

FEDERAL-AID HIGHWAY PROGRAM STEWARDSHIP & OVERSIGHT AGREEMENT

**A Partnership Between
The Oklahoma Department of Transportation
and
The Federal Highway Administration
Oklahoma Division**

January 30, 2009

Gary M. Ridley
Director
Oklahoma Department of Transportation

Gary Corino
Division Administrator
Federal Highway Administration

This agreement supersedes ODOT and FHWA Stewardship Agreement issued June 25, 2004.

TABLE OF CONTENTS

GLOSSARY.....	i
BACKGROUND AND INTRODUCTION.....	1
ODOT AND FHWA ROLES AND RESPONSIBILITIES.....	3
METHODS OF OVERSIGHT.....	5
DELEGATED PROGRAM AND PROJECT RESPONSIBILITIES.....	9
CONTROL DOCUMENTS.....	11
PERFORMANCE INDICATORS.....	12
DISPUTE RESOLUTION PHILOSOPHY.....	12
REVISION OR TERMINATION.....	12
APPENDIX A	

GLOSSARY

Control Document – Applicable standards, manuals, policies, procedures, standard specifications, etc., that are acceptable to, or approved by, FHWA for application in the design and construction of highways.

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

Delegated Projects: ODOT Oversight Federal-aid projects that do not require FHWA to review and approve actions pertaining to design, plans, specifications, estimates, contract awards, inspections and final acceptance on a project by project basis.

FHWA Full-Oversight Projects – Federal-aid projects that require FHWA review and approval of core functions including design, plans, specifications, estimates, right-of-way certification statements, contract awards, inspections, and final acceptance on a project by project basis.

Joint Review – A review conducted jointly by the ODOT and FHWA on subjects or programs identified through the risk management or other mutually agreed process.

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

Oversight – The act of ensuring that the Federal-aid highway program is delivered consistent with laws, regulations and policies through joint reviews, process reviews, project reviews/inspections and other day-to-day activities.

Process Review – A review conducted by either the ODOT or FHWA on subjects or programs identified through the risk management or other mutually agreed process.

Project Review – A review of an individual project conducted by the ODOT and/or FHWA.

Risk Management – The systematic identification, assessment, planning, and management of threats and opportunities faced by Federal-aid projects and programs.

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

FEDERAL-AID HIGHWAY PROGRAM STEWARDSHIP & OVERSIGHT AGREEMENT

OKLAHOMA DEPARTMENT OF TRANSPORTATION
and
U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
OKLAHOMA DIVISION

1. Background and Introduction

Congress has charged the Federal Highway Administration (FHWA) with administering the Federal-Aid Highway Program (FAHP) under US CODE--TITLE 23--HIGHWAYS (Title 23) and other associated laws. FHWA's responsibility for administering this Program has been clearly outlined in the following legislation:

- Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991
- Transportation Equity Act for the 21st Century (TEA-21) of 1998
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005.

These laws allow FHWA, by way of a Stewardship and Oversight Agreement, to delegate to the Oklahoma Department of Transportation (ODOT) certain responsibilities in the design, construction, award and inspection of particular Federal-aid projects.

This Federal-aid Program Stewardship and Oversight Agreement (Oversight Agreement) clarifies the roles and responsibilities of both Federal Highway Administration (FHWA) and Oklahoma Department of Transportation (ODOT) in implementing the Federal-aid Highway Program. In situations where the ODOT has accepted the responsibility for project oversight through the exemptions provided in Title 23 USC 106, the ODOT is to have an action that takes the place of the prior role of FHWA. The Oversight 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 consistent with laws, regulations, policies, and good business practices.

Since 1991, Federal highway legislation has allowed the delegation of project level responsibilities to States for actions in design, plans, specifications, estimates, contract awards, and inspections of projects. This Oversight Agreement is the documentation of the exemptions, under Section 106 of Title 23, from Federal full-oversight that are desired and accepted by ODOT and recognized by FHWA. The exemption options of Section 106 are desirable for ODOT for the streamlining of processes. Exemptions are desirable for FHWA because reduced project-level involvement allows for more effective application of resources. Notwithstanding the Agreement, FHWA retains overall responsibility for all aspects of Federal-aid programs and an Agreement does not preclude FHWA's access to and review of a Federal-aid project at any time and does not replace the provisions of Title 23, USC. While Federal law allows a State DOT to assume certain project approvals and authorities, the FHWA is ultimately accountable for

ensuring that the Federal-aid Highway Program is delivered consistent with established requirements.

2. Delegation of Authority

Only certain actions and authorities rooted in Title 23 USC are able to be delegated under 23 USC 106. However, non-Title 23 actions and authorities such as those under the Clean Air Act; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; the Civil Rights Act of 1964, and the National Environmental Policy Act of 1969 (except as permitted under SAFETEA-LU Sections 6004 and 6005) cannot be delegated when a State requests exemption of direct Federal oversight under 23 USC 106. These non-Title 23 requirements apply to all Federal-aid projects.

This agreement defines the responsibilities of the FHWA and ODOT, including increasing the dollar threshold from \$1,000,000 to \$2,000,000 when considering ODOT project oversight.

3. Project Selection

The FHWA full-oversight projects will be identified by FHWA and ODOT as described in Appendix A. ODOT annually reviews and amends the 8 Year Construction Work Plan (CWP) in order to balance planned construction estimates with available program funding. Every effort will be made by ODOT to present the final CWP to the Commission for approval prior to the beginning of the next Federal Fiscal Year. Following Commission approval ODOT will provide project reports to FHWA for their use in identifying the projects for FHWA full-oversight.

4. Method of Oversight

The Oklahoma Division and ODOT will utilize a balanced approach involving several stewardship and oversight techniques to ensure Federal-aid funds are used efficiently and effectively in Oklahoma. The Oklahoma Division's stewardship and oversight program consists of the following components: risk assessments; process reviews (joint or not), project reviews; Financial Integrity Review and Evaluation program (FIRE); peer reviews; partnering activities; task force activities; as well as other techniques such as Performance Plan development, reviewing ODOT reports, participation in project/program meetings, certification reviews, and day-to-day interactions. The Division Leadership Team and Quality Program Manager have the overall responsibility for tracking the accomplishments of the Oklahoma Division's Performance Plan activities and initiatives.

ODOT AND FHWA ROLES AND RESPONSIBILITIES

Any projects affecting operations on the NHS funded or sponsored by other government or private agencies will be included for oversight under this agreement as they are identified. The FHWA has stewardship and oversight responsibilities for all Federal-Aid Highway programs, including 23 U.S.C., 23 CFR, and non-Title 23 Programs. The FHWA is ultimately accountable for ensuring that the Federal-aid program is delivered consistent with established requirements.

1. FHWA Division Office Responsibilities

FHWA delegates to ODOT project approvals for all State oversight of Federal-aid projects, as defined elsewhere in this Agreement. However, as mentioned above, certain actions and responsibilities on State oversight projects cannot be or are not delegated to ODOT. The FHWA retains authority on Federal-aid projects for actions including but not limited to the following:

- All Federal responsibilities for planning and programming oversight specified in 23 USC 134 and 135 (Statewide Transportation Improvement Plan and amendments)
- Federal air quality conformity determinations required by the Clean Air Act
- Obligation of funds
- Waivers to Buy America requirements
- Civil Rights program approvals
- Civil Rights actions
- Environmental approvals except those specifically delegated under Sections 6004 and 6005 of SAFETEA-LU (National Environmental Policy Act actions)
- Addition and changes of access points on the Interstate Highway System
- Use of Interstate airspace for non-highway-related purposes
- Uniform Relocation Assistance Act (Hardship acquisition and protective buying)
- Modifications to project agreements
- Final vouchers
- Experimental features on National Highway System (NHS) projects
- Fund transfers to other agencies
- Advance Construction and conversion to Federal funding
- Participation in costs incurred before FHWA authorization
- Design exceptions on all Federal full-oversight projects and all projects on the Interstate Highway System regardless of funding source
- All schematics on the NHS or non-NHS with FHWA full-oversight with the exception of preventive maintenance and 3R type projects.

2. ODOT Responsibilities

- ODOT assuming FHWA review and approval authority does not alter the applicability of Federal laws on Federal-aid projects. It is agreed that Title 23 requirements pertaining to contract bid proposal contents (including Davis-Bacon and the Disadvantaged Business Enterprise program) and procurement procedures (competitive bidding) apply to projects where required by the implementing Federal regulation. Additionally, the provisions of this Agreement do not modify the FHWA's non-Title 23 program oversight and project approval responsibilities for activities such as required under the Clean Air Act, NEPA

and other related environmental laws and statutes, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the Civil Rights Act of 1964 and related statutes, unless expressly permitted by SAFETEA-LU Section 6004 and 6005. By signing this Agreement, ODOT accepts responsibility for FHWA review and approval actions to the extent such review and approval is required by Federal law and regulation.

- Once delegated, ODOT assumes responsibility for all Title 23 approval actions relative to project level design (including approval of design exceptions, PS&E approval, and concurrence in award), and construction (including construction inspection, change order approval, claims settlement, sampling and testing activities, project acceptance, preparation and submission of required project data) for State oversight projects. It is understood certain actions and responsibilities on State oversight projects cannot be or are not delegated to ODOT. Those project level actions requiring FHWA approval are listed under FHWA Division Office Responsibilities.
- For State oversight projects or programs that are developed and administered by local agencies/governments consistent with Local Program Administration procedures (including Transportation Enhancement Projects), ODOT shall provide the necessary review and approval to assure compliance with Federal requirements. ODOT will be responsible for determining that sub-recipients of Federal funds have adequate qualified staffing and resources, project delivery systems, and sufficient accounting control. Furthermore, ODOT is ultimately accountable to FHWA for ensuring compliance with Federal-aid requirements on such projects.

METHODS OF OVERSIGHT

1. INTERSTATE PROJECTS

A. FHWA Full-Oversight

Federal-aid projects designated by the Eight-Year Work Plan that have an estimated construction cost of \$2,000,000 or more will be identified as FHWA full-oversight unless determined otherwise by the FHWA and ODOT. Projects may be defined by logical termini or by contract limits (consisting of multiple components, i.e. Right-of-Way, Utilities, Construction, etc.), consistent with their inclusion in the Eight-Year construction Work Plan.

Projects will be developed meeting all applicable design standards, guidelines, policies, and procedures in accordance with FHWA approved ODOT manuals and the Federal-Aid Policy Guide, Section 625 of 23 CFR, "Design Standards for Highways." All design exceptions will be analyzed and requested in writing by ODOT and subject to approval by FHWA.

FHWA will be actively involved in all project development steps including, planning, scoping, National Environmental Policy Act (NEPA), design, plans, specifications, and estimate (PS&E) approval, project authorization, concurrence in award, construction monitoring, and final acceptance.

B. ODOT Oversight

Federal-aid projects designated by the Eight-Year Work Plan that have an estimated construction cost LESS THAN \$2,000,000 will be identified as ODOT oversight unless determined otherwise by the FHWA and ODOT as described in Appendix A. Projects may be defined by logical termini or by contract limits (consisting of multiple components, i.e. Right-of-Way, Utilities, Construction, etc.), consistent with their inclusion in the Eight-Year Construction Work Plan.

Projects will be developed meeting all applicable design standards, guidelines, policies, and procedures in accordance with FHWA approved ODOT manuals and the Federal-Aid Policy Guide (Section 625 of 23 CFR, "Design Standards for Highways").

The FHWA will carry out its non-Title 23 responsibilities and its Title 23 responsibilities consistent with this agreement in a thorough and timely manner. Reviews and actions taken in these areas will be coordinated with the appropriate ODOT divisions.

Preliminary drawings or plans and final design, plans, specifications, and estimate (PS&E) will not be furnished to the FHWA for review or approval. FHWA will provide technical assistance as requested by ODOT. All design exceptions for interstate projects are subject to FHWA approval. ODOT will analyze the design exception and request FHWA approval in writing.

Records of all design exceptions (including engineering and economic analysis) will be kept in a centralized location and available for FHWA review upon request.

Federally-funded safety projects not under FHWA full-oversight may be developed by phase construction consistent with an FHWA-approved operative safety management system established in accordance with Section 303 of Title 23 USC..

2. NATIONAL HIGHWAY SYSTEM - NON-INTERSTATE PROJECTS

A. FHWA Full-Oversight

Federal-aid projects designated by the Eight-Year Work Plan that have an estimated construction cost of \$2,000,000 or more will be identified as FHWA full-oversight unless determined otherwise by the FHWA and ODOT as described in Appendix A. Projects may be defined by logical termini or by contract limits (consisting of multiple components, i.e. Right-of-Way, Utilities, Construction, etc.), consistent with their inclusion in the Eight-Year Construction Work Plan.

Projects will be developed meeting all applicable design standards, guidelines, policies, and procedures in accordance with FHWA-approved ODOT manuals and the Federal-Aid Policy Guide (Section 625 of 23 CFR, "Design Standards for Highways"). All design exceptions are subject to FHWA approval. ODOT will analyze the design exception and request FHWA approval in writing.

FHWA will be actively involved in all project development steps, including, planning, scoping, NEPA, design, plans, specifications, and estimate (PS&E) approval, project authorization, concurrence in award, and construction monitoring.

B. ODOT Oversight

Federal-aid projects designated by the Eight-Year Work Plan that have an estimated construction cost LESS THAN \$2,000,000 will be identified as ODOT oversight unless determined otherwise by the FHWA and ODOT as described in Appendix A. Projects may be defined by logical termini or by contract limits (consisting of multiple components, i.e. Right-of-Way, Utilities, Construction, etc.), consistent with their inclusion in the Eight-Year Work Plan.

Projects will be developed meeting all applicable design standards, guidelines, policies, and procedures in accordance with FHWA-approved ODOT manuals and the Federal-Aid Policy Guide (Section 625 of 23 CFR, "Design Standards for Highways").

The FHWA will carry out its non-Title 23 responsibilities and its Title 23 responsibilities consistent with this agreement in a thorough and timely manner. Reviews and actions taken in these areas will be coordinated with the appropriate ODOT divisions.

Preliminary drawings or plans and final design, plans, specifications, and estimate (PS&E) will not be furnished to the FHWA for review or approval. FHWA may provide technical assistance as requested by ODOT. ODOT having technical and design support

responsibility for design exception will be the approving authority. All design exceptions will be analyzed and documented according to approved ODOT procedures. Records of all design exceptions (including engineering and economic analysis) will be kept in a centralized location and available for FHWA review upon request.

Federally-funded safety projects not under FHWA full-oversight may be developed by phase construction consistent with 23 USC section 109(q) or with an FHWA-approved operative safety management system established in accordance with 23 USC Section 303.

3. STATE TRANSPORTATION PROGRAM (STP) OR NON-NHS

A. FHWA Full-Oversight

No STP or Non-NHS projects will be Full-oversight, unless determined otherwise by the FHWA and ODOT as described in Appendix A.

B. ODOT Oversight

The ODOT will administer all non-NHS projects in accordance with its existing operating procedures or ones it will develop as the need arises. All non-NHS projects (on or off the State system) will be designed, awarded, administered, constructed, and maintained in accordance with Oklahoma State laws, regulations, directives, safety standards, design standards, and construction standards as provided for under Title 23, USC Section 106(c)(2), (3) and (4).

Non-NHS construction projects off the State system under local agency control through the ODOT Certification Acceptance Program will require a full-time employed State engineer to be in responsible charge of the project as required by 23 CFR 635.105(b).

The ODOT Certification Acceptance Program is a voluntary program which, when approved by FHWA, allows designated local agencies (cities/counties/tribes) of Oklahoma to take more active roles in the development and construction of transportation projects utilizing Federal-aid funds. The local agencies will have the opportunity to be responsible for the oversight of the project design, project letting, and construction supervision; this flexibility will not reduce the requirement of ODOT to provide the program oversight necessary to determine acceptability in accordance with Title 23 and this agreement.

The FHWA delegates by virtue of this agreement authority and the ODOT agrees to assume responsibility for all project activities, including plans, specifications, and estimate (PS&E) approval, design standards, design exception approvals, advertising and award of contracts, and construction activities, including approval of changes in plans and final inspections necessary to advance the projects to completed and closed fiscal status. Reimbursement claims for non-NHS projects will be submitted to FHWA under the applicable appropriation codes used on the projects.

All environmental, non-discrimination, labor compliance, uniform relocation assistance, and other non-Title 23 requirements are not delegated to the ODOT and are subject to

FHWA review and approval. All Title 23 contract provisions and/or forms will continue to apply to all Federal-aid projects regardless of oversight.

The FHWA will remain available for technical or program assistance at the request of the ODOT. Decisions on specific project matters will only be offered by FHWA upon written request by the ODOT.

4. INTELLIGENT TRANSPORTATION SYSTEM PROJECTS (ITS)

A. FHWA Full-Oversight

Stand alone ITS Projects (regardless of funding sources) will be identified as FHWA full-oversight. Projects may be defined by logical termini or by contract limits, consistent with their inclusion in the Eight-Year Work Plan.

Projects will be developed meeting all applicable design standards, guidelines, policies, and procedures in accordance with FHWA-approved ODOT manuals and the Federal-Aid Policy Guides. All design exceptions will be analyzed and requested in writing by ODOT and subject to approval by FHWA.

FHWA will be actively involved in all project development steps, including, planning, scoping, NEPA, design, plans, specifications, and estimate (PS&E) approval, project authorization, concurrence in award, and construction monitoring.

DELEGATED PROGRAM AND PROJECT RESPONSIBILITIES

1. General

Actions and authorities outside of Title 23, USC such as those under the Clean Air Act; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; the Civil Rights Act of 1964, and the National Environmental Policy Act of 1969 (except as permitted under SAFETEA-LU Sections 6004 and 6005) cannot be delegated under this agreement. Further, general Title 23, USC requirements that apply to all projects, such as metropolitan and statewide planning, procurement of services and contracts, disadvantaged business enterprises, etc., continue to apply to projects where ODOT has assumed the responsibilities noted.

For all delegated projects or programs, the ODOT shall comply with Title 23 and certain non-Title 23, USC Federal-aid program requirements, such as metropolitan and statewide planning, environment, procurement of engineering and design related service contracts, Title VI of the Civil Rights Act, participation by disadvantaged business enterprises, prevailing wage rates, and acquisition of right-of-way, etc.

For all delegated projects or programs, the ODOT shall assure that right-of-way approval; utility approval; environmental approvals; railroad approval and related activities; design approval; design exceptions (NHS); PS&E approval; concurrence in award; and construction-related activities are performed in accordance with State policies, practices and standards, and in accordance with all requirements of Title 23, USC.

For delegated projects or programs that are developed and administered by local agencies, the SDOT shall provide the necessary review and approval to assure compliance with Federal requirements. The States will be responsible for determining that sub-recipients of Federal funds have adequate staffing, project delivery systems, and sufficient accounting control. ODOT is ultimately accountable to FHWA for ensuring compliance with Federal-aid requirements on such projects.

2. Project Development

ODOT will assure that all environmental compliance activities have been completed and provisions made for implementing any commitments made in the environmental document on all projects (NHS and non-NHS), prior to proceeding with right-of-way acquisition or advertising for construction. The ODOT will also assure that prior to advertising for construction, all required permits (i.e. Section 404) have been obtained; all necessary right-of-way has been secured; and appropriate arrangements have been made for the relocation of utilities. During construction (and later operations), ODOT will responsibly assure that environmental commitments are fulfilled and maintained.

ODOT will be responsible for all construction inspection, including final acceptance on all projects (NHS and non-NHS). Usual construction records will be kept and will be available to the FHWA upon request. Form PR-1446C, Final Inspection of Federal-Aid Project, will be submitted to the FHWA upon final acceptance of the project by the State. Federal-aid participation in the settlement of contract claims, including the use of alternative dispute

resolution, on non-NHS projects will be determined by the State applying its own procedures without regard to compliance with 23 CFR 635.124. However, the State will comply with allowable cost principles of Office of Management & Budget (OMB) Circular A-87 as addressed in 49 CFR 18.22. Federal-aid participation in the settlement of contract claims, including the use of alternative dispute resolution, on NHS projects will be in accordance with normal Federal-aid procedures and subject to the provisions of 23 CFR 635.124.

The ODOT will be responsible for performing or providing for others on behalf of ODOT to provide acceptable maintenance in accordance with the provisions of Title 23 and the project agreement.

The ODOT will provide appropriate oversight of those local agencies which, jointly approved by FHWA and ODOT, will participate in the ODOT Certification Acceptance Program.

3. Funding

Funding for all Federal-aid projects may be from any eligible fund category. Funds administered under this agreement will be subject to all existing obligation limitation controls as applicable. Finance plans may be required in accordance with 23 U.S.C. 106(h).

Upon execution of the Project Authorization/Agreement (1240), costs will be billed through the State's billing system in accordance with the current billing memorandum of understanding.

In administering the funds under this agreement, the ODOT will comply with the limitations and requirements prescribed by Title 23 United States Code and/or other legislative or regulatory requirements.

4. Matching Rates

State matching of Federal-aid funds will be consistent with applicable requirements of Title 23 United States Code. As appropriate, the State may use the ISTEA Section 1044 credit to adjust the non-Federal share on projects that were authorized using the ISTEA Section 1044 credits and all other Federal-aid projects authorized after April 29, 1996.

5. Reporting

Regular program statistical data is required on all Federal-aid projects. Other routine reports for non-Title 23 requirements will continue to be submitted by ODOT.

CONTROL DOCUMENTS

The ODOT will comply with the policies and objectives of Title 23 USC through the enforcement of applicable laws and regulations, standards, and directives, including requirements as listed in the Brooks Act and 23 CFR 172. Projects on the NHS will be developed in accordance with federally approved standards as specified in 23 CFR 625..

Control documents listed below establish project development or project implementation procedures and are incorporated into project contract documents. Memorandums and Supplementals causing change to the listed documents will follow the procedures listed below for changes to a control document.

The following control documents will be adhered to in the development and administration of Federal-aid projects:

- ODOT Design Manual
- ODOT Standard Specifications for Highway Construction
- Construction Control Directives impacting the Federal-Aid Program
- ODOT Standard Drawings
- ODOT Land Acquisition Policy and Procedure Manual
- ODOT Right-of-Way Specifications Manual for Preparation of Plans and Documents
- County Roads and Bridges Standards for Local Projects
- ODOT Environmental Procedures Manual
- ODOT Contract Administration Manual
- ODOT Special Provisions
- ODOT Special Specifications
- ODOT Materials Specifications
- ODOT Manual on Testing Procedures
- ODOT Bridge Design Manual
- ODOT Quality Assurance for Construction

The FHWA review and approval of changes to control documents is a program-level review activity. The FHWA review of control documents will be through coordinated participation on the various committees and participation in the revision or rewriting of such documents. The application and implementation of procedures established in the control documents will be reviewed on a program-level as part of the process review program. Modifications to these control documents require FHWA approval prior to implementation on NHS projects.

PERFORMANCE INDICATORS

It is recognized by ODOT and FHWA that indicators are necessary to track performance trends, health of the Federal-aid Highway Program (FAHP), and compliance with Federal requirements. By this Agreement, both agencies agree to utilize established sets of indicators to gauge the overall effectiveness of the FAHP, since ODOT has assumed FHWA approval responsibilities on certain projects. Should the indicators show signs of not moving in the desired target direction; both agencies will implement mutually agreed countermeasures or actions to right the direction.

DISPUTE RESOLUTION PHILOSOPHY

While most ODOT requests for Federal approval and most FHWA requests to ODOT to address project or program matters result in a positive response within reasonable time-frames, there are occasions when agreement cannot rapidly be reached by both parties. It is expected that nearly all issues should be resolved at the lowest working level between FHWA and ODOT staff where the issue originated.

REVISION OR TERMINATION

This agreement will remain in effect until terminated and may be periodically reviewed and revised by mutual agreement of the parties hereto.

This agreement is entered into and becomes effective on the date it is signed.

**APPENDIX A
PROCESS FOR DEVELOPING THE
FHWA FULL-OVERSIGHT LIST**

GENERAL

The FHWA-ODOT Federal-aid Program Stewardship and Oversight Agreement (Oversight Agreement) establishes the requirements for FHWA and/or ODOT project oversight. This appendix establishes the concept and process for selecting projects for FHWA full-oversight.

The Oklahoma Division has stewardship and oversight responsibilities for all Federal-Aid Highway programs, including 23 U.S.C., 23 CFR, and non-Title 23 Programs and is ultimately accountable for ensuring the Federal-aid Highway Program is delivered in accordance with established requirements. Consistent with the Oversight Agreement, the ODOT administers all State Transportation Program (STP) and non-NHS projects. However, to allow FHWA to sample projects in all ODOT Residencies, an STP or Non-NHS project may be identified as an FHWA full-oversight project.

The ODOT annually reviews and updates the 8 Year Construction Work Plan (CWP) and normally completes the process between August and September. The ODOT and FHWA meet between October and November and, using the guidance in this Appendix and the updated ODOT CWP, develop a list of FHWA full-oversight projects (Full-Oversight List). All phases of the development and construction of these projects are overseen by FHWA to ensure ODOT's processes and procedures are compliant with appropriate laws and regulations.

Due to the complexity or fiscal constraints of a project, the ODOT may choose to construct a highway segment in several phases over several years. Generally the projects in the Full-Oversight List will include each phase of a project's construction to represent a full-and-complete project. For FHWA full-oversight, a full-and-complete project includes the grade and drain, bridges, and surfacing components that may be completed in one or more construction phases. From this point on the term "project" will refer to a construction project consisting of all of its components.

The Full-Oversight List includes projects let or to be let for the period of the current CWP. However, to assist the FHWA and the ODOT in tracking projects previously selected for FHWA full-oversight, an additional list is produced that includes Full-oversight projects let during the two years prior to the current CWP.

If there are amendments (additions or deletions) to the 8 Year Construction Work Plan, the ODOT and the FHWA together will make the projects' oversight determination at the time the amendment(s) is (are) approved.

STEPS FOR DEVELOPING THE FHWA FULL-OVERSIGHT LIST

The process followed in developing the FHWA Full-Oversight List is illustrated in [Figure A](#) and described in the following steps:

- 1) Preparation for FHWA Full-Oversight List development
 - A) The ODOT develops the current 8 Year Construction Work Plan (CWP)
 - B) The ODOT generates a list of projects let during the prior two years that have been selected for FHWA full-oversight
- 2) From the updated CWP the ODOT generates a list of all projects, including those on and off the NHS and regardless of funding amounts. This list indicates whether the projects are on the NHS, have current FHWA full-oversight or are new to the CWP. The list will be provided in two formats:
 - A) Format A will group projects by the ODOT Field Division, by the Counties within that Division and by related project components within those Counties
 - B) Format "B" will group projects by ODOT Field Division, by the Counties within that Division and in order of the project Letting DatesIn Format A the grouping of related projects will include cumulative construction estimates in order that entire projects may be considered for FHWA full-oversight selection based on their total cost rather than by individual component costs. The ODOT will provide both formats of this list to the FHWA within two weeks following Commission approval of the CWP.

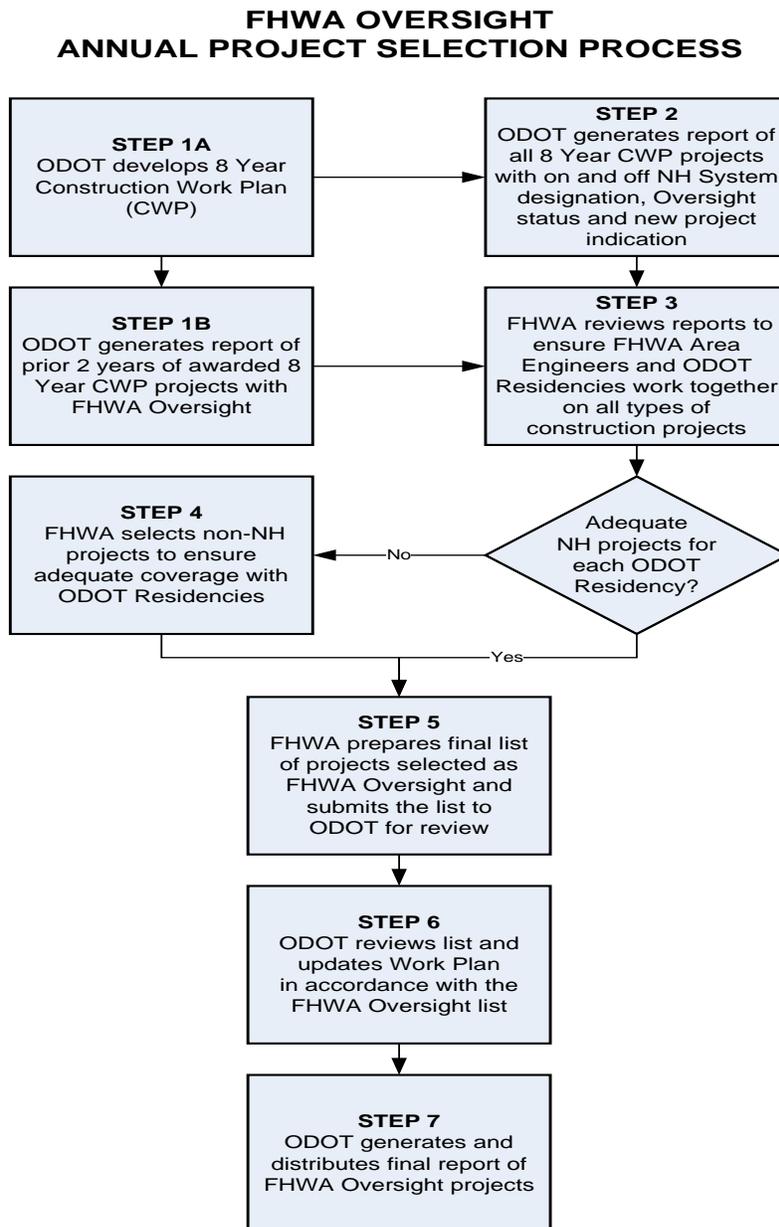
NOTE: The FHWA retains oversight and approval responsibility for all Non-Title 23 activities including NEPA, Right-of-Way, Title IV, etc. for all programs and projects. By identifying these type of actions associated with projects on the Full-Oversight List, project decision timelines are more readily attainable. Also, by identifying construction projects costing less than \$2 million that are associated with projects estimated to cost \$2 million or more, the FHWA will experience a better sampling of ODOT processes and procedures used for administering full and complete projects.

- 3) From the list of all CWP projects as described in Step 2, the FHWA Area Engineers (AE) will attempt to identify at least one project per each ODOT Residency on the Interstate or NHS with cumulative totals of \$2 million or higher. The AE reviews this list to ensure the opportunity to visit each ODOT Residency during construction and that the projects do not represent similar work. If the AE feels there are adequate samplings of work for each ODOT Residency or if a project is considered inherently low risk the AE may choose to exclude some Interstate and/or NHS projects from FHWA full-oversight. The intent of the AE is to select projects that will demonstrate the ability of each ODOT Residency to manage a full-and-complete Federal-aid project.
- 4) The initial list of candidate Interstate and NHS FHWA full-oversight projects developed by the Area Engineers may not provide an opportunity for each AE to visit with each ODOT Residency during construction. In these situations a Non-NHS project may better demonstrate ODOT's processes and procedures used for administering full and complete projects. The list of candidate FHWA full-oversight projects may be revised to include Non-

NHS projects. Any Non-NHS projects included in the Full-Oversight List will have a cumulative construction cost estimate of \$2 million or greater.

- 5) The FHWA will finalize the FHWA Full-Oversight List and provide it to the ODOT for review.
- 6) The ODOT will review the final FHWA Full-Oversight List and update the 8 Year Construction Work Plan accordingly. An indicator will be added to the ODOT Project Number to identify the FHWA full-oversight projects.
- 7) The ODOT will generate and distribute the final FHWA Full-Oversight List including the current Federal-aid Highway Program Stewardship and Oversight Agreement.

Description for [Figure A](#) is in text of the section: **STEPS FOR DEVELOPING THE FHWA FULL-OVERSIGHT LIST**



January 30, 2009

FIGURE A