

FHWA/MoDOT Agreement
Local Public Agency (LPA) Program
FHWA Performance Year 2022

I. Definitions:

Projects of Division Interest (PoDI):

- PoDI are those projects that contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting program or project objectives.

Local Public Agency (LPA):

- LPA means any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the State Transportation Authority (STA) in highway matters. [23 CFR 635.102]

Performance Year (PY):

- Encompasses the months of October 1, 2021 to September 30, 2022.

II. Roles and Responsibilities of MoDOT

The purpose of this Agreement is to ensure MoDOT's Local Public Agency (LPA) Program is in conformance with state and federal laws and regulations while adhering to MoDOT/FHWA Stewardship & Oversight (S&O) agreement. For the LPA program area, the following tasks are considered the most important and we will work with FHWA as true partners to ensure success:

- Complete the LPA projects on time and within budget while ensuring all safety, quality, diversity and environmental requirements are met.
- MoDOT will provide consistent communication and direction to the Local Agencies to ensure LPA projects meet all state and federal regulations, including all federal-aid funding requirements.
- MoDOT District or Central Office LPA Liaison will provide FHWA Transportation Engineers (TE) documentation that may result from project observations.
- In accordance with the FHWA PoDI project selection and/or identified projects for focused reviews, MoDOT LPA Liaisons and/or District personnel will coordinate and communicate with FHWA TE regarding project selection, and all the project construction oversight activities

identified as part of the PoDI project selection process.

- Discuss any changes or modifications to the LPA Program and/or LPA projects that could jeopardize federal participation prior to document submittal.
- Request FHWA participation in the review/approval of the proposed changes or modification to Article 136 of the Engineering Policy Guide (EPG). Changes to LPA policies and specifications require FHWA approval if they are to be used in Federal-Aid projects.
- Request participation by FHWA in quarterly LPA Advisory Committee meetings to share knowledge and feedback concerning the Federal-aid program. MoDOT will send a formal invitation to FHWA Program Implementation Team Leader (PITL) and FHWA LPA Coordinator and provide FHWA all information regarding the meeting as it becomes available.
- Maintain effective communication between FHWA's LPA Coordinator and MoDOT's Local Programs Administrator regarding project and/or program issues and concerns.
- MoDOT District LPA Liaisons will communicate with FHWA throughout the construction phase of the PoDI projects and invite FHWA LPA Coordinator and/or FHWA TE to all regularly scheduled construction update meetings.

III. Roles and Responsibilities of FHWA

Ensure MoDOT Local Public Agency (LPA) Program is in conformance with state and federal laws and regulations while adhering to MoDOT/FHWA Stewardship & Oversight agreement. For the LPA program area, the following tasks are considered the most important and FHWA and MoDOT will work as true partners to ensure success:

- Coordinate annual Compliance Assessment Program (CAP) reviews with MoDOT's Local Programs Administrator to promote a joint review effort of the LPA construction program.
- Request MoDOT's Local Programs Administrator and/or MoDOT's LPA Liaisons participation in the discussion of the FHWA/MoDOT agreements of each program areas.

- FHWA TE will maintain consistent communication with MoDOT's Local Programs Administrator and/or District and Central Office LPA Liaisons to identify and select projects that FHWA would like to consider for Projects of Division Interest (PoDI) or projects for Focused Reviews.
- In accordance with the FHWA PoDI project selection and/or identified projects for focused reviews, FHWA TE will coordinate and communicate with MoDOT District or Central Office LPA Liaisons regarding project selection, and all the project construction oversight activities identified as part of the PoDI project selection process.
- Discuss any modifications or changes to the LPA Program and/or LPA projects that could jeopardize federal participation prior to document submittal.
- Regular participation and/or assistance to MoDOT with the delivery of the LPA certification training. FHWA will share knowledge and feedback concerning the Federal-aid program.
- Regular participation in MoDOT quarterly LPA Advisory Committee meetings to share knowledge and feedback concerning the Federal-aid program.
- Maintain effective communication between MoDOT's Local Programs Administrator and FHWA's LPA Coordinator regarding project and/or program related issues and concerns.

IV. Risk Assessment Process

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

The risk assessment framework used in the FHWA/MoDOT Strategic Advance identified the top risks from each of the program areas. The LPA Program encompasses many program areas; therefore, MoDOT's LPA staff will have primary responsibility for implementing the identified strategies to help mitigate the applicable risks listed in the agreements of each program area. FHWA/MoDOT Agreements are available in the Missouri Division Federal

Highway Administration Website,
<https://www.fhwa.dot.gov/modiv/programs/oversite/partner/>

FHWA LPA Coordinator and MoDOT Central Office LPA staff agree to coordinate a yearly meeting to assess the state of the LPA program and identify any potential risk areas and potential mitigation strategies to reduce the risk.

V. PoDI Identification Process:

FHWA has developed an internal process for the identification of PoDIs, which is 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 the project's risks, development of the potential PoDIs, short-list of the potential projects, project screening, oversight plan development, final PoDI selection, and sharing the PoDI list with MoDOT. The PoDI identification process will start annually around June with the Division Office risk assessment and be completed by September 30th each year. It is anticipated that the PoDI selection process for LPA projects will be initiated with a meeting between MoDOT's Local Programs Administrator and/or MoDOT's LPA Liaisons and FHWA TEs to discuss potential LPA PoDI projects, and be completed with the final PoDI Summary spreadsheet being sent to MoDOT.

FHWA and MoDOT collaboration during each step will include:

1. Risk-based Assessment:

During the FHWA Division's (MoDIV) 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 FHWA Division will identify all the program, preconstruction and construction PoDI focused reviews or other activities for the next federal fiscal year.

2. Development of Potential PoDIs:

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 MoDOT 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 MoDIV and any suggested projects from MoDOT, and 3) identify a suggested short list of projects and the elements to be reviewed.

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.

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.

6. Final Project Selection:

The PITL and Program Development Team Leader (PDTL) 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.

7. Provide MoDOT with the PoDI and Potential PoDI List:

After the Final PoDI selections have been made, and the PoDI Tracker Spreadsheet have been reviewed for accuracy and consistency, the PITL will ensure the PoDI Tracker Summary Tab is correct. The PITL and PDTL will then provide MoDOT Leadership with a copy of the PoDI Tracker Spreadsheet and Summary Tab for inclusion in MoDOT's EPG (Article 123.1.1 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.

PoDI Plan Implementation

Once the PoDIs have been identified, responsible TEs or Program Managers will conduct the PoDI activities as planned, track their progress throughout the year, and document their reviews for risk identification or mitigation purposes. FHWA will not submit EPG updates to the PoDI Summary Spreadsheet. However, if the selected PoDI project activities are significantly impacted due to changes of the project, the TE will coordinate with the MoDOT Local Programs Administrator and/or District and Central Office LPA Liaisons to update the project's activity reviews. TE's during the year may elect to add an additional PoDI, these projects will be selected from the Potential PoDI list. Prior to adding a PoDI the TE will coordinate with the MoDOT Local Programs Administrator and/or District and Central Office LPA Liaisons.

VI. Ground Rules:

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

- MoDOT Local Programs Administrator and District and Central Office LPA Liaisons and FHWA's LPA Coordinator will work closely together to add the most value to individual projects and the overall program.
- We will respect each other by valuing individual opinions, roles, responsibilities, and maintaining an open mind to suggestions.
- We will present a unified voice to internal and external customers. We will discuss any areas of concern together prior to responding to customers or districts.
- We will communicate directly with each other by telephone, mail, email 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.
- We will respond to emails and telephone calls within two days, unless out of the office during that time.
- We will make decisions following a thorough discussion of any issue using appropriate communication methods. Decisions should be reached within a two-week period following discussions. All decisions will be communicated in writing.
- 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 all primary principle schedules have been considered.

- Both parties recognize there will be circumstances where a “waiver” from the completeness or timeliness criteria will be proposed. Waivers will be well documented and agreed upon by both parties.
- Both parties recognize there will be circumstances where a “1.9b waiver” may be requested. All 1.9b waivers shall be well documented and agreed upon by both parties.
- We will revisit and revise the agreement every year and make revisions as necessary.
- Both parties will work together with a respectful, honest and professional attitude, and will strive to achieve mutual goals and strategic initiatives.

VII. **Conflict Resolution:**

In case of conflict, we will resolve it at the lowest level by mutual agreement. If we cannot reach an agreement, we agree to elevate the issue in the following manner:

- First, MoDOT’s Local Programs Administrator and FHWA’s Division Program Implementation Team Leader will meet to discuss and attempt to resolve conflicts that could not be resolved by their staffs.
- Issues unresolved at the first level will be elevated to MoDOT’s State Design Engineer and FHWA’s Deputy Division Administrator.
- Finally, any issues unresolved at the first or second levels will be elevated to MoDOT’s Chief Engineer/Deputy Director and FHWA’s Division Administrator.

VIII. **Performance Evaluation:**

We will measure our progress and success by the following these performance indicators. These measures will continue to be monitored and reported quarterly, unless otherwise noted. Measures may be added, modified or deleted by agreement through revision to this agreement.

MoDOT agrees to monitor the following measures:

- Percent of Federal Aid funds committed to LPA projects
- Percent of LPA projects completed on time
- Number of LPA trainings provided to the staff and/or Local Agencies.

FHWA agrees to monitor the following measures:

- Number of Project Authorizations reviewed and the types of findings.
(After the Fact reviews)
- Number of Buy America focused reviews and types of findings.

- Percent of CAP projects and question types (annual CAP review) answered sufficiently (no deficient findings).

In addition, we agree to enhance the good working relationship between the two offices by having regular meetings between MoDOT's LPA Staff and FHWA's LPA Coordinator. These meetings will serve as a regular opportunity to assess performance and ensure our offices continue to work well together.

IX. Communicating with Leadership:

We will keep leadership informed of our activities by:

- We agree to regularly inform our immediate supervisors of significant activities in the LPA area and to provide updates on how this agreement is working.

IN WITNESS, WHEREOF, the parties have entered into this Agreement on the date last written below.

Ashley Buechter
MoDOT Assistant State Design Engineer - Local Programs Administrator

DATE: 2/8/22

Dawn Perkins
FHWA Program Implementation Team Leader/LPA Program Coordinator

DATE: 2/8/2022