

# FHWA / NDOT STEWARDSHIP AGREEMENT



January 7, 2008

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**NEVADA  
FEDERAL-AID HIGHWAY PROGRAM  
STEWARDSHIP AGREEMENT**

**1. INTRODUCTION**

This Stewardship Agreement clarifies the roles and responsibilities of both the Nevada Division Federal Highway Administration (FHWA) and the Nevada Department of Transportation (NDOT) in implementing the Federal-aid highway program. In situations where the NDOT has accepted the responsibility for project oversight through the delegations provided in Title 23 United States Code Section 106 (23 USC 106) , NDOT will perform the relative role of the FHWA. This Stewardship Agreement is intended to result in the efficient and effective management of public funds, and to ensure that the Federal-aid highway program is delivered consistently with laws, regulations, policies and good business practices.

Since 1991, Federal highway legislation has allowed delegating project-level responsibilities to States for actions in design, plans, specifications, estimates, contract awards, and inspections of projects. This stewardship agreement documents the delegations, under 23 USC 106, from direct Federal oversight that is accepted by NDOT and recognized by FHWA. The delegation options of 23 USC 106 are desirable for NDOT for process streamlining. Delegations of responsibility are desirable for FHWA because reduced project-level involvement allows for more effective application of personnel resources, including the use of process/program reviews and risk management strategies.

Only actions and authorities contained in 23 USC 106 can be delegated. Other non-title 23 USC actions and authorities, such as NEPA approvals, right-of-way approvals, and planning program approvals are not delegated under this stewardship agreement.

This Stewardship Agreement contains chapters on 17 broad program areas that address most of the Federal-aid highway program. These program area chapters are arranged in alphabetical order, based on a general description of the program area. Most of these program names reflect common divisions of work related to highway projects, such as design, construction, maintenance, etc.

Upon executing this agreement, the FHWA and NDOT will establish a team composed of the FHWA Assistant Division Administrator and the Operations Engineer, and the NDOT Deputy Director/Chief Engineer and Assistant Director of Engineering, to develop, within 6 months, performance/compliance indicators that periodically gauge the effectiveness of delegated responsibilities. As a minimum, these indicators should address project cost escalation, level of oversight, and project delivery. NDOT will provide the performance/compliance indicator data to the FHWA Division office on a predetermined schedule. The result of this team effort will be documented in an FHWA/NDOT Memorandum of Understanding, and become a part of this agreement.

## 2. DELEGATIONS OF RESPONSIBILITY UNDER 23 USC 106

TYPE OF PROJECT	PRIMARY OVERSIGHT RESPONSIBILITY	OVERSIGHT DESCRIPTION
Interstate projects >\$25 million*	FHWA	FULL OVERSIGHT
NHS-projects with construction cost >\$100 million*	FHWA	FULL OVERSIGHT
NHS-projects with construction cost <\$100 million	NDOT	STATE ADMINISTERED
Non-NHS - other projects	NDOT	STATE ADMINISTERED
All Intelligent Transportation System (ITS)	FHWA	FULL OVERSIGHT
Projects Selected by Mutual Agreement **	FHWA	FULL OVERSIGHT
Local Projects	NDOT	LPA

NHS-projects are defined by system irrespective of Federal funding source. The NHS system includes NHS connectors.

\* Excluding 3R and Landscaping projects, outlined in a Programmatic Agreement for Inherently Low Risk Oversight Projects on the Interstate System.

\*\* An FHWA & NDOT team will annually select projects by mutual agreement.

Examples of projects likely to be selected by mutual agreement for FHWA Full Oversight:

- Complex Emergency Relief Projects
- Complex Urban Reconstruction Projects
- Major Structure Projects
- Congressional Earmarks

FHWA involvement in projects selected by mutual agreement may be limited to key project components. The components could include specific project phases such as design or construction. These projects will be identified to both agencies via a memorandum jointly signed by the FHWA Assistant Division Administrator and the NDOT Deputy Director. NDOT will indicate Full Oversight projects in PCEMS with an asterisk (\*). The components of FHWA oversight will be determined by mutual agreement at the time of selection. All NEPA documents are approved by FHWA. Projects will also be monitored by FHWA as part of process/program reviews.

For an overview of the elements of a project in which FHWA is involved on full oversight, see the chart on the following page.

**FEDERAL-AID PROJECT INVOLVEMENT  
Required FHWA Project-Level Actions**

	<i>Begin Project</i>
	<b>STIP</b>
	<b>NEPA-Environment</b>
	<b>Authorization</b>
	Preliminary Engineering (pre-NEPA clearance)
	Final Design (post-NEPA clearance)
	Right-of-Way
	Utility Adjustment
<b>All</b>	
<b>Projects</b>	<b>Project Agreement</b>
	Design Exception
<b>Are</b>	Proprietary Product
<b>Subject to</b>	State Owned/Furnished Material
<b>Special</b>	Plans, Specifications, and Estimate (usually combined with Construction Authorization)
<b>Reviews</b>	<b>Authorization</b>
	Receipt of Bids/Construction
	Construction Engineering
<b>&amp;/or</b>	Concurrence in Award
<b>Technical</b>	Change Order
<b>Assistance</b>	Time Extension
<b>by FHWA</b>	Claim Adjustment
<b>At Any</b>	Final Inspection
	Final Acceptance
<b>Time</b>	<b>Final Voucher</b>
	<b>End Project</b>

**Key:** All steps shown require FHWA action on Full Oversight Federal-aid Projects. The steps in Bold require FHWA interaction on State Administered Federal-aid Projects or Locally administered Federal-aid Projects.

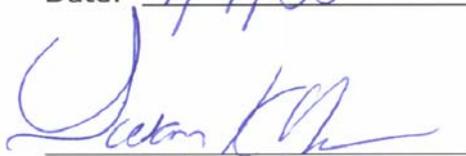
For additional information on oversight responsibility by NDOT and FHWA, see the discussion and charts in the various program area chapters. The applicable references noted reflect a summary of the key legal, regulatory and guidance documents for each chapter.

FHWA and NDOT mutually agree to the delegations defined in this section of the Stewardship Agreement as allowed by 23 USC 106, and further agree to abide by the procedures, practices, and business standards outlined throughout this Stewardship Agreement.

It is further agreed that incremental changes may be made to this agreement with the concurrent approval of the Deputy Director of the NDOT and the Assistant Division Administrator of FHWA for Nevada, while retaining the integrity of the overall Stewardship Agreement. These changes must be dated and distributed to FHWA and NDOT to assure that actions are guided by the most current agreement provisions.

APPROVED: 

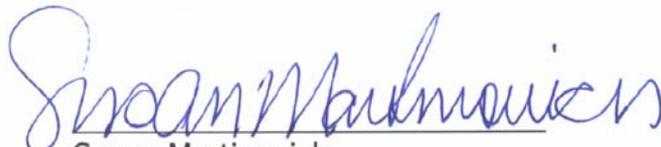
Date: 1/7/08



Susan Klekar  
Division Administrator  
Federal Highway Administration

APPROVED: 

Date: Jan 7, 2008



Susan Martinovich  
Director  
Nevada Department of Transportation

### **3. STEWARDSHIP PLAN PROGRAM AREAS**

- A. BRIDGES AND STRUCTURES**
- B. CIVIL RIGHTS**
- C. CONSTRUCTION AND CONTRACT ADMINISTRATION**
- D. DESIGN**
- E. EMERGENCY RELIEF**
- F. EMERGENCY/SECURITY**
- G. ENVIRONMENT**
- H. FINANCIAL MANAGEMENT**
- I. INTELLIGENT TRANSPORTATION SYSTEMS (ITS)**
- J. LOCAL PUBLIC AGENCY PROJECTS**
- K. MAINTENANCE**
- L. PAVEMENT AND MATERIALS**
- M. PLANNING**
- N. RESEARCH, DEVELOPMENT AND TECHNOLOGY**
- O. RIGHT-OF-WAY**
- P. SAFETY**
- Q. TRAFFIC OPERATIONS**

## A. BRIDGES AND STRUCTURES

### 1) Program Overview

The FHWA is responsible for administering the Highway Bridge Program (HBP). The purpose of the program is to improve the condition of highway bridges over waterways, other topographical barriers, other highways, and railroads through replacement and rehabilitation of bridges that the State and the Secretary determine are structurally deficient or functionally obsolete and through systematic preventative maintenance of bridges.

The FHWA is responsible for administering the National Bridge Inspection Standards (NBIS) and National Bridge Inventory (NBI). The NBIS requires that all highway bridges over 20 feet in length be inspected at least once every two years. Certain structures, such as box culverts, may be inspected at a lesser frequency if past experience and analysis justifies it.

The NBI also requires the State to ensure that all bridges, except Federally owned, within its borders - including county and municipal owned bridges - are inspected in accordance with the NBIS. All bridges over 20 feet in length are also required to be listed on the State's inventory and their inventory information is to be submitted annually to FHWA to be included in the NBI. Border bridges must appear in the State's bridge inventory regardless of ownership and inspection responsibility.

Other non-bridge program funds administered by FHWA may be used to construct or rehabilitate bridges. Project approval actions are similar to those that apply to the Highway Bridge Program (HBP) except the existing bridge need not be deficient.

Federal bridge funds may also be used for preventive maintenance on bridges included in the national inventory that are not owned by a federal agency. Other eligible items include but are not limited to:

- Seismic retrofits,
- Scour countermeasures,
- Bridge painting,
- Bridge rail replacement or retrofit.

### 2) Applicable Laws, Regulations, and Orders

- [23 USC 144](#) Highway Bridge Program (HBP)
- [23 USC 151](#) National Bridge Inspection Program
- [23 CFR 650](#) Bridges, Structures, and Hydraulics

### 3) Program Approval Actions

- FHWA will make an annual determination of compliance with the NBIS.
- NDOT will submit the annual NBI data to FHWA Headquarters.
- NDOT will submit bridge unit cost data, to be reviewed by the FHWA Division Office and forwarded to FHWA Headquarters.
- NDOT is required to carry out a [Value Engineering \(VE\)](#) analysis for all Federal-aid highway funded bridge projects on the NHS with an estimated total cost of \$20 million or more.

### 4) Project Approval Actions

- FHWA will approve eligible bridge projects that are on the NHS according to the Project Activity Approval Chart shown in this section.
- Unusual or complex bridge projects on the Interstate System will require FHWA Headquarters review and approval of the preliminary Type Size and Location (TS&L) report.
- Unusual, complex, or large bridges located off the Interstate or NHS system may be designated for increased FHWA oversight ranging from technical assistance to preliminary plan review and approval, to complete Plans, Specifications & Estimates (PS&E) approval, as appropriate. NDOT and the Nevada Division Office will make this determination on a case-by-case basis.

### 5) Monitoring

FHWA Nevada Division Office will:

- Screen bridges for eligibility for HBP based on the selection list.
- Review and approve environmental documents.
- Review project concept reports.
- Review Quarterly reports for bridge critical findings.
- Review semi-annual scour evaluation and underwater inspection program.
- Perform special process reviews of specific program elements such as hydraulics, geotechnical, design, or construction on a periodic basis.
- Perform annual reviews to establish compliance with the NBI.
- Review Bridge Construction Unit costs submittal.
- Perform Annual Bridge Maintenance Inspection Audits.

### 6) Business Standards

- NDOT will submit the annual update of NBI data to FHWA by April 1<sup>st</sup> of each year.
- NDOT will submit the Bridge Construction Unit Cost data to FHWA by March 1<sup>st</sup> of each year.
- NDOT will submit the "Bridge Critical Maintenance Report" quarterly.

## 7) **Approved Procedures/Agreements/Manuals**

- NDOT Structures Manual (Pending)
- NDOT Project Design Development Manual
- NDOT Standard Specifications for Road and Bridge Construction
- NDOT Standard Plans for Road and Bridge Construction
- NDOT Bridge Inspection Procedures
- NDOT Geotechnical Policies and Procedures Manual
- NDOT Local Public Agency Manual (pending)
- NDOT Right-of-Way Manual
- [FHWA Recording and Coding Guide for the Structural Inventory and Appraisal of the Nation's Bridges](#) and [Errata Sheet](#)
- FHWA Seismic Retrofitting Manual for Highway Bridges
- [FHWA Value Engineering Policy](#)
- AASHTO Standard Specifications for Highway Bridges
- [FHWA Bridge Engineers Program Manual](#)
- AASHTO LRFD Bridge Design Specifications
- AASHTO Guide Specifications for Horizontally Curved Steel Girder Highway Bridges
- AASHTO Guide Specifications for Design and Construction of Segmental Concrete Bridges
- AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals
- FHWA Technical Advisory [T 5140.21](#), REVISIONS TO THE NATIONAL BRIDGE INSPECTION STANDARDS
- AASHTO Manual for Condition Evaluation of Bridges, with interims
- ANSI/AASHTO/AWS D 1.5 Bridge Welding Code
- Union Pacific Railroad Guidelines for Design of Highway Separation Structures over Railroad (Overhead Grade Separation)
- Union Pacific Railroad Guidelines for Design and Construction of Grade Separation Underpass Structures
- Union Pacific Railroad Guidelines for Preparation of a Bridge Demolition and Removal Plan for Structures over Railroad
- AREMA Manual for Railway Engineering
- AASHTO Guide Specifications for Structural Design of Sound Barriers

<b>BRIDGE PROJECT ACTIVITY APPROVAL CHART</b>				
<b>PROJECT ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b><u>FULL OVERSIGHT</u></b>	<b><u>STATE ADMINISTERED</u></b>	<b><u>Other Projects by Mutual Agreement</u></b>
HBP eligibility determinations	<a href="#">23 CFR 650 Subpart D</a>	FHWA	FHWA	FHWA
TS & L	<a href="#">23 USC 106</a> <a href="#">23 CFR 630</a>	FHWA	NDOT	FHWA/NDOT
PS & E	<a href="#">23 USC 106</a> <a href="#">23 CFR 630</a>	FHWA	NDOT	FHWA/NDOT
Bridges not requiring U.S. Coast Guard Permit	<a href="#">23 CFR 650.805</a>	FHWA	NDOT	NDOT

<b>BRIDGE PROGRAM ACTIVITY APPROVAL CHART</b>		
<b>PROGRAM</b>	<b>REFERENCE</b>	<b>AGENCY RESPONSIBLE</b>
NBIS Review	<a href="#">23 CFR Subpart C</a>	FHWA
Bridge Unit Cost submittal	<a href="#">23 CFR 650 Subpart D</a>	NDOT
Discretionary Bridge Candidate submittals	<a href="#">23 CFR 650 Subpart G</a>	NDOT
Innovative Bridge Research and Construction Program candidate submittals	<a href="#">23 USC 503 (b)</a>	NDOT
Construction Inspections	<a href="#">FAPG G 6042.8</a>	FHWA/NDOT
Semi-Annual scour updates		NDOT
Reports for: Bridge Posting, Critical Findings, and Inspection Frequency (as needed).	<a href="#">23 CFR 650 Subpart C - Non-Regulatory Supplement</a>	NDOT

## B. CIVIL RIGHTS

### 1) Program Overview

The FHWA and NDOT are committed to effectively implement and enforce civil rights programs within NDOT in its planning, construction, and management of the Nevada multimodal transportation system. Federal law establishes the State as responsible for nondiscrimination as the recipient of Federal-aid. If projects are managed by a sub-recipient, NDOT must ensure that the sub-recipient is qualified and equipped to perform the work. If sub-recipients are involved, NDOT is obligated to ensure nondiscrimination in all programs and activities, and in the provisions of all services and benefits, as a basis for continued receipt of FHWA funds. NDOT can delegate the activity, but cannot delegate the responsibility.

#### a. Tribal Governments

NDOT will require contractors to work with the Tribal Employment Rights Office (TERO) for hiring non-core workers on Federal-aid projects or portions of Federal-aid projects on or near boundaries of a reservation. NDOT will negotiate with tribal officials to address TERO fees and regulations the department will enforce while the contractor is working on or near a reservation.

### 2) Applicable Laws, Regulations, and Orders

- [Title VI of the 1964 Civil Rights Act](#)
- Equal Employment Opportunity Act of 1972
- Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Americans with Disabilities Acts of 1967 & [1990](#), [28 CFR 35](#), [28 CFR 36](#), [49 CFR 27](#), [39 CFR 37](#), [23 CFR 652](#) (Design)
- Civil Rights Restoration Act of 1987
- [23 USC 140](#), [142](#), [324](#)
- [49 CFR 21](#) & [26](#)
- [23 CFR 200](#), [230](#), [633](#),
- [13 CFR 121](#)
- [29 CFR 1](#), [3](#), [5](#), [6](#), [7](#)
- [Executive Order 11246](#), [13256](#), [13339](#), 12250, [13230](#), [13270](#)

### 3) Program Approval Actions

- FHWA will review and approve NDOT's Disadvantaged Business Enterprise (DBE) Program and Supportive Service (SS) Plan.
- NDOT will submit reviews and audits of all Federal-aid Highway contracts of \$10,000 or more for contract compliance to FHWA.

- NDOT will review and approve On-the-Job Training Programs in coordination with FHWA and the Labor Commissioners Office.
- NDOT will submit labor compliance data to be reviewed by the FHWA Division Office and forwarded to FHWA Headquarters.
- NDOT will develop and FHWA will approve Title VI/Non-discrimination Programs.

#### 4) Project Approval Actions

- FHWA will approve DBE goals.
- Project specific DBE Program goals as part of the PS&E package will be submitted to the FHWA for review and acceptance.
- A Tribal Employment Rights Ordinance developed by the Tribe may be discussed and an agreement between NDOT and Tribal Governments may developed for each Federal-aid project on state maintained roads on, or partially on and near, a reservation. Terms and conditions of the agreement may be included in contract documents (i.e. TERO special provisions, etc.).

#### 5) Monitoring

FHWA will review and approve NDOT's civil rights programs on an ongoing basis through process and program reviews, and through active participation in continuous program evaluation and improvement. Appropriate FHWA representatives will participate in NDOT initiated reviews, task forces, and civil rights initiatives upon request and to the extent feasible. FHWA will analyze civil rights reports submitted by NDOT to help identify trends and provide feedback and recommendations to NDOT.

The NDOT will monitor and review subrecipients for compliance with the Title VI and other civil rights programs as needed. These compliance reviews will be forwarded to the FHWA Nevada Division office upon completion.

#### 6) Business Standards

WORK ACTIVITY	NDOT ACTION	FHWA ACTION	COMMENTS
DBE Program Plan Revisions	Prepare and Submit to FHWA as Required	Review and act upon (20 Working Days)	Updates Accurately Reflect Appropriate Program Changes
DBE Program Annual Goal	Prepare and Submit to FHWA Annually by August 1	Review and approve (90 Days)	
Title VI Program Update	Prepare and Submit to FHWA upon Completion	Review and act upon (20 Working Days)	Updates accurately reflect NDOT's Title VI Program
State Internal AA/EEO and Contract Compliance Program Reports (Title VII)	Prepare and Submit to FHWA within One Year From the Date of Approval of the Preceding Program	Review and Act Upon (20 Working Days)	Report is Accurate and Meets CFR Requirements

<b>WORK ACTIVITY</b>	<b>NDOT ACTION</b>	<b>FHWA ACTION</b>	<b>COMMENTS</b>
(Includes EEO-4 Report)			
Annual Contractor Employment Report-PR1392	Prepare and Submit to FHWA No Later Than September 25 of Each Year	Review and File. Submit to FHWA HQ	
Contractor Compliance Review Schedule and Reports	Prepare and Submit to FHWA Upon Completion	Review and Act Upon (30 Working days)	
Subrecipient Compliance Review Schedule and Reports	Prepare and Submit to FHWA Upon Completion	Review and Act Upon (30 Working days)	
DBE and OJT Supportive Service Work Requests/ Reports	Prepare and Submit to FHWA per Contract (monthly or quarterly)	Review and Act Upon (30 Working days)	
On-the-Job Training Program	Prepare and Submit to FHWA (No Later than March 1 of Each Year)	Review and Act Upon (30 Working Days)	
On-the-Job Training Goals and Accomplishments	Prepare and Submit (No Later Than November 30 of Each Year)	Review and Act Upon (30 Working Days)	Previous year's accomplishments and current year's projection
State Internal EEO Affirmative Action Plan and Annual Updates	Prepare and Submit to FHWA Annually	Review and Act Upon (20 working days)	
TERO Agreement	Work with TERO when appropriate	Not Normally Required	NDOT to screen projects for applicability

## 7) **Approved Procedures/Agreements/Manuals**

- DBE Program Administration Document
- [FHWA Civil Rights Program Toolkit \(2007\)](#)
- Other Manuals Used by NDOT Not Requiring FHWA Approval:
  1. Title VI Permanent Program Plan
  2. Davis-Bacon Wage & Payroll Requirements Manual

## I. CONSTRUCTION & CONTRACT ADMINISTRATION

### 1) Program Overview

The FHWA is required to assure compliance with Federal-aid contract provisions on projects that utilize Federal-aid funds. Federal responsibility includes assuring that procedures are followed in advertising and awarding Federal-aid contracts. By Federal law FHWA contract administration responsibilities include (but are not limited to):

- Project Authorization
- Competitive Bidding
- Contract Awards
- Buy America provisions

FHWA is responsible for inspecting construction projects utilizing Federal-aid funds. The primary purposes of FHWA review and administration in construction are to protect the public investment, assure effective quality controls, and to verify the project is completed in accordance with the plans, specifications and special provisions. Title 23 USC 106 allows FHWA delegating to the state DOT construction review, oversight and administration responsibilities, except those not based on Title 23 Federal requirements. The FHWA construction monitoring responsibilities include, but are not limited to:

- Quality Control and Improvement
- Contract Claims
- Change Orders
- Payments to Contractors

To ensure high quality products are constructed, FHWA provides technical assistance in problem solving and recommendations for improving State and local construction programs.

FHWA also provides sharing state-of-the-art practices and innovations in materials, equipment, construction practices and contracting methods to highlight best practices.

### 2) Applicable Laws, Regulations, and Orders

- [23 USC 102](#), [106](#), [112](#), [114](#), [117](#), [121](#)
- 40 USC 276(a) Davis-Bacon Act
- [23 USC 113](#) Prevailing Rate of Wage
- [23 CFR 635](#) Construction and Maintenance
- [23 CFR 637](#) Construction Inspection and Approval (Quality Assurance Procedures for Construction)

### **3) Program Approval Actions**

- FHWA will have approval authority for the authorization and obligation of Federal-Aid funds.
- FHWA will have approval authority over NDOT's Standard Specifications and Special Provisions.
- FHWA will have approval authority over NDOT's Construction Manual
- FHWA will have approval authority over NDOT's Documentation Manual

### **4) Project Approval Actions**

- FHWA will authorize all Federal-aid projects through the Financial Management Information System (FMIS).
- FHWA will approve project agreements, modified project agreements, and final vouchers on all Federal-aid projects.

### **5) Monitoring**

FHWA Division Office will:

- Evaluate the State and local agencies' transportation construction programs, including their procedures and controls to assure transportation improvements are constructed in accordance with approved standards and acceptable contracting methods.
- Evaluate the quality of materials, equipment, construction practices, and workforce used to evaluate the quality of the constructed product and report findings to NDOT.
- Track the cost of Federal-aid construction projects >\$10 million to determine the relationship of the final cost to the amount bid for the project and report findings to NDOT.
- FHWA will conduct routine project and final inspections on Full Oversight Federal-aid new construction or re-construction of Interstate highway projects and Federal-aid NHS projects greater than \$25 million, excluding 3R Projects.
- For all other Federal-aid projects, FHWA may conduct inspections, including final inspections, on a statewide sampling basis.

NDOT will:

- Provide a final report on completed Full Oversight projects or on any Federal-aid project on request.

### **6) Business Standards**

- NDOT will allow FHWA 15 working days, from receipt date, to review Special Provisions, PS&E's, construction plans and major change orders. This time frame

may be reduced in emergency or unusual situations. For complex projects, the NDOT will allow FHWA 30 working days.

- FHWA will complete its final acceptance reports within three months of receipt of NDOT's notification.

## **7) Approved Procedures/Agreements/Manuals**

- NDOT Project Design Development Manual
- NDOT Construction Manual
- NDOT Documentation Manual
- NDOT Right-of-Way Manual
- NDOT Standard Specifications for Road and Bridge Construction
- NDOT Special Provisions
- NDOT Erosion Control Manual
- [FHWA Contract Administration Core Curriculum Manual](#)

## CONSTRUCTION PROJECT ACTIVITY APPROVAL CHARTS

PROJECT ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	Reference	<u>FULL OVERSIGHT</u>	<u>STATE ADMINISTERED</u>	<u>Other Projects by Mutual Agreement</u>
Approve exceptions to competitive bidding	<a href="#">23 CFR 635.104</a> & <a href="#">204</a>	FHWA	NDOT	JOINT
Approve advertising period of <3 weeks	<a href="#">23 CFR 635.112</a>	FHWA	NDOT	JOINT
Concur in award of contracts	<a href="#">23 CFR 635.114</a>	FHWA	NDOT	JOINT
Concur in rejection of bids	<a href="#">23 CFR 635.114</a>	FHWA	NDOT	JOINT
Approve change and extra work orders	<a href="#">23 CFR 635.120</a>	FHWA	NDOT	JOINT
Approve time extensions	<a href="#">23 CFR 635.121</a>	FHWA	NDOT	JOINT
Accept material certifications	<a href="#">23 CFR 637.207</a>	FHWA	NDOT	JOINT
Settlement of claims*	<a href="#">23 CFR 635.124</a>	FHWA	NDOT	JOINT
Termination of contracts	<a href="#">23 CFR 635.125</a>	FHWA	NDOT	JOINT
Final Acceptance & Final Inspection	<a href="#">23 USC 114(a)</a> & <a href="#">121</a>	FHWA	NDOT	JOINT
Construction inspections	23 CFR 635 <a href="#">23 USC 114(a)</a>	FHWA	NDOT	JOINT
Determination of cost-effective methods	<a href="#">23 CFR 635.204</a> & <a href="#">104</a>	FHWA	FHWA	JOINT
Emergency Relief**	<a href="#">23 CFR 668</a>	FHWA	NDOT	JOINT
Project Construction Authorization	<a href="#">23 CFR 635.106</a>	FHWA	FHWA	FHWA

\*If Federal-aid funds are used in claim settlement. If only State funds are used, NDOT will notify FHWA.

\*\*See Emergency Relief Section

## J. DESIGN

### 1) Program Overview

Design is a phase of project development that can begin in the planning stage, occurs through the environmental stage, and comes to completion with approval of the PS&E. The FHWA-NDOT stewardship arrangement provides for a mix of project-level and program-level Federal oversight of design.

To increase involvement and input in early project planning and scoping, FHWA participates in preliminary design field studies for projects on Full Oversight projects. This allows FHWA to get a better understanding of early conceptual project planning and design considerations, and to participate in that transition zone between the transportation planning process and the earliest stage of project development. It will also provide FHWA an opportunity for early input into the design considerations/parameters based on identified planning and environmental issues. This process will tie in with the long-range planning and management systems as a means of selecting projects. This is considered an important step toward improving the partnership association and cooperation in joint stewardship.

Periodic in-depth process reviews may be undertaken by FHWA or by FHWA and NDOT. Projects selected could include NHS projects costing less than \$25 million or Full Oversight projects. These reviews will be scheduled as part of FHWA annual work plan following discussion with NDOT management. Such reviews may focus on design standards, as well as design exceptions, that NDOT has executed. Other elements, such as pavements, structures, safety, materials, construction zone signing, and utilities, may be selected for review. In addition, NDOT's internal plan development and review process could be included.

Generally, non-NHS projects are not subject to FHWA oversight in the project-level design process. The FHWA Division Office conducts limited checks for eligibility, and limits involvement in project-level design to issues directly related to environmental determinations and provides response to NDOT requests for technical assistance.

As a minimum, NDOT will perform Value Engineering Analyses on Federal-aid projects estimated to cost \$25 million or more, and for Federal-aid bridge projects expected to exceed \$20 million. The FHWA Division Administrator – or NDOT at its discretion - may designate other projects for which a Value Engineering Analysis is needed.

**Major Projects** – A Federal-aid project with an estimated total cost of \$500 million or more is considered to be a Major Project. NDOT agrees to develop a Project Management Plan and an annually updated Financial Plan. For Federal-aid projects with an estimated total cost of \$100 million or more, NDOT agrees to annually prepare financial plans. These financial plans do not require FHWA approval, but FHWA reserves

the right to review and comment on these plans. Financial plans or Project Management Plans may be required for other projects as identified by the FHWA Division Administrator in consultation with NDOT.

**Project Delivery** - Annually, FHWA will perform - independently or in conjunction with NDOT - process or program reviews to cover elements of NDOT's project delivery system, involving one or more activities in the life cycle of a project from conception to completion. Prioritization and performance of these reviews will generally be in response to comprehensive risk analyses.

FHWA may be involved on a programmatic basis in other elements of design, irrespective of NDOT's assumption of responsibility for certain projects. Examples of these elements include pavement design, hydraulic design, and specification development.

FHWA will ensure that appropriate NDOT personnel are informed of changes to Federal requirements; innovative processes, procedures, and equipment, and technological advances which may affect the design process and product quality.

FHWA will continue to promote and participate in design-related training.

## **2) Applicable Laws, Regulations, and Orders**

- [23 USC 109](#) Standards
- [23 CFR 620](#) Engineering
- [23 CFR 625](#) Design standards for highways
- [23 CFR 627](#) Value engineering
- [23 CFR 630](#) Preconstruction procedures
- [23 CFR 635](#) Construction and Maintenance
- [23 CFR 636](#) Design-build contracting
- [23 CFR 645](#) Utilities
- [23 CFR 470](#) Highway Systems
- [23 CFR 650](#) Bridges, structures, and hydraulics
- [23 CFR 652](#) Pedestrian and bicycle accommodations and projects
- [23 CFR 655](#) Traffic Operations
- [23 CFR 710](#) Right-of Way and Real Estate
- [28 CFR 35](#) Nondiscrimination on the Basis of Disability in State and Local Government Services
- [28 CFR 36](#) Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities
- [49 CFR 27](#) Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance
- [49 CFR 37](#) Transportation Services for Individuals with Disabilities [Americans with Disabilities Act (ADA)]

- [FHWA Major Project Guidance](#)
- FHWA Major Project Guidance on [Right-of-Way](#)
- NDOT Value Engineering Policy

### **3) Program Approval Actions**

- FHWA will have approval authority over NDOT's Standard Plans for Road and Bridge Construction.
- FHWA will have approval authority over NDOT's Standard Specifications for Road and Bridge Construction.
- FHWA will have approval authority over NDOT's consultant selection procedures.
- FHWA will have approval authority over NDOT's Project Design Development Manual.

### **4) Project Approval Actions**

- FHWA will approve the final PS&E on all full oversight projects and mutually agreed upon projects. Project approval actions applicable to design are included in the PROJECT ACTIVITY APPROVAL CHART in this section.
- Environmental clearance must be obtained from FHWA prior to beginning the final design or acquiring right-of-way on projects requiring a Federal action.
- NDOT will submit Full Oversight contract documents to FHWA prior to advertisement.

### **5) Monitoring**

- FHWA will monitor project design through step-by-step involvement in projects on Full Oversight projects.
- For State Administered projects, design exceptions will be monitored and reviewed on a periodic basis.
- Other facets of design will be monitored on a programmatic basis, with special reviews normally precipitated by FHWA's risk-assessment process and FHWA-NDOT mutual risk-assessment discussions.

### **6) Business Standards**

- NDOT will provide FHWA 15 working days, from receipt date, to review and comment on Preliminary Design Field Survey Reports on Full Oversight projects.
- NDOT will provide FHWA 15 working days (30 days for complex projects) from receipt date to review/approve PS&E's on Full Oversight projects.
- NDOT will provide FHWA 30 working days to review Change in Control of Access Reports (i.e., Interchange Justification Reports, Change in Interstate Access Requests).

- FHWA will respond to NDOT on changes to the Project Design Development Manual within 30 working days of request.
- FHWA will respond to NDOT on design exceptions within 10 working days of request.

## 7) **Approved Procedures/Agreements/Manuals**

- NDOT Project Design Development Manual
- NDOT Local Public Agency Manual
- NDOT Erosion Control Manuals
- Accommodation of Utilities on State Highway Right-of-Way – Policies and Procedures
- Utility Relocations, Adjustments, and Reimbursement – Policies and Procedures
- NDOT Standard Specifications for Road and Bridge Construction
- NDOT Standard Plans for Road and Bridge Construction
- NDOT Right-of-Way Manual
- NDOT Qualified Product List
- NDOT Landscaping and Aesthetic Master Plan \*
- NDOT Corridor Plans and Studies \*
- [Manual on Uniform Traffic Control Devices \(MUTCD\)](#)
- [Standard Highway Signs](#)
- AASHTO A Policy on Geometric Design of Highways and Streets
- AASHTO A Policy on Design Standards Interstate System
- AASHTO Roadside Design Guide
- [FHWA Contract Administration Core Curriculum Manual](#)
- NDOT Access Management Manual

\* Reference only. Not approved by FHWA.

<b>DESIGN PROJECT ACTIVITY APPROVAL CHART</b>				
<b>PROJECT ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b><u>FULL OVERSIGHT</u></b>	<b><u>STATE ADMINISTERED</u></b>	<b><u>Other Projects by Mutual Agreement</u></b>
Design standards, policies and standard specifications for applications to geometric and structural design	<a href="#">23 CFR 625</a>	FHWA	NDOT	JOINT
Design exceptions *	<a href="#">23 CFR 625.3</a>	FHWA	NDOT	JOINT
Value engineering **	<a href="#">23 CFR 627</a>	FHWA	NDOT	NDOT
Monitoring Federal-aid highway design projects	<a href="#">23 CFR 630</a>	FHWA	NDOT	JOINT
PS&E review and approval / project authorization	<a href="#">23 CFR 630.106</a> & <a href="#">23 CFR 630.205</a>	FHWA	NDOT	JOINT
Traffic control plans, Work Zone Plans	<a href="#">23 CFR Subpart E</a> & <a href="#">23 CFR 630.1010</a> & <a href="#">Work Zone Final Rule (Sept 9, 2004)</a>	FHWA	NDOT	JOINT
Interstate System Access Revision	<a href="#">23 CFR 470</a> & <a href="#">23 CFR 710</a> & <a href="#">23 CFR 625</a>	FHWA	NA	NA
Non-Interstate Access Control	<a href="#">23 CFR 470</a> & <a href="#">23 CFR 710</a> & <a href="#">23 CFR 625</a>	NA	NDOT	JOINT
Material or product selection: proprietary products, recycled materials, public interest findings	<a href="#">23 CFR 635.411</a>	FHWA	NDOT	JOINT
Design-build	<a href="#">23 CFR 636</a>	FHWA	NDOT	NDOT
Utilities	<a href="#">23 CFR 645.113</a>	FHWA	NDOT	JOINT

\* FHWA approves Interstate design exceptions regardless of project funding source.

\*\* For projects greater than \$25 million and for bridge projects greater than \$20 million.

<b>DESIGN PROJECT ACTIVITY APPROVAL CHART</b>				
<b>PROJECT ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b><u>FULL OVERSIGHT</u></b>	<b><u>STATE ADMINISTERED</u></b>	<b><u>Other Projects by Mutual Agreement</u></b>
Hydraulics design, erosion and sediment control design	<a href="#">23 CFR 650.1155</a> & <a href="#">23 CFR 650.211</a>	FHWA	NDOT	JOINT
Pedestrian and bicycle accommodations and design	<a href="#">23 CFR 652.13</a>	FHWA	NDOT	JOINT
ADA criteria and design *	<a href="#">23 CFR 652</a> , <a href="#">28 CFR 35</a> & <a href="#">36</a> , <a href="#">49 CFR 27</a> & <a href="#">37</a>	FHWA	FHWA	JOINT
Annual Financial Plan for projects >\$100 Million	SAFETEA-LU	NDOT	N/A	N/A
Project Management Plan and Financial Plan for Major Projects	SAFETEA-LU	FHWA	N/A	N/A

\* FHWA is ultimately responsible for ADA in all public rights-of-way (NHS, State, or local)

## **K. EMERGENCY RELIEF**

### **1) Program Overview**

The Emergency Relief (ER) program uses allocated funds for the repair or reconstruction of Federal-aid highways that have suffered serious damage as a result of (1) natural disasters or (2) catastrophic failures from an external cause. This 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.

ER funds are not intended to cover all damage repair costs nor interim emergency repair costs that will restore the facility to pre-disaster 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 must meet a combined threshold of \$700,000. Individual sites must reach a threshold of \$5,000 in total cost to be eligible. This threshold is to distinguish a qualifying disaster site from maintenance.

### **2) Applicable Laws, Regulations, and Orders**

- [23 USC 125](#)
- [23 CFR 668](#)

### **3) Program Approval Actions**

- The NDOT 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 may be eligible damage. (See [FHWA Emergency Relief Manual](#) for sequence of events.)
- FHWA will respond to written requests for ER assistance with a letter of acknowledgement and brief instructions on how to proceed. The letter of acknowledgement establishes a beginning date of potential eligibility for immediate emergency repairs.
- Following site inspection, the NDOT prepares a Damage Survey Summary Report, which is submitted to FHWA in support of the request for ER funding.
- 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.

### **4) 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.

These types of repairs are categorically excluded from NEPA by definition. 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.

- FHWA's Determination of Eligibility letter will inform NDOT which projects are to be considered Full Oversight by FHWA and which projects may proceed under delegated authority. Because of the nature of the ER program, the thresholds used for this purpose for regular Federal-aid apportioned funds, may or may not be applicable for a particular disaster or particular damage sites.
- For ER projects in the Determination of Eligibility letter determined to be Full Oversight, normal Federal-aid oversight procedures will apply: design/concept approval, PS&E approval/advertise for bids, concurrence in award, change order approval, etc.
- 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. See [Chapter G, Environment](#).

## **5) Monitoring**

- The FHWA will inspect separately or co-inspect with NDOT a sample of the damage sites during the development of the disaster estimate.
- FHWA will conduct final inspections of ER projects that it determines to be full oversight.
- FHWA may conduct final inspection of additional ER projects on a sample or random basis.

## **6) Business Standards**

- FHWA will respond to an NDOT letter of intent to seek ER funding within three working days.
- The NDOT is expected to complete a reasonable survey of the damage (Damage Survey Summary Report) with associated estimates of cost within four to six weeks of the event. This may vary depending on the area of impact of the disaster.
- FHWA will respond to NDOT requests for ER disaster eligibility supported by the Damage Survey Summary Report within 10 working days with a Determination of Eligibility.

## **7) Approved Procedures/Agreements/Manuals**

- [FHWA Emergency Relief Manual](#)

## **L. EMERGENCY/SECURITY**

### **1) Program Overview**

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

One purpose of this program is to establish notification procedures to rapidly advise the Federal Highway Administrator, the Office of the Secretary of Transportation, the Office of Emergency Transportation, and the Federal Highway Administration (FHWA) Regional Emergency Transportation Coordinators (RETCO's) of significant events affecting highway transportation, and to provide for follow up reports, as appropriate.

The other purpose of this program is to share policies and guidance and keep FHWA and the NDOT at an acceptable level of readiness in the event of an emergency.

### **2) Applicable Laws, Regulations, and Orders**

- Executive Order 12656
- [FHWA Order 5181.1](#) Emergency Notification and Reporting Procedures
- [FHWA Order 1910.2c](#) Emergency Preparedness Plan
- DOT Order 1900.9
- DOT Order 1910.8

### **3) Program Approval Actions**

FHWA approval is not required at the program level. The emergency/security program is based on cooperation between FHWA and NDOT.

### **4) Project Approval Actions**

The emergency/security program is not project related and is based on cooperation between FHWA and NDOT.

### **5) Monitoring**

FHWA relies on the NDOT to report information regarding significant highway related incidents. The incident types and reporting criteria are listed in [FHWA Order 5181.1](#). These incidents should be reported to the FHWA 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 Emergency Coordinator, based on the information supplied by the NDOT.

**6) Business Standards**

- FHWA will allow NDOT 15 working days, from receipt date, to review FHWA's Continuity of Operations Plan (COOP).
- NDOT will allow FHWA 15 working days, from receipt date, to review the NDOT Emergency Plan.
- Changes in the point of contact list must be shared with FHWA as soon as possible.
- NDOT will report to FHWA incidents meeting the criteria of [FHWA Order 5181.1](#) within 6 hours of the event.

**7) Approved Procedures/Agreements/Manuals**

- FHWA COOP
- NDOT Emergency Operations Plan
- State Emergency Operations Plan

<b>EMERGENCY/SECURITY ACTIVITY CHART</b>		
<b>EMERGENCY/SECURITY ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>
<b>Activity</b>	<b>Reference</b>	
Data collecting and reporting	<a href="#">FHWA Order 5181.1</a>	NDOT
Submitting Alert Bulletins	<a href="#">FHWA Order 5181.1</a>	FHWA
Maintain emergency contact list	<a href="#">FHWA Order 5181.1</a>	FHWA
Emergency Communications	<a href="#">FHWA Order 1910.2c</a>	FHWA
Maintain COOP	<a href="#">FHWA Order 1910.2c</a>	FHWA
National Security Coordination	<a href="#">FHWA Order 1910.2c</a>	FHWA
Federal Response Plan Participation	<a href="#">FHWA Order 1910.2c</a>	FHWA
NDOT Emergency Plan	Executive Order 12656	NDOT

## M. ENVIRONMENT

### 1) Program Overview

For projects requiring a Federal Highway action, the FHWA is the lead federal agency in integrating the full range of environmental requirements under a single, unified process that results in effective and sound transportation decisions.

Under current law and regulation, FHWA may delegate responsibility to the NDOT for activities to address the various environmental laws, Executive Orders, and regulations, but it may not delegate environmental approval authority. Therefore, NDOT must submit environmental documents to FHWA for approval, except for programmatic categorical exclusions.

These documents include among others: Environmental Impact Statement (EIS)-Record of Decision (ROD), Environmental Assessment (EA)-Finding of No Significant Impact (FONSI), and categorical exclusion (CE) decisions for projects not specifically defined as categorically excluded from environmental documentation in the regulations. An EIS is applicable to projects that significantly affect the environment. An EA is applicable to projects where the significance of the environmental impact is not clearly established. A CE is applicable to projects that do not have a significant environmental effect (excluded from the requirement to prepare an EIS or an EA).

#### a. Tribal Governments

NDOT may consult with the Native American tribal governments during the planning process and project development phase. However, tribes are sovereign entities and must be approached on a Government to Government basis directly through FHWA with the assistance of NDOT. In most cases NDOT will prepare the draft correspondence to a tribal government and FHWA will finalize and sign the letter on FHWA letterhead. The tribe will typically respond and comment directly to FHWA.

### 2) Applicable Laws, Regulations, and Orders

- [Title 1, Clean Air Act](#)
- [Section 404 of the Clean Water Act](#)
- [Section 7 of the Endangered Species Act](#)
- [National Environmental Policy Act](#) 42 USC 4321-4347, as amended (P.L. 91-190)(P.L. 94-83)
- [49 USC 303](#) and [23 USC 138](#), Section 4(f) and 6(f)
- [23 USC 109\(h\)](#), FHWA Environmental Guidelines
- [23 USC 128](#) and 23 CFR 140, Public Hearings/Public Involvement
- [23 CFR 771](#), [772](#), and [777](#), FHWA Environmental Regulations

- [36 CFR 800 Section 106](#) of the National Historic Preservation Act
- [40 CFR 1500](#), Council on Environmental Quality
- [Executive Order 11514](#), Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991
- [Executive Order 11990](#), Protection of Wetlands

### **3) Program Approval Actions**

- NDOT has been delegated programmatic approval authority for specific categorical exclusions.
- NDOT also acts as FHWA's nonfederal representative for informal Section 7 Endangered Species Act consultation and Section 106 consultation.
- NDOT public involvement procedures are approved by FHWA

### **4) Project Approval Actions**

- As early as practicable in a project's development, NDOT and FHWA will collaborate on the proper environmental (NEPA) classification for a project: Class I = EIS, Class II = CE, Class III = EA.
- For all projects that require an action be taken by FHWA, FHWA and NDOT will work together in the project planning and preliminary engineering phase, to ensure compliance with NEPA and other applicable laws before an alternative is selected by FHWA based on NDOT's recommendation.
- FHWA is an active member of individual project teams, and helps guide the project planning.
- Documents requiring legal sufficiency review (Final EIS, Final Section 4(f) Evaluations, and complex/controversial EAs) are sent to Western Legal Services (WLS), Office of Chief Counsel in San Francisco, CA by the FHWA Division Office, prior to approving these documents. The goal of the WLS is to provide legal sufficiency review comments to the FHWA Division Office within 30 calendar days after receipt of the document. Environmental re-evaluations are conducted through informal consultation and formal written documentation.

### **5) Monitoring**

- The FHWA will monitor compliance with environmental requirements through project-by-project approval actions. Additional monitoring may be done on a program-wide basis using process reviews. FHWA, at its discretion, may also participate in NEPA consultant selection panels

## 6) Business Standards

<b>ENVIRONMENTAL PROJECT BUSINESS STANDARDS</b>			
<b>Work Activity</b>	<b>NDOT Action</b>	<b>FHWA Action</b>	<b>Result</b>
Programmatic Categorical Exclusion (CE)	Prepare and Approve	Periodic Review	Approved CE
CE	Prepare and submit to FHWA for approval	Approve CE (14 working days)	Approved CE
Administrative Draft Environmental Assessment (EA)	Prepare and submit to FHWA for comment	Review and Comment (30 working days)	Comments
EA	Prepare, sign and submit to FHWA for approval	Approve EA for circulation or return for revision (14 working days)	Approved EA or instructions for revision
Finding of No Significant Impact (FONSI)	Prepare FONSI request including findings of facts and conclusions and submit to FHWA	Prepare and Issue FONSI or notify NDOT of need for EIS (14 working days)	FONSI or consider NOI
Notice of Intent (NOI)	Prepare Draft Notice of Intent and forward to FHWA	Review and revise NOI and publish in the Federal Register (30 calendar days)	Published NOI in the Federal Register
Cooperating Agency Request Letters	Prepare draft request letters	Review, revise and distribute request letters (14 working days)	Cooperating Agency identified and contacted in writing.
Administrative Draft Environmental Impact Statement (DEIS)	Prepare and submit to FHWA for review	Review and comment (45 calendar days)	Written comments
DEIS	Prepare, sign, and submit to FHWA for approval	Approve DEIS or return for revision (21 working days)	DEIS or instructions for revision
Administrative Draft Final Environmental Impact Statement (FEIS)	Prepare and submit to FHWA for review	Review and comment (45 working days)	Written Comments
FEIS Legal Sufficiency	Prepare and submit to FHWA for review	Request Legal Sufficiency review (30 calendar days)	FEIS Legal Sufficiency
FEIS	Prepare, sign, and submit to FHWA for approval	Approve FEIS or return for revision (21 working days)	FEIS or instructions for revision
Record of Decision (ROD)	Prepare a Draft ROD and submit to FHWA	Review, Revise, and Issue ROD (30 working days)	ROD

**ENVIRONMENTAL PROJECT BUSINESS STANDARDS**

<b>Work Activity</b>	<b>NDOT Action</b>	<b>FHWA Action</b>	<b>Result</b>
Programmatic Section 4(f) Evaluation	Prepare and submit for FHWA approval	Approve Programmatic Section 4(f) Evaluation or return for revision (14 working days)	Approved Section 4(f) Evaluation or instructions for revision
Administrative Draft Section 4(f) Evaluation	Prepare and submit to FHWA for review	Review and comment (14 working days)	Comments
Section 4(f) Legal Sufficiency	Prepare and submit to FHWA for review	Request Legal Sufficiency review (30 calendar days) *	Section 4(f) Legal Sufficiency
Final Section 4(f) Evaluation	Prepare and submit for FHWA approval	Review and approve or return for revision (14 working days)	Final Section 4(f) Evaluation or instructions for revision
Section 106 Effect Determination	Prepare and submit to FHWA for Determination	Make determination and forward to the State Historic Preservation Office (SHPO) (14 working days)	Effect Determination
Section 106 Memorandum of Agreement (MOA)	Negotiate and execute MOA with NDOT, SHPO and FHWA	Sign MOA or return for revision (14 working days)	Executed Section 106 MOA or instructions for revision
Administrative Draft written Re-evaluation	Prepare and submit to FHWA for review	Review and comment (30 working days)	Comments
Written Re-evaluation	Prepare and submit to FHWA for approval	Approve Re-evaluation or return for revision (14 working days)	Re-evaluation or instructions for revision

\* Actual processing time by WLS may not meet the 30 day schedule based on their workload.

**7) Approved Procedures/Agreements/Manuals**

- NDOT Project Design Development Manual
- NDOT Environmental Manual (pending)

Note: Review times shown are for FHWA INTERNAL ACTIONS. Environmental documents are released to other agencies and the public for review periods mandated by law or regulation.

## H. FINANCIAL MANAGEMENT

### 1) Program Overview

NDOT recognizes that the accuracy and propriety of Federal-aid claims are its primary responsibility, whether the primary source document originates within NDOT or with some third party. This responsibility is fulfilled by NDOT maintaining adequate and tested operating policies and procedures, and a sound accounting system with proper internal controls together with suitable audit activities. FHWA recognizes a need for complete understanding of pertinent financial and operating policies and procedures of NDOT. It is FHWA's responsibility to provide technical assistance and advice in funding and financial areas.

### 2) Applicable Laws, Regulations and Orders

- 23 USC
- 23 CFR
- [49 CFR 18](#), USDOT Common Rule Application
- [OMB Circular A-133](#), Single Audit Act of 1984
- [OMB Circular A-87](#), Cost Principles for State & Local Governments
- Cash Management Improvement Act of 1990
- [FHWA Order 4560.1a - Financial Integrity Review and Evaluation \(FIRE\)](#)
- Improper Payment Information Act

### 3) Program Approval Actions

- FHWA will approve the accounting process used to develop the payroll additive rates and any indirect cost rates. (At this time, NDOT has opted not to develop an indirect cost plan and, therefore, will not seek reimbursement for indirect costs).
- FHWA will approve the resolution of the Office of Inspector General and General Accounting Office audit findings
- FHWA will approve the Federal-aid Current Billing
- Annually, FHWA will perform, independently or in conjunction with NDOT personnel, such process reviews as considered necessary to support a certification of financial integrity of NDOT's financial management systems. These reviews will generally be in response to comprehensive risk analyses.

### 4) Project Approval Actions

FHWA will approve project agreements, modified project agreements, and final vouchers on all projects.

## 5) Monitoring

FHWA will monitor financial management and accounting activities primarily through periodic contacts and program level Quality Financial Management Initiative (QFMI) reviews. Reviews will encompass both NDOT and Local Agencies with NDOT participation. Through periodic contact with NDOT personnel, FHWA will provide guidance and technical assistance in such areas as fiscal document processing, financial management, and reimbursement. FHWA will, to the maximum extent possible, utilize the work of Nevada State Auditors to limit the scope of FHWA reviews. Risk-assessment techniques will be used, where appropriate, to determine areas for review.

## 6) Business Standards

<b>FINANCIAL BUSINESS STANDARDS</b>			
<b>WORK ACTIVITY</b>	<b>NDOT ACTION</b>	<b>FHWA ACTION</b>	<b>REMARKS</b>
Current Billing	Submits electronically as often as desired	Act Upon within 2 hours of notification	Source documentation will be randomly sampled and reviewed by FHWA
Project Funds Management	Quarterly review a designated list of inactive projects, and submit justification within 30 days for those that must remain open	Review for concurrence and forward to Finance Office in Washington, DC, if required	
NDOT Single Audit	Ensure audit is completed as required and submit any findings and resolutions to FHWA	Review and take action to ensure findings are resolved	
NDOT Sub-Recipient Single Audits	Review and take action to ensure findings are resolved, submit resolutions to FHWA	Review and take action to ensure compliance	
Sub-Recipient Cost Allocation Plans and Indirect Cost Rates	Ensure that subs have an approved Cost Allocation and Indirect Cost Rate Plan	Review and Monitor	
Final Vouchers/Final Acceptance	Prepare and submit	See Contract Administration Section	
Monthly Status of Funds	Prepare and submit	Review and monitor	

<b>FINANCIAL BUSINESS STANDARDS</b>			
<b>WORK ACTIVITY</b>	<b>NDOT ACTION</b>	<b>FHWA ACTION</b>	<b>REMARKS</b>
Year-end Document for Utilization of Federal-aid Funds	Prepare and submit by September 15 <sup>th</sup>	Review and act upon within 5 working days	Documents that require processing must be submitted to NDOT Planning and Programming by September 1
Consultant Audits	As required, conduct audits and submit copies of audits completed	Review listing. Sample periodically to ensure compliance.	
Financial Integrity Review and Evaluation (FIRE)	As required, provide financial and other data needed to establish effectiveness of internal controls	Review and monitor	

## 7) **Approved Procedures/Agreements/Manuals**

- Labor Additive Rate Computations
- Accounting Policies and Procedures (Pending)

## **I. INTELLIGENT TRANSPORTATION SYSTEMS (ITS)**

### **1) Program Overview**

NDOT works cooperatively with FHWA to take a lead role in development of Intelligent Transportation Systems (ITS) initiatives in Nevada and actively pursues ITS deployment, integration, research and operational testing. NDOT will establish a multi-disciplinary ITS Statewide Committee, of which FHWA is a member, to provide a technical screening and ITS oversight function as well as lead NDOT efforts in managing an ITS Strategic Plan and a Statewide ITS Architecture.

NDOT and FHWA work cooperatively with the Metropolitan Planning Organizations (MPOs), the Regional Transportation Commission of Southern Nevada and the Regional Transportation Commission of Washoe County, to promote ITS planning, regional architecture use, and adoption and integration of ITS at the local level. The Regional Transportation Commission of Southern Nevada and the Regional Transportation Commission of Washoe County are actively implementing planning studies related to ITS deployment in the metropolitan areas. NDOT and FHWA will work cooperatively to assure that ITS projects are consistent with the National ITS Architecture, incorporate ITS Standards, and are fully integrated.

A primary ITS goal of NDOT is to ensure that transportation facilities operate efficiently, and that no opportunities to provide integrated ITS features are overlooked.

### **2) Applicable Laws, Regulations, and Procedures**

- TEA - 21 Title V Subtitle C
- [23 CFR 940](#)

### **3) Program Approval Actions**

Regional ITS architectures for each of the MPOs must 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 of the regional architectures and will be furnished a copy of the adopted regional architectures and any amendments. It will be up to the owners of the regional architecture to decide whether they want to request FHWA review of the regional architecture.

### **4) Project Approval Actions**

- All ITS projects (stand-alone or incorporated in other work) need to accommodate the interface requirements and information exchanges specified in the regional ITS architecture and there must be a commitment to the operations, management and maintenance of the system. NDOT will make a determination of conformity of ITS

Projects with the regional ITS architecture. FHWA will concur in the project-level determination of conformity with the regional ITS architecture.

- All ITS projects need to be developed based on a systems engineering analysis. NDOT will make a determination of conformity of ITS Projects with the systems engineering analysis requirement. FHWA will concur in the project-level determination of conformity with the systems engineering analysis.
- All ITS projects need to use applicable ITS standards and interoperability tests that have been officially adopted, by rulemaking, by US DOT. NDOT will make a determination of conformity of ITS projects with the ITS standards requirement. FHWA will concur in the project-level determination of conformity with the ITS standards.
- Projects under old Federal legislation, such as TEA-21 Section 5208 (ITS Integration Program), were advanced/approved on a case-by-case basis. Typically, the projects were designated by earmark in appropriations acts with specific implementation processes issued by FHWA Washington Headquarters for specific appropriation cycles. When these funds/programs are no longer available, ITS projects will follow normal Federal-aid procedures.

## **5) Monitoring**

- FHWA will provide ongoing technical assistance on the use of regional ITS architectures, systems engineering analysis, and ITS standards, include these areas in routine risk-assessments evaluations, and work cooperatively with NDOT to use process review techniques to assess and improve processes and procedures.
- FHWA will participate in project steering committees or other ongoing oversight processes for ITS Integration Program projects.

## **6) Business Standards**

- NDOT will provide FHWA with copies of ITS regional architectures or amendments within 30 working days of adoption. If the owners of the regional architectures choose to have FHWA approve or concur in the Architecture, FHWA will have 20 working days, from receipt date, to review and act on the document.
- FHWA will follow prescribed processing requirements for individual project actions related to regional architecture conformity, systems engineering analysis completion, and standards.
- For older ITS projects, FHWA will follow prescribed processing requirements for ITS Integration Program projects as defined in Washington Headquarters instructions issued with each appropriations cycle, as defined in the partnership agreement. When these funds/programs are no longer available, ITS projects will follow normal Federal-aid procedures.

**7) Approved Procedures/Agreements/Manuals**

- NDOT and MPO ITS Strategic Plans
- NDOT and MPO Regional and Statewide ITS Architectures

<b>ITS INFRASTRUCTURE ACTIVITY APPROVAL CHART</b>				
<b>PROJECT ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b><u>FULL OVERSIGHT</u></b>	<b><u>STATE ADMINISTERED</u></b>	<b><u>Other Projects by Mutual Agreement</u></b>
Regional Architecture Conformity Determination	<a href="#">23 CFR 940.11</a>	FHWA	FHWA	FHWA
Systems Engineering Analysis Determination	<a href="#">23 CFR 940.11</a>	FHWA	FHWA	FHWA
ITS Standards Determination	<a href="#">23 CFR 940.11</a>	FHWA	FHWA	FHWA

NOTE: All ITS projects are Full Oversight.

**8) Special instructions for ITS Projects:**

ITS projects can be stand-alone construction projects, or may be larger projects that include ITS features. The above listed approval actions apply whether the ITS project is advanced on either a stand-alone or included basis. Other stewardship and oversight functions (such as environmental determination, right-of-way clearance, etc.) are dependent on project size, system and work type, with no special processing requirements for ITS purposes beyond routine stewardship and oversight.

**PROJECT ACTIVITY APPROVAL CHART – ITS Integration and Deployment Projects**

<b>ITS INTEGRATION AND DEPLOYMENT PROJECT ACTIVITY APPROVAL</b>				
<b>PROJECT ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b><u>FULL OVERSIGHT</u></b>	<b><u>STATE ADMINISTERED</u></b>	<b><u>Other Projects by Mutual Agreement</u></b>
Case by case determination	Instructions issued annually by Washington Headquarters	FHWA and NDOT	FHWA and NDOT	FHWA and NDOT

Note: All ITS projects are Full Oversight.

## J. LOCAL PUBLIC AGENCY PROJECTS

### 1) Program Overview

The Nevada Department of Transportation (NDOT) is responsible for the requirements of the Federal-aid program, whether these requirements stem from Title 23, or other laws and regulations. Since Title 23 USC does not recognize local entities as direct recipients of Federal-aid funds, local agencies cannot take the place of the NDOT in the context of the Federal-aid highway program. Although NDOT cannot delegate *responsibility*, *activities* can be delegated and the local entities held accountable to the NDOT. When activities are delegated to local agencies, NDOT will assure local compliance with the requirements of Federal laws. The FHWA will work in partnership with NDOT on these review and assurance actions. The NDOT may, at the request of a local public agency, consider requests to approve the use of local standards plans and specifications and local procedures for projects administered by the local public agency.

NDOT is permitted under federal regulation [23 CFR 1.11](#) and [635.105](#) to delegate certain activities, under its supervision, to local agencies (cities, counties, MPOs, or other state/federal agencies) for projects not located on the NHS. Nevada Revised Statute [408.245](#) authorizes NDOT to act as agent and to accept federal funds on behalf of local agencies for transportation projects. NDOT and FHWA reserve the right to permit a local public agency to complete a project located on the NHS. If a local public agency is allowed to complete a capacity-type project on the NHS, the local public agency will follow the processes and procedures identified in this agreement for NHS projects. Delegation on the Interstates is highly discouraged and considered only on a case by case basis.

Non-NHS projects administered through NDOT will be designed, constructed, operated, and maintained in accordance with State or local laws, regulations, directives, safety standards, design standards, and construction standards. Title 23 USC requirements that are applicable to all Federal-aid projects include, but are not limited to, transportation planning, procurement of professional services, Davis-Bacon wage rates, advertising for bids, award of contracts, use of convict-produced materials, and Buy America Act provisions. All delegated projects must comply with applicable Federal requirements.

An agreement will be executed between NDOT and the local public agency outlining the responsibility of both NDOT and the local public agency. The responsibilities outlined include, but are not limited to:

- Environmental studies (except environmental *approval*)
- Procurement of consultant services
- Preliminary design
- Final design

- Surveying
- Right-of-Way engineering
- Right-of-Way appraisal
- Right-of-Way acquisition
- Right-of-Way relocation
- Right-of-Way demolition
- Work by local forces or utility companies
- Preparation of plans, specifications and estimates
- Preparation of bid proposal package
- Advertisement for letting
- Contracting
- Contract administration
- Inspection

Under the Local Public Agency (LPA) Program, NDOT delegates the design and environmental study activities, as well as contract administration and inspection to the local public agency. However, FHWA approves all environmental documents since this cannot be delegated as a non-Title 23 action. The local public agency is responsible for making payment to the contractor.

NDOT will determine if the local public agency is qualified, adequately staffed, and able to administer the project before delegating all or a portion of a project. NDOT will review each request on a case-by-case basis.

NDOT retains its responsibilities under Federal law and regulations for delegated activities. NDOT will provide the necessary processes, approvals, oversight, and review to ensure delegated projects receive adequate supervision and inspection, and are completed in conformance with approved plans and specifications and applicable federal requirements. As resources allow, NDOT will offer training, advice, or other assistance as may be needed by a local public agency to aid it in successfully completing its Federal-aid project.

NDOT retains responsibility for the following:

- NEPA review
- Design review
- Design Exception approval
- Establishing DBE Goals
- Construction oversight
- Final Inspection and Acceptance
- Project Audit
- Providing Right-of-Way and Environmental Certifications to FHWA

## 2) Applicable Laws, Regulations, and Orders

- [23 USC 106](#)
- [23 USC 109](#)
- [23 CFR 1.11](#)
- [23 CFR 635](#)

## 3) Program Approval Actions

To the extent permitted in [23 USC 109](#), non-NHS projects administered through NDOT will follow state or local laws, rules, and standards for state-aid funded projects, in lieu of Title 23 requirements.

Local public agency Federal-aid projects will comply with the oversight requirements found elsewhere in this agreement, summarized as follows:

- Projects will be developed in accordance with NDOT or local public agency procedures. Deviations from geometric design standards will be handled as design exceptions in accordance with the procedures.
- Procurement of consultant services, to be reimbursed with Federal-aid, will be performed in accordance with NDOT procedures or NDOT approved local procedures and State Statutes.
- Project funding will be in accordance with Federal and State requirements.
- Projects will be let in accordance with State or local Statutes and Federal regulations.
- NDOT will enforce compliance with applicable Title 23 USC requirements and all non-Title 23 USC federal regulations such as NEPA, Civil Right (DBE), Davis Bacon Wage Rates, Buy America, right-of-way acquisition laws, and other applicable requirements, as required by state statute and FHWA regulations.
- Projects will be constructed in accordance with the current edition of NDOT's Standard Specifications, or other adopted local specifications.

## 4) Project Approval Action

- An agreement between the local public agency and Tribal Governments may be developed for each Federal-aid project on or partially on and near a reservation. Terms and conditions of the agreement are included in contract documents (i.e. TERO special provisions, etc.).
- Environmental clearance must be obtained from FHWA prior to beginning the final design and prior to acquiring right-of-way on all projects requiring a Federal action.

## 5) Monitoring

All Federal-aid highway projects are subject to review at any time by NDOT and/or FHWA. FHWA's primary monitoring method in this program area will be process reviews or program evaluations. The decision to conduct a process review or program evaluation will consider the FHWA Division Office/NDOT risk-assessment process.

FHWA may select LPA projects for Full Oversight in consultation with NDOT. All ITS projects will be Full Oversight including LPA projects.

## 6) Business Standards

- For Federally funded projects, NDOT will review and when appropriate approve local public agency standards and procedures within 60 working days of a submitted request.
- NDOT will provide FHWA 10 working days to review and approve project authorizations. See Design Chapter regarding business standards between the NDOT and FHWA.
- NDOT will consult with FHWA in decisions involving special and unusual circumstances at the earliest reasonable time to ensure thorough and appropriate decisions are made.

## 7) Approved Procedures/Agreements/Manual

- NDOT Local Public Agency Manual (pending)
- NDOT Standard Specifications for Road and Bridge Construction.
- NDOT Standard Plans for Road and Bridge Construction
- NDOT Construction Manual
- NDOT Documentation Manual
- NDOT Field Sampling and Testing Manual
- [FHWA Contract Administration Core Curriculum Manual](#)
- NDOT Environmental Manual (pending)
- NDOT Right-of-Way Manual
- NDOT Consultant Selection Procedures

<b>LOCAL PUBLIC AGENCY PROJECT ACTIVITY APPROVAL CHART</b>				
<b>PROJECT ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b>NHS Projects (Capacity)</b>	<b>NHS Projects (Non-Capacity)</b>	<b>Non-NHS Projects</b>
Design standards, policies and standard specifications, for applications to geometric and structural design	<a href="#">23 CFR 625</a>	FHWA	NDOT	NDOT
Design exceptions	<a href="#">23 CFR 625.3</a>	NDOT	NDOT	NDOT
Value engineering (>\$25 million)	<a href="#">23 CFR 627</a>	NDOT	NDOT	NDOT
Monitoring Federal-aid highway design projects	<a href="#">23 CFR 630</a>	NDOT	NDOT	NDOT
PS&E review and approval / project authorization	<a href="#">23 CFR 630.106</a> & <a href="#">23 CFR 630.205</a>	NDOT	NDOT	NDOT
Traffic control plans and Work Zone plans	<a href="#">23 CFR Subpart F</a> & <a href="#">23 CFR 630.1010</a> & <a href="#">Work Zone Final Rule (Sept 9, 2004)</a>	NDOT	NDOT	NDOT
Interstate highway new, revised, or temporary access	<a href="#">23 CFR 470</a> & <a href="#">23 CFR 710</a>	FHWA	FHWA	N/A
Non-Interstate highway new, revised, or temporary access	<a href="#">23 CFR 470</a> & <a href="#">23 CFR 710</a>	NDOT	NDOT	NDOT
Material or product selection: proprietary products, recycled materials, public interest findings, state furnished materials	<a href="#">23 CFR 635.411</a>	NDOT	NDOT	NDOT
Design-build	<a href="#">23 CFR 636</a>	NDOT	NDOT	NDOT
Utilities	<a href="#">23 CFR 645</a>	NDOT	NDOT	NDOT
Hydraulics design, erosion and sediment control design	<a href="#">23 CFR 650.115</a> & <a href="#">23 CFR 650.211</a>	NDOT	NDOT	NDOT
Pedestrian and bicycle accommodations and design	<a href="#">23 CFR 652.132</a>	NDOT	NDOT	NDOT
ADA criteria and design*	<a href="#">23 CFR 652</a> , <a href="#">28 CFR 35</a> & <a href="#">36</a> , <a href="#">49 CFR 27</a> & <a href="#">37</a>	NDOT	NDOT	NDOT

\* FHWA handles Title VI ADA compliance

## **K. MAINTENANCE**

### **1) Program Overview**

Title 23 of the United State Code defines maintenance as, "...the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway." Title 23 further requires a State transportation department to maintain, or cause to be maintained, each project constructed with Federal-aid funds, until such time that it no longer constitutes a part of the Federal-aid system. It is FHWA's role to see that maintenance of Federal-aid projects is adequate, and to provide technical assistance in disseminating information on successful maintenance techniques.

For the most part, though maintenance is required by statute, regulation and project agreement for projects on which Federal-aid is spent, common maintenance is not eligible for Federal-aid. Traditional activities considered to be maintenance are snow plowing, vegetation control, pot-hole patching, up-keep of signal and lighting installations, cleaning and up-keep of rest-areas, control of right-of-way encroachment, etc. These types of maintenance activities are considered the obligation of the State or local jurisdiction under State charter. This section of the agreement pertains to the activities and the management of those activities that are required to be accomplished by the NDOT (or caused to be accomplished by the NDOT) to fulfill its obligation under Title 23 without Federal-aid reimbursement.

Additional activities that are sometimes considered maintenance are sealing pavement joints, spot-repair of bridge coating systems, replacement of damaged highway signs, and pavement patching. While these type activities were at one time universally considered ineligible for Federal-aid, changes in highway legislation since 1991 have made them eligible for Federal-aid under certain conditions within the preventive maintenance program. For more on this special area of maintenance that is eligible for Federal-aid, see Chapter D, Design. Generally these activities should be generated from an established management system.

### **2) Applicable Laws, Regulations, and Orders**

- [23 USC 116](#)
- [23 USC 119](#)
- [23 CFR 1.27](#)
- [23 CFR 633.208](#)
- [23 CFR 140](#)

### 3) Program Approval Actions

FHWA approval is not required on a program level for maintenance activities, unless special or unusual circumstances exist.

### 4) Project Approval Actions

FHWA approval is not required on a project-level for maintenance activities unless special or unusual circumstances exist. The maintenance agreement, which is a part of the project agreement, is a project-level action in which the NDOT agrees to maintain, or cause to be maintained, the constructed facility.

### 5) Monitoring

As a condition of receipt of Federal funds, NDOT is required to maintain, or cause to be maintained, the Federally funded roadways and associated appurtenances in the state of Nevada. FHWA will review road and bridge maintenance through a sampling of field observations, process reviews, and program reviews, as necessary. At least one program review will be done on a segment of the NHS annually, while reviews for non-NHS routes will be done on a random or as-needed basis. Any review may include appropriate representatives from local, State, and Federal Agencies or may be conducted solely by FHWA. Any specific instances of inadequate maintenance or concerns regarding NDOT's overall maintenance program will be brought to the attention of NDOT by FHWA.

- **NHS (Including Interstate) MAINTENANCE**  
Maintenance of the NHS is monitored through a combination of condition observations, activity evaluations, process reviews, and windshield inspections that are conducted in various NDOT Districts. The level of review is usually determined by the risk-assessment process, i.e. more extensive and detailed reviews are triggered by an indication of increased risk.
- **Non-NHS MAINTENANCE**  
Maintenance of the non-NHS system is also monitored through the FHWA NV Division windshield inspections. This monitoring may include any combination of condition observation, activity evaluation, and/or process reviews. An inspection may also be performed on local government Federal-aid routes on a cyclical basis by NDOT and/or FHWA personnel.
- **BRIDGE MAINTENANCE**  
A sample of bridges will be reviewed annually by FHWA, for assurance that repair recommendations are being addressed. Special emphasis will be given to bridges that have received critical bridge inspection findings. See Chapter A, Bridges and Structures for more on bridge safety inspections.

- **WINDSHIELD INSPECTIONS**

All FHWA personnel are asked to be observant during the course of official and private travel, reporting any noteworthy items in need of maintenance attention and repair to the NDOT Maintenance Engineer, or District Engineer, as deemed most appropriate.

- **ANNUAL SELECTED ITEMS**

Each year additional specific activities may be selected that support the goals of maintenance in response to national, regional, or local emphasis. This will be included in the FHWA NV Division’s Business Plan.

- **SUMMARY**

The Maintenance Monitoring Program activities will be summarized by the FHWA Division maintenance coordinator by the end of the calendar year in the Division’s annual report. Findings and observations from the annual report will be input to the annual risk-assessment. The report and risk-assessment results will be used to determine further action including Division Office Business Plan activities.

**6) Business Standards**

- NDOT will involve FHWA in decisions involving special or unusual circumstances at the earliest reasonable time to ensure thorough and appropriate decisions can be made collectively.
- NDOT is to provide the FHWA Division Maintenance Coordinator any updates to the NDOT Maintenance Management Manual.

**7) Approved Procedures/Agreements/Manuals**

- NDOT Maintenance Management Manual
- AASHTO Maintenance Manual
- Guidance only: FHWA Maintenance Review Manual

<b>MAINTENANCE PROGRAM/PROJECT ACTIVITY APPROVAL CHART</b>		
<b>Interstate *</b>	<b>NHS*</b>	<b>State Maintained Non-NHS</b>
NDOT	NDOT	NDOT

\* Maintenance activities will be the ultimate responsibility of the NDOT. Assistance with this effort will be given from FHWA through formal and informal reviews.

## L. PAVEMENT AND MATERIALS

### 1) Program Overview

Pavement: [23 CFR 626](#) requires that pavements be designed in accordance with 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. The NDOT is expected to use a design procedure that is appropriate for their conditions.

Materials: Subsection (a) of [23 USC 109](#) requires that FHWA ensure that the plans and specifications for all proposed Federal-aid highway projects provide for facilities that will adequately serve the existing and planned future traffic in a manner that is conducive to safety, durability, and economy of maintenance. To fulfill this requirement for all Federal-aid highway projects, the FHWA NV Division prime objectives are to:

- Maintain a close working relationship with NDOT 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 and specifications.

Furthermore, FHWA is required, by means of an approved quality assurance program, to assure the quality of materials incorporated into Federal-aid highway projects on the National Highway System (NHS). For Federal-aid projects on the NHS, the primary objectives are to:

- Assure that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing are in conformity with the approved plans and specifications.
- Provide oversight of construction materials and compliance with Federal requirements on a statewide basis.
- Assure adequate and qualified staff to maintain NDOT's quality assurance responsibility as part of its Quality Control/Quality Assurance (QC/QA) program.
- Assure compliance with, and assist in, maintaining the NDOT Transportation Technician Qualification Program

### 2) Applicable Laws, Regulations, and Orders

- [23 USC 106](#), [23 USC 109](#), [114](#)
- [23 CFR 625.4](#) Standards, policies, and standard specifications
- [23 CFR 626](#) Pavement Policy
- [23 CFR 635](#) Construction and Maintenance
- [23 CFR 637](#) Construction Inspection and Approval

### **3) Program Approval Actions**

- The NDOT Standard Specifications for Road and Bridge Construction are approved by FHWA on a program basis to facilitate project approvals.
- NDOT must develop a quality assurance program that will assure that materials and workmanship incorporated into each Federal-aid highway construction project on the NHS are in conformity with the requirements of the approved plans and specifications. The program must be approved by FHWA.

### **4) Project Approval Actions**

- FHWA will approve changes in project specifications for materials for Full Oversight projects.
- FHWA will approve QC/QA plans for Full Oversight NHS projects.

### **5) Monitoring**

- FHWA will monitor NDOT's QC/QA Program through construction inspections on NHS full oversight projects.
- FHWA will monitor the acceptance and testing of materials in accordance with NDOT's Standard Specifications for Road and Bridge Construction and the NDOT Field Sampling and Testing Manual on all Federal-aid projects through process reviews.

### **6) Business Standards**

- NDOT will provide 10 working days for FHWA to review and respond to Special Provisions revisions, project materials specifications, and QC/QA plans for Full Oversight projects.
- NDOT will provide 30 working days for FHWA to review and respond to substantive changes in its QC/QA Program.
- Time to review and approve a complete revision of the Standard Specifications will be negotiated prior to the activity.
- See QC/QA Program Summary Table for more business standard detail.

### **7) Approved Procedures/Agreements/Manuals**

- NDOT Standard Specifications for Road and Bridge Construction
- NDOT Field Sampling and Testing Manual
- NDOT Transportation Technician Qualification Program Manual
- NDOT Project Design Development Manual
- NDOT Right-of-Way Manual
- AASHTO Pavement Design Guide
- [FHWA Contract Administration Core Curriculum Manual](#)

**Quality Control/Quality Assurance Program  
Summary Table**

<b>Activity/Item</b>	<b>NHS</b>		<b>Non-NHS</b>	
	<b>NDOT Action</b>	<b>FHWA Action</b>	<b>NDOT Action</b>	<b>FHWA Action</b>
Quality Control/Quality Assurance Program Materials test methods and updates, Field Sampling and Testing Manual	Maintain (on going)	Review and Act Upon(10 Working Days)	NDOT prepares and approves	No action
Transportation Technician Qualification Program	Develop and implement	Review and Act Upon when updated (10 Working Days)	Required by NDOT	No action
Qualified Laboratory Program	Develop and implement	Review and Act Upon when updated (10 Working Days)	Required by NDOT	No action
AASHTO accreditation inspection reports, use of outside testing facility	Maintain accreditation, submit inspection report, approve outside testing facility	Review, make recommendations for consideration (as necessary)	Required by NDOT	No action
Nevada Standard Specifications for Road and Bridge Construction (Supplemental Issues)	Maintain (on going)	Review and Act Upon (10 Working Days)	Required by NDOT	No action

## **M. PLANNING**

### **1) Program Overview**

#### **a. Work Programs**

Title [23 CFR 420](#), Planning and Research Program Administration contains the policies and procedures for administering activities and studies undertaken by States and Metropolitan Planning Organizations (MPOs) funded through their respective Work Program or as separate projects not included in a Work Program.

##### Statewide Planning and Research (SPR) Work Program

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

##### MPO's Unified Planning Work Program (UPWP)

The UPWP is prepared annually by each MPO and reviewed by Nevada DOT, FHWA and Federal Transit Administration (FTA). FHWA and FTA comments are provided to the MPO jointly with NDOT's. FHWA authorizes Urban Transportation Planning Funds, upon joint FHWA/FTA approval of the UPWP's. These funds are traditionally referred to as "PL" funds. Nevada DOT and FHWA monitor the Work Program through monthly status and expenditure reports, and by participation in MPO meetings.

#### **b. Statewide Transportation Planning**

Title [23 CFR 450, Subpart B](#), addresses the requirements of the statewide transportation planning process.

##### Statewide Long-range Transportation Planning

Nevada DOT develops a Statewide Long-range Transportation Plan which considers all modes of transportation. The Plan covers at least a 20-year planning horizon (20-years into the future), considers the planning factors as outlined in the CFR, and provides an opportunity for public involvement.

## Statewide Transportation Improvement Program (STIP)

NDOT develops a STIP containing all projects to be funded by FHWA and FTA for a four-year period. The STIP is updated annually by NDOT, and submitted to FHWA and FTA for approval. Projects contained in the STIP must be consistent with the Statewide Transportation Plan and the MPO TIPs, and must include public involvement and provide interested parties a reasonable opportunity to comment on the proposed program. Along with the STIP, NDOT will certify that the projects in the STIP are based on a planning process that meets the requirements of [23 USC 134](#) and [135, 49 USC 5303](#), and [23 CFR 450](#).

### **c. Metropolitan Transportation Planning**

#### MPO Long-range Transportation Plan

Title [23 CFR 450, Subpart C](#), addresses metropolitan planning requirements. Each MPO must update the Long-range Transportation Plan (LRTP) every 4 years (air quality non-attainment or maintenance areas) or 5 years (air quality attainment areas). The LRTP must: cover at least a 20-year planning horizon, include long-range and short-range strategies that lead to an integrated intermodal plan; include a financial plan that compares estimated revenues with costs of construction, maintenance, capital purchases and operations; consider the planning factors, and provide an opportunity for public participation.

#### MPO Transportation Improvement Program (TIP)

Each MPO, in cooperation with the State and its public transit operators will prepare and update a TIP each year covering at least four (4) years. The TIP shall include all projects requiring FHWA and FTA approval; include a priority list of projects to be carried out in the first four (4) years; identify each project or phase; and be financially constrained. The TIP development process must provide a reasonable opportunity for public comment. Highway and transit projects must be selected in accordance with the specific funding programs.

### **d. Traffic Monitoring**

Title [23 CFR 500, Subpart B](#) provides the regulatory guidance for the development and operation of a traffic monitoring system for highways including traffic counting, vehicle classification, and weigh-in-motion programs. The system is guided by the "AASHTO Guidelines for Traffic Data Programs," augmented by

FHWA's ["Traffic Monitoring Guide"](#) and the ["Highway Performance Monitoring System Field Manual"](#).

**e. Highway Performance Monitoring System (HPMS)**

Title [23 CFR 420](#) addresses the policy for states to provide data that support FHWA's responsibilities to the Congress and to the public. The ["Highway Performance Monitoring System Field Manual"](#) provides instructions for collecting and reporting quality and timely data in the condition and performance of the highways and streets.

**f. Highway Statistics Reports**

Title [23 CFR 420](#) addresses the policy for states to provide data that supports FHWA's responsibilities to the Congress and to the public. The ["Guide to Reporting Highway Statistics"](#) manual provides instructions for compiling and reporting: motor-fuel consumption, motor-fuel tax revenues, motor-vehicle registrations and fees, driver licenses and fees, highway income and expenditures, debt service, and highway capital outlay and maintenance expenditures which traditionally is referred to as the "500 series reports".

**g. Certification of Public Road Mileage**

Title [23 CFR 460](#) addresses the policies and procedures for identifying and reporting public road mileage for utilization in the statutory formula for the apportionment of Highway Safety funds under 23 USC 402(c). By June 1 of each year, the Governor or NDOT Director certifies the public road mileage in the state as of the end of the previous calendar year. In Nevada, the NDOT Director has been selected as the Governor's designee.

**2) Applicable Laws, Regulations, and Procedures**

[23 CFR 420](#)

[23 CFR 450, Subpart B](#)

[23 CFR 450, Subpart C](#)

[23 CFR 460](#)

[23 CFR 470](#)

[23 CFR 500, Subpart B](#)

[23 CFR 652](#) Pedestrian and Bicycle Accommodations

**3) Program Approval Actions**

FHWA approval is on a yearly basis for all the programs listed above, and where noted on the following chart. As a condition for receipt of federal funds, NDOT agrees to

develop plans and work programs for statewide, metropolitan, and other transportation planning activities. FHWA will review these plans and programs to assure they meet applicable laws and regulations.

Programs requiring oversight include:

- A. State and metropolitan planning sub-programs under the State Planning and Research Program (SPR).
- B. Statewide transportation planning process, including the Statewide Transportation Plan and the Statewide Transportation Improvement Program (STIP).
- C. Metropolitan Planning Organization (MPO) transportation planning process.

NDOT must also submit other planning related reports to FHWA. The reports include information on public road mileage for apportionment of highway safety funds; information collected from the Highway Performance Monitoring System; and information relating to the identification of Federal-aid highways, the functional classification of roads and streets, the designation of urban area boundaries, and the designation of routes on the Federal-aid highway systems.

FHWA will serve on the MPOs Technical Advisory Committees as an advisor and not as a voting member. Through FHWA/NDOT's involvement with the MPOs, both agencies will continue to stress the importance of the public participation process and will assist in applying appropriate levels of environmental consideration during the planning process to result in a more feasible, efficient, and acceptable transportation planning product.

Many planning approval actions are done jointly by FHWA and the Federal Transit Administration (FTA). All formal requests for action by NDOT (except for transit-only issues) will go through FHWA.

#### **4) Project Approval Action**

Tasks not originally included in an approved work program, or modifications require an amendment to the appropriate planning document.

#### **5) Monitoring**

NDOT will monitor all SPR activities, including those of sub-recipients (local governments including county, municipalities, etc.) to assure the work is being managed and performed satisfactorily and that time schedules are being met. NDOT will submit a report annually to FHWA documenting the results of its monitoring process.

NDOT will periodically review its long-range transportation plan, to assure it still meets the goals and objectives in the plan and is compliant with Federal planning requirements. If necessary, the NDOT will update or rewrite the long-range transportation plan.

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

## **6) Business Standards**

NDOT will provide FHWA at least 30 calendar days to review and comment on the draft and final Statewide Transportation Improvement Program (STIP), Metropolitan TIPs, State Planning and Research (SPR) Work Program, the MPO UPWPs and the Statewide and Metropolitan Long-range Transportation Plans.

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

## **7) Approved Procedures/Agreements/Manual**

At least every two years, the NDOT is required to submit to FHWA and FTA, for joint approval, a Statewide Transportation Improvement Program (STIP). The NDOT has decided to update the STIP annually, and submit for approval to FHWA and FTA. Amendments and modifications will be done on an as-needed basis.

NDOT and the MPOs shall annually certify to FHWA that the planning process is addressing the major issues facing the area and is being conducted in accordance with all applicable requirements.

<b>PLANNING PROGRAM APPROVAL CHART</b>				
<b>PROGRAM ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b>Review</b>	<b>Approve</b>	<b>Remarks</b>
20-YR Statewide Transportation Plan	<a href="#">23 CFR 450.214</a>	FHWA	NDOT	FHWA reviews and comments on LRTP to determine compliance with Federal requirements. No official approval action is taken.
Statewide Transportation Improvement Program (STIP)	<a href="#">23 CFR 450.216</a>	FHWA	FHWA/ FTA	Minimum 4 year period; update required every 2 years, but NDOT traditionally updates annually. FHWA also reviews the STIP to determine that it contains projects consistent with a compliant statewide plan.
State Planning & Research (SPR) Work Program	<a href="#">23 CFR 420.111</a>	FHWA	FHWA	NDOT annually develops work program.
Highway Performance Monitoring System (HPMS) Annual Data Submittal from State and Field Verification Review and Report	23 USC 307 (h)	FHWA	None	FHWA annually conducts field verification review. Based on this review, FHWA recommends to FHWA HQ accepting the HPMS data for funding apportionment and allocation purposes.
Certification of Public Road Mileage	<a href="#">23 CFR 460</a>	FHWA	FHWA HQ	Due by June 1 <sup>st</sup> of each year. The Governor has delegated the certification authority to NDOT Director.
Highway Statistics: 500 Series Reports	<a href="#">23 CFR 420.105</a>	FHWA	None	NDOT is required to submit several Highway Statistics forms periodically.
Traffic volume Monthly Automated Traffic Recorder Data	<a href="#">23 CFR 1.5</a>	FHWA HQ	None	NDOT submits required ATR data reports directly to FHWA HQ.
Annual Truck Weight Characteristics Data	<a href="#">23 CFR 1.5</a>	FHWA HQ	None	NDOT annually submits required data directly to FHWA HQ.
Metropolitan 20-Year Long-range Transportation Plan (LRTP)	<a href="#">23 CFR 450.322</a>	FHWA & NDOT	MPO	FHWA/FTA & NDOT review and comment on Metropolitan LRTPs but do not approve. However FHWA/FTA must make an air quality conformity determination.

<b>PLANNING PROGRAM APPROVAL CHART</b>				
<b>PROGRAM ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b>Review</b>	<b>Approve</b>	<b>Remarks</b>
Metropolitan Transportation Improvement Program (TIP)	<a href="#">23 CFR 450.324</a>	FHWA & NDOT	NDOT	Minimum 4 year period; updated at least every 2 years. FHWA reviews and comments on TIPs. All TIPs are developed by the MPO, and included in the STIP by reference which is approved by FHWA.
Metropolitan Unified Planning Work Program	<a href="#">23 CFR 450.314</a>	FHWA/FTA	FHWA/FTA	MPOs annually develop and submit work program by MPO. FHWA/FTA & NDOT review and comment on UPWPs from each MPO.
Vehicle (Truck) Size and Weight Enforcement Certification	<a href="#">23 CFR 657</a>	FHWA	FHWA	NDOT is responsible for enforcing vehicle size and weight laws. NDOT is required to develop a plan for maintaining an effective enforcement process. Plan is approved by FHWA and serves as a basis for the annual State certification of enforcement.
Air Quality Conformity Determination	<a href="#">23 CFR 450.330</a>	NDOT	FHWA/FTA	Each transportation plan and TIP in non-attainment areas
Functional Classification	<a href="#">23 CFR 470</a>	NDOT	FHWA	NDOT cooperates with local officials

NOTE: The MPOs submit all plan and program documents to NDOT. The NDOT will formally transmit all documents to FHWA with a recommendation for action.

## **N. RESEARCH, DEVELOPMENT, AND TECHNOLOGY**

### **1) Program Overview**

The purpose of the program is to implement the provisions of [23 USC 504](#) and [505](#) for research, development, technology transfer, programs, and studies undertaken with FHWA planning and research funds.

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

The main requirements under [23 CFR 420](#) are to create a SPR Work Program, monitor planning and research activities, submit performance and expenditure reports, conduct peer exchanges, develop and maintain an FHWA approved research and development management process, and maintain program certification.

The SPR Work Program consists of two parts: (1) Part I, Planning, and (2) Part II, Research. NDOT is responsible for preparation and overall coordination of the Work Program in accordance with [23 CFR 420](#). The SPR Program operates on a Federal fiscal year basis, with program approval every year. Amendments and revisions are submitted by NDOT to FHWA for approval, as required.

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

The LTAP was created to provide educational training, technical assistance and related support services for rural, small urban, tribal governments, consultants and contractors that do work for local agencies on roads, bridges, and public transportation. The LTAP program is regulated under [23 USC 504\(b\)](#). The University of Nevada Reno (UNR), Civil Engineering Department was established as the Nevada LTAP Center.

The LTAP Center Advisory Committee determines the direction for the Nevada LTAP program. The Committee, consisting of federal, state and local government officials and other interested representatives, typically meets once a year. The Advisory Committee reviews program progress and provides direction on program needs and strategies.

UNR coordinates with NDOT and the FHWA to draft an LTAP Work Plan based on a calendar year. NDOT and FHWA review a draft LTAP Work Plan. Comments from both parties are incorporated into the draft and the final version is approved by FHWA.

## 2) **Applicable Laws, Regulations, and Procedures**

- [23 CFR 420](#) and [450](#) - State Planning and Research Program Administration
- NDOT Research Manual

## 3) **Program Approval Actions**

- The NDOT will administer the research program in accordance with the NDOT State Research, Development and Technology Transfer Program Manual, which has been reviewed and approved by the Division Office. Significant changes to this manual shall be submitted to the FHWA Division Office for approval.
- The research work program is submitted to the Division Office as Part II of the NDOT's Planning and Research Work Program. The NDOT's research work program shall meet the requirements of [23 CFR 420](#).

## 4) **Project Approval Action**

- NDOT will identify and implement research projects that address high priority transportation issues.
- An interactive process involving NDOT management and Research Advisory Committee (RAC) members as described in the NDOT State Research, Development, and Technology Transfer Program Manual shall be used to identify and prioritize projects to be included in the research work program.
- The NDOT shall determine the funding level at which the identified and prioritized projects will be supported with FHWA research funds.
- For each research project, NDOT will establish a technical panel to guide the project. FHWA will provide a member of this panel. This may include pooled fund research studies.
- The LTAP project is funded annually on the basis of an annual work plan approved by the Division Office, based on funds allocated to NDOT.

## 5) **Monitoring**

- NDOT will submit, quarterly, to the FHWA Division Office performance and expenditure reports that meet the requirements of [23 CFR 420.117](#).
- NDOT will periodically host a peer exchange, and report their findings to the FHWA Division Office in accordance with [23 CFR 420.209](#).
- FHWA participates in the NDOT RAC process which reviews research program progress and provides recommendations on program priorities and projects.
- FHWA provides oversight to the LTAP project through review of the annual work plan and work plan amendments and participation in the LTAP Advisory Committee and LTAP peer exchanges.

**6) Business Standards**

- NDOT will provide FHWA at least 30 calendar days to review and comment on the draft and final State Planning and Research (SPR) Work Program.
- NDOT will involve FHWA in decisions involving special and unusual circumstances at the earliest reasonable time to ensure thorough and appropriate decisions can be made collectively.
- NDOT, in cooperation with the LTAP Center, will provide FHWA at least 30 calendar days to review and approve the LTAP annual work plan.
- The FHWA exercises its oversight responsibilities over the SPR through review of the annual program prior to approval actions, review of SPR Work Program amendments prior to approval, and ongoing participation of its technical specialists in study technical panels. As appropriate, FHWA personnel may participate in peer exchanges.

**7) Approved Procedures/Agreements/Manual**

- NDOT State Research, Development, and Technology Transfer Program Manual

<b>RESEARCH PROGRAM APPROVAL CHART</b>				
<b>ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b>Review</b>	<b>Approve</b>	<b>Remarks</b>
State Planning & Research (SPR) Work Program Part II	<a href="#">23 CFR 420</a>	FHWA	FHWA	Annually developed work program
LTAP	<a href="#">23 USC 504 (b)(1) and (2)</a>	FHWA	FHWA	Annually developed work plan
Research Manual	<a href="#">23 CFR 420</a>	FHWA	FHWA	As needed

## O. RIGHT-OF-WAY

### 1) Program Overview

The purpose of this section is to address the right-of-way (ROW) functional areas of engineering, appraisal, acquisition, relocation, and property management. These are the principal activities performed in the acquisition of properties needed for highway improvements. These right-of-way activities are covered under [49 CFR 24](#), which has no provision for delegations under [23 USC 106](#). Therefore, the rules of 49 and 23 CFR apply when Federal-aid is used to fund the right-of-way activity, and/or if Federal-aid is used to fund the construction of a project for which right of way was not funded with Federal-aid.

The work activities listed below are covered under 23 CFR, and require specific approval and/or oversight by FHWA:

- ROW certification
- NDOT Right-of-Way Manual
- ROW authorization
- Air rights on the Interstate
- Airspace leases/joint use agreements/licenses/consents to common use
- Disposal of excess ROW
- Early acquisition, protective buying, hardship, and corridor preservation
- Functional replacement
- Highway beautification
- Junkyard control
- Property management
- Occupancy permits (Interstate only)
- Utility adjustment/relocation
- Material sites certification

The work activities listed below are covered in 23 CFR, and do not require specific program or project approvals, except for full oversight projects.

- Direct eligible costs including administrative and court settlements.
- Real property donations

## 2) Applicable Laws, Regulations, and Orders

- [49 CFR 24](#), Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs
- [49 CFR 18](#), Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments
- [23 CFR 620, Subpart B](#), Relinquishment of Highway Facilities
- [23 CFR 635.309](#), Right-of-Way Certification
- [23 CFR 710](#), Right-of-Way and Real Estate
- [23 CFR 750](#), Highway Beautification
- [23 CFR 751](#), Junkyard Control and Acquisition
- Nevada Revised Statutes
- Nevada Administrative Code

## 3) Program Approval Actions

The NDOT Right-of-Way Manual is a program approval action by FHWA required by [23 CFR 710](#).

## 4) Project Approval Actions

FHWA project-level approval actions include authorization of federally aided right-of-way activities, early acquisition approval, protective buying, hardship acquisitions, acceptance of project right-of-way certifications, etc. See the Project Activity Approval Chart for more detail.

## 5) Monitoring

- Even though there are no delegations under the law for any functions covered in [49 CFR 24](#), for practical purposes, there are two levels of review of those elements. One level depends on whether the project involves ROW acquisition, and has Federal-aid in the ROW project phases. Although the ROW regulations must be followed in each instance, the decision on the value of just compensation will be the responsibility of NDOT.
- For the second level of projects, there is a dual concern for the rights of property owners and displaced persons, and the stewardship of the federal dollars. Continuous review of the State's activities will assist in assuring that the rights of owners and displaced persons are protected, as well as monitoring the expenditure of federal funds.
- Local Public Agencies (LPAs), i.e., cities and counties, are required to comply with the Uniform Act and its governing regulations found in [49 CFR 24](#) in the same manner as NDOT. As stipulated in [23 CFR 710](#), NDOT is responsible for assuring that ROW acquisitions by local public agencies are made in compliance with the NDOT Right-of-Way Manual, Federal and State laws and regulations.

- FHWA is responsible for in-depth reviews of NDOT’s program for appraisal, acquisition, and relocation. Review of the ROW activities will be conducted through periodic joint FHWA/NDOT process reviews, peer reviews and/or spot-checking reviews accomplished jointly by FHWA ROW personnel and NDOT, as determined through a risk-assessment process. The purpose of the reviews is to assist in complying with State and Federal requirements, and to assure adequacy of program oversight and accountability of public resources. State and local public agency right-of-way program activity, as well as the NDOT’s oversight of local public agency ROW activity, is subject to review at any time.
- Review and technical assistance in the Highway Beautification program are also provided by FHWA.
- Right-of-Way Manual
  - NDOT is responsible for full compliance with FHWA requirements.
  - Future changes to a manual, because of new FHWA requirements or changes in State law, etc., will be submitted to FHWA for approval within 60 working days.
  - Administrative changes to the Right of Way Manual will be transmitted to FHWA for informational purposes within 20 working days of the change.
  - In accordance with [23 CFR 710](#), NDOT shall certify to the FHWA every five years that the Right-of-Way Manual is current and in compliance with federal and state laws and regulations.

## 6) Business Standards

<b>RIGHT-OF-WAY BUSINESS STANDARDS</b>			
<b>Work Activity</b>	<b>NDOT Action</b>	<b>FHWA Action</b>	<b>Result</b>
Appraisals	Review, Certification, and Approval – All Projects	Oversight – All Projects (10 working days)	Appraisal Reports
Engineering	Prepare, Review and Approve – All Projects	Oversight – All Projects (10 working days)	ROW Plans and Legal Descriptions
Acquisitions	Performance and Approval – All Projects	Oversight – All Projects (10 working days)	Property Ownership/Title, Easements
Relocations	Performance and Approval – All Projects	Oversight – All Projects (10 working days)	Relocations
ROW Authorizations and Project Agreements	Prepare – All Projects	Approve – Full Oversight Projects (10 working days)	Authorization & Project Agreements

<b>RIGHT-OF-WAY BUSINESS STANDARDS</b>			
<b>Work Activity</b>	<b>NDOT Action</b>	<b>FHWA Action</b>	<b>Result</b>
ROW Certification	Approve Non-NHS & NHS <\$3 million	Approve Interstate & NHS >\$3 million (10 working days)	Certificates
Functional Replacement	Approval and Oversight	Concur (10 working days)	Functional Replacement of Real Property
Air Rights – Interstate	Request	Review and Approve (10 working days)	Airspace Agreement
Airspace Leases/Joint Use Agreements/Licenses/Consent to Common Use	Approve & Oversight Non-Interstate	Approve – Interstate (10 working days)	Leases/Agreements /Licenses
Disposal of Excess ROW	Approve Non-Interstate	Review and Approve Interstate & Less than Fair Market Value	Property Sale & Revenue to Highway Fund
Federal Land Transfer	Prepare Request	Review and approve (10 working days)	Transfer Deeds
Early Acquisition, Hardship, Protective Buying, Corridor Preservation	Prepare Submission	Review, Approve, and Authorize (10 working days)	Property Ownership
ROW Operations Manual	Prepare and Certify Manual	Review and Approve (60 calendar days)	Manual
Highway Beautification	Prepare Request	Review and Approve (10 working days)	Manual
Administrative, Legal, and Court Awards	Approve	Stewardship & Oversight	Property Acquisition
Access Control – Disposal and Changes	Request or approve as per NDOT Policy	Review and Approve all on Interstate (20 working days) *	Disposition/Change
Early Acquisition Cost	Approve	Concur (10 working days)	Reimbursement/Matching Credit
Utility Adjustments/Relocations	Review and approve application	Approval of Interstate Requests (10 working days)	Occupancy Permits/Agreements

\*FHWA will need 30 working days for new interchange requests.

## **7) Approved Procedures/Agreements/Manuals**

- NDOT ROW Manual
- NDOT Local Public Agency Manual (pending)
- Accommodation of Utilities on State Highway Right-of-Way – Policies and Procedures
- Utility Relocations, Adjustments, and Reimbursement – Policies and Procedures
- NDOT Access Management System and Standards

<b>ROW PROJECT ACTIVITY APPROVAL CHART</b>				
<b>PROJECT ACTIVITIES</b>		<b>AGENCY RESPONSIBLE</b>		
<b>Approval Action</b>	<b>Reference</b>	<b><u>FULL OVERSIGHT</u></b>	<b><u>STATE ADMINISTERED</u></b>	<b><u>Other Projects by Mutual Agreement</u></b>
Appraisals	<a href="#">49 CFR 24</a>	NDOT	NDOT	NDOT
Acquisitions	<a href="#">23 CFR 710</a>	NDOT	NDOT	NDOT
Relocations	<a href="#">49 CFR 24</a>	NDOT	NDOT	NDOT
ROW Authorizations and Agreements	<a href="#">23 CFR 710</a>	FHWA	NDOT	NDOT
ROW Certification	<a href="#">23 CFR 710</a> <a href="#">23 CFR 635</a>	FHWA	NDOT	FHWA
Functional Replacement (Federal Funds in ROW)	<a href="#">23 CFR 710</a>	FHWA	FHWA	FHWA
Air Rights – Interstate	<a href="#">23 CFR 710</a>	FHWA	N/A	FHWA
Airspace Leases/Joint Use Agreements/Licenses /Consent to Common Use	<a href="#">23 CFR 710</a>	FHWA	NDOT	FHWA
Disposal of Excess ROW	<a href="#">23 CFR 620</a> <a href="#">23 CFR 710</a>	FHWA	NDOT	NDOT
Federal Land Transfer	<a href="#">23 CFR 710</a>	FHWA	FHWA	FHWA
Early Acquisition, Hardship, Protective Buying, Corridor Preservation	<a href="#">23 CFR 710</a>	FHWA	FHWA	FHWA
Administrative Legal, and Court Awards	<a href="#">23 CFR 710</a>	FHWA	NDOT	NDOT
Access Control – Disposal and Changes	<a href="#">23 CFR 620</a> <a href="#">23 CFR 710</a>	FHWA	NDOT	FHWA

## P. SAFETY

### 1) Program Overview

#### a. Highway Safety Improvement Program (HSIP)

Special funds are set aside for purposes of hazard elimination, high-risk rural road mitigations and rail-highway crossing safety. NDOT performs HSIP components of *Planning*, *Implementation*, and *Evaluation* to accomplish requirements of the program. These components involve: identification of high-crash locations, identification of high-risk rural road locations, developing an annual program to address the locations, and an annual report on progress and effectiveness. FHWA is involved in all four components, both formally and through informal technical assistance.

A major component of the HSIP is the Strategic Highway Safety Plan (SHSP). The SHSP is a statewide coordinated safety plan that provides a comprehensive framework for reducing highway fatalities and serious injuries on all public roads. The SHSP should be evaluated on a regular basis.

#### b. 402 Highway Safety Program (Administered by the Nevada Office of Traffic Safety)

#### c. Other Safety Activities

FHWA provides general technical support to NDOT in the following safety-related areas:

- Participates as a member of the NDOT Traffic Control Review Team that is responsible for assessing work zone traffic control practices and safety, as well as new traffic and safety-related technology and devices.
- Participates as a team member in NDOT-led task forces and teams that are formed as needed to address perceived needs or problems.
- Provides technical support in handling of special program areas such as the annual [Section 159](#) certification and the [Section 163](#) safety incentive program.

### 2) Applicable Laws, Regulations, and Orders

- 23 USC [130](#), [152](#), [159](#), [163](#), [315](#), [402](#)
- 23 CFR [924](#) and Part [1200](#)

### 3) Program Approval Actions

- 23 USC [130](#) and [152](#): NDOT will submit for FHWA approval a project development process, a program of projects and program evaluation report under the Highway Safety Improvement Program (HSIP), including Hazard Elimination Projects, High-risk Rural Roads and Rail Crossing Improvement Projects.
- 23 USC 148: NDOT will submit for FHWA approval a project development process, a program of projects, and an evaluation report under the HSIP. The HSIP annual report shall describe the progress being made to implement safety projects, assessment of the effectiveness, and the contribution of these projects in meeting established safety goals. The report shall include the progress and effectiveness of the "High Risk Rural Roads" set-aside program and the "5% Report," describing at least 5% of the locations with the most severe safety needs.
- 23 USC [159](#): NDOT will submit an annual certification to FHWA indicating either opposition to or enactment/enforcement of a law requiring the revocation or suspension of drivers' licenses of individuals convicted of drug offenses.
- 23 USC [163](#): NDOT must notify annually FHWA and NHTSA of the intended use of the Section 163 incentive funds.
- 23 USC [402](#): FHWA will coordinate with NHTSA on program based Federal actions necessary under the Section 402 Program.

### 4) Project Approval Actions

- FHWA will verify that projects are in the current HSIP, and approve project agreements, modified project agreements and final vouchers on all Section [130](#) and [152](#) projects.
- If requested, FHWA will collaborate with NHTSA on any project-level action required for Section [402](#) projects.

### 5) Monitoring

- FHWA may conduct inspections, including finals, on a statewide sampling basis, through annual reviews.
- FHWA will provide ongoing technical assistance in the planning, implementation, and evaluation components of the HSIP, will include the safety program as an area of routine risk-assessment evaluations, and will work cooperatively with NDOT to use process review techniques to assess and improve procedures.
- FHWA will support NHTSA in monitoring Section 402 Program activities by participating in periodic management reviews conducted by NHTSA and by working cooperatively with NDOT.

## **6) Business Standards**

- FHWA will review for approval changes to the Implementation Process for the Highway Safety Improvement Program within 30 calendar days of request.
- NDOT will allow FHWA 10 working days, from receipt date, to accomplish any actions pertaining to the annual HSIP as prescribed in the Implementation Process for the HSIP.
- NDOT will provide FHWA informational copies of updates to the NDOT Traffic Safety Program/Procedures Manual within 30 calendar days of adoption.

## **7) Approved Procedures/Agreements/Manuals**

- NDOT Implementation Process for the Highway Safety Improvement Program, as approved by FHWA. (Any revisions or modifications will be submitted to FHWA for approval.)
- NDOT Safety Procedural Manual
- NDOT Local Public Agency Manual (pending)
- NDOT Project Design Development Manual as amended
- [Nevada Strategic Highway Safety Plan \(SHSP\)](#)

**SAFETY PROJECT ACTIVITY APPROVAL CHART**  
**Section 130 & 152 Projects**

PROJECT ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	Reference	<u>FULL OVERSIGHT</u>	<u>STATE ADMINISTERED</u>	<u>Other Projects by Mutual Agreement</u>
ROW Clearance Certification	<a href="#">23 CFR 635.309</a>	FHWA	NDOT	FHWA
Contract Changes & Extra Work	<a href="#">23 CFR 635.120</a>	FHWA	NDOT	FHWA/NDOT
Environmental Determination*	<a href="#">23 CFR 771</a>	FHWA	NDOT	FHWA/NDOT
Obligation of Funds	<a href="#">23 USC 106</a>	FHWA	FHWA	FHWA
Final Construction Inspection	<a href="#">23 USC 106</a>	FHWA	NDOT	FHWA
Final Voucher	<a href="#">23 USC 106</a>	FHWA	FHWA	FHWA
State Strategic Highway Safety Plan	23 USC 148	FHWA/NDOT	FHWA/NDOT	FHWA/NDOT

\* Except for Programmatic Categorical Exclusion

## **Q. TRAFFIC OPERATIONS**

### **1) Program Overview**

Traffic Operations is a cross-cutting program area that touches many aspects of the highway program. Traffic operations contribute heavily to project development, through engineering analysis of vehicle and pedestrian movement needed to produce sound project-level decisions affecting safe and efficient highway operations. It is also an area that contributes heavily to the operations and physical maintenance of highway facilities by providing techniques, procedures, management practices/systems and inventory tools.

Examples of traffic operations studies and analyses that are inherent to project development include:

- Traffic signal warranting and operational studies
- Capacity, traffic operations and geometric analysis
- Lighting studies
- Pedestrian and bicycle facility studies (including ADA analysis)
- Crash analysis and countermeasure development

Examples of traffic operations areas contributing to operations and maintenance of highways include:

- Device (such as signs, signal systems, pavement marking, etc.) and system inventory/management
- Incident management systems
- Construction and maintenance work zone operations
- Traffic signal timing and operation
- Monitoring and surveillance of conditions and operations

### **2) Applicable Laws, Regulations, and Orders**

- 23 USC Sections [101](#), [104](#), [109](#), [114](#), [116](#), [217](#), [315](#), [402](#)
- 23 CFR Subchapters 655 [E](#), G, J and K

### **3) Program Approval Actions**

NDOT, in cooperation with FHWA, will monitor, review and implement policies, guides and standards issued by organizations that provide the key technical documents that support the Traffic Operations program area. NDOT will keep FHWA informed of the status of adoption of key technical documents such as the MUTCD and any locally developed interpretations or applications of policies, standards and guidance.

#### **4) Project Approval Actions**

FHWA works with NDOT to determine appropriate application and use of the tools that are available. FHWA also provides technical support in interpreting and applying available tools and in having access to the state of the practice information that allows timely advancement and innovation in traffic operations.

Individual studies performed in support of project decision-making are the responsibility and prerogative of NDOT, with no specific FHWA approval actions required, except in the case of freeway interchange addition or modification. NDOT agrees to use approved traffic demand models and the NDOT "Traffic Monitoring System" as the basis for project traffic decision-making.

FHWA's specific approval of traffic operations elements of project development will occur coincident with environmental approvals, when the traffic operations studies are supporting alternative selection decisions.

FHWA's specific approval of traffic operations elements of project plans will be approved coincident with PS&E approval, dependent on the project's delegation status.

FHWA's approval of traffic analyses that support interchange/access modification will be approved coincident to the interchange/access modification.

#### **5) Monitoring**

- FHWA will conduct routine project and final inspections of traffic operations aspects on new/reconstruction Interstate projects. For all other Federal NHS and non-NHS projects, FHWA may conduct inspections, including finals, on a statewide sampling basis.
- FHWA will conduct routine evaluation of the maintenance of Federal-aid projects to assure traffic operations components are being adequately maintained.
- FHWA will provide ongoing technical assistance in the area of traffic operations, will include this area in routine risk-assessments, and will work cooperatively with NDOT to use process reviews to assess and improve operations and procedures.

## 6) Business Standards

- NDOT will notify FHWA of adoption or significant locally produced application of regulatory provisions including the MUTCD, AASHTO Policy and Work Zone Safety and Mobility Regulations within 30 calendar days of adoption.
- FHWA will follow prescribed processing requirements for individual project actions related to Traffic Operations as defined in this stewardship agreement.
- NDOT will fully involve FHWA in all aspects of Interstate interchange addition or change studies and proposals.

## 7) Approved Procedures/Agreements/Manuals

- NDOT Project Design Development Manual as amended
- NDOT Local Public Agency Manual (pending)
- ITS Regional Architectures and Strategic Plans
- NDOT Standard Specifications for Road and Bridge Construction
- NDOT Standard Plans for Road and Bridge Construction
- NDOT Maintenance Manual as amended
- NDOT Construction Manual
- NDOT Special Provisions
- [Manual on Uniform Traffic Control Devices \(MUTCD\)](#)
- NDOT Access Management System and Standards
- NDOT Qualified Product List (QPL)

<b>TRAFFIC OPERATIONS PROJECT ACTIVITIES</b>					
<b>Studies and Analyses</b>					
<b>Approval Action</b>	<b>Reference</b>	<b>Interstate Projects</b>	<b>NHS Projects</b>	<b>Non-NHS Projects</b>	<b>Other Projects by Mutual Agreement</b>
Traffic Signal Study	<a href="#">23 CFR 625</a>	NDOT	NDOT	NDOT	JOINT
Capacity, Traffic and Geometric Study	<a href="#">23 CFR 625</a>	NDOT	NDOT	NDOT	JOINT
Lighting Study	<a href="#">23 CFR 625</a>	NDOT	NDOT	NDOT	JOINT
Pedestrian and Bicycle Facility Study	<a href="#">23 CFR 625</a> and <a href="#">652</a>	NDOT	NDOT	NDOT	JOINT
Crash and Countermeasure Analysis	<a href="#">23 CFR 625</a>	NDOT	NDOT	NDOT	JOINT

<b>TRAFFIC OPERATIONS PROJECT ACTIVITIES</b>					
<b>Studies and Analyses</b>					
<b>Approval Action</b>	<b>Reference</b>	<b>Interstate Projects</b>	<b>NHS Projects</b>	<b>Non-NHS Projects</b>	<b>Other Projects by Mutual Agreement</b>
Signing Study	<a href="#">23 CFR 625</a>	NDOT	NDOT	NDOT	JOINT
Pavement Marking Study	<a href="#">23 CFR 625</a>	NDOT	NDOT	NDOT	JOINT
Speed Study	<a href="#">23 CFR 625</a>	NDOT	NDOT	NDOT	JOINT
Interstate System Access Revision	<a href="#">23 CFR 470</a> & <a href="#">23 CFR 710</a> & <a href="#">23 CFR 625</a>	FHWA	FHWA	N/A	JOINT
Non-Interstate Access Control	<a href="#">23 CFR 470</a> & <a href="#">23 CFR 710</a> & <a href="#">23 CFR 625</a>	N/A	NDOT	NDOT	JOINT
MUTCD Implementation and Compliance	<a href="#">23 CFR 655</a>	NDOT	NDOT	NDOT	JOINT
Highway- Rail Grade Crossing Study	<a href="#">23 CFR 646</a>	FHWA	FHWA	NDOT	JOINT
Parking Facility Study	<a href="#">23 CFR 625</a>	NDOT	NDOT	NDOT	JOINT

<b>TRAFFIC OPERATIONS PROJECT ACTIVITIES</b>					
<b>Physical Operations</b>					
<b>Approval Action</b>	<b>Reference Document</b>	<b>Interstate Projects</b>	<b>NHS Projects</b>	<b>Non-NHS Projects</b>	<b>Other Projects by Mutual Agreement</b>
Device Maintenance	<a href="#">23 CFR 1.27</a>	NDOT	NDOT	NDOT	FHWA
Device and System Inventory and Management	<a href="#">23 CFR 1.27</a>	NDOT	NDOT	NDOT	FHWA
Traveler Information Systems	<a href="#">23 CFR 1.27</a>	FHWA	FHWA	NDOT	JOINT
Incident Management Systems	<a href="#">23 CFR 1.27</a>	FHWA	FHWA	NDOT	JOINT
Construction and Maintenance Work Zone Operations	<a href="#">23 CFR 630</a>	NDOT	NDOT	NDOT	JOINT

**TRAFFIC OPERATIONS PROJECT ACTIVITIES**  
**Physical Operations**

<b>Approval Action</b>	<b>Reference Document</b>	<b>Interstate Projects</b>	<b>NHS Projects</b>	<b>Non-NHS Projects</b>	<b>Other Projects by Mutual Agreement</b>
Traffic Signal Timing and Operation	<a href="#">23 CFR 1.27</a>	NDOT	NDOT	NDOT	JOINT
Monitoring and Surveillance of Conditions and Operations	<a href="#">23 CFR 1.27</a>	NDOT	NDOT	NDOT	JOINT

#### **4. DECISION DISPUTE RESOLUTION**

While most requests by the NDOT for Federal approval result in a positive response within the anticipated turn-around time, there are occasions when the agencies will disagree. This section of the Stewardship Agreement provides a template for escalating issues that have reached impasse at the normal operational level.

It is expected that nearly all issues should be resolved between FHWA's program specialists and the NDOT representative who has submitted the request within the business operation time frames denoted in this Stewardship Agreement.

When the above operational level cannot reach agreement, it is expected that negotiations will continue, but with the involvement of NDOT's Division chiefs and/or District Engineers.

When the FHWA program specialist and NDOT Division/District level cannot reach agreement, it is expected that the FHWA Team Leader will become involved on behalf of FHWA, while the NDOT will involve the appropriate Assistant Director.

If these levels are unable to resolve the issue, FHWA's Assistant Division Administrator and NDOT's Deputy Director(s) will seek resolution.

Should none of the above negotiations result in a satisfactory resolution, the FHWA Division Administrator and the NDOT Director will determine the final outcome.

Since time is nearly always an important factor, escalation to the next level should be accomplished by the respective units, as soon as it has been determined that the issue cannot be resolved at the level at which a question or issue is at impasse.

## ACRONYMS

AA/EEO – Affirmative Action/Equal Employment Opportunity  
AASHTO – American Association of State Highway & Transportation Officials  
ADA – Americans with Disabilities Act  
ANSI – American National Standards Institute  
AREMA – American Railway Engineering and Maintenance-of-Way Association  
CE – Categorical Exclusion  
Days – calendar vs. working  
DBE – Disadvantaged Business Enterprise  
EA – Environmental Assessment  
EIS – Environmental Impact Statement  
FAPG – Federal Aid Program Guide  
FONSI – Finding of No Significant Impact  
HBP – Highway Bridge Program  
HSIP – Highway Safety Improvement Program  
ITS – Intelligent Transportation Systems  
LPA – Local Public Agency  
LRFD – Load & Resistant Factor Design  
LRTP – Long-range Transportation Plan  
MPO – Metropolitan Planning Organization  
NBI – National Bridge Inventory  
NBIS – National Bridge Inspection Standards  
NEPA – National Environmental Policy Act  
NHS – National Highway System  
NHTSA – National Highway Traffic Safety Administration  
PS&E – Plans, Specifications and Estimate  
QC/QA – Quality Control/Quality Assurance  
3R – Resurfacing, Restoration and Rehabilitation  
4R – Resurfacing, Restoration, Rehabilitation and Reconstruction  
ROD – Record of Decision  
RTC – Regional Transportation Commission  
Secretary – Office of the Secretary, U.S. Department of Transportation  
SHPO – State Historic Preservation Office  
SHSP – Strategic Highway Safety Plan  
STIP – Statewide Transportation Improvement Program  
TIP – Transportation Improvement Program  
TS&L – Type, Size & Location

## **FHWA-NDOT Memorandum of Understanding**

The January 7, 2008 Stewardship Agreement between FHWA and NDOT called for performance/compliance indicators to be added, with similar measures required to be adopted by NDOT in Assembly Bill 595. NDOT subsequently selected fifteen performance measures to achieve the Department Goals. Nine are being added to the Stewardship Agreement to gauge the effectiveness of the delegated responsibilities. The performance/compliance indicators are as follows:

**Streamline Agreement Execution Process** – Percentage of Agreements executed within 45 days from when division submits agreement to date when it is fully executed.

**Reduce Congestion of the State System** – Percentage of daily vehicle miles traveled that occur at Level of Service E (unstable traffic flow) or worse on the state system.

**Streamline Project Delivery – Schedule and Estimate from Bid Opening to Construction Completion** – Percentage of projects within established range of cost estimate and schedule to completion.

**Maintain State Roadways** – Percentage of state maintained pavements needing annual preservation in order to maintain the pavement International Roughness Index rating of fair or better condition.

**Provide Continuity of Business Operations** – Percentage of seven Department Emergency Plans that have been completed.

**Reduce Fatal Crashes** – Number of fatalities on Nevada's streets and highways.

**Streamline Project Delivery – Schedule and Estimate after NEPA Approval to Bidding** – Percentage of projects completed within range of established estimate and schedule after the environmental process.

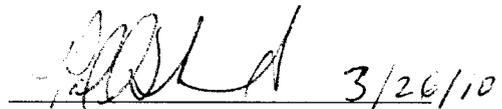
**Maintain State Bridges** – Percentage of Department-owned bridges which are eligible for federal funding and are categorized as structurally deficient or functionally obsolete.

**Streamline Permitting Process** – Percentage of permits issued or rejected within 45 days of receipt.

The data for each of these measures will be supplied to FHWA through transmittal of the AB 595 Annual Report prior to December 31 of each year.



R. Scott Rawlins, NDOT      Date 3/25/10



Paul Schneider, FHWA      Date

**PROGRAMMATIC AGREEMENT FOR  
INHERENTLY LOW-RISK OVERSIGHT PROJECTS  
ON THE INTERSTATE SYSTEM**

This Agreement is made and entered into this 26 day of December, 2008, by and between the Federal Highway Administration, Nevada Division (FHWA) and the State of Nevada, acting by and through its Department of Transportation (NDOT).

WHEREAS, the FHWA has the responsibility for administering Federal requirements with respect to projects constructed with funds made available under Title 23 United States Code (U.S.C.), including responsibilities relating to design, plans, specifications, estimates, contract awards, contract administration and inspection; and

WHEREAS, some projects on the Interstate and the National Highway System (NHS) are inherently low-risk, routine and non-controversial and NDOT has a high-level of experience and documented procedures and processes for ensuring compliance with federal requirements; and

WHEREAS, it is mutually desirable to both the FHWA and NDOT to streamline the approval process of these routine and inherently low-risk projects; and

WHEREAS, Title 23, U.S.C. §106(c)(4) provides that the Secretary of the United States Department of Transportation may not assume any greater responsibility than the Secretary is permitted on September 20, 1997; and

WHEREAS, on September 30, 1997, Title 23, U.S.C. §106(c) permitted the States to approve, on a project-by-project basis, plans, specifications and estimates for projects to resurface, restore, and rehabilitate (3R) highways on the NHS, and further permitted the States to request that the Secretary no longer review and approve highway projects on the NHS with an estimated construction cost of less than One Million Dollars (\$1,000,000);

NOW THEREFORE, the FHWA and NDOT agree as follows:

1. Inherently low-risk oversight projects are routine, non-controversial and those in which the NDOT has a high-level of experience and documented procedures and processes in place for ensuring compliance with federal requirements. They do not involve major changes in scope or cost and would not jeopardize the safety or operation of the Interstate or NHS. For the purpose of this Agreement, inherently low-risk oversight projects include all Interstate projects over One Million Dollars (\$1,000,000) and under Twenty-Five Million Dollars (\$25,000,000) not included in Paragraph 2 below. Resurfacing, Restoration, and Rehabilitation (3R) and landscaping projects on the Interstate or NHS, regardless of the cost, are considered inherently low-risk oversight projects.

2. Inherently low-risk oversight projects do not include projects that are complex projects classified by NDOT or FHWA as "major projects," involve new partners (public/private partnerships), involve new or innovative contracting methods, viewed as high risk, and involve complex or unique engineering features.

3. For projects as defined in paragraph 1, FHWA grants its approval for the designs, plans, specifications, estimates, contract awards, contract administration and inspections in advance of the actual delivery of these projects. The advance approvals are not deemed to occur until after the completion of the National Environmental Policy Act (NEPA) process and the satisfaction of other related environmental laws and procedures. Notwithstanding this determination, FHWA retains the ability to select a 3R or landscaping project for full oversight as part of the annual selection of full oversight projects as outlined in the Stewardship Agreement between NDOT and FHWA.

4. For projects as defined in paragraph 1, FHWA's oversight will be satisfied by a risk management framework and by 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 and that the appropriate federal requirements have been met to date or defined steps are to be taken to ensure requirements will be met. Notwithstanding this determination, FHWA retains overall responsibility for all aspects of Federal-aid programs and, as such, shall be granted full access to review any aspect or record of a Federal-aid project at any time.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly executed, the day and year first written above.

Federal Highway Administration  
its

State of Nevada, acting by and through



Nevada Division Administrator

Department of Transportation  


Director