance/Compliance Indicators** – These indicators track performance trends, health of the Federal-aid Highway Program, and compliance with Federal requirements.

**Preliminary Design** - defines the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design. Prior to completion of the NEPA review process, any such preliminary engineering and other activities and analyses must not materially affect the objective consideration of alternatives in the NEPA review process

**Preliminary Engineering** – For funding purposes, preliminary engineering is defined as the phase of a project beginning with project initiation through award of the construction contract.

**Preservation Projects** – Projects employing planned, cost effective strategies to an existing roadway system and its appurtenances that preserve the system, retards future deterioration, and maintains or improves the functional condition of the system without increasing structural capacity.

**Program Assessments** – This evaluation technique may take many forms, including joint risk assessments and self-assessments. These tools are based on the common concepts of identifying strengths, weaknesses, and opportunities and the identification and sharing of “best” practices to continually improve the program.

**Program Reviews** – A thorough analysis of key program components and the processes employed by the NHDOT in managing the program. The reviews are conducted to: 1) ensure compliance with Federal requirements; 2) identify areas in need of improvement; 3) identify opportunities for greater efficiencies and cost improvement to the program; and/or 4) identify exemplary practices.

**Programmatic Categorical Exclusion (PCE)** – Projects which fall under the NHDOT/FHWA PCE Agreement whereby FHWA concurs in advance with the classification of those types of Categorical Exclusions (CEs), identified in 23 CFR Part 771.117(d) with no environmental impacts.

**Programmed** – Federal-aid and other regionally significant projects and their funding sources are listed in the STIP, and also the Metropolitan Planning Organization (MPO) TIP and long-range transportation plan for projects located in metropolitan urbanized areas. A project is programmed when it is included in such documentation, and this programming is required for transportation projects to be eligible for funding under Title 23 USC and Title 49 USC Chapter 53.

**Project** – The scope of the project is defined in the Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion document (CE), and includes all work and phases associated with implementing the project. Multiple contracts developed for bidding by the Owner for contract administration purposes or due to funding shortfalls are generally not considered to be operationally independent. The termini for a "project" shall be as defined in the NEPA document. It is understood in the case of large NEPA corridors that the corridor may be split into smaller projects for construction. These are termed "construction projects".

**Projects of Corporate Interest (PoCI)** – PoCIs are projects that are identified by program offices and/or Division Offices that require additional resources at a corporate level because of their impact on FHWA's strategic success. They will receive focused, strategic, agency-wide attention, and an increased level of S&O.

**Projects of Division Interest (PoDI)** – PoDIs are those projects that have an elevated risk, contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting project objectives. For PoDIs, FHWA has made a risk-based decision to retain project approval actions or conduct stewardship and oversight activities for the project as provided for in 23 USC 106.

**Reconstruction** – Projects that rebuild infrastructure, such as a bridge or section of roadway, in or close to current location.

**Recurring Reviews** – Reviews that the division office conducts annually or on a regular periodic basis. Examples include NBIS, HPMS, HVUT, etc.

**Responsible Charge** – Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality, and scope of Federal-aid projects; makes or participated in decisions on change orders, contract modifications, etc.; maintains a current awareness of the project conditions, and is held accountable for completion of all aspects of the federal-aid project. The persons or persons in responsible charge must be a full time employee of the contracting agency. For NHDOT administered projects, this person must also be an engineer.

**Right-of-Way** - Real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.

**Risk Assessment** – The process of identifying a risk event, determining the likelihood of the event happening, determining the impact (positive or negative) of the event on the delivery of the FAHP, and identifying an appropriate risk response strategy.

**Risk-Based Approach** – Incorporating risk assessment and risk management into investment and strategic decision making (the means by which limited resources are focused).

**Risk Management** – The systematic identification, assessment, planning, and management of threats and opportunities faced by FHWA projects and programs.

**Scope Change** - a programmatic change in the work to be performed under a grant or cooperative agreement that is outside the range of work contemplated at the time of award.

**Statewide Transportation Improvement Program (STIP)** – A statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and Transportation Improvement Programs (TIPs), and required for projects to be eligible for funding under Title 23 USC and Title 49 USC Chapter 53. Projects are typically listed by phase (Preliminary Engineering (P), Right of Way (R), or Construction (C), and are programmed with a dollar amount and a fiscal year. Preliminary Engineering can include environmental analysis and classification work under NEPA, as well as PS&E, preliminary, and final design work. Planning activities that are funded with formula-based Statewide Planning and Research (SPR) or metropolitan planning funds, such as PL or 5303 dollars, are also programmed via New Hampshire's SPR Program or MPO Unified Planning Work Programs (UPWP) documents. Planning funding or planning activities that receive other/discretionary Title 23 or Title 49 authorized funds are programmed as Preliminary Engineering phase work in the STIP.

**Stewardship** – The efficient and effective management of the public funds that have been entrusted to the FHWA.

**Supplemental Agreement** – A written agreement between the Contractor and the Engineer for the performance of work by the Contractor at agreed prices under items not originally included in the contract.

**Value Engineering** – The systematic application of recognized techniques by a multi-disciplined team to identify the function of a product or service, establish a worth for that function, generate alternatives through the use of creative thinking, and provide the needed functions to accomplish the original purpose of the project, reliably, and at the lowest life-cycle cost, without sacrificing safety, necessary quality, and environmental attributes of the project.

**Value Engineering Change Proposal (VECP) Clause** – This is a construction contract provision which encourages the contractor to propose changes in the contract requirements which will accomplish the project's functional requirements at less cost or improve value or service at no increase or a minor increase in cost. The net savings of each proposal is usually shared with the contractor at a stated reasonable rate.

**Unit Performance Plan** – The annual performance plan prepared by an individual FHWA unit that address unit responsibilities and priorities taking into account the National Performance Objectives and National Initiatives identified in the FHWA's Strategic Implementation Plan (SIP) as well as specific initiatives identified at the unit level based on risk.