

FHWA/MoDOT Partnering Agreement

DESIGN Division

I. Definitions:

Engineering Policy Guide (EPG) – This document provides a single reference for all engineering and engineering-related [Bridge](#), [Construction](#), [Design](#), [Highway Safety & Traffic](#), [Maintenance](#), [Planning](#) and [Right of Way](#) guidance.

MoDOT/FHWA Stewardship and Oversight (S&O) Agreement – The S&O Agreement sets forth the agreement between FHWA and MoDOT on the roles and responsibilities of the FHWA MO Division and MoDOT with respect to Title 23 project approvals and related responsibilities, and the Federal-aid Highway Program (FAHP) oversight activities.

Major Projects - A project with an estimated total cost of \$500,000,000 or more.

Projects of Division Interest (PoDI) – Projects that have an elevated risk, contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting program or project objectives.

II. Roles and Responsibilities of MoDOT and FHWA:

The purpose of this Partnering Agreement is to ensure MoDOT’s Design Program is in conformance with state and federal laws and regulations while adhering to the MoDOT/FHWA Stewardship and Oversight Agreement and *Show Me Zero, Driving Missouri Toward Safer Roads*.

The following activities require coordination between MoDOT and FHWA in order to attain reviews/approvals within the agreed timeframes. In this agreement, all reference to days denotes business days. MoDOT and FHWA agree to work as true partners to ensure the success of the Design Program.

The following table identifies the various activities that may be identified as a PoDI approval/review activity.

Activities		MoDOT/FHWA Responsibilities		
Approval/Action	Reference Document	Description of Actions and Responsibilities	Expected Timeframe (MoDOT)	Expected Timeframe (FHWA)
PS&E Review when identified as a PoDI activity	23 CFR 630 Subpart B	MoDOT will provide complete PS&Es to FHWA for review and comment.	Will submit PS&E 2 weeks prior to federal authorization date.	Will provide comments within 2 weeks of receipt.
90% Plans Review when identified as a PoDI activity	23 CFR 630 Subpart B	MoDOT will submit approved 90% plans to FHWA for review/approval. FHWA will review and provide comments as necessary.	Will submit 10 days prior to expected review deadline.	Will provide comments or approval within 10 days of receipt.

Activities		MoDOT/FHWA Responsibilities		
Approval/Action	Reference Document	Description of Actions and Responsibilities	Expected Timeframe (MoDOT)	Expected Timeframe (FHWA)
Plans, Specifications and Estimates (PS&E) Approval when identified as a PoDI activity	23 CFR 630 Subpart	MoDOT will submit full and complete PS&Es, coordinate with FHWA on late submittals, and keep FHWA posted on last minute changes.	Will submit PS&E 2 weeks prior to federal authorization date.	Will provide approval or comments within 2 weeks of receipt.
		All right-of-way, utility, railroad, and environmental certification/clearances should be completed prior to submittal. Addendums will also be submitted for approval.	Will submit addendums 2 days prior to sending to the prospective bidders.	Will provide approval or comments within 2 days of receipt.
Preliminary Plans Review when identified as a PoDI activity	23 CFR 630 Subpart B	MoDOT will submit approved preliminary plans to FHWA for review/approval. FHWA will review and provide comments as necessary.	Will submit 10 days prior to expected review deadline.	Will provide comments or approval within 10 days of receipt.
Transportation Management Plan (TMP) (includes temporary traffic control plan) when identified as a PoDI activity	23 CFR 630 Subpart J	MoDOT will ensure work zones are designed effectively, provide safe facilitation of traffic movements, and consider pedestrians and bicycle needs. MoDOT will submit TMP to FHWA when identified as a PoDI activity. FHWA will review and submit comments as necessary.	Will submit TMP 10 days prior to expected approval.	Will provide comments (if any) within 10 days of receipt.
Design Exceptions Approval when identified as a PoDI activity	23 CFR 625.3 (f)	MoDOT liaison and district PM will discuss design exceptions with FHWA prior to submittal so that complete and descriptive justification is provided. FHWA will review and provide comments or request additional information, to approve or deny the design exceptions.	Will submit 10 days prior to expected response.	Will provide comments, approval, or denial of design exception within 10 days of receipt.

Activities		MoDOT/FHWA Responsibilities		
Approval/Action	Reference Document	Description of Actions and Responsibilities	Expected Timeframe (MoDOT)	Expected Timeframe (FHWA)
Access Justification Report	23 CFR 625 FHWA Policy and Procedures for New or Revised Interstate Access Approval in Missouri	<p>MoDOT will invite FHWA to all core team meetings and ask questions to ensure the report covers requirements.</p> <p>Will submit a draft copy to FHWA for review, build FHWA HQ review time into schedule (if needed), submit complete report containing all traffic analysis information that has been reviewed by MoDOT staff, and coordinate with FHWA to schedule an AJR presentation for FHWA leadership to discuss potential concerns.</p> <p>FHWA will attend core team meeting as allowed and provide information regarding AJR requirements.</p>	<p>Will submit final version 15 days prior to expected approval if draft is provided). Allow 20 days, if no draft.</p> <p>Allow 40 days if HQ approval is needed.</p>	<p>Will provide comments or approval within 15 days of receipt if draft is provided, 20 days if draft is not provided.</p> <p>Will respond within 40 days if HQ review and approval is required.</p>
Plan Development on both PoDIs and Core Team Activity PoDIs		<p>FHWA will meet with the specific MoDOT Districts after the draft Management STIP is submitted to MoDOT Central Office to develop a short list of potential projects, based on the various risk factors. FHWA will rate the risk factors and develop a list of PoDIs and Core Team Activity PoDIs.</p> <p>MoDOT will provide FHWA the ability to participate in core team meetings, review plans, and provide input regarding safety, compliance, and constructability on projects identified as Design PoDIs and Core Team Activity Design PoDIs.</p>	<p>After MoDOT receives the list of PoDIs it will be uploaded to the EPG.</p> <p>Will provide FHWA with a minimum of 10 days advance notice for meetings.</p>	<p>Will provide MoDOT a list of PoDIs for each District and the overall PoDI summary. Each PoDI will identify the various activities for each project.</p> <p>If FHWA would like to move a project from a Core Team Activity PoDI to a PoDI, FHWA will provide MoDOT a 30-days' notice (min) prior to making the change.</p>

The following table identifies the various activities that may be identified as a Design Program approval/review activities.

Activities		MoDOT/FHWA Responsibilities		
Approval/Action	Reference Document	Description of Actions and Responsibilities	Expected Timeframe (MoDOT)	Expected Timeframe (FHWA)
Revision to Standard Plans and Specifications	23 CFR 625 EPG Approval Process	MoDOT will submit level 2 and 3 revisions to FHWA in accordance with the " Policy Approval Process ". FHWA will review, offer feedback during early involvement, and approve all level 2 and 3 revisions.	Will submit 10 days prior to expected approval.	Will provide feedback during early involvement, comments (if any), and approval or rejection within 10 days of receipt.
Development of Standard JSPs for Review and Approval	23 CFR 625 EPG Approval Process	MoDOT will include FHWA on the development of all standard JSPs that change or modify an existing specification and will submit the JSPs to FHWA for review and approval before incorporating them into the standard JSP list or specifications. FHWA will review, offer feedback during early involvement, and provide approval or rejection of the standard JSP's	Will submit 10 days prior to expected approval.	Will provide feedback during early involvement, comments (if any), and approval or rejection within 10 days of receipt.
Revisions to MoDOT Engineering Policy Guide (EPG)	23 CFR 625 EPG Approval Process	MoDOT will involve FHWA early in the development, and will submit Level 2 and Level 3 EPG Ballot Issues to FHWA for review and approval FHWA will review, offer feedback, and approve/reject all Level 2 and 3 ballot items.	Will submit 10 days prior to expected approval.	Will provide feedback during early involvement, comments (if any), and approval or rejection within 10 days of receipt.
Revisions to Utility Accommodation Policy	23 CFR 645.215	MoDOT will submit the Utility Accommodation Policy revisions to FHWA. FHWA will review, offer feedback, and approve/reject all revisions.	Will submit 10 days prior to expected approval.	Will provide comments or approval within 10 days of receipt.

Activities		MoDOT/FHWA Responsibilities		
Approval/Action	Reference Document	Description of Actions and Responsibilities	Expected Timeframe (MoDOT)	Expected Timeframe (FHWA)
Utility Variance on Interstate Right of Way	23 CFR 645.215	MoDOT will submit the Utility Variance Approval Form and supporting documentation to the FHWA Utility Program Manager.	Will submit 10 days prior to expected review deadline.	Will provide comments or approval within 10 days of receipt.
Special Experimental Project (SEP) - SEP 14 - SEP 15 - SEP 16	SEP-14 Policy Memo dated 2/13/1990 SEP-15 Federal Register V. 69, No. 193 dated 10/6/2004 SEP-16 Federal Register V. 83, No. 183 dated 9/20/2018	MoDOT will initiate the conversation with FHWA. Will develop and submit the request, workplan, and supporting documentation (and any other documentation necessary) to FHWA. Build FHWA HQ review time into schedule; all requests must be reviewed and approved by HQ. FHWA will coordinate with MoDOT in development of the request. Will recommend acceptance to FHWA HQ. If FHWA HQ has comments, FHWA will work with MoDOT for resolution, and resubmit to HQ for final approval.	Will submit final version 20 days prior to expected comments. Allow 30 days for HQ review.	Will provide comments or recommendation to HQ within 20 days of receipt. Will respond within 30 days for HQ review and approval.

III. PoDI Selection Process:

FHWA has developed an internal process for the identification of PoDIs, as required and in conformance with FHWA HQ guidance; this internal process will guide the yearly PoDI selection process.

The identification of PoDIs will involve a seven-step process including a risk-based assessment to identify project risks, development of potential PoDIs, short-list of potential projects, project screening, oversight plan development, final PoDI selection and sharing PoDIs with MoDOT. The TEs and Program Specialists are responsible for identifying the PoDIs and project specific oversight plans which incorporates those elements of the project to be reviewed. Each TE and Program Specialist will work with the Design Liaison within their respective MoDOT Districts and other MoDOT Central Office staff in the development and selection of the PoDIs for each District. The final PoDI selection decision will rest with the Program Implementation and Program Development Team Leaders. See Appendix A for PoDI Selection Process details.

FHWA will provide MoDOT's State Design Engineer, State Construction and Materials Engineer and others a copy of the PoDI Tracker Spreadsheet and Summary tab for inclusion in MoDOT's EPG.

Design-Build Projects:

Roles, responsibilities, and project involvement on local and state projects using Design-Build procurement will be administered and guided under the Design-Build Program Agreement.

IV. Ground Rules:

We agree to concentrate efforts in improving our work by following these ground rules:

- We will respect each other by valuing individual opinions and maintaining an open mind to suggestions.
- We will communicate directly with each other by telephone, mail, e-mail and more importantly in face to face conversations. After face-to-face conversation(s), all formal requests and/or actions discussed will be followed-up in writing within 5 days.
- MoDOT Design Liaison Engineers and FHWA Transportation Engineers will work closely together to add the most value to individual projects and the overall program. This should include at least one combined visit to the district to discuss miscellaneous issues and offer support, attending core team meetings together, discussing project specific items ahead of time, and sharing information to present a unified voice to the districts.
- We will respond to e-mails and telephone calls within two days unless out of the office during that time.
- We will participate in a regularly scheduled annual or as needed meetings co-chaired by the MoDOT State Design Engineer and FHWA PIT Leader. Other technical staff will attend as needed to discuss items of mutual interest. FHWA and MoDOT will alternate responsibilities of scheduling the meeting.
- We will make every effort to make sure project information has the concurrence of both MoDOT district and Central Office staff.
- We will actively participate in scheduled meetings, add value to the discussion, and refrain from personal agendas. Non-regularly scheduled meeting dates should be determined after participant schedules have been considered.
- We will review projects or documents thoroughly on the first submittal. For subsequent submittals, reviews and comments will focus only on the areas commented on previously and will not usually involve a re-review of the original submittal. All changes on subsequent submittals will be clearly identified.
- MoDOT uses electronic systems almost exclusively. All design submittals will be electronic copies. FHWA will have access to these electronic systems.
- We will revisit and revise this agreement every year and make revisions as necessary.

V. Conflict Resolution:

Conflicts will be resolved at the lowest staff level possible between the FHWA Transportation Engineer and MoDOT district staff up to the District Engineer with the assistance of MoDOT's Design Liaison Engineer. After exhausting all possibilities and an agreement cannot be reached, the issue will be elevated in the following manner:

- Elevate the discussion to the MoDOT State Design Engineer and FHWA PIT Leader. We will make every effort to solve the conflict at our level, but no more than 2 weeks after hearing from the parties involved, we will present our cases both verbally and in writing to MoDOT's Assistant Chief Engineer and the FHWA Deputy Division Administrator. We will abide by their decision and will share that decision with staff.
- Unresolved issues concerning the bid lettings will be elevated to the MoDOT State Design Engineer and FHWA PIT Leader within 2 days of the advertising date. If an agreement cannot be reached, we will elevate the issue to the MoDOT Assistant Chief Engineer and the FHWA Deputy Division Administrator for a decision.
- Unresolved issues between MoDOT's Assistant Chief Engineer and the FHWA Deputy Division Administrator will be handled through senior management's partnering agreement.

VI. Performance Evaluation:

We will measure our partnering progress and success by the following performance measures. MoDOT will provide FHWA the performance measure results semiannually. Measures may be modified, added or deleted by agreement through revision to this partnering agreement.

- MoDOT's implementation of the recommendations from their internal audit of design exceptions.
- MoDOT's implementation of the recommendations from their internal audit of the Design-Build program.
- Provide comparison results between District Estimate vs. Programmed Estimate vs. Final Estimate.
- Number of low bids awarded that are within +/- 10% of the Engineer's Estimate.
- Average training hours per employee in Program Delivery

VII. Program Risk Management Assessment:

The objective of FHWA's risk management process is to establish a consistent approach to identify and prioritize program area risks. Applying the principles of risk management makes it possible to identify threats and opportunities; assess and prioritize those threats and opportunities; and determine and prioritize strategies so we can decide how to address future issues affecting the Federal-aid Highway Programs.

MoDOT Design Staff and FHWA agree to coordinate yearly meetings to identify Design Program risk areas for the next performance year.

VIII. Communicating with Leadership:

MoDOT and FHWA staff will keep leadership informed of their activities, and how the partner agreement is working, by communicating important or controversial issues to leadership as they arise. We will use the “no surprise philosophy” by providing updates as needed.

Travis Koestner
MoDOT State Design Engineer

Date

Dawn Perkins
FHWA Program Implementation Team Leader

Date

APPENDIX A

PODI SELECTION PROCESS

FHWA has developed an internal process for the identification of PoDIs, as required and in conformance with FHWA HQ guidance; this internal process will guide the yearly PoDI selection process.

The TEs and Program Specialists are responsible for identifying their PoDIs and their project specific oversight plans, which incorporates those elements of the project to be reviewed. Each TE or Program Specialist will work with their respective MoDOT Program Lead or Districts and coordinate with other MoDOT and MoDIV staff in the development and selection of the PoDIs for each District. The TEs and Program Specialists will recommend their PoDIs to the team leader who will have the final decision on the PoDIs selected. The number of PoDIs should be limited to ensure time availability for detailed involvement with the projects.

The PoDI identification process will start annually around June with the Division Office risk assessment and be completed by September 30th each year

1. Risk-Based Assessment:

During the Division's annual risk assessment process, TEs and Program Specialists will identify potential risk areas that could be addressed with PoDI activities on projects where those higher risk items are likely to occur. This includes evaluating results from last year's risk activities, such as findings from program reviews, CAP reviews, focused reviews, and other project approval actions (per the Stewardship and Oversight Agreement) to determine if any risks should be carried over to the next year. Using a risk-based approach the Division will identify all the program, preconstruction and construction PoDI focused reviews or other activities for the next fiscal year.

2. Development of Potential PoDI Projects:

Each TE and Program Specialist will review a preliminary list of all upcoming highway scoping, design and construction projects (usually presented in MoDOT's draft STIP) and will coordinate their list of potential PoDIs internally to determine any potential overlaps or other considerations. Depending on the potential PoDI list developed, MoDIV staff will determine which Program Specialists should meet with the TEs in the appropriate Districts in Step 3. The development of the potential PoDIs will consider what phase or elements will be reviewed and the 10 risk areas of Complexity, Cost, Schedule, Urgency, Environmental & Stakeholders, Funding, Project Administration, Regional Significance, Corporate Actions, and Local Considerations.

3. Short Listing of Projects:

The TEs and applicable Program Specialists, will meet with their respective MoDOT Districts or Central Office personnel to go over the following: 1) the risk areas to be reviewed for the next performance year; 2) go over the list of potential PoDIs developed by the Division and any suggested projects from MoDOT, and 3) identify a suggested short list of projects and the elements to be reviewed.

The TEs and Program Specialists will coordinate with their respective MoDOT Districts and or Central Office personnel in the short-list development process. While there is no limitation on the number of projects that can make the short-list, there are certain project attributes and/or criteria, which need consideration to concentrate efforts on areas of concern and/or opportunities to add value.

4. Project Screening:

After the project short-list, has been developed, the TEs and Program Specialists will perform a risk-based assessment of all projects using 10 risk areas of Complexity, Cost, Schedule, Urgency, Environmental & Stakeholders, Funding, Project Administration, Regional Significance, Corporate Actions, and Local Considerations and may be scored in the Missouri Screening Tool (MST). The TEs and Program Specialists will evaluate all 10 risk areas as Low, Medium, or Elevated, based upon the resulting analysis of each specific risk area.

Given both the rural and highly urbanized makeup of Missouri's program, some project risk criteria may be dependent upon the specific district being reviewed. The risk tool will guide the evaluation process:

Urbanized Areas: Project criteria to be considered as part of the evaluation process in urbanized areas may include items such as project complexity and cost, new or modified access to interstates or major NHS routes, political interest, environmental/NEPA impacts, State/regional significance, and safety and maintenance of traffic considerations.

Rural Areas: Project criteria in rural areas may include items such as complexity and cost in relation to other projects within the respective district, new or significant modification to interstate access, environmental/NEPA impacts, regional significance in relation to other district projects, complex maintenance of traffic, and the need to maintain FHWA presence in a geographic area.

Projects identified in the STIP as Design-Build are not required to be PoDIs; but, the TE may want to review certain risk aspects of the Design-Build Process project. Projects funded under the BUILD or INFRA programs are automatically designated as PoDIs, as are any designated Major Projects.

5. Oversight Plan Development:

After the screening, evaluating, and scoring of each potential PoDI on the short list, the TE and Program Specialist will develop a project specific oversight plan for those projects they want to move forward with as a PoDI. Based on the risk assessment process, the TE and Program Specialist will identify those elements or activities they plan to perform on each project.

For TEs, the minimum requirement for PoDIs considers the following items, and is determined based on risk each year:

- # of PoDIs/MoDOT District
- # of Design PoDI/MoDOT District
- # of Construction PoDIs/MoDOT District
- # of LPA project/MoDOT District

PoDIs in which the “Core Team Member” activity is identified, are those projects that if time resources allow, the TE may choose to perform an element or activity to review. These projects will consist of review actions only, unless discussed with the MoDOT Design Liaison and MoDOT Central Office staff first. This will allow the TE to remain involved with the preconstruction aspects of the project. Each TE may choose any number of “Core Team Member” PoDIs depending on their planned availability.

If the TE or Program Specialist needs to modify the current PoDI list, they will notify the Division staff, the specific MoDOT District, and appropriate MoDOT Central Office staff of the project change a minimum of one month’s notice prior to the change. MoDOT staff understand that if project circumstances change that may warrant it to be a PoDI, they will inform us as soon as possible.

Each TE and Program Specialist will input their proposed PoDI and Potential PoDI projects into the PoDI Tracker Spreadsheet under the District’s tab. For PoDI projects that are overlapping, it will be tracked on the TEs District tab in the PoDI Tracker Spreadsheet with the responsibility of the Program Specialist to update their program PoDI items on that list. Remaining projects will be tracked by the Program Specialist within the appropriate District tab in the PoDI Tracker Spreadsheet.

6. Final Project Selection.

The PI and PD Team Leader will meet with their respective TE/Program Specialist and discuss their PoDI selections and agree upon the final list of projects selected as PoDIs and their proposed PoDI activities.

Upon selection of the Final PoDI List, the TEs and Program Specialists will enter a project specific PoDI plan for each PoDI into the FHWA PoDI S&O Plan SharePoint site in accordance with FHWA HQ guidance. Additional guidance is provided in Appendix D as to documenting Program PoDI information in each project specific PoDI plan. The TEs and Program Specialists will inform their Team Leader when all project specific PoDI plans have been entered the PoDI S&O Plan SharePoint site. Each Team Leader will review and approve their individual team’s PoDI plans. The PI Team Leader will review and concur in the project specific PoDI plans in the SharePoint site. This will be completed by September 30th each year.

7. Provide MoDOT with the PoDI and Core Team Activity PoDI List:

After the Final PoDI selections have been made, and the PoDI Tracker Spreadsheet District Tabs have been reviewed for accuracy and consistency, the PI Team Leader will ensure that the PoDI Tracker Summary Tab is correct. The PI and PD Team Leaders will then provide MoDOT Leadership with a copy of the PoDI Tracker Spreadsheet and Summary Tab for inclusion in MoDOT’s EPG following approval of the project specific PoDI plans.

Each TE and Program Specialist will provide their MoDOT counterparts (Districts and Central Office Divisions) with a copy of the PoDI list and discuss the final project selections and focused reviews and other PoDI activities with them at that time.