

Stewardship and Oversight Agreement

**Arkansas State Highway and Transportation
Department & Federal Highway
Administration Arkansas Division Office**

October 20, 2009

This Stewardship and Oversight Agreement (Agreement) is made between the Arkansas State Highway and Transportation Department (AHTD) and the Federal Highway Administration (FHWA), Arkansas Division Office. The purpose of this Agreement is to assist in the implementation of the provisions contained in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005 and previous Federal Highway Authorization Acts. This Agreement covers all major aspects associated with the administration of the Federal-aid Highway Program (FAHP) under Title 23, Title 49 and other associated laws.

This Agreement supersedes the existing Project Oversight Plan dated October 1, 1993 and revised December 3, 2001 and shall become effective on October 20, 2009 and remain in effect until superseded. It is understood that this Agreement may be supplemented by several laws, regulations, directives, manuals and operating guides as stated in Appendix A of this Agreement.

Approved by

Dan Flowers, Director of Highways and Transportation

Sandra L. Otto, Division Administrator FHWA -Arkansas Division

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SECTION 1 – INTRODUCTION

1.1 Purpose

Pursuant to 23 USC 106 (c), the Arkansas State Highway and Transportation Department (AHTD) and the Federal Highway Administration (FHWA), Arkansas Division Office, agree to follow the procedures set forth in this Stewardship and Oversight Agreement (Agreement) to carry out their respective stewardship and oversight responsibilities in the delivery of the Federal-aid Highway Program.

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Transportation Equity Act for the 21st Century (TEA-21) of 1998, and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005 provided flexibility to the States in how to ensure project actions are carried out in accordance with applicable laws, regulations, and policies. TEA-21, Section 1305 (a) required that FHWA and AHTD enter into an agreement showing the extent of AHTD's assumption of the United States Department of Transportation Secretary's responsibilities.

ISTEA and TEA-21 altered the Federal Highway Administration's role from full project oversight and approval of every project or activity funded with Federal-aid funds to program oversight and some targeted project level approval. The program and project assumptions made possible under Section 1016 of ISTEA and Section 1305 of TEA-21 require that AHTD accept these assumed responsibilities and provide greater program accountability due to lesser Federal involvement. With the passage of SAFETEA-LU, the overall program has evolved requiring a more comprehensive agreement that covers all aspects of the Federal-aid Highway Program (FAHP); including financial integrity and the administration of projects sponsored by Local Public Agencies (LPA) or any other sub-recipient of Federal-aid funds.

By signing this Agreement, AHTD and FHWA agree to adhere to the provisions and responsibilities included herein. AHTD and FHWA further agree to carry out their responsibilities in a true spirit of cooperation.

1.2 Acronyms

AASHTO American Association of State Highway and Transportation
Officials
ADA Americans with Disabilities Act
ADEM Arkansas Department of Emergency Management
AHTD Arkansas State Highway and Transportation Department
AHP Arkansas Highway Police
ASP Arkansas State Police
BMS Bridge Management System
CE Categorical Exclusion
CEI Construction Engineering and Inspection
CEQ Council on Environmental Quality
CFO Chief Financial Officer
CFR Code of Federal Regulations
COOP Continuity of Operations Plan
CUF Commercially Useful Function
CMAQ Congestion Mitigation and Air Quality
DBE Disadvantaged Business Enterprise
DOT Department of Transportation
EA Environmental Assessment
EEO Equal Employment Opportunity
EFT Electronic Funds Payment
EIS Environmental Impact Statement
EPA Environmental Protection Agency
ER Emergency Relief
FAHP Federal-aid Highway Program
FAPA Federal-aid Project Agreement
FHWA Federal Highway Administration
FIRE Financial Integrity Review and Evaluation
FMCSA Federal Motor Carrier Safety Administration
FMIS Fiscal Management Information System
FONSI Finding of No Significant Impact
FTA Federal Transit Administration
GARVEE Grant Anticipation Revenue Vehicle
HBRRP Highway Bridge Replacement and Rehabilitation Program
HPR Highway Planning and Research
HPMS Highway Performance Monitoring System
HRRR High Risk Rural Roads
HSIP Highway Safety Improvement Program
HSO Highway Safety Officer
HSP Highway Safety Program
IA Independent Assurance
IBRD Innovative Bridge Research and Deployment
IPIA Improper Payment Information Act of 2002
ISTEA Intermodal Surface Transportation Efficiency Act of 1991
ITS Intelligent Transportation Systems
LPA Local Public Agency
LRFD Load-Resistance Factor Design
MBE Minority Business Enterprise
MIHE Minority Institute of Higher Education

MPO	Metropolitan Planning Organization
MUTCD	Manual of Uniform Traffic Control Devices
NBIS	National Bridge Inspection Standards
NEPA	National Environmental Policy Act
NHS	National Highway System
NHSD	National Highway System Designation Act of 1995
NHTSA	National Highway Traffic Safety Administration
OIG	Office of Inspector General
OJT	On-the-Job Training
PE	Preliminary Engineering
PMP	Project Management Plan
PMS	Pavement Management System
PPP	Public-Private Partnership
PR/PE	Process Review/Product Evaluation
PS&E	Plans, Specifications, and Estimate
P&PD	Planning and Project Development
QA	Quality Assurance
RASPS	Rapid Approval and State Payment System
RETCO	Regional Emergency Transportation Coordinator
RFP	Request for Proposal
ROD	Record of Decision
ROW	Right-of-Way
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005
SEP	Special Experimental Project
SHSP	Strategic Highway Safety Plan
SIB	State Infrastructure Bank
SRTS	Safe Routes to School
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TEA-21	Transportation Equity Act for the 21st Century of 1998
TIFIA	Transportation Infrastructure Finance and Innovation Act
TIP	Transportation Improvement Program
TMA	Transportation Management Area
TRCC	Traffic Records Coordinating Committee
TS&L	Type, Size and Location
UPWP	Unified Planning Work Progress
USC	United States Code
USDOT	United States Department of Transportation

SECTION 2 -STEWARDSHIP AND OVERSIGHT OF FEDERAL-AID PROJECTS

At the time a project is programmed (State job number and name is assigned) a preliminary determination of Federal (F) or State (S) oversight will be made and the appropriate (F) or (S) will be placed at the end of the job name. If oversight responsibility subsequently changes, the (F) or (S) designation will be changed accordingly. Oversight responsibility will be determined according to the criteria listed under this section of the Agreement.

2.1 AHTD Oversight Responsibilities

AHTD agrees that where it assumes Title 23 oversight role and approval responsibilities, it will be responsible for ensuring that Federal-aid highway projects are developed and constructed in full compliance with Federal laws and regulations, and with current approved specifications, standards and manuals. Although FHWA is ultimately responsible for all Federal-aid highway projects, AHTD will assume oversight responsibility for the following projects:

- All non-Interstate projects, with exceptions noted in Section 2.2
- All Interstate system projects which are estimated to cost less than \$5 million (construction cost), and all preventive maintenance projects on the Interstate system as described in Section 2.3.

FHWA will continue to authorize the above-listed types of projects for fiscal purposes on a project-by-project basis.

2.2 FHWA Oversight Responsibilities

FHWA will retain oversight responsibility for:

- All Interstate system projects which are estimated to cost more than \$5 million (construction costs), including overpass and interchange projects within the Interstate system, with the exception of preventive maintenance projects as described in Section 2.3
- All projects which are estimated to cost more than \$5 million (construction costs) on Congressionally-designated High Priority Corridors 1, 8, 18 and 39 (Highway 71, Highway 412, Future I-69 including the Pine Bluff-Monticello connector, and Highway 63 (Future I-555) between Marked Tree and I-55) with the exception of preventive maintenance projects as described in Section 2.3.

- All projects which are estimated to cost more than \$5 million (construction costs) on Highway 67 (freeway north of Interstate 40), North Belt, and Highway 65 north of Highway 412 with the exception of preventive maintenance projects as described in Section 2.3.
- All projects where by mutual agreement FHWA and AHTD require Federal oversight responsibility regardless of route designation or project cost.
- Design consultant contracts for any project for which it has oversight responsibility for construction.
- All planning activities on all Federal-aid highway projects.

FHWA will provide engineering support and technical assistance for project development activities. FHWA will also provide engineering support for project development and/or construction activities on other projects when requested by AHTD.

The FHWA shall approve preliminary plans for unusual bridges and structures on the Interstate System (See Memorandum dated November 13, 1998 from Director, Office of Engineering to Division Administrators). Unusual bridges and structures are defined as having: (1) difficult or unique foundation problems, (2) new or complex designs with unique operational or design features, (3) bridges with exceptionally long spans, or (4) bridges being designed with procedures that depart from currently recognized acceptable practices.

FHWA will continue to be responsible for the oversight of applicable non-Title 23 and non-Title 49 requirements. Such oversight will be conducted through a combination of both project and program level activities. Applicable non-Title 23 and non-Title 49 requirements include, but are not limited to:

- National Environmental Policy Act (NEPA) of 1969
- Section 4 (f) of the DOT Act of 1966
- Civil Rights Act of 1964
- Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970
- Disadvantaged Business Enterprise Program (DBE)
- Clean Air Act Amendments of 1990
- Routine day-to-day FHWA program actions and other interaction.

FHWA will manage and provide oversight of the FAHP in various ways. The methods used will be:

- FHWA participation at AHTD's request on AHTD task forces, teams, implementation committees, reviews and attendance at AHTD meetings.
- Joint AHTD-FHWA Process Reviews / Product Evaluation (PR/PE) reviews on program areas as needed and determined in accordance with the FHWA's risk assessment process and/or other high importance program areas. PR/PE reviews consist of comprehensively reviewing and evaluating AHTD and/or LPA policies, procedures, practices and controls for the development and implementation of Federal-aid highway projects and programs. PR/PE reviews will be utilized as the primary methods of program oversight.
- FIRE -Financial Integrity Review and Evaluation Program to assess the financial aspects of programs and projects.

Forest Highway, Public Lands or other project types that are administered by FHWA's Federal Lands Highway Division are subject to Federal oversight in accordance with the agreement between AHTD and the FHWA Federal Lands Highway Division.

2.3 Preventive Maintenance Projects

- For purposes of this Agreement, preventive maintenance projects include all projects under \$5 million (construction costs) that provide cost effective treatments to an existing roadway system and its appurtenances with the intent to preserve the system, retard future deterioration, and maintain or improve the functional condition of the system without increasing structural or operational capacity.
- These projects are routine, low-risk and generally non-controversial in which AHTD has a high-level of experience and documented procedures and processes in place for ensuring compliance with Federal requirements. These projects would not include complex or unique engineering features, would not traditionally involve major changes in scope or cost, would not jeopardize design standards, and would not impact the safety and/or operation of the roadway systems.
- For these projects, FHWA will still provide oversight by using a risk based approach and process/program reviews. It is understood that FHWA's approval of funds for these projects at either the preconstruction or construction phase constitutes a determination that the project in question is eligible for Federal-aid funds and that the appropriate Federal requirements have been met to date or defined steps are to be taken to ensure that requirements will be met.

SECTION 3 -ROLES AND RESPONSIBILITIES FOR SPECIFIC PROGRAM AREAS

3.1 CIVIL RIGHTS PROGRAM

3.1.1 Program Overview

AHTD is responsible for developing and maintaining the following program documents:

- Title VI Plan
- Limited English Proficiency Plan
- Disadvantaged Business Enterprise (DBE) Program Plan
- Affirmative Action Plan
- Equal Employment Opportunity (EEO) Contract Compliance Plan
- American with Disabilities Act (ADA) and Access for Individuals with Disabilities Under Section 504

FHWA has oversight for the DBE and On-the-Job Training (OJT) Supportive Services programs, and the Minority Institute of Higher Education (MIHE) outreach. Further, FHWA validates compliance with Title VI, Title VII and the DBE programs through the Stewardship Review Program.

AHTD will submit the following reports to FHWA:

- PR-1392
- EEO-4
- DBE Goal and Methodology
- Supportive Services Report (DBE and OJT)
- Affirmative Action Plan Update
- Title VI Plan Update
- EEO Contract Compliance Reports
- OJT Supportive Services Report
- Annual MIHE Report

Appendix B includes a list of required actions associated with the FAHP. It also includes the responsibilities of FHWA and AHTD and the required frequency.

3.1.2 Operating Environment

FHWA tracks the Civil Rights program through a variety of means. FHWA accomplishes its oversight through DBE/EEO

compliance reviews during construction inspections of FHWA oversight projects. FHWA and AHTD may also undertake on-site reviews of Federal-aid highway projects to interview trainees, apprentices, women and minority workers to ensure they are being treated fairly on the jobs and being paid appropriately.

3.1.3 DBE Certification Process

AHTD ensures that the DBE Certification process is accomplished in accordance with Federal requirements and will conduct sufficient Commercially Useful Function (CUF) reviews of DBE subcontractors on active construction projects to be statistically significant. In addition, AHTD will investigate all third-party complaints in a timely and responsible manner.

3.2 PLANNING AND PROGRAMMING

3.2.1 Program Overview

Planning and programming is the initiation state of the project identification, selection and development process. Planning and programming is broken down into three distinct elements, all leading to the establishment of project scope, budget and schedule: Statewide Planning, Metropolitan Planning and Research. See Appendix B for a list of required actions and the responsibilities of AHTD and FHWA associated with the FAHP.

3.2.2 Statewide Planning

Statewide Planning is the responsibility of AHTD and includes, but is not limited to the following:

- Statewide Intermodal Transportation Plan
- Statewide Transportation Improvement Program
- Functional classification
- Urban area boundaries
- National Highway System modifications
- Traffic monitoring program
- Highway statistics program
- Highway Performance Monitoring System (HPMS)

AHTD will follow its adopted Public Involvement Meeting / Public Hearing Procedures included in Appendix C. FHWA's Planning and Program Development (P&PD) Team issues eligibility determinations for CMAQ, Transportation Enhancement, and Recreational Trails programs, and coordinates and assists with Federal discretionary programs such as Scenic Byways. The P&PD Team also takes the lead in conducting Motor Fuel Tax and Heavy Vehicle Use Tax reviews, but it is AHTD's responsibility to ensure the reported figures are reasonable and reconciled with the Arkansas Department of Finance and Administration.

3.2.3 Metropolitan Planning

Metropolitan Planning is the responsibility of eight Metropolitan Planning Organizations that are supported and monitored by AHTD and the FHWA P&PD Team. To ensure that the cooperative process occurs at the MPO level, AHTD has established a presence on each MPO Policy Board and Technical Committee. FHWA is also represented on each Technical

Committee as a non-voting member. AHTD and FHWA actively participate in the planning process for each MPO. A Transportation Management Area (TMA) is an area over 200,000 in population. These are monitored through joint FHWA/Federal Transit Administration (FTA) Certification Reviews conducted every four years. AHTD will work with the P&PD Team for review and approval of the MPO Unified Planning Work Programs (UPWPs) to assure planning issues are addressed and key deadlines are met.

3.2.4 Research

Research is managed by AHTD in accordance with 23 CFR 420.209, which includes the sponsorship of a periodic peer exchange. FHWA will participate in the AHTD Transportation Research Committee, the Research Advisory Council, various research project subcommittees, and in the periodic peer exchange.

3.2.5 Air Quality Conformity

FHWA is responsible for initiating formal transportation conformity consultation and issuing conformity findings/ determinations on MPO Transportation Plans and Transportation Improvement Programs (TIP) in non-attainment or maintenance areas consistent with the requirements of the Environmental Protection Agency (EPA)/DOT regulations. Project level conformity is demonstrated by FHWA within the context of NEPA documents. Amendments to Transportation Plans and TIPs that affect regional transportation emissions require new conformity determinations and findings to be made by the MPO and the FHWA respectively. AHTD will ensure that a conformity-finding letter is obtained from FHWA before TIPs/projects can be approved or amended into the Arkansas Statewide Transportation Improvement Program (STIP).

3.3 RIGHT OF WAY (ROW) PROGRAM

3.3.1 Program Overview

In accordance with 23 CFR 710, AHTD has overall responsibility for the acquisition, management and disposal of real property on Federal-aid highway projects. This responsibility includes assurance that acquisitions and disposals are made in compliance with legal requirements of State and Federal laws and regulations.

AHTD has prepared and maintains a Right of Way Operations Manual as established in Part 710. This manual, AHTD Right of Way Policy and Procedures Manual, describes functions and procedures for all phases of its Right of Way Program including appraisal and appraisal review, negotiation and eminent domain, property management and relocation assistance. The functions and procedures contained in the manual comply with 23 USC and 49 USC. The manual is updated and certified by AHTD every five years. These updates are coordinated with and approved by FHWA.

The functions and procedures contained in the AHTD Right of Way Policy and Procedures Manual are used by AHTD for both Federal-aid funded and non-Federal-aid funded highway projects.

3.3.2 Right of Way Acquisition and Utility Adjustments – State Highway Projects

The acquisition of right of way and the coordination of utility adjustment activities are performed by AHTD in adherence to the AHTD Right of Way Policy and Procedures Manual as follows:

Arterials – Project ROW containing an Arterial as any part of the project is acquired by AHTD. All necessary utility adjustment activities are coordinated by AHTD.

Collectors and Locals -AHTD acquires right of way in cooperation with appropriate County Judge and/or City official. All necessary utility adjustment activities are coordinated by AHTD.

In order to expedite project schedule, other entities may participate in project costs.

3.3.3 Right of Way Acquisition and Utility Adjustments – Non-State Highway Projects

The acquisition of right of way and the coordination of utility adjustment activities are performed by the project Sponsor (appropriate County or City) or by AHTD upon request of the project Sponsor. These activities will follow the functions and procedures contained in the AHTD Right of Way Policy and Procedures Manual.

3.3.4 Project Authorization and Right of Way Certification

Prior to submittal to FHWA for authorization, AHTD will ensure that the project is included in the STIP and subsequently satisfies National Environmental Policy Act (NEPA) requirements. AHTD will ensure that projects located in MPO areas are included in the applicable TIP.

AHTD provides Right of Way Certifications for all its projects. Federal oversight projects are certified to FHWA by the AHTD Right of Way Division Head. State oversight projects are certified by the Right of Way Division Head and concurred with by AHTD Assistant Chief Engineer for Design and the AHTD Deputy Director and Chief Engineer. Copies of the certifications of State oversight projects are provided to FHWA.

3.4 ENVIRONMENT PROGRAM

3.4.1 Program Overview

FHWA has a direct oversight role in assessing the impacts of actions affecting the environment in accordance with NEPA. FHWA and AHTD will work to ensure that all environmental factors are given full consideration along with engineering, social, and economic factors in program and project decision-making and are documented in the appropriate environmental documents that pertain to the projects in development.

Under environmental stewardship, AHTD is responsible for the environmental analysis for all Federal-aid transportation projects in the State of Arkansas, including oversight of consultants working on LPA projects and Congressional earmark projects using Federal-aid funding. Through direct involvement or through project or program reviews, FHWA assures that appropriate evaluations are conducted, FHWA approval actions are timely, and public involvement is a major element of AHTD's environmental process. With assistance from AHTD, FHWA will be responsible for leading consultation with Tribal Governments during the NEPA process to address tribal concerns regarding the preservation of environmental, scenic, cultural or historic values.

FHWA retains formal approval of all environmental documents; however, the approval of Tier I & II Categorical Exclusions (CE) has been delegated by agreement to AHTD and is the responsibility of AHTD to document and process accordingly. The Memorandum of Agreement concerning CEs between AHTD and FHWA is included as Appendix D to this Agreement.

The FHWA Arkansas Division Administrator has delegated to the FHWA Environmental Specialist review and approval authority for the following actions:

- Section 4(f) evaluation
- Environmental Assessment (EA) / Finding of No Significant Impacts (FONSI)
- Re-Evaluations/Re-Assessments
- Programmatic 4(f) Evaluation
- Tier III CEs

The FHWA Arkansas Division Administrator retains approval authority of each Record of Decision (ROD), Draft Environmental Impact Statement (EIS), Final EIS, and Supplemental EIS.

3.5 DESIGN PROGRAM

3.5.1 Program Overview

This program is based on the project approval and oversight requirements of Section 106 of Title 23. The purpose is to establish procedures for assuring that Federal-aid highway projects are properly designed as outlined in 23 CFR, in particular:

- Part 625 – Design standards for highways
- Part 626 – Pavement policy
- Part 627 – Value engineering
- Part 630 – Preconstruction procedures
- Part 633 – Required contract provisions
- Part 645 – Utilities
- Part 646 – Railroads
- Part 650 – Bridges, structures, and hydraulics
- Part 652 – Pedestrian bicycle accommodations and projects
- Part 655 – Traffic operations
- Part 771 – Environmental impact and related procedures
- Part 772 – Procedures for abatement of highway traffic noise and construction noise

3.5.2 Design Monitoring Program

The design monitoring program focuses on design practices, policies, and procedures to determine whether designs for Federal-aid highway projects comply with Federal requirements and achieve the best overall design for the anticipated traffic and use of a particular transportation facility.

FHWA is responsible for design monitoring, review and approvals of Federal oversight projects. AHTD is responsible for design monitoring, review and approvals for AHTD oversight projects, including those conducted by LPAs (See Section 3.16).

Upon mutual agreement, joint AHTD-FHWA Process Reviews may be conducted. In some cases, FHWA may conduct its own Process Review.

In addition to determining whether Federal-aid highway projects comply with Federal requirements, FHWA objectives under this program are to:

- Maintain a close working relationship with AHTD design staff,

- Ensure the integrity of the Interstate system through the review and approval of Interstate access point additions or modifications,
- Promote Context Sensitive Design concepts and to ensure that environmental commitments are incorporated in construction contracts, and
- Promote improved safety through appropriate use of design standards and guidelines.

3.5.3 Operating Environment

The review of projects are scheduled at the selection of the typical section, the selection of a corridor location (if applicable), the midpoint plan-in-hand review, and the PS&E review; in accordance with oversight responsibilities determined under Section 2. Design review activities will be documented by report, either prepared by FHWA, AHTD or AHTD consultant firm.

FHWA approves all freeway access modifications regardless of funding source, in accordance with the joint AHTD/FHWA Freeway Access Approval Policy.

3.5.4 AHTD Lead Divisions

- The lead division responsible for coordinating the design of projects on the State Highway System, the design of projects on City Street Systems, and the design of traffic control-type projects is the Roadway Design Division.
- The lead division responsible for coordinating the design of projects on County Road Systems is the State Aid Division.
- The lead division responsible for coordination the development of safety projects (high hazard location and rail/highway) is the Planning and Research Division. Actual project design will be performed by the Roadway Design Division.

3.5.5 Design Standards

Design criteria will conform to current AHTD and AASHTO policies. Geometric design criteria for new construction and major reconstruction will be, at a minimum, in accordance with criteria established in AASHTO's A Policy on Design Standards-Interstate System or in the appropriate section of the current, adopted edition of the AASHTO publication, A Policy on Geometric Design of Highways and Streets as follows:

Arterials.....Arterial Standards Major
Collectors.....Collector Standards Minor
Collectors.....Collector Standards
Locals.....Local Standards

Exceptions to standards or procedures will be approved in writing by the Deputy Director and Chief Engineer. All geometric design exceptions for projects on the NHS, regardless of funding or oversight responsibility, will be submitted to FHWA for consideration and approval. Each AHTD office requesting an exception or waiver will keep a file of those approved actions. Such files will be available to FHWA for review if needed.

The project design speed will meet or exceed AASHTO minimum values for the functional classification of the facility being designed. On NHS routes, use of design speeds less than AASHTO values may be recommended by AHTD to FHWA for approval as required in the previous paragraph. On non-NHS routes, use of design speeds less than AASHTO values may be recommended by the Assistant Chief Engineer for Design and approved by the Deputy Director and Chief Engineer.

The geometric design of a facility will take into consideration and incorporate, as appropriate, findings and recommendations of the Congestion Management Systems developed by MPOs in the TMAs. The geometric design of a facility will also take in consideration the findings and recommendations made as part of a context sensitive approach during the public involvement process. In considering these findings and recommendations, AHTD will balance safety and environmental requirements as prescribed by Federal and State laws, regulations, policies and guidelines.

Structural design will be in accordance with the current edition of the AASHTO Standard Specifications for Highway Bridges or the LRFD Bridge Design Specifications and current AHTD specifications. All new bridges will be designed in

accordance with LRFD Specifications with the exception of certain structures whose TS&L plans had been approved before October 1, 2007. Bridge layouts will be approved by the Assistant Chief Engineer for Design. FHWA will approve TS&L plans and final Bridge PS&E's for projects where FHWA retains its oversight responsibility and for all projects where a bridge crosses or impacts a railroad. FHWA approval by the Division Bridge Engineer will be indicated by a signed and dated "Structures Satisfactory" stamp.

On collectors and locals, shoulders may be surfaced across their entire width, regardless of the widths of bridge structures.

Hydraulic design criteria will be in accordance with the current AHTD Drainage Manual. Geotechnical design criteria for structures will be in accordance with the current LRFD Bridge Design Specifications.

For federally funded Resurfacing, Restoration, Rehabilitation (3R) and System Preservation type projects, AHTD will adhere to the AHTD Geometric Design Criteria for Non-freeway Resurfacing, Restoration, and Rehabilitation projects, as approved by FHWA.

3.5.6 Work Zone Safety and Mobility in Design

AHTD will assist FHWA in assessing the work zone policies and procedures by completing a work zone self-assessment provided by FHWA, as required by Table 1b.

AHTD, with assistance from FHWA, will ensure that Federal-aid highway projects and maintenance activities on Federal-aid highways comply with NCHRP Report 350 criteria, the AASHTO/FHWA agreement and subsequent FHWA guidance.

AHTD and FHWA will ensure that all Federal-aid highway projects comply with the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) and other applicable AHTD regulations and Federal guidelines.

Bicycle facilities will be developed in accordance with the current AASHTO Guide for the Development of Bicycle Facilities and other applicable AHTD policies.

3.5.7 Design-Build Projects

As stated in Section 1503 of the SAFETEA-LU and in accordance with State law, AHTD or an LPA can issue a request for proposal (RFP), proceed with awards of design-build contracts or issue a notice to proceed prior to the completion of a NEPA process. However, AHTD shall receive concurrence from FHWA prior to carrying out any of these activities. For Federal oversight projects, AHTD is required to receive approval from FHWA prior to releasing the RFP document. FHWA approval of the RFP document carries the same significance as PS&E approval, and AHTD must submit a formal request for RFP approval.

Table 1a - Design Monitoring Process Actions and Review Timeframes

Work Activity	Federal Oversight Projects	Federal Oversight Projects	AHTD Oversight Projects on the NHS	AHTD Oversight Projects on the NHS	AHTD Oversight Projects off the NHS	AHTD Oversight Projects off the NHS
Work Activity	AHTD ACTION	FHWA ACTION	AHTD ACTION	FHWA ACTION	AHTD ACTION	FHWA ACTION
Preliminary and Intermediate Design Plans	Prepare and submit to FHWA	Review and comment (10 Days)	Prepare and Comment	None	Prepare and Comment	None
Design Exceptions ¹	Prepare and submit to FHWA for approval	Provide response (10 Days)	Prepare and submit to FHWA for approval	Provide response (10 Days)	Prepare and Approve	None
Freeway Access Modification Requests: General Concept Review, Engineering and Operations Analysis, Final Approval	Prepare and submit to FHWA for approval	Provide response or forward to FHWA HQ for approval (15 Days)	Prepare and submit to FHWA for approval	Provide response or forward to HQ for approval (15 days) ²	Not applicable	Not applicable
Value Engineering Annual Summary	Prepare and submit to FHWA for approval	Provide response and forward to HQ (10 days)	Prepare and submit to FHWA for approval	Provide response and forward to HQ (10 days)	Not Required	None
Public Interest Finding (Special Products, Sole Source Specs, Proprietary Items, etc.)	Prepare and submit to FHWA for approval	Provide response (10 days)	Prepare and submit to FHWA for approval	Provide response (10 Days)	Prepare and Approve	None
Bridge Preliminary Plan Review (TS&L, structure type, & foundation review)	Prepare and submit to FHWA for approval	Provide response (10 days)	Prepare	Provide Technical Assistance ³	Prepare	Provide Technical Assistance ³
Consultant services contracts (planning, environment,	Prepare and submit to FHWA for approval	Provide response (10 days)	Prepare and Approve	None	Prepare and Approve	None

surveying, row and design) PS&E	Prepare and submit to FHWA for approval 14 days before ad	Provide response (10 Days)	Prepare and Approve	None	Prepare and Approve	None
	New/Revised Standard Drawings	Minor Revision: Prepare and approve. Major Revision: Prepare and submit to FHWA for approval	Major Revision: Provide response ⁴ (10 days)	Minor Revision: Prepare and approve. Major Revision: Prepare and submit to FHWA for approve	Major Revision: Provide response ⁴ (10 days)	Prepare
Concurrence in Contract Award	Prepare and submit to FHWA for concurrence	Provide response (5 days)	Approve	None	Approve	None
Rejection of bids	Prepare and submit to FHWA for concurrence	Provide response (5 days)	Approve	None	Approve	None
3R Standards on the NHS	Prepare and submit to FHWA for approval	Provide response (10 days)	Prepare	Provide response (10 days)	Prepare	None

¹ FHWA approves design exceptions for all projects on the NHS, regardless of oversight responsibility.

AHTD Deputy Director and Chief Engineer approves design exceptions on projects off the NHS.

² FHWA Headquarters approves certain Interstate as per the AHTD/FHWA Freeway Access Approval Policy

³ FHWA approves all bridges on or over the Interstate regardless of funding source.

⁴ FHWA approves new Standard Drawings for use on NHS projects. AHTD and FHWA will consult on a case-by-case basis on whether revisions are major or minor.

Table 1b –Work Zone Safety and Mobility in Design -Process Actions

WORK ACTIVITY	AHTD ACTION	FHWA ACTION	OUTCOME
Work Zone Safety and Mobility Process Review	Implement new work zone policy and regulation. Conduct Field Review and Process Review every year on an alternating basis. Provides review report to FHWA by December 31 st .	Participate and oversee the process for the annual reviews to ensure conformance with 23 CFR 630 Subpart J Final Rule.	Assessment of work zone procedures
NCHRP 350 (NCHRP 350 Testing Criteria)	Comply with NCHRP 350 and AASHTO/FHWA agreement	Review AHTD actions and perform reviews	Crashworthy devices
MUTCD (Traffic Control Devices on all public roads)	Comply with MUTCD (in particular, the target compliance dates shown in the Introduction of the MUTCD).	Review AHTD actions and perform review of ongoing MUTCD issues	Uniformity of Traffic Control Devices

3.6 PAVEMENT DESIGN AND MANAGEMENT

3.6.1 Program Overview

3.6.1.1 Pavement Design

23 CFR 626.3 requires pavements to be designed to accommodate current and predicted traffic needs in a safe, durable and cost effective manner. The regulations do not specify the procedures to be followed to meet this requirement. Each State Highway Agency is expected to use design procedures appropriate for their respective conditions. AHTD follows the design procedures that are outlined in AASHTO's Guide for Design of Pavement Structures.

3.6.1.2 Pavement Management

23 USC 303(a) directs the U.S. Secretary of Transportation to issue regulations for State development, establishment and implementation of systems for managing highway pavements through the implementation of a Pavement Management System (PMS).

AHTD has an operational Pavement Management System used to assist in the selection of projects and maximize the effectiveness of the funding used in managing the highway pavements. This system is operated by the Pavement Management Section under the Planning and Research Division of AHTD. AHTD follows the procedures that are outlined in AASHTO's Pavement Management Guide.

3.6.2 AHTD Responsibilities

For projects on the NHS, pavement design procedures will be those approved by the FHWA in accordance with 23 CFR 626.

For projects not on the NHS, pavement design procedures will be in accordance with the currently adopted edition of the AASHTO Guide for Design of Pavement Structures or other procedures adopted by AHTD.

Minimum standards for low volume roads, overlays, and bituminous surface treatments may be recommended by the Engineer of Roadway Design and approved by the Assistant Chief Engineer for Design.

Pavement design standards on County projects will be in accordance with the AASHTO's Guide for Design of Pavement Structures except that the ultimate roadway section may be constructed in stages.

3.6.3 FHWA Responsibilities

FHWA's Pavement and Materials Engineer, through active participation in various task forces and meetings will ensure that pavement-related activities are

appropriately coordinated among functional/administrative areas of FHWA. These pavement-related activities include new and rehabilitated pavement design and construction, pavement management, and research and technology transfer.

FHWA will review and provide comments on AHTD's pavement design/rehabilitation procedures, policy and guidelines on an ongoing basis. Additionally, by being a member of the individual task forces, teams, and committees, FHWA will have ongoing involvement in the development, update and implementation of pavement design procedures.

Table 2 – Pavement Design and Management Actions and Review Timeframe

WORK ACTIVITY	AHTD ACTION	FHWA ACTION	OUTCOME
Pavement Management System (PMS)	Develop and implement changes	Review and comment (10 days)	PMS best practices are used and quality data collected and used
Selection of Preferred Rehabilitation Alternatives	Prepare alternatives and make selection	Review and comment (10 days)	Document best practices for future reference
Conduct Joint Review of Pavement Design and Construction	Prepare report	Review and provide recommendations (10 days)	Report
Pavement Design Guide, Policy and Procedures	Develop and submit to FHWA for approval	Provide response (10 days)	Roadway Design Guidelines/Manual

3.7 PRECONSTRUCTION CONTRACT ADMINISTRATION

3.7.1 Operating Environment

Upon receipt of plans in AHTD's Programs and Contracts Division, a plan review will be conducted and appropriate Supplemental Specifications dealing with DBE goals, EEO, wage rates, etc., will be assembled.

A detailed estimate based upon plan quantities will be prepared by the Roadway Design Division or the State Aid Division.

The project will be added to the list of potential projects for the upcoming letting. This list will be submitted to the Assistant Chief Engineer for Planning

for review and approval and then to the Deputy Director and Chief Engineer for review of the projects and total estimates.

On Federal oversight projects, AHTD will submit a copy of the PS&E to FHWA for approval, which FHWA will review and provide a response to the request. These activities will be accomplished within the timeframe established in Table 1a (page 18).

3.7.2 Project Advertisement

Approximately two weeks prior to advertising project for a letting, a current status of projects proposed for the letting will be forwarded to the Assistant Chief Engineer for Planning for review. This status will reflect current information on all projects regarding environmental review, railroad coordination, right-of-way and utility handling, and any special conditions (see Appendix E).

Prior to transmitting information to the newspapers for the advertisement, an updated status of projects list for final authorization to advertise will be forwarded by the Engineer of the Programs and Contracts Division through the Assistant Chief Engineer for Planning to the Deputy Director and Chief Engineer for approval.

Upon approval of the Deputy Director and Chief Engineer and the approval of FHWA for Federal oversight projects, the Programs and Contracts Division will notify the Statewide newspaper(s) and trade journal(s) of the projects to be advertised; will post the advertisement on the AHTD's website; and will mail to all DBE firms and subscribing contractors the notices of upcoming projects.

The advertising period will normally be four weeks. When an advertising period of less than four weeks is justified, the Deputy Director and Chief Engineer may approve a shorter period. Federal-aid highway projects with less than three weeks of advertisement will be submitted for FHWA approval.

In unusual circumstances where all preconstruction activities will not be complete prior to advertising, the Deputy Director and Chief Engineer, with FHWA's concurrence, may authorize the advertisement of Federal-aid highway projects.

Project addenda will be made available to proposal holders within a reasonable amount of time prior to the opening of bids. Project advertisements will meet all non-Title 23 requirements.

3.7.3 Bidding

Bidding and non-bidding proposals will be issued in accordance with AHTD procedures which have been approved by

FHWA.

Bids will be received and opened in accordance with all State and Federal requirements.

Bids will be reviewed by AHTD Programs and Contracts Division and recommended for consideration of award or rejection to the Assistant Chief Engineer for Planning.

3.7.4 Contract Award

The Deputy Director and Chief Engineer, the Assistant Chief Engineer for Planning, the Assistant Chief Engineer for Design, and other staff members will make a tentative award or rejection recommendation for each project. The Director of Highways and Transportation by authority of the Arkansas State Highway Commission will make the decision on contract awards based on this recommendation.

For Federal oversight projects, AHTD will seek FHWA concurrence in award prior to contract execution or in rejection of all bids. In seeking FHWA concurrence in award, AHTD will submit a copy of the bid tabulation, a bid analysis and AHTD's recommendation to award the Contract. In seeking FHWA concurrence in rejection of all bids, AHTD will submit a written request with supporting information.

Contractor notification, bonding, and contract execution will follow all Federal-aid guidelines.

3.7.5 Public Interest Findings

A request for a public interest finding of cost effectiveness (or a determination that an emergency exists) shall be furnished by AHTD for FHWA review and approval as required by 23 USC 112 when:

- construction by some method other than competitive bidding is to be used,
- AHTD seeks Federal-aid participation for State force account work, or
- any Federal-aid participating proprietary products or State-furnished equipment or materials are specified in the plans or specifications.

3.8 CONSTRUCTION PROGRAM

3.8.1 Program Overview

AHTD will be responsible for adequately supervising and inspecting the construction of all Federal-aid highway projects to ensure that projects are completed in conformance with the approved plans and specifications.

FHWA will be responsible for ensuring that AHTD provides the supervision and inspection necessary on Federal-aid projects. To that effect, FHWA maintains a construction monitoring program. The primary objectives of the FHWA construction monitoring program are:

- to evaluate AHTD's control of the projects and the quality and progress of work,
- to maintain a close working relationship with AHTD 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 and specifications and any approved changes, and
- to ensure compliance with environmental commitments.

3.8.2 FHWA Project and Program Administration

In order to achieve the objectives stated in the previous section, FHWA will use the following methods:

3.8.2.1 Program-Level Methods

Construction Process Review/Product Evaluation (PR/PE)

PR/PEs are comprehensive reviews of AHTD's procedures and controls on Federal-aid projects. The purpose of a PR/PE is to provide oversight of AHTD construction and materials management activities and to determine compliance with Federal-aid requirements on a statewide or district-wide basis. These reviews also provide the opportunity to identify highly successful practices as well as possible areas of improvement that may be incorporated in future Federal-aid highway projects.

3.8.2.2 Project-Level Methods

Inspection-In-Depth

Inspection-in-depth is a thorough on-site review to evaluate a specific contract item, combination of items, or major phase of a Federal-aid project. Inspections-in-depth may be accomplished on an individual project basis or on several projects with the findings summarized as a region-wide or statewide review.

Project Inspection

In Federal oversight projects, project inspections are on-site reviews to evaluate AHTD's construction management and inspection activities, the quality and progress of the work, compliance with appropriate environmental commitments and, if inspections allow, follow up on findings from final inspections

Final inspection is a review to determine the extent to which AHTD has exercised its control to assure that the project has been completed in reasonably close conformance with the plans, specifications, and any authorized changes, including implementation of

environmental commitments. This inspection will be performed in conjunction with AHTD personnel for all Federal oversight projects.

3.8.3 AHTD Project Administration

The AHTD Resident Engineer and his staff are responsible for ensuring compliance with the contract plans and specifications during construction of all Federal-aid highway projects and generally have daily contacts with the projects.

The AHTD District Engineer oversees the Resident Engineer's work and is also responsible for contract compliance. The District Engineer has routine contact with projects in his/her District, though not necessarily on a daily basis.

AHTD Staff Construction Engineers provide support to the Districts in ensuring that AHTD policies and procedures, including contract compliance, are followed. AHTD Staff Construction Engineers also act as liaisons between the Districts and Central Office Divisions.

All projects are audited by the Contract Estimates Section of AHTD's Construction Division to ensure that all measurements of pay quantities and subsequent payments are in accordance with the contract specifications. The Contract Estimates Section also ensures that other project documents, such as Materials Certifications, DBE forms, etc., are complete, correct and on file before a project is closed.

The Construction Inspection Report form shown in Appendix F1 is used by the AHTD District Engineer for interim and semi-final inspections and the Final Construction Inspection Report shown in Appendix F2 is used for the final inspection. The AHTD District Engineer is responsible for the inspection and acceptance of all State oversight projects. On Federal-aid highway projects on the NHS, emphasis will be given to performing interim inspections on the major phases of work.

The Final Construction Inspection Report is sent to the AHTD Construction Division for distribution. This Inspection Report, as well as the final estimate from the Contract Estimates Section, will serve as a notice to the AHTD Federal-aid Section of the Fiscal Services Division that a project is complete and ready to close.

AHTD's Internal Audit Section audits Resident Engineers' records and operations on selected construction projects to determine if the job specifications and Department policies have been followed.

Table 3 – Construction Program Actions and Review Timeframes

Timeframes

Federal	Federal	AHTD	AHTD	AHTD	AHTD
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Activity	Oversight Projects	Oversight Projects	Oversight Projects on the NHS	Oversight Projects on the NHS	Oversight Projects off the NHS	Oversight Projects off the NHS
	AHTD ACTION	FHWA ACTION	AHTD ACTION	FHWA ACTION	AHTD ACTION	FHWA ACTION
Supplemental Agreements	Prepare and submit to FHWA for approval	Provide response (5 days)	Prepare and approve	None	Prepare and approve	None
Standard Specifications and Drawings	Prepare and submit to FHWA for approval	Provide response (10 days)	Prepare and submit to FHWA	Provide response (10 days)	Prepare and approve	None
Buy America Waivers	Prepare and submit to FHWA for approval	Provide response (10 days)	Prepare and submit to FHWA	Provide response (10 days)	Prepare and submit to FHWA	Provide response (10 days)
Cancellation, Termination, or Default of Construction Contracts	Prepare and submit to FHWA for approval	Review and provide response (5 days)	Prepare and submit to FHWA	Review and provide response (5 days)	Prepare and submit to FHWA	Review and provide response (5 days)
Executed Contract	Approve and submit to FHWA	Acknowledge receipt and file (2 days)	Approve	None	Approve	None
Change Orders and Time Extensions	Prepare and submit to FHWA	Review and provide response(5 days)	Prepare and approve	None	Prepare and approve	None
FHWA Initial Construction Inspections	Participate and provide information as necessary	Conduct and prepare report (10 days)	None	None	None	None
FHWA Intermediate and In-Depth Construction Inspection	Participate and provide information as necessary	Conduct and prepare report (10 days)	None	None	None	None
Final Construction Inspection	Conduct and prepare report	Conduct and prepare report (10 days)	Conduct and prepare report	None	Conduct and prepare report	None
State Construction Engineer's Certificate of Final Acceptance	Prepare, approve, and submit to FHWA	Accept and place in project file	Prepare and approve	Accept and place in project file	Prepare and approve	None
Materials Certification	Prepare and submit to	Accept and place in project file	Prepare and Approve	None	None	None

Claims Settlements	FHWA					
	Coordinate with the AG's office and FHWA, submit to FHWA	Review and approve (10 days)	Coordinate with the AG's office	None	Coordinate with the AG's office	None

3.9 MATERIALS QUALITY ASSURANCE MONITORING PROGRAM

3.9.1 Program Overview

FHWA monitoring of AHTD 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.

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

- Maintain a close working relationship with AHTD's 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, and special provisions, and the AHTD Materials and Construction Manuals,
- Provide oversight of construction materials and compliance with Federal requirements on a statewide basis, and
- Ensure there is adequate and qualified AHTD staff to maintain AHTD Quality Assurance and Independent Assurance (IA) programs.

3.9.2 Operating Environment

FHWA will monitor AHTD's QA Program for materials used in the construction of Federal-aid highway projects located on the NHS. Details of oversight provided for monitoring AHTD's Materials QA Program for construction are included in the AHTD Materials Manual. For Federal-aid highway projects not on the NHS, AHTD will monitor the QA Program for construction except that AHTD does not need to submit a materials certification to FHWA.

3.9.3 FHWA Oversight Activities

FHWA will review and approve AHTD's Materials QA Program as included in AHTD's Materials Manual on an on-going basis. The AHTD 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, As a member of the individual task forces/teams/committees, FHWA will have an ongoing involvement in the development and implementation of the AHTD Materials QA Program.

In addition, FHWA will monitor the implementation and effectiveness of the AHTD Materials QA Program through joint AHTD/FHWA process reviews. Individual process reviews will be identified in FHWA's Annual Strategic Plan. The FHWA's Pavement and Materials Engineer will accompany FHWA area engineers for project inspections of Federal oversight projects.

Table 4 - Materials Quality Assurance Actions and Review Timeframe

Work Activity	Federal Oversight Projects	Federal Oversight Projects	AHTD Oversight Projects on the NHS	AHTD Oversight Projects on the NHS
	AHTD ACTION	FHWA ACTION	AHTD ACTION	FHWA ACTION
QA Program Materials Test Methods and Updates, Materials QA Manual, Sampling and Testing Frequency Guide	Prepare (ongoing) and submit to FHWA	Provide response (10 days)	Prepare and maintain (optional)	None
Qualified Technician and Laboratory Programs	Develop/ implement and submit to FHWA	Provide response (10 days)	Prepare and maintain (optional)	None
AASHTO Accreditation Inspection Reports	Maintain accreditation, submit inspection report	Provide response (10 days)	Prepare and maintain (optional)	None
Independent Assurance Program	Develop/ implement and submit to FHWA	Provide response (10 days)	None	None
Public Interest Findings (PIF) with respect to Materials	Prepare and submit to FHWA	Provide response (10 days)	Prepare and submit to FHWA	Provide response (10 days)

Qualified Product List (QPL) (if applicable)	Prepare and maintain, provide copy to FHWA	None	Prepare and maintain (optional)	None
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3.10 LOCAL PUBLIC AGENCIES (LPA) PROGRAM

3.10.1 Program Overview

AHTD is responsible for all applicable requirements of the FAHP. Since Title 23 USC does not recognize local entities as direct recipients of Federal-aid funds, LPAs cannot take the place of AHTD in the context of the FAHP.

Although AHTD cannot delegate its responsibility, AHTD may, pursuant to 23 CFR 1.11 and 23 CFR 635.105, delegate certain activities to well-qualified and suitably equipped LPAs. In those cases where activities are delegated to an LPA, AHTD will take review and assurance actions necessary to assure local compliance with all requirements of Federal laws and regulations. FHWA will work in partnership with AHTD on these review and assurance actions.

The following program elements and/or related activities will not be delegated to LPAs:

- NEPA Approval
- Sole Source Approval
- Approval of Force Accounts
- Design Exception Approval
- Approval of Consultant Contracts
- Approval of Right of Way Certification
- Approval of Engineering Plans
- Approval of DBE Goals
- Approval and Audit of Labor Compliance
- Final Inspection
- Project Acceptance

Projects administered through AHTD will be designed, constructed, operated, and maintained in accordance with Federal and State laws, regulations, directives, safety standards, design standards, and construction standards.

3.10.2 FHWA Responsibilities

LPA-administered Federal-aid projects with Federal oversight will require FHWA approval actions as detailed in the Design, Construction and Contract Administration sections of this Agreement.

FHWA will maintain oversight responsibility for design consultant contracts involving any project for which it has oversight responsibility. FHWA will maintain oversight for all planning activities on all Federal-aid projects.

3.10.3 AHTD Responsibilities

AHTD retains responsibility under Federal law and regulations for all delegated activities and is responsible for assuring that all LPA-administered Federal-aid projects comply with all applicable Federal and State requirements. AHTD is not relieved of this responsibility even though the project may be administered by the LPA.

AHTD is responsible for ensuring that appropriate procedures and guidelines are in place to facilitate the compliance of LPA-administered Federal-aid projects. FHWA will review and approve these practices and procedures.

AHTD will determine if the LPA is well qualified and adequately staffed to administer projects before delegating any activities. AHTD will review the LPA's ability to administer Federal-aid projects or specific activities on a case by case basis, and the extent of delegation will be dependent on the LPA's current staffing level, staff experience, and past performance. An Agreement of Understanding will be executed between AHTD and the LPA to outline the responsibilities of both AHTD and LPA.

AHTD will offer advice or other assistance as may be needed to assist an LPA in successfully completing the Federal-aid project. In addition, AHTD and LPAs will ensure that sufficient documentation is available upon request by FHWA at all times to ensure compliance with Federal requirements. If it is determined that an LPA is not equipped to adequately administer the project either with current staff or by use of a consultant, then AHTD may either administer the project for the LPA or withhold or remove funding for the project until the LPA makes the changes necessary to administer the project in accordance with State and Federal requirements.

3.10.4 Methods of Oversight

Program Approval Actions

With assistance from AHTD, FHWA will be responsible for assuring consultation with Tribal Governments is achieved during the NEPA process to address tribal concerns regarding the preservation of environmental, scenic, cultural or historic values.

AHTD will ensure that Agreements of Understanding with the LPAs are executed prior to beginning of work.

Environmental clearances must be obtained in accordance with the requirements of Section 3.4 of this Agreement.

FHWA and AHTD will perform process reviews to monitor the LPA program. The decision to conduct process reviews will be determined cooperatively by FHWA and AHTD.

Projects will be developed in accordance with AHTD's LPA procedures and practices.

Project Approval Actions

Procurement of consultant services by an LPA, to be reimbursed with Federal-aid funds, will be performed in accordance with AHTD Consultant Selection Procedures and State statutes.

AHTD will enforce compliance with applicable Title 23 USC requirements and all applicable non-Title 23 USC Federal regulations such as NEPA, Civil Rights (DBE), Davis-Bacon wage rates, Buy America, Right of Way acquisitions laws and other applicable requirements as required by State statute and FHWA regulations.

AHTD will ensure that, if applicable, an LPA-administered Federal-aid project is constructed in accordance with the AHTD's Standard Specifications for Highway Construction.

AHTD will provide oversight to an LPA-administered Federal-aid project by providing assistance to the LPAs during project development and completion, and by reviewing and inspecting the LPA-administered Federal-aid project to verify that the project is being constructed in full compliance with all applicable requirements and that bills submitted for payment are appropriate and justified, in accordance with AHTD Resident Engineer's Manual and the Agreement of Understanding.

3.11 MAJOR PROJECTS

3.11.1 Program Overview

A major project is defined as a project that receives any amount of Federal financial assistance and has an estimated total program cost greater than \$500 million (expressed in year-of-expenditure dollars), or other projects identified as a major project by the FHWA.

Federal law requires that a recipient of Federal financial assistance for a project with an estimated total cost of \$500 million or more, and recipients for such other projects as may be identified by FHWA, shall submit to the FHWA for each project a Project Management Plan (PMP) and an annual Financial Plan. For a major project, the US Secretary of Transportation may require more than one Value Engineering analysis to be performed.

Federal law also requires that a recipient of Federal financial assistance for a project with an estimated total cost of \$100 million or more that is not covered by 23 USC 106 (h) shall prepare an annual Financial Plan. Annual

financial plans prepared under that section shall be made available to FHWA if requested.

3.11.2 Operating Environment

Major projects have additional requirements, including more extensive review of project costs estimates, PMPs, and project Financial Plans. Detailed guidance on FHWA's expectations is found on the FHWA major projects website at www.fhwa.dot.gov/programadmin/mega.

Although the decision on whether or not a project is a major project is typically made near the end of the NEPA stage, FHWA will examine and begin more detailed monitoring when the potential for a major project is identified during the planning stage.

In the early development of a potential major project, FHWA will prepare an analysis of project management challenges and major areas of risk. FHWA guidance defines early development as the planning stages of a project. FHWA will utilize a document titled "Risk Management Tool for Managing the Planning/ Environmental Phases of Prospective Major Projects" to prepare this analysis.

On a case-by-case basis, the scope of work described by the ROD, FONSI or CE can be divided into multiple projects that correspond to operationally independent phases of work which will be built non-concurrently. Upon a request by AHTD to divide the scope of work into multiple projects, the FHWA Arkansas Division Office will consult with the FHWA Major Projects Team prior to making this determination. In cases where the scope of the work is divided into multiple projects, the major project requirements will apply only to the individual projects meeting the major project designation requirements.

FHWA will examine the cost estimate of a potential major project the first time the potential major project appears in the STIP and TIP, and also each time AHTD updates the STIP/TIP.

Cost estimates for major projects will be reviewed jointly by FHWA and AHTD and updated if necessary at the draft EA/EIS stage.

3.11.3 Project Management Plan

A PMP shall document the procedures and processes that are in effect to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to the project. A PMP shall also document the role of the agency leadership and management team in the delivery of the project

For active major projects, AHTD will submit a PMP to FHWA within 90 days after the signing of the Record of Decision, the Finding of No Significant Impact, or

the Categorical Exclusion. The PMP must be revised and updated as needed to reflect current status of the major project.

Two situations should be considered in addressing right of way activities prior to an approved major project plan:

1. In advance of the signed environmental document, AHTD may pursue early acquisition (23 CFR 710.501) and/or protective buying and hardship acquisition (23 CFR 710.503). Following approval of the environmental document, but prior to the FHWA approval of the PMP, AHTD may request and receive authorization to undertake pre-acquisition activities, acquisition, and/or relocation.
2. FHWA retains discretion to authorize right-of-way activities in advance of approval of the major project management or financial plan, where appropriate. Approval of right of way activities is consistent with the major project planning requirements as right of way acquisitions are legally permitted to occur prior to the time required for submission of the project management and financial plans.

3.11.4 Project Financial Plan

AHTD will prepare and submit to FHWA for approval an Initial Financial Plan (IFP) for all major projects. The IFP is a comprehensive document that reflects a major project's cost estimate and revenue structure and provides a reasonable assurance that there will be sufficient financial resources available to implement and complete the project as planned. The IFP provides a description of how a project will be implemented over time by identifying project costs and the financial resources to be utilized in meeting those costs. The plan should clearly explain the assumptions about both cost and revenue upon which the plan is based.

AHTD will prepare and submit to FHWA for approval an Annual Update until the major project is completed. The Annual Updates to the plan will enable decision makers to track the financial progress of the project over time by highlighting significant deviations from the Initial Financial Plan. The Annual Updates will explain mitigating actions taken to adjust for those deviations.

AHTD may submit the IFP for major projects to FHWA for review and approval at any time, but in all cases, the IFP should be submitted and approved by FHWA before authorization of Federal-aid funding for mainline project construction. On a design-build project the IFP should be approved prior to FHWA concurrence in the award of the design-build contract. The FHWA and AHTD will jointly review the IFP cost estimate before the IFP can be approved.

For projects in the \$100 million to \$500 million range, an IFP may be developed and completed at the earliest feasible point in the project development process but it should be finalized by AHTD prior to construction contract authorization and obligation of Federal-aid funds for construction under the design/bid/build process and prior to contract award for design/build projects.

3.12 BRIDGE PROGRAM

3.12.1 Program Overview

23 CFR Part 650, Subpart C established National Bridge Inspection Standards (NBIS) that apply to all bridges that are greater than 20 feet in length and located on a public road, and carry vehicular traffic.

23 CFR Part 650, Subpart D established the procedures for administering the Highway Bridge Replacement and Rehabilitation Program (HBRRP). The program was established to replace, rehabilitate and preserve deficient bridges.

23 USC 503(b) established the Innovative Bridge Research and Deployment Program (IBRD) to demonstrate the application of innovative material technology in the construction of bridges and other structures.

3.12.2 National Bridge Inspection Standards (NBIS)

Each year FHWA will conduct an NBIS compliance review of AHTD's Bridge Inspection and Bridge Maintenance Programs. The reviews will look at the following major NBIS elements: inspection procedures, frequency of inspection, qualifications of personnel, quality of reports, quality of inventory data, load ratings and postings, scour program, quality assurance and procedures established to review, prioritize and track recommendations for repairs. The review will include discussion with AHTD staff, a random sampling of bridge inspection reports and records, field reviews of selected bridges and quality assurance checks of inventory data.

FHWA will also review AHTD's management of the bridge inspection program for the Counties, Cities and other bridge owners, including their oversight of inspection procedures, maintaining the inventory data and providing technical assistance. FHWA will prepare an annual report based on the AHTD NBIS review. The report will determine if AHTD is compliant with the NBIS and include any recommendations necessary for improvement.

3.12.3 Highway Bridge Replacement and Rehabilitation Program (HBRRP)

23 CFR 650 Subpart D describes the policy and procedures for administering the Highway Bridge Replacement and Rehabilitation Program. Eligibility for this program is based on bridge condition and inventory data that AHTD submits annually to FHWA. FHWA reviews the data and furnishes AHTD with a selection list of eligible structures. AHTD also annually submits bridge construction unit cost data which is reviewed by FHWA. The HBRRP funds apportioned to each State are based on the relative area of deficient bridges and the relative bridge construction unit costs.

AHTD and local governments may select any bridge on the selection list for replacement or rehabilitation under this program. A waiver request must be approved by FHWA for all projects that do not meet the eligibility requirements for

rehabilitation or replacement based on bridge sufficiency rating and for all rehabilitation and replacement projects that do not address all conditions that classify a bridge as structurally deficient or functionally obsolete. For AHTD oversight projects, a waiver request must be approved by the Assistant Chief Engineer for Design when a bridge qualifying for rehabilitation is instead replaced.

In addition, subject to the approval of FHWA, preventive maintenance activities and installation of scour countermeasures may be performed on bridges regardless if they are present on the selection list. Grants under the IBRD Program are distributed annually based on a competitive application process. AHTD identifies potential projects, prepares application and submits to FHWA. FHWA reviews the application and submits it to FHWA Headquarters with an endorsement of the proposed project. If a grant is awarded, FHWA handles it as a Federal oversight project. AHTD prepares and submits a report to FHWA on evaluation of the innovative technology.

3.12.4 Bridge Maintenance Program

The AHTD Bridge Maintenance Program is evaluated annually during NBIS reviews. Of particular interest is the timely handling of Critical Findings as noted in the Bridge Inspection Reports and the Form 5 follow-up actions. (See Appendix G) It is the responsibility of AHTD to properly maintain any project constructed under the HBRRP.

In 1995, Congress added subsection (d) to 23 USC 116:

“(d) PREVENTIVE MAINTENANCE -A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the useful life of a Federal-aid highway.”

Although bridges were cited in the 1996 guidance, HBRRP funds had not been used for this purpose. Later, based on the 23 USC 101, definitions of "highway," which includes bridges, and "Federal-aid highway," it was determined that the HBRRP funds may be obligated on all Federal-aid highway bridges (other than bridges on roads classified as local roads or rural minor collectors), regardless of their sufficiency rating or deficiency status, consistent with the Congressional intent of Section 309 of the 1995 Act.

Note that routine maintenance remains the responsibility of AHTD and is **not** eligible for HBRRP or other Federal-aid highway funding. FHWA is responsible for making the determination on what can be considered as a cost-effective means of extending the service life of a bridge.

To meet the intent of 23 USC 144 and 116(d), system preservation activities for the purpose of preventive maintenance on bridges must be carried out using a systematic process, such as a Bridge Management System (BMS). An effective BMS should fully support AHTD's assessment of a strategy's cost-effectiveness.

Table 5 -Bridge Program Actions and Review Timeframe

WORK ACTIVITY	AHTD ACTION	FHWA ACTION	OUTCOME
Bridge Inspection Program (State, County and Cities)	Conduct inspections Update inventory and send data to FHWA annually by April 1 Prioritize and make repairs on State highway bridges	Process data and furnish error listing. (6 months) Review error listing and resolve differences. (annually) Conduct review annually. (annually)	Annual report prepared.
Bridge Replacement & Rehabilitation Program (HBRRP)	Select, design and construct projects Furnish unit cost data annually to FHWA by April 1 Request eligibility approval for candidates not on FHWA Selection list	Provide list of eligible projects, review Federal oversight projects (10 days) Review unit cost data (10 days) Make eligibility determinations and resolve questions concerning eligibility (10 days)	AHTD receives their share of HBRRP funds based on cost and area of deficient bridges. Bridges are replaced, rehabilitated or receive preventative maintenance applications.
Revisions to Bridge Design Manual	Prepare	Approve (5 days)	Revised design policies and procedures

3.13 SAFETY PROGRAM

3.13.1 Program Overview

Section 1401 SAFETEA-LU includes the program and policy language for implementing the new “core” Highway Safety Improvement Program (HSIP), which is codified as 23 USC 148.

AHTD 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.

3.13.2 Highway Safety Improvement Program (HSIP)

The purpose of the HSIP is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads. AHTD 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 AHTD as needed. In addition, AHTD will provide project analysis/selection information to FHWA for review as requested at the time a Federal-aid Project Agreement for an HSIP funded project is submitted to FHWA or at the time the Preliminary STIP is presented to FHWA. Oversight of HSIP projects will be determined using the same criteria for other Federal-aid highway projects as described in Section 2 of this Agreement.

AHTD will manage the overall HSIP in accordance with 23 USC 148 and 23 CFR 924. AHTD will prepare annual reports on the progress made and on the effectiveness of the HSIP. These reports are comprised of the HSIP report (which includes the High Risk Rural Roads report), the highway-railway crossing report, and the 5% report. All of these reports are to be submitted to FHWA on or before August 31st of each year. If requested by AHTD, FHWA will make a ruling annually regarding the 10% flex option in Section 148.

3.13.3 Strategic Highway Safety Plan (SHSP)

23 USC 148 states that safety projects funded with HSIP funds must be consistent with the SHSP. AHTD has met the requirement to develop an SHSP. AHTD and the Arkansas Highway Safety Steering Committee will lead the implementation of the SHSP. AHTD and the Steering Committee will evaluate the effectiveness of the SHSP annually using the HSIP reporting process. FHWA Guidance recommends that the SHSP be revised every three to five years or as needed.

FHWA and AHTD will ensure that SHSP implementation efforts are developed and tracked for each emphasis area. Through crash 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.

3.13.4 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, AHTD and FHWA will continue to actively participate in the Arkansas State Traffic Records Coordinating Committee (TRCC) to assist in the development of a comprehensive, statewide crash data system. AHTD will assist the TRCC in efforts to improve on-State system crash data. AHTD will work with FHWA and other agencies, Cities and Counties to develop a process to analyze crash data from all public roads to be included as part of the 5% report process by the deadline documented by FHWA. AHTD and FHWA will actively participate in reviews of traffic records efforts.

23 USC 148 outlines specific requirements for identifying and prioritizing projects. AHTD 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.

3.13.5 High Risk Rural Roads (HRRR) Program

AHTD will implement the new set-aside provision of the HSIP known as the HRRR program in accordance with 23 USC 148 (f). HRRR projects may be selected on any public HRRR (any public roadway functionally classified as a rural major or minor collector or a rural local road) to correct or improve hazardous road locations or features. The HRRR program shall consider the safety needs on all public roads, whether State or locally owned. FHWA will review this program in conjunction with the annual HSIP reporting process as shown in Section 3.13.2.

3.13.6 Rail-Highway Crossing Safety

SAFETEA-LU made the Rail-Highway Grade Crossing Program a set-aside of the HSIP but left the program requirements unchanged. Therefore, AHTD will continue to administer the Rail-Highway Grade Crossing Program per 23 USC 130 and 23 USC

148. FHWA will review this program in conjunction with the annual HSIP reporting process as shown in Section 3.13.2.

3.13.7 Work Zone Safety

AHTD, in partnership with FHWA, will implement, maintain, evaluate and update the AHTD Policy for Work Zone Safety and Mobility and other procedures to improve work zone safety and in accordance with the revised 23 CFR 630 Subpart J.

3.13.8 Safe Routes to School Program (SRTS)

AHTD will administer the SRTS program created by SAFETEA-LU Section 1404. AHTD will utilize the SRTS Advisory Committee and its documented SRTS process developed using guidance published by FHWA to implement this program. FHWA will provide assistance and guidance by participating in SRTS Advisory Committee meetings and responding to program inquiries.

3.13.9 Additional Highway Safety-Related Activities

Safety Considerations in the Statewide and MPO 3C Planning Process

FHWA will review AHTD 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.

Section 154 Certification (Open Container Laws)

If funds are transferred from FHWA core Federal-aid highway funding programs to the National Highway Transportation Safety Administration (NHTSA) and expended on Section 148 program due to the State not having and enforcing an Open Container Law, these funds will assume the characteristics and requirements of Section 148 and other applicable 23 CFR requirements. AHTD and FHWA will ensure these transferred Federal-aid highway funds are expended on the HSIP comply with 23 USC 148 and 23 CFR 924.

Highway Safety Program (NHTSA administered 23 U.S.C. Section 402)

As described in 23 CFR 1200 and 1205 and the NHTSA 402 Highway Safety Program Guidelines, the Arkansas State Police (ASP) Highway Safety Office (HSO) will work in close coordination with AHTD and FHWA on the Roadway Safety portion of the Section 402 Program.

Process Reviews

FHWA, with assistance from AHTD and through the annual FHWA risk assessment, will perform process improvement reviews as needed of the various safety program elements listed previously.

Table 6 -Safety Programs Actions and Review Timeframe

WORK ACTIVITY	AHTD ACTION	FHWA ACTION	OUTCOME
HSIP Report (including HRRP) Rail-Highway Crossing Report 5 Percent Report	Develop and maintain documented HSIP process. Prepare annual program and report, and submit to FHWA no later than August 31 of each year (Annually)	Review and comment on the program and annual report. Submit to HQ no later than Sept. 30 (Annually)	HSIP Program Approval and Report
Arkansas Strategic Highway Safety Plan (SHSP)	Evaluate the SHSP annually as part of HSIP reports and update every 3-5 years or as needed. On the same 3-5 year cycle, as a part of the annual HSIP reporting process, include a summary of the implementation status of the SHSP	Review and comment on the annual evaluation and the 3-5 year update of the SHSP	Updated SHSP ensuring accuracy of data and priority of proposed improvements
159 Certification (Drug Offender's License Suspension)	Prepare annual certification and submit to FHWA no later than	Review certification and forward to FHWA HQ for appropriate	Law enacted, or opposition stated and funds

Certification)	January 1 of each year (Annually)	action	withheld
154 Certification (Submission of "split" letter for NHTSA transfer funds)	Until open container law meeting Federal requirements is enacted in Arkansas, submit "split" letters each year by October 31 signed by AHTD/ASP designating the location of the funds to be transferred and the program on which the funds will be expended	Review letter and forward to FHWA HQ for appropriate action	Transfer of funds is successfully completed

3.14 FINANCIAL MANAGEMENT PROGRAM

3.14.1 Program Overview

SAFETEA-LU provided greater emphasis on financial integrity, project delivery and major project oversight. FHWA is responsible for ensuring that Federal-aid highway funds are properly obligated, expended, and reimbursed on transportation projects. FHWA provides technical guidance and advice on financial management, accounting, project funds management, innovative financing and auditing matters in delivering the FAHP in Arkansas.

AHTD recognizes that sound federal financial management, stewardship, and oversight encompass the entire FAHP from authorization through project closure. FHWA will work with AHTD to manage the FAHP by reviewing, monitoring, and approving activities as necessary in the designated areas of responsibility to comply with applicable laws, regulations, directives, and standards as defined in this Agreement. The overall health of the FAHP in Arkansas is a joint responsibility that requires both agencies to be proactive in monitoring and improving the program, as well as taking any necessary corrective actions if needed.

Applicable Laws, Regulations and Orders

The FAHP is a state administered, federally assisted program that is governed by law. The applicable laws, regulations, and policies used in implementing the financial management program areas are listed below:

- 23 USC
- 23 CFR
- 49 USC
- 49 CFR
- 48 CFR
- Chief Financial Officer Act of 1990
- Federal Manager's Financial Integrity Act of 1992
- Cash Management Improvement Act of 1990
- OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments)

- OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments)
- OMB Circular A-123 (Management Accountability and Control)
- OMB Circular A-127 (Financial Management Systems)
- OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations)
- Financial Integrity Review and Evaluation (FIRE) Program Order and Toolkit
- FHWA Guidance Memorandums
- Current Authorization Act: Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Improper Payments Information Act of 2002 (IPIA)

3.14.2 Method of Operation

FHWA and AHTD staff maintains a cooperative working relationship in the administration and oversight of financial management. Communications and interactions between the FHWA and AHTD occur routinely for the exchange of information, coordination of activities, and the resolution of issues in the financial management areas of accounting, budget, audit, obligation controls, systems integrity and control, and process/program reviews.

The Programs and Contracts Division at AHTD is responsible for the initiation and coordination of the Federal-aid Project Agreement (FAPA) and maintains the computer database for all programmed projects. Construction plans are reviewed, projects are advertised for bid, and contract documents for construction projects are prepared. Preconstruction project development is monitored from initiation through contract execution.

The Fiscal Services Division is responsible for monitoring the financial program for AHTD and provides for the payment to vendors, billings of accounts receivable, transaction reviews and edits to assure accuracy and eligibility of expenditures and other financial transactions and reporting.

The AHTD Internal Audit Section operates independently and performs annual financial audits to ensure compliance with Federal and State requirements. Audits and tests are conducted to comply with the requirements of the Single Audit Act.

The FHWA Division Finance Team is responsible for ensuring that Federal-aid highway funds are properly obligated, expended, and tracked on transportation projects. The FHWA Division Finance Team provides technical guidance and advice on financial management, accounting, project funds management, State Infrastructure Bank guidance, innovative financing techniques, auditing, and management analysis to FHWA, AHTD and LPA personnel in delivering the Federal-aid highway and transportation programs in Arkansas.

AHTD and FHWA will work together to:

- Manage financial resources to assure full and efficient use of federal apportionments, allocations and obligation authority;
- Implement joint business processes to assure timely reviews, approvals, and decisions to efficiently deliver projects;
- Review and maintain existing AHTD and FHWA manuals, procedures and other guidance to assure project compliance with applicable Federal laws, regulations, directives, and standards; and
- Work together and with other stakeholders, as appropriate, to develop innovative methods in financing FAHP projects.

3.14.3 FHWA and AHTD Joint Oversight

Program Approval Actions

- FHWA and AHTD will work together to reconcile Office of Inspector General (OIG) and State audit findings related to the Federal-aid Highway Program.
- AHTD will submit billings as needed and FHWA will approve the Federal-aid current bill accordingly

Project Approval Actions

- FHWA will approve final vouchers, project agreements, and modified project agreements on all projects.
- Financial requirements of major projects are explained in more detail under Sections 3.11.3 and 3.11.4 of this Agreement.

Process Reviews

FHWA and AHTD will monitor all financial management and accounting activities through joint process reviews, as well as other review avenues as prescribed by the FIRE Program. FHWA will conduct verification activities to assure that the laws, regulations, policies and agreements are followed by AHTD in carrying out these responsibilities.

Reviews will include both AHTD and LPAs. Through periodic contact with AHTD, FHWA will provide guidance and technical assistance with project financing, fiscal document processing, cost eligibility determinations, financial management and reimbursement.

FHWA and AHTD will work collaboratively to promote best practices in financial management and project funds management to improve the efficiency in the administration of the FAHP. FHWA will promote the use of innovative finance techniques that are effective in leveraging the use of Federal-aid funds.

3.14.4 FHWA Oversight Responsibilities

The core financial oversight responsibilities of FHWA are shown in Table 7.

Table 7 – FHWA Financial Management Program Actions and Review Timeframe

Activity	Authority	Action	Frequency
Project Agreements; include provisions (e.g. drug free work place)	23 CFR 630 Subpart A	Accept	As needed
Fed-aid billing reimbursement of eligible expenditures	23 CFR 140 and 635.122	Review and Approve	As needed
Discretionary funding applications	Memo from HQ	Review and Approve	Annually (date varies)
Transfer of funds as requested by State	23 USC 104 (k)	Review and Approve	As needed
Implement all aspects of FIRE	FHWA Order 4560.1b	Review and Approve	Annually by Sept. 30
Innovative Financing	GARVEE 23 CFR 122, TIFIA 23 USC SIB, Tapered Match, etc.	FHWA reviews, seeks assistance as needed, provides response to State.	As needed

3.14.5 Federal-aid Project Agreements (FAPAs)

Project authorizations and agreements and amended or modified authorizations are the responsibility of the pertinent FHWA program officer. Pursuant to 23 CFR 630, Subpart C, the reviewer will review and approve the agreements. FHWA will enter the pertinent statistical, descriptive, and financial information into the Fiscal Management Information System (FMIS). FMIS is FHWA's major financial information system which houses all project information provided by the State DOT.

The timeframe for processing Federal oversight projects is seven to ten working days and State oversight projects are three to five working days. The

timeframe for processing Federal oversight projects may be reduced when all other approvals are obtained in advance of submitting the project agreement. Modified project agreements are input into FMIS and approved within two to three working days.

3.14.6 Federal-aid Billing Reimbursement of Eligible Expenditures

Federal-aid reimbursements may be made to AHTD for eligible expenditures incurred as identified in 23 USC 121. Requests for reimbursement to the State are processed electronically via FHWA's Rapid Approval and State Payment System (RASPS) and disbursed by the U.S. Department of Treasury to the Arkansas State Treasury.

The AHTD Fiscal Services Division submits the current billing to FHWA electronically, typically once a week or as needed. The FHWA Financial Specialist approves the current billing electronically the same day. After the current bill has been approved, an e-mail notification is sent to AHTD Fiscal Services informing the approval. An Electronic Funds Transfer (EFT) payment is received by the State Treasury on the same day or on the date the State requests reimbursement.

The Single Audit Act does not preclude FHWA from performing program reviews as well as pursuing other activities to facilitate oversight of the current billing process.

Financial Management reviews may be conducted by FHWA periodically on AHTD's accounting systems and records to ensure conformance with applicable laws, rules and federal regulations. Jointly, FHWA and AHTD must provide reasonable assurance that only allowable costs are reimbursed, thereby ensuring the integrity of the FAHP reimbursement process.

3.14.7 Discretionary Program Funding (Application for Funds)

The FAHP is made up of a series of separately funded program categories, each having its own specific and separate funding as described in 23 USC. Each program has certain activities for which that funding may be used as prescribed in law. Discretionary program or earmarked program funding is one of many categories of funds that have specific requirements that must be met. Legislation provides for a discretionary funding program to be used for "specific" Federal-aid highway projects. Program areas typically include Interstate Maintenance Discretionary, Bridge, Public Lands, Ferry Boat, Highways for Life, and others. The FHWA Headquarters' Office of Program Administration issues instructions annually on program requirements and eligibility. Based on FHWA's annual call for applications, AHTD submits applications for projects that are either designated in the current legislation or projects that are eligible. Instructions are provided to AHTD for the discretionary application process by electronic submittal.

FHWA's role is to provide information, guidance and assistance. When AHTD is ready to submit an application, FHWA will review and evaluate the

application(s) to assure that the candidate project(s) meet the eligibility and submission requirements. FHWA will then electronically submit AHTD's application(s) to FHWA Headquarters' Office of Program Administration for a final determination. After the Office of Program Administration reviews the applications, an official memorandum listing the projects that were selected is sent to FHWA in Arkansas. FHWA will then notify AHTD of any projects selected. Discretionary funds are only allocated when AHTD notifies FHWA that the project is ready to be obligated. Approved funds are posted in the FMIS system.

AHTD's role is to ensure that all pertinent program and project rules are met. Project monitoring, progress, and reporting requirements must also be met annually. FHWA will work with AHTD to ensure all rules, regulations and obligation deadlines are met annually as well. The FHWA Division Finance Team will monitor these projects to ensure they remain valid and active and will monitor expenditure postings to ensure projects do not become "inactive."

3.14.8 Transfer of Funds

SAFETEA-LU provided greater flexibility for the transfer of funds, specifically transfers to other Federal agencies and/or to other States (23 USC Sec. 104(k) (3) and Section 132). Guidance and submission instructions for the various types of transfers allowable are provided periodically by the FHWA Headquarters' Office. AHTD must initiate the request for transfers to other agencies or the transfer of funds among other programs. To minimize the risk of Federal-aid funds being designated as inactive, transfers should only be made when the funds are ready to be obligated. All requests for transfer are reviewed by FHWA for adherence to Federal requirements prior to submission to the FHWA Headquarters' Office of the Chief Financial Officer (CFO). Notification to AHTD will be issued once the transfer has been completed. An approved transfer of funds does not relieve AHTD from any requirement to provide a non-federal share for the costs of a project.

Transfers of High Priority Project funding require an agreement between the party providing funds and the receiving agency (e.g., Mississippi DOT and AHTD). Additional implementing guidance issued by the Office of Program Administration for High Priority Projects and Transportation Improvements can be found at: <http://www.fhwa.dot.gov/specialfunding/congdesign.cfm>.

3.14.9 Financial Integrity Review and Evaluation (FIRE) Program Requirements

Due to the increased emphasis on financial integrity, FHWA introduced and implemented the Financial Integrity Review and Evaluation (FIRE) Program for all FHWA Division Offices to follow. Each FHWA Division Office is required to take necessary actions to ensure and certify that Federal-aid funds are properly managed and effectively used in accordance with federal policies and that appropriate safeguards are in place to minimize fraud, waste, and abuse. FIRE is required to be performed in support of the FHWA's annual certification of internal

and financial controls to support FHWA's financial statements. FHWA will involve a wide range of employees and work with AHTD in various financial oversight activities to ensure compliance.

Under FIRE, FHWA Order 4560.1B, FHWA is required to submit annual certifications. To support the certifications, several activities outlined in FIRE must be accomplished annually. A grant financial management review in response to the performance of an annual risk assessment is required. The purpose of the grant financial management process review is to assess one key state process to determine that (1) the process complies with federal requirements, (2) the process complies with generally accepted accounting principles and standards and internal controls, and (3) the process can be enhanced by identifying any potential areas for improvements.

3.14.10 Improper Payments Information Act (IPIA) Review

The FIRE Order requires a review of randomly selected billing transactions as well as transactions selected by the FHWA CFO for an Improper Payments Information Act (IPIA) Review. An IPIA Review is executed to determine if and to what extent improper payments may have been made in the FAHP. An improper payment is any payment that should not have been made or was made in an incorrect amount (overpayments or underpayments), payment to an ineligible recipient, payment for ineligible services, duplicate payments, payment for services not received, etc. Payments for review are selected at random from an identified time period.

The random sampling process will be carried out by the FHWA CFO and involves two phases:

(1) In the first phase, the CFO selects a sample of payments from the RASPS and provides it to the FHWA Arkansas Division Office. The Arkansas FHWA Division Office obtains AHTD's billing details (object codes, etc.) that support each payment in the sample.

(2) In phase two, the CFO identifies the specific billing detail to test. Instructions and worksheets are also provided to the FHWA Division Office which documents the testing.

Verifications will include (1) that costs billed to FHWA are eligible and accurate; (2) that costs were incurred after FHWA approvals; (3) that costs were charged to the correct project; (4) that costs were approved by the appropriate state/local officials; and (5) that AHTD has sufficient supporting documentation to substantiate the billing. The final report and worksheets are reported to the FHWA CFO. IPIA Reviews are directed by the FHWA CFO twice a year.

FHWA will work collaboratively with AHTD in gathering and reviewing the annual IPIA testing each year. Should improper payments be found, both agencies will work together to initiate corrective actions.

3.14.11 Inactive Federal-aid Project Reviews

FHWA will work with AHTD to conduct and document the results of quarterly reviews of inactive projects in accordance with 23 CFR 630, Subpart A, Project Authorizations and Agreements. This review identifies projects for which no expenditures have been billed to FHWA for a specified period of time. The following three tiers or levels of inactive reports will be reviewed quarterly:

- TIER I - \$500,000 or more, inactive for 12 months,
- TIER II - \$50,000 - \$500,000, inactive for 24 months, and
- TIER III - \$50,000 – or less, inactive for 36 months.

Throughout the year, FHWA shall work with AHTD to determine the validity of the amounts obligated for each inactive project. Once excess obligations are identified, AHTD is required to take action to have FHWA de-obligate any invalid obligations within the timeframe requested by the FHWA Division Administrator. This action will require a modification of the FAPA.

The FHWA has established a National goal to hold inactive projects at 5% or less of the State's current annual apportionments. Results of the inactive projects reviews shall be recorded by the FHWA in FHWA's standard work papers and submitted to the FHWA CFO.

AHTD is responsible for establishing a funds management program to ensure that funds are being used effectively and lapsable funds are limited. This includes a review of older projects that have had no activity for possible release of funds for use on other eligible Federal-aid projects. Annually, FHWA will evaluate the effectiveness of AHTD's funds management program.

3.14.12 Audits

A Single Audit Review as well as a Federal Audit Findings Review is also required under FIRE. FHWA is responsible for ensuring that audits are completed and reports are received in a timely manner, that findings are resolved and that corrective actions are taken in a timely manner. Further, FHWA has a responsibility to provide technical advice and assistance to AHTD and auditors as appropriate and to advise AHTD of the requirements set by Federal laws, regulations or provisions of contracts. AHTD will ensure that the Statewide Single Audit Report is completed as required and copies of audit reports are submitted to the Federal Audit Clearinghouse within 9 months following the end of AHTD's fiscal year. The FHWA Division Office shall obtain, at a minimum, a copy of the

portion of the single audit report that relates to FHWA programs. FHWA will review the audit report and work with AHTD in response to any findings.

The FHWA Division Administrator shall annually certify the results of the FIRE program activities mentioned above. The annual certification will satisfy the financial, accounting, and reporting requirements under this program.

FIRE certifications are required to be submitted by the FHWA Division Administrator to the FHWA CFO's office by June 8th and September 23rd of each fiscal year.

FHWA shall implement a systematic process to ensure that findings and recommendations from any of the FIRE components are adequately addressed in a timely manner. FHWA shall document all action items, specified deadlines, person(s) responsible for the follow up, and resolution of findings and recommendations.

Annual FIRE activities to be implemented by the FHWA:

- Grant Financial Management Process Review
- Improper Payments Information Act (IPIA) Review
- Inactive Federal-aid Projects Review
- Single Audit Review
- Federal Audit Findings Review
- Through periodic contact with AHTD personnel FHWA will provide guidance and technical assistance, and
- Risk assessment techniques will be used where appropriate to determine areas for financial management reviews.

3.14.13 Innovative Financing

The purpose of innovative financing is to ensure the most effective and efficient use of FAHP funds which includes innovative financing tools such as the Grant Anticipation Revenue Vehicle (GARVEE) program, State Infrastructure Bank (SIB), Advanced Construction, Flexible Match, Tapered Match, Transportation Infrastructure Finance & Innovation Act (TIFIA) loans, Toll Pilot Programs, Public-Private Partnerships, SEP-14 and SEP-15 programs. All of these programs are available to assist AHTD in exploring other avenues to start or complete large-scaled projects or projects that might otherwise be delayed because of unavailability of traditional funding sources. Additional information on innovative finance techniques for transportation projects can be found at www.fhwa.dot.gov/innovativefinance/.

3.15 PUBLIC-PRIVATE PARTNERSHIPS (PPP)

In order to undertake PPPs in the State of Arkansas, the Arkansas General Assembly needs to enact legislation authorizing the Department to procure projects using this type of contracting mechanism. In the eventuality that AHTD is

provided with this authority and it is decided by AHTD to pursue this option, the Stewardship and Oversight Agreement will be revised accordingly.

3.16 INTELLIGENT TRANSPORTATION SYSTEM (ITS) PROGRAM

3.16.1 Program Overview

SAFETEA-LU ended the ITS Deployment Program at the close of Fiscal Year 2005, but continued ITS research. In addition to earmarked funding for ITS elements, ITS Projects are eligible for other categories of regular Federal-aid highway funding. Federal-aid NHS and STP funds may be spent on infrastructure-based ITS capital improvements while Federal-aid Congestion Mitigation Air Quality (CMAQ) funding may be spent on programs and projects that implement ITS strategies which benefit air quality in non-attainment areas.

AHTD and FHWA will jointly take a lead role in the development of ITS initiatives and in the consideration of ITS deployment, integration, research and operations. AHTD 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.

3.16.2 Operating Environment

The applicable Federal regulation for ITS projects is 23 CFR 940, Intelligent Transportation System Architecture and Standards. This regulation must be followed for projects that contain ITS components.

The definition of an ITS Project according to 23 CFR 940.3 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 (located at www.its.dot.gov).

It should be noted that:

- Traffic signal projects that create or modify an interconnected traffic signal system will meet the definition of an ITS Project.
- Projects or activities that utilize interconnected technology in detecting incidents and dispatching response vehicles will meet the definition of an ITS Project.

3.16.3 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.

3.16.4 Systems Engineering Analysis

23 CFR 940.11 requires that all ITS projects shall be based on a systems engineering analysis and shall be developed in consistency with the approved regional architecture. The systems engineering analysis should be on a scale commensurate with the project scope. AHTD shall make a determination of conformity of ITS Projects with the systems engineering analysis requirement, with FHWA concurrence on Federal oversight projects.

3.16.5 Project Administration

23 CFR 940.13 states that, prior to authorization of Federal-aid funds for construction or implementation, AHTD shall demonstrate that ITS projects conform to the systems engineering and conformity requirements and that there is a commitment to the operations, management and maintenance of the overall system. All ITS projects shall use applicable ITS standards and interoperability tests that have been officially adopted, by rulemaking by US DOT. AHTD shall make a determination, with FHWA concurrence on Federal oversight projects, of conformity of ITS projects with the ITS standards requirement.

AHTD will maintain a written ITS project process detailing how the 23 CFR 940 requirements will be met for both Federal and State oversight ITS projects. FHWA will review and approve the process and amendments thereto. FHWA and AHTD will jointly conduct process reviews, as appropriate, for the ITS program.

For Congressional earmarks for ITS 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. Once the project is approved and a FAPA is executed, Federal oversight will be conducted as identified in Table 8.

Table 8 -Intelligent Transportation Systems Program Actions and Review Timeframes

ACTIVITY	AHTD ACTION	FHWA ACTION	OUTCOME
Regional ITS Architectures (All)	Prepare and Approve Ready-for-Use	Concurrence as Ready for Use (45 days)	Regional ITS Architecture
Update of Regional Architecture (All)	Prepare and Approve Ready-for-Use	Concurrence (15 days)	Updated Regional Architecture

Systems Engineering and Standards Analysis	Federal oversight Projects: Prepare/Review and Submit to FHWA State oversight Projects: Prepare and Approve	Federal oversight Projects: Provide Response (10 days) State oversight Projects: None	Systems Engineering and Standards Conformity Determination
ITS Project Process Document	Develop and Submit to FHWA	Provide Response (10 days)	ITS Project Process Document

3.17 EMERGENCY RELIEF (ER) PROGRAM

3.17.1 Program Overview

23 USC 125 authorizes 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 Federal-aid Emergency Relief Program 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.

Disasters must be of such magnitude as to be considered extraordinary to be considered for ER funding. To be considered extraordinary, the estimated Federal portion of the damage repair must meet a threshold of \$700,000. Individual sites must reach a threshold of \$5,000 in total cost to be eligible. This threshold is used to determine if the extent of repair work at a site is beyond the scope of heavy maintenance.

Emergency repair work to restore essential traffic, minimize the extent of damage, or protect the remaining facilities, accomplished in the first 180 days after the occurrence of the disaster may be reimbursed at 100 percent Federal share. During this 180-day period, permanent repair work is reimbursed at normal pro rata share unless permanent repair is performed as an incidental part of emergency repair work.

ER funds are also available for permanent repairs and for work accomplished more than 180 days after an event at the pro rata Federal-aid share that would normally apply to the Federal-aid facility damaged. For Interstate highways, the Federal share is 90 percent. For all other highways the Federal share is 80 percent.

3.17.2 Program Approval Actions

The AHTD must specifically request assistance under the ER program for each natural disaster or catastrophic event. This should be initiated with a letter of intent to seek ER funds as soon as it is evident that there is eligible damage.

FHWA will respond to written requests for ER assistance with a letter of acknowledgement and brief instructions on how to proceed. Typically, the letter of acknowledgement establishes a beginning date of potential eligibility for immediate emergency repairs.

AHTD prepares and submits to FHWA a Damage Survey Summary Report in support of the ER funding request. The Damage Survey Summary Report is prepared for each particular event in accordance with the ER Manual requirements, after consulting with the FHWA Division Office as to which of the three methods of developing and processing an ER request will be utilized.

FHWA will respond to the report with a determination of ER eligibility. The list of sites outlined in the report constitutes the program of projects required prior to authorization of permanent repairs.

3.17.3 Project Approval Actions

FHWA's Acknowledgement Letter will establish a date of eligibility for those emergency repairs and protective measures that must be undertaken immediately to restore essential travel, minimize the extent of damage, or protect remaining facilities. These types of repairs are normally classified as Categorical Exclusions under 23 CFR 771.117 (c) (9). Contracts to do this type of emergency repair may be accomplished through abbreviated procedures, but care should be taken to include applicable Federal aid requirements (Refer to FHWA's ER Manual).

FHWA's Determination of Eligibility letter will inform AHTD if oversight for any projects will be different to what is prescribed in Section 2 of this Agreement. Because of the nature of the work typically involved under the ER program, the dollar thresholds used to establish oversight responsibilities for regular Federal-aid highway projects, may or may not be found applicable.

For ER projects included in the Determination of Eligibility letter to be Federal oversight projects, design/concept approval, PS&E approval/advertise for bids, concurrence in award, change order approval, etc., will have to be submitted to FHWA for approval.

All ER projects that do not fall into the category of work needed immediately to protect the facility from further damage or keep the route open for the safe flow of traffic (first response type work) will require environmental approval by FHWA in accordance with Section 3.4 of this Agreement.

3.17.4 Monitoring

The FHWA and AHTD will co-inspect the damage sites during the development of the disaster estimate. FHWA will conduct final inspections of all ER projects prior to the acceptance of the project.

See the Emergency Relief Manual (Federal-aid Highways) for more details on the ER program.

Table 9 – Emergency Relief Program Actions and Reviews Timeframes

ACTIVITY	AHTD ACTION	FHWA ACTION
Notice of Intent to request Emergency Relief funds	Prepare and submit letter to FHWA (As soon as need is identified)	Acknowledgement Letter (3 days)
Damage Survey Summary Report	Provide pictures, cost estimates and supporting documentation (not later than 45 days after event)	Perform inspections, make eligibility determinations, provide estimate and furnish copy of inspection reports and summary to AHTD (10 days after inspections)
Determination of Eligibility	Prepare and submit official request letter (5 days after receipt of summary)	Approve request and send a copy to FHWA Headquarters (3 days)

3.18 EMERGENCY/SECURITY PROGRAM

3.18.1 Program Overview

The purpose of this program is to establish procedures to respond to National, State, region and local emergencies. These procedures are intended to address security, emergency preparedness, and response capability in the face of disaster and emergency situations.

This program establishes notification procedures to rapidly advise the Federal Highway Administrator, the Office of the Secretary of Transportation, the US DOT Office of Emergency Transportation, and the US DOT Regional Emergency

Transportation Coordinators (RETCOs) of significant events affecting highway transportation, and to provide for follow up reports, as appropriate.

This program allows the sharing of policies and guidance and keep FHWA and AHTD at an acceptable level of readiness in the event of an emergency.

3.18.2 Monitoring

FHWA approval is not required at the program or project level. The emergency/security program is based on cooperation between FHWA and AHTD. FHWA will rely on AHTD, the Arkansas State Police (ASP) and the Arkansas Department of Emergency Management (ADEM) to report information regarding significant highway related incidents. The incident types and reporting criteria are listed in FHWA Order 5181.1 and subsequent guidance published by FHWA Headquarters, Office of Operations.

These incidents should be reported to the FHWA Headquarters at the earliest possible time. FHWA will maintain a list of contacts that would be available during non-working hours.

FHWA will submit incident reports to the FHWA Headquarters Emergency Operations Coordinators based on the information supplied by AHTD, ASP and ADEM.

AHTD will assist FHWA in case of an emergency involving the evacuation of the Federal Building located at 700 West Capitol in Little Rock consistent with FHWA's Continuity of Operations (COOP) Plan and related agreements.

Stewardship and Oversight Agreement

Appendices

APPENDIX A State and Federal Regulations, Directives, Manuals and

Operating Guides

- 23 USC
- 49 USC
- 23 CFR
- 49 CFR
- AASHTO Guide for the Design of Pavement Structures
- AASHTO Guide for the Development of Bicycle Facilities
- AASHTO LRFD Bridge Design Specifications
- AASHTO Policy on Geometric Design of Highways and Streets
- AASHTO Roadside Design Guide
- AASHTO Standard Specifications for Highway Bridges
- AHC Regulations for Access Driveways to State Highways
- AHTD Accounting Manual
- AHTD Brochure on Procedures for Acquiring ROW When Federal Funds are Utilized
- AHTD Design and Construction Memoranda and Orders
- AHTD Drainage Manual
- AHTD Geometric Design Criteria for Non-Freeway Resurfacing, Restoration and Rehabilitation Projects
- AHTD Manual of Field Sampling and Testing Procedures
- AHTD Manual for Preliminary Engineering Services
- AHTD Resident Engineer's Manual
- AHTD Standard Drawings for Box Culverts
- AHTD Standard Drawings for Highway Construction
- AHTD Standard Specifications for Highway Construction
- Arkansas Geological Commission, Arkansas Minimum Standards for Property Boundary Surveys and Plats
- FHWA Labor Compliance Manual
- FHWA Manual on Uniform Traffic Control Devices
- USGS Water Resources Circular No.11

Appendix B Required Actions List

#	<u>Activity</u>	<u>Authority</u>	<u>FHWA Action</u>	<u>FHWA Frequency</u>	<u>STA Action</u>	<u>STA Frequency</u>	<u>Delegated To</u>
SP	Statewide Planning						
1	Statewide transportation plan	23 CFR 450.214	R	As updated	P & S		TPE – P&PD
2	STIP & amendments	23 CFR 450.216, 218	R & A w/ FTA	As requested by State (at least every four years)	P & S	Every 4 yrs	TPE – R/W – P&PD
3	SPR funded work programs	23 CFR 420	R & A	Annually by June 30	P & S	Annually	P&PD
4	SPR/PL program performance/expenditure reports	23 CFR 420.117(b)(1) &	R for C and send to HQ	Annually by Sept. 30	P & S	Annually	TPE – R/W – P&PD

(c)							
5	Statewide Planning Finding	23 CFR 450.218(b)	I	In conjunction with STIP approval (at least every four years)		In conjunction with STIP approval (Every 4 yrs)	P&PD
6	Public involvement for Statewide planning process	23 CFR 450.210	R for C	As needed or as revised by State	CD	As needed	TPE
7	Functional classification of highways/streets	23 CFR 470.105(b)	R & A	As needed or as revised by State	P	As needed	TPE – R/W – P&PD
8	Urban area boundaries	23 CFR 470.105(a)	R & A	As needed or as revised by State	S	As needed	TPE – R/W – P&PD
9	Interstate additions & revisions	23 CFR 470.111, 115(a)	R & Recommend action to HQ	As requested by State	S	As needed	P&PD - Field Ops
10	NHS revisions	23 CFR 470.113, 115(a)	R & Recommend action to HQ	As requested by State	S	As needed	P&PD
11	NHS Intermodal Connector additions/revisions	23 CFR 470.113, 115(a)	R & Recommend action to HQ	As requested by State	S	As needed	P&PD
12	Motor Fuel Tax (MFT) Evasion Project funds request	HQ memo soliciting applications	R & A	Periodic (usually annually)	S	Periodic (usually annually)	P&PD

Legend:

R = Review, RQ = Request, A = Approve, AS = Assist, C = Compliance, CD = Conduct, P = Prepare, I = Issue, S = Submit, D = Distribute, TPE = Transportation Planning Engineer
R/W = Right-of Way Officer, ES = Environmental Specialist, P&PD = Planning and Program Development Manager, CRS = Civil Rights Specialist, S = Safety Engineer

MP	Metropolitan Planning						
1	Unified Planning Work Program for Transportation Management Areas (TMA) and other MPOs	23 CFR 450.308(a)	R & A	Annually by June 30	R & S to FHWA and FTA	Annually by June 30	TPE – R/W - P&PD
2	Transportation plan for non-attainment metropolitan areas	23 CFR 450.322	R for C	Every 4 yrs	R for C	Every 4 yrs	TPE
3	Transportation plan for attainment metropolitan areas	23 CFR 450.322	R for C	Every 5 yrs	R for C	Every 5 yrs	TPE – R/W

4	Transportation Improvement Program (TIP) and corollary STIP amendments	23 CFR 450.324-328	R - TIP R & A - STIP	As requested by State	R - TIP R & A - STIP	At least every 4 yrs	TPE – R/W – P&PD
5	FHWA/FTA TMA planning certification	23 CFR 450.334	CD and I w/FTA	Every 4 yrs	R	Every 4 yrs	TPE
6	Metro planning area boundary changes	23 CFR 450.312	R for C	As needed/ revised by MPO/State	R	As needed	TPE – R/W – P&PD
7	MPO Planning finding	23 CFR 450.328	R & I	In conjunction with TIP approval (at least every 4 years)	R	In conjunction with TIP approval (at least every 4 years)	TPE – R/W
8	State PL funds formula	23 CFR 420.109(a)	R & A	As needed or as revised by State	P & S	As needed	TPE

HI Highway Information

1	Interstate system traffic volume review	10/24/95 HQ Memo	Conduct	Annually by Nov. 1			R/W
2	HPMS data submission	FHWA HPMS Field Manual	R for C (State sends direct to HQ w/copy to Div.)	Annually by June 15	P & S	Annually by June 15	R/W
3	HPMS data review	FHWA HPMS Field Manual & HPMS FHWA Review Guidelines Sept. 2006	Conduct	Annually by Nov. 1	AS	N/A	R/W
4	Highway statistics reports	FHWA Guide to Reporting	R for C (State sends	Annually or biennially per	P & S	Annually or biennially per	R/W

	(various)	Highway Statistics	direct to HQ w/copy to Div.)	FHWA guide		FHWA guide	
5	Highway taxes and fees report	HQ memo of request	R for C and send to HQ	Periodic (usually biennially)	P & S	Periodically	R/W

6	Monthly fuel report (PR 511M) and triennial review	Chapter 2 of FHWA Guide to Reporting Highway Statistics	R for C (State sends direct to HQ w/copy to Div.)	Monthly and every three years	P & S	Monthly	P&PD
7	Public road mileage certification	23 CFR 460.3 & FAPG NS 23 CFR 460	R for C and send to HQ	Annually by June 1	P & S	By date specified by DA	R/W
8	Traffic Monitoring System	23 CFR 500.203	R for C	As needed or revised by State	P & S	As needed	P&PD
9	Heavy Vehicle Use Tax Payment Certification	23 CFR 669.7	R for C and send to HQ	Annually by July 1	P & S	As needed	P&PD
10	Heavy Vehicle Use Tax Payment Review	23 CFR 669.21 & FAPG NS 23 CFR 669	Conduct	Every 3 years	AS	Triennially	P&PD

M Mobility/ITS

1	Congestion management system	23 CFR 500.109	R for C	As needed/revised by MPO/State	R	As needed	TPE - P&PD
2	Conformity with National ITS Architecture	23 CFR Part 940	R for C	As needed w/PS&E submission (full oversight projects that affect regional integration)		As needed	P&PD

3	ITS Deployment Program (project application)	TEA-21 Section 5208 and 5209	R for C and send to HQ	As requested by State			S
4	ITS Deployment Program (work order)	ITS partnership agreements	R & A	As requested by State			S
5	ITS Life Cycle Cost (>\$3 million) and ITS Financing and Operations Plan	TEA-21 Section 5210	R for C	As needed for projects funded by TEA-21 Sections 5208 and 5209			S
6	ITS Operations Support Plan	TEA-21 Section 5207	Develop	By Jan 1			S/P&PD
7	National Truck Network Modifications	23 CFR 658.11	R & recommend action to HQ	As requested by State			P&PD

AQ **Air Quality**

1	Transportation plan conformity determination for non-attainment areas	23 CFR 450.322(l)	R & A	Every 4 years or when major revision	R	Every 4 yrs	TPE
2	TIP conformity determination for non-attainment areas	23 CFR 450.328(b)	R & A	Every 4 years or when amended	R	Every 4 yrs	TPE
3	CMAQ funds report	04/28/99 HQ CMAQ guidance memo	R for C and send to HQ	Annually by Feb 1		Annually by Feb 1	TPE
4	CMAQ funds eligibility	04/28/99 HQ CMAQ	R & A	As requested		As needed	TPE

	determination	guidance memo		by State			
5	agency agreements MPO/state air quality	23 CFR 450.314	R for C	MPO/State As needed or revised by	P & S	As needed	TPE
E Environment							
1	Environmental document determination (CE-Tier 1&2 projects)	23 CFR 771.117 (c)-Tier 1 23 CFR 771.117 (d)-Tier 2	Periodically R for C (State determines and documents)	As submitted by State	P & A	Project by Project	ES
2	Environmental document determination (CE-Tier 3 projects)	23 CFR 771.117	R & A	As submitted by State	P & S	Project by Project	ES
3	Environmental document determination (all other projects)	23 CFR 771.113	R & A	As submitted by State	S	Project by Project	ES
4	Environmental Assessment	23 CFR 771.119	R & A	As submitted by State	P, S, D	Project by Project	ES
5	Finding of No Significant Impact (FONSI)	23 CFR 771.121	R & A	As submitted by State	P & S	For each EA	ES
6	Draft Environmental Impact Statement (EIS)	23 CFR 771.123	R & A	As submitted by State	P, S, D, A	Each EIS conducted	ES
7	Final EIS	23 CFR 771.125	R & A	As submitted by State	P, S, D, A	Each EIS conducted	DA
8	Record of Decision (ROD)	23 CFR 771.127	R & A	30 days after publishing final EIS	P, S, D, A	Each FEIS completed	DA
9	EIS written reevaluations	23 CFR 771.129	R & A	If no action is taken within 3 years after	P, S, A	As needed	ES

				final EIS as submitted by State			
10	Section 4(f) programmatic	23 CFR 771.135	R & A	As submitted by State	P & S	As needed	ES
11	Section 4(f) individual	23 CFR 771.135	R & A	As submitted by State	P & S	As needed	ES
12	Section 106 actions	23 CFR 800	R & A	As submitted by State	P & S	As needed	ES
13	coordination Public involvement and interagency	23 CFR 771.111	R for C	Project by project	CD	As needed	ES
14	State public involvement/hearing program approval	23 CFR 771.111(h), 40CFR 1500-150	R & A	One time	P & S	Some Tier 3 Eas & EISs	ES
15	Certification of hearings	23 CFR 771.111	R for C	Project by project	P & S	All Eas & EISs	ES
16	NEPA/404 Merger Agreement	NEPA & Clean Water Act Section 404	R & A	As needed or requested by State	P & S	As needed	DA
17	Environmental Streamlining MOU	TEA-21 Section 1309	R & A	As needed or requested by State	R & A	As needed	DA
18	Noise Policy	06/12/95 HQ memo	R & A	As needed or requested by State	P & S	As needed	ES
19	Issue Notice of Intent	23 CFR 771.123(a)	R&A	As needed or requested by State	P & S	All EISs conducted	ES
CR Civil Rights							
1	OJT Training Goals & Accomplishments	23 CFR 230.111(b)	R & A	Annually by January 30	P & S	Annually by January 30	CRS
2	DBE Uniform Awards and Commitment Report	49 CFR 26 Appendix B	R & A	June 1 and December 1	P & S	June 1 and December 1	CRS

3	OJT/SS Funds Request and Annual Accomplishment Report	23 CFR 230.113	R & A	Annually by June 2	P & S	Annually by June 2	CRS
4	DBE/SS Funds Request and Annual Accomplishment Report	23 CFR 230.204	R & A	Annually by June 2	P & S	Annually by June 2	CRS
5	State DBE Program Goals	49 CFR 26.45(f)(1)	R & A	Annually by August 1	P & S	Annually by August 1	CRS
6	State Employment Data Report (EEO-4)	23 CFR 309 and 23 CFR 311(a)(1)	R & A	Annually by August 15	P & S	Annually by August 15	CRS
7	Construction Employment Data Report (PR-1392)	23 CFR 230.121(a)	R & A	Annually by September 15	P & S	Annually by September 15	CRS
8	Planned Awards Reports - HBCU/MIHE, Tribal Colleges/Hispanic Serving Institutes	Presidential Executive Orders: 13230, 13256, 13270	R & A	Annually by September 29	P & S	Annually by September 29	CRS
9	Title VI Plans, Accomplishment Reports & Goals	23 CFR 200.9(b)(11)		Annually by October 1	P & S	Annually by October 1	CRS
10	EEO Program Update	23 CFR 230.311	R & A	Annually (Anniversary date of States' approved EEO/AAP Policy)	P & S	Annually (Anniversary date of States' approved EEO/AAP Policy)	CRS
11	review reports Contract compliance	23 CFR 230.413	R & A	Within 15 days of review	P & S	Within 15 days of review	CRS
R/W Right-of Way							
1	State R/W Manual	23 CFR 710.201(c)	R & A	Updates as warranted and State certification Jan 1, 2006 and every 5 years	P & S	Update when needed. STA certification 5 yrs	R/W

2	Waiver requests for general relocation regulations as contained in 49CFR24.204(a)	49 CFR 24.204(b)	R & A	As submitted by State	P & S	As needed	R/W
3	Local Public Agency Oversight	23 CFR 710.201(h)	Periodically R for C (State takes action)	As needed	R & A	As needed	R/W
4	Consolidated Annual Statistical Report	49 CFR 24.9 (c) & FHWA Order 6540.1	R & A & submit to HQ	Annually from State by Nov. 15	P & S	Annually by Nov. 15	R/W
5	Use of R/W Air Space authorization request (on Interstate system)	23 CFR 710.405	R & A	As submitted by State	P & S	As needed	R/W
6	Use of R/W Air Space authorization request (off Interstate system)	23 CFR 710.405	Periodically R for C (State takes action)	As needed	P & S	As needed	R/W
7	Access Break / R/W Disposal authorization request (if on Interstate system and limited access control facilities or fair market value not charged)	23 CFR 710.401 & 409, & AHTD R/W Procedure Manual	R & A	As submitted by State	P & S	As needed	R/W
8	Access Break / R/W Disposal authorization request (if not on Interstate system and fair market value charged)	23 CFR 710.409	Periodically R for C (State takes action)	As needed	P & S	As needed	R/W
9	Functional Replacement	23 CFR 710.509	Periodically R for C (State takes action)	As needed	P & S	As needed	R/W

10	Outdoor Advertising policies and procedures revisions	23 CFR 750.304	R & A	As needed or submitted by State	P & S	As needed	R/W
11	Outdoor Advertising sign removal projects	23 CFR 750.307	R & A	Project by project	P & S	As needed	R/W
12	Outdoor Advertising report (form FHWA 1424)	23 CFR 750.308	R for C and submit to HQ	As requested by HQ	P & S	Periodically	R/W
13	Lead Agency Uniform Act monitoring activities	49 CFR 24.603	R for C	As needed	Assist	As needed	R/W
14	Develop R/W oversight agreement	23 CFR 710.201(i)	R & A	Updated as needed	P & S	As needed	R/W
15	application Scenic Byways discretionary funds	HQ memo soliciting applications	R & Recommend action to HQ	Periodic (usually annually, date varies)	P, A, S	Annually - dates vary	R/W
R Research							
1	SPR work program	23 CFR 420.207	R & A	Annually by June 30	P & S	Annually	P&PD
2	Experimental Project work plans	FHWA LTAP Field Manual	R & A	Project by project	P & S	Project by Project	P&PD
3	LTAP centers work plan and budget	FHWA LTAP Field Manual	R & A	Annually by March 31	P & S	Annually	P&PD
4	RD&T State Certification	23 CFR 420.209(c)	R & A	Initially and as needed	P & S	As needed	P&PD
5	RD&T State Management Process	23 CFR 420.205(g) 23 CFR 420.209	R & A	Initially and as needed	P	As needed	P&PD

APPENDIX C

Public Involvement Meeting/Public Hearing Procedures

INTRODUCTION

The Arkansas State Highway and Transportation Department (AHTD) places high value and priority on public involvement throughout project development. In keeping with this goal and pursuant to 23 U.S.C. 128, 40 CFR parts 1500-1506, Executive Order 12898 and Title VI of the Civil Rights Act of 1964, AHTD has developed the following procedures to carry out a public involvement meeting/public hearing program. The difference between public involvement meetings and public hearings is that hearings have additional requirements regarding notices, comment gathering, and responding to comments.

PUBLIC INVOLVEMENT MEETINGS

Public involvement meetings in an open forum format will be used 1) on projects that Interdisciplinary Staff representatives determine have the potential for significant social, economic, and environmental (SEE) or other impacts or 2) on projects where substantial interest is expressed by the public. Public involvement meetings will be held as early in the preliminary engineering stage as feasible, and will utilize either the information trailer or local, well-known locations such as schools, churches, city halls, or other available locations.

Public involvement meetings do not have regulatory requirements for notifying the public, but to encourage citizen's participation, notification letters indicating the general nature of the proposed work will be sent to local governmental officials, the regional or metropolitan planning organization, and minority churches. The time, location, and nature of the public involvement meeting will be described in a news release by local print and broadcast media, and flyers will also be distributed in the project vicinity.

Special effort will be made to involve culturally diverse, elderly, and low-income stakeholders early in the planning process and during the project development phase. The public involvement meetings afford the public an opportunity for early involvement and

to participate in the decision making process on highway projects, and they also allow AHTD to establish local contacts, educate the public, and gather specific information relative to the project and its study area. Provision will be made for submitting written statements on a comment form. The final date for receiving statements or exhibits will be a minimum of 15 days after the public involvement meeting. A synopsis of public involvement meeting comments that will include the project location map and alternatives presented will be prepared following the end of the comment period.

At this stage of project development, AHTD may not know which level of environmental documentation is appropriate. It is possible that projects considered as Environmental Assessment (EA) or Environmental Impact Statement (EIS) levels of documentation could be downgraded as a result of data gathered at the public involvement meetings, and from public and agency comments.

Public involvement meeting responsibilities for AHTD personnel are:

1. Environmental Division determines the location, schedule, and local contact person, identifies Title VI and Environmental Justice concerns in the project area, develops project specific questionnaires for recording public responses and acquiring information about SEE issues and problems, and prepares a synopsis of comments received.
2. Planning and Research Division provides a current public officials database used to distribute notification letters and assists with public involvement meetings when deemed necessary.
3. Human Resources Division (EEO Section) provides a current database consisting of minority churches and assists with public involvement meetings when deemed necessary.
4. Public Affairs assists with press releases, media coverage, and public involvement meetings when deemed necessary.
5. Right-of-Way Division and Districts assist with public involvement meetings when deemed necessary.
6. Roadway Design Division provides the preliminary design for public involvement meetings and assists with public involvement meetings when deemed necessary.

PUBLIC HEARINGS

Public hearings are held to fulfill the requirements 23 CFR 771.111 and to present information contained in a project's environmental (NEPA) documentation prepared as an EA, EIS, or infrequently a Categorical Exclusion. Public Hearings have specific requirements for notifying the public. For projects documented by an EA, public hearings are held after the Environmental Assessment is completed and approved by the Federal Highway Administration (FHWA) for public dissemination. Written notice of the document's availability is required at least 30 days prior to location and/or design public hearings. An EIS level project requires a location public hearing to be held after a Draft Environmental Impact Statement (DEIS) is completed, approved by FHWA, and made available to the public. A legal notice will be advertised in the paper announcing the beginning of a 45-day public comment period for oral or written comments from all interested citizens. The legal notice will state when and where the public may review the document, will include a description of the project, its impacts, and the location and time of the public hearings.

Public Hearing Requirements

A location public hearing and a design public hearing will be held or an opportunity afforded for those hearings with respect to each Federal-aid highway project that requires processing of an EA or an EIS.

A single combined location and design public hearing will be held, or the opportunity for such a hearing afforded, for other Federal-aid projects when it is determined that this type of public hearing is in the public interest.

Additional hearing opportunities will be provided when there has been (1) a significant change in the proposal; (2) a substantial unanticipated development in the area affected; (3) an unusually long lapse of time since the last hearing; or (4) the identification of significant social, economic, and environmental effects not mentioned at previous hearings.

Opportunity for Public Hearings

The requirements for a public hearing may be satisfied by publishing a notice of opportunity for a public hearing. The procedure for requesting a public hearing will be explained in the legal notice. The deadline for submission of a hearing request may not be less than 30 days after the date of publication of the notice. Upon receipt of any request, AHTD may attempt to resolve the issues informally. Otherwise, AHTD will promptly set a time and place of the public hearing, and give due notice.

Requests for a public hearing will be granted unless AHTD, in consultation with FHWA, determines that the issues raised are not significant or there are no valid interests to be served by having a hearing. AHTD will make such a determination in writing, and communicate the reasons to all requesting parties. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or position.

Public Hearing Procedures

Notice of Public Hearing

When a public hearing is to be held, a notice of public hearing will be published at least twice in a newspaper having general circulation in the vicinity of the proposed undertaking. The first notice, a requirement, will be from 30 to 40 days before the date of the hearing, and the second notice or display ad will be from 5 to 15 days before the date of hearing. The timing of additional notices is optional.

AHTD's current practice is to publish the notice of public hearing in the form of a legal notice and as a display advertisement. The notice should also be published in any newspaper having a substantial circulation in the area concerned, and can include additional notices and ads in foreign language newspapers, minority newspapers, and local community newspapers. AHTD will mail notification letters to Federal agencies and local public officials, public advisory groups and agencies, who by nature of their function, interest, or responsibility, AHTD knows or believes, might be interested in or

affected by the proposal. AHTD will establish and maintain a list upon which any Federal agency, local public official, public advisory group or agency, civic association or other community group may enroll upon its request to receive notice of projects in any area specified by that agency, official, or group. AHTD Public Affairs will assist in press releases and media coverage. In response to Title VI requirements, notification letters will be mailed to the minority churches in the community and radio advertisements will run in the form of Public Service Announcements to reach the targeted audience.

Each notice of public hearing will specify the date, time, documents availability, and place of the hearing. The notice will also advise the public that the meeting is in compliance with the Americans with Disability Act.

Conducting Public Hearings

1. Public hearings will be held at a place and time generally convenient for persons affected by the proposed undertaking. Public hearings will be in an open forum format, which enables individuals to submit formal testimony on an individual basis.
2. A “Welcome to the Public Hearing” packet will be distributed at the hearing, which will contain general project information such as right-of-way acquisition and relocation assistance program procedures, and environmental impact documentation.
3. Handouts provided at public hearings will generally include: location maps, Title VI brochures, litter control information, and storm water material.
4. At public hearings, provision will be made for submitting written statements and other exhibits in place of, or in addition to, oral statements. The procedure for submitting statements will be described in the notice for the public hearing and at the public hearing. The final date for receiving statements or exhibits will be a

minimum of 10 days after the public hearing as long as the 45-day minimum comment period requirement is met.

1. At each location public hearing, pertinent information about location alternatives studied by AHTD will be available. At each design public hearing, pertinent information about the proposed design will be available, but at a minimum, a
2. design layout of the proposed project with estimated right of way limits designated on the plans shall be provided.

5. AHTD staff will be present at the public hearings in order to respond to comments and questions.

6. AHTD staff will be available to explain the relocation assistance, appraisal, and negotiation procedures.

7. AHTD staff will be available to explain the project's purpose, need, and consistency with the goals and objectives of any urban or regional plans as appropriate.

8. AHTD staff will be available to explain the social, economic, environmental, and other impacts of the project as appropriate.

9. At each public hearing, AHTD will announce or otherwise explain that, at any time after the hearing and before the location or design approval related to that hearing, all information developed in support of the proposed location or design will be available upon request of public inspection and copying.

10. The State-Federal relationship of the Federal-aid Highway Program will be described by an appropriate brochure, pamphlet, or statement of other means.

Documentation of Public Hearing

AHTD will prepare written transcript of the oral statements recorded which will be combined with the written comments received at each public hearing and submit a copy of these documented comments to the FHWA Division Administrator within a reasonable period after the public hearing. The following should be included with the public hearing report submittal:

- A certification that a required hearing or hearing opportunity was offered.
- Copies of, reference to, or photographs of each statement or exhibit filed in connection with a public hearing.
- Final Environmental document.
- A summary analysis of views and/or comments received concerning the project, which provides FHWA an adequate response to hearing comments.

MEMORANDUM OF AGREEMENT BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT FOR PROCESSING AND DOCUMENTATION OF CATEGORICAL EXCLUSIONS

WHEREAS, Section 771.107(b) of 23 Code of Federal Regulations (CFR) describes an action;

WHEREAS, Section 771.115 of 23 CFR describes classes of actions;

WHEREAS, Section 771.115(b) describes categorical exclusions as actions that do not individually or cumulatively have a significant environmental effect and are not excluded from the requirements of having to prepare an environmental impact statement or environmental assessment;

WHEREAS; Section 771.117(c) lists actions that meet the criteria for categorical exclusions outlined in Section 771.117(a) and that normally do not require any further National Environmental Policy Act (NEPA) approvals by the Federal Highway Administration (FHWA);

WHEREAS; Section 771.117(d) lists other actions that may meet the criteria for a categorical exclusion after Federal Highway approval; and

WHEREAS; Arkansas State Highway and Transportation Department (AHTD) and FHWA desire to concur in advance with the classification of those types of categorical exclusions in Section 771.117(d) which have no adverse environmental impacts;

THEREFORE, AHTD and FHWA mutually agree that an action that meets the following conditions is a categorical exclusion. If one or more of the conditions is not satisfied, a separate environmental document will be prepared for submittal to FHWA for review and approval.

- 1) The action does not have significant environmental impacts as described in 23 CFR 771.117(a);
- 2) The action does not involve unusual circumstances as described in 23 CFR 771.117(b);
- 3) The action meets the following criteria:

APPENDIX D

Memorandum of Agreement December 2007 Categorical Exclusions

- a) Does not involve the acquisition of more than minor amounts of temporary or permanent right-of-way (less than or equal to 10 acres). Acquisition of right-of-way in excess of 10 acres will be considered on a case-by-case basis. Such acquisitions will not require substantial commercial or residential displacements.
- b) Does not involve the use of properties protected by Section 6(f), Land and Water Conservation Fund Act (16 United States Code 460L-4 to L-11). Case-by-case evaluation will be made of projects where Section 6(f) impacts are the **only** environmental concern. These type projects may be supported with Tier 3 Categorical Exclusions accompanied by a Section 4(f) Evaluation.
- c) Does not involve work in farmlands where the Farmland Conversion Impact Rating form (Form AD-1600) indicates a total score of 160 or higher.

d) Does not involve projects that are entirely on new location where new location is defined as a substantial portion of the project corridor requiring right of way not immediately adjacent to the existing highway facility.

e) Does not involve the use of properties protected by Section 4(f) of the Department of Transportation act (49 United States Code 303). Case-by-case evaluation will be made of projects where Section 4(f) impacts are the **only** environmental concern. These type projects may be supported with Tier 3 Categorical Exclusions, accompanied by a Section 4(f) Evaluation.

f) Does not involve a determination of adverse effect by the State Historic Preservation Officer (SHPO), when the adverse effect cannot be satisfactorily mitigated per SHPO approval.

g) Does not involve any work encroaching on a regulatory floodway (other than by bridge over the floodway) or any work adversely affecting the base floodplain (100 year flood) elevations of a watercourse or lake.

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h) Does not involve construction in, across, or adjacent to the Buffalo National River, or any river designated as a component in the National System of Wild and Scenic Rivers published by the U. S. Department of the Interior/U. S. Department of Agriculture.

i) Does not involve any change in control of access for a highway facility.

j) Does not involve any known hazardous material/waste sites or previous land uses with potential for hazardous materials/wastes remaining within the project right-of-way.

k) Does not involve any work that may adversely affect federally listed endangered or threatened species or critical habitat.

l) Does not involve any work in a non-attainment area that may increase the traffic carrying capacity of a facility and cause additional air quality concerns.

WHEREAS, the environmental analysis and review for all projects determined to be a Tier One or Tier Two Categorical Exclusion by AHTD under this Memorandum of Agreement will be documented by AHTD provided to FHWA in digital format upon completion.

WHEREAS, the environmental analysis and review for all projects determined to be a Tier Three Categorical Exclusion by FHWA under this Memorandum of Agreement will be documented by AHTD and submitted to FHWA for review and approval.

NOW, THEREFORE, the signatories agree that the environmental documentation process shall proceed in accordance with the following stipulations.

AHTD/FHWA CATEGORICAL EXCLUSION DOCUMENTATION AND PROCESSING STIPULATIONS

In accordance with the National Environmental Policy Act (NEPA) and 23 CFR 771, AHTD and FHWA have divided categorical exclusions into three tiers for documentation purposes.

TIER 1: This level of categorical exclusion requires no documentation other than memo approval by the Division Head of the AHTD Environmental Division and includes the following project types:

- a) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
- b) Transportation corridor fringe parking facilities.
- c) Approval for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant impacts.
- d) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
- e) Construction of bus shelter facilities (an open area consisting of passenger shelters, boarding areas, kiosks, and related street improvements) when located in a commercial or other high activity center in which there is adequate street capacity for project bus traffic.
- f) Construction of 3R type projects that require only minor amounts of additional right-of-way.

g) Transportation enhancements as defined in Section 133 of 23 United States Code.

h) Intelligent Transportation System projects that do not require additional right of way.

TIER 2: This level of categorical exclusion requires documentation prepared by Environmental Division and approved by the Assistant Chief Engineer -Planning and includes the following:

a) Modernization of a highway by reconstruction, adding shoulders, or adding auxiliary lanes (e.g. parking, weaving, turning, climbing).

b) Bridge rehabilitation, reconstruction or replacement, or the construction of grade separations to replace existing at-grade railroad crossings.

c) Construction of new truck weigh stations or rest areas.

d) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is consistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support traffic.

e) Construction of new rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is consistent with existing zoning and where there is no significant noise impact on the surrounding community.

f) Construction of National Trail Program projects as defined in Section 106, Title 23 United States Code.

g) Acquisition of land for hardship or protective purposes; advance land acquisition loans under Section 3(b) of the UMT Act. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify as a categorical exclusion only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the transportation decision-making process. No project development on such land may proceed until the transportation decision-making process is complete.

TIER 3: This level of categorical exclusion requires documentation prepared by Environmental Division of AHTD and submitted to FHWA for review and approval

and includes any project that would otherwise be a Tier 1 or Tier 2 project, but does not satisfy one or more of the conditions listed in the body of this MOA. Additional actions that would qualify as Tier 3 Categorical Exclusions include (but are not limited to):

- a) Change in control of access for a facility.
- b) Widening on or along the existing alignment with minor environmental impacts, safety improvements on new location.
- c) Projects where less than five (5) property owners (businesses and/or residential) are displaced, and there are no other significant environmental impacts.
- d) Property acquisition for wetland mitigation.
- e) Endangered species involvement where a determination has been made that the action will not adversely affect federally listed endangered or threatened species or critical habitat.
- f) Projects involving rivers listed on the Nationwide Rivers Inventory or the Arkansas Natural and Scenic Rivers System.
- g) Projects involving property enrolled in the Wetlands Reserve Program administered by the U. S. Department of Agriculture, Natural Resources Conservation Service.
- h) Projects requiring a Standard (Individual) Section 404 Permit.
- i) Projects with minor environmental impact but requiring approval of design exceptions on the NHS or Interstate System, regardless of funding type.

Environmental Division will submit to FHWA (in digital format) all approved Tier 1 and Tier 2 Categorical Exclusions.

All projects proposed for NEPA documentation by Tier 3 Categorical Exclusions will be evaluated by FHWA on a case-by-case basis to ensure that they fit the criteria of Tier 3 Categorical Exclusions .