

# SUPERSEDED

## Projects of Division Interest (PoDIs) Projects of Corporate Interest (PoCIs) Guidance

### Background

The goal of risk-based projects stewardship and oversight is to optimize the successful delivery of programs and projects and help ensure compliance with Federal requirements. The FHWA Risk-Based Projects Stewardship and Oversight involves three main avenues of project involvement: 1) project approval actions, 2) data-driven compliance assurance, i.e., the Compliance Assessment Program (CAP), and 3) risk-based stewardship and oversight involvement in Projects of Division Interest (PoDIs), including Projects of Corporate Interest (PoCIs) which are a subset of PoDIs (See Figure 1.)

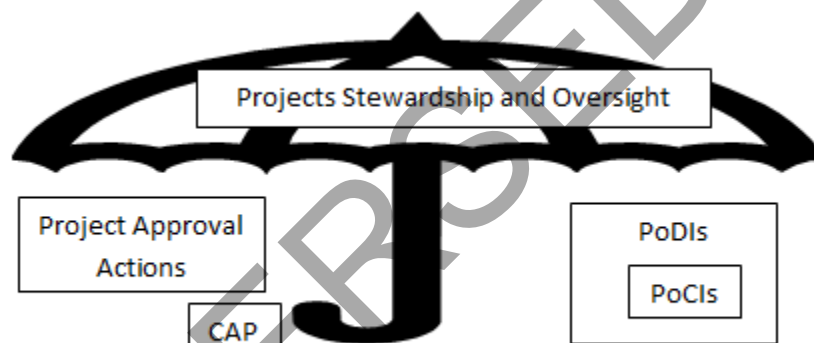


Figure 1

### Projects of Division Interest (PoDI)

The PoDIs are those 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. Each Division Office (Division) should identify those projects, within its limited resources, where FHWA should assert a positive leadership influence to help assure a high level of public confidence that projects and programs are administered with integrity, are in compliance with applicable requirements, and yield maximum value for the public. Project selection will be risk-based and stewardship and oversight activities will be directed toward addressing identified risks. This may include retaining certain project approvals, where permissible, or directing stewardship or oversight activities to a specific phase or element of the project.

### PoDI Types

Section 106 of Title 23, United States Code, provides certain statutory requirements for project approval actions and oversight of the Federal-aid Highway Program. Within the context of these requirements, and in consideration of other priorities established by Congress, PoDIs can be categorized into two types: (1) those based on an assessment of each individual project and its specific risks (Project Specific PoDIs) and (2) those based on an identification of risks that apply program-wide or categorically to a large subgroup of projects, so that the Division wishes to handle approval actions for all projects that share that identified element of risk (Programmatic PoDIs).<sup>1</sup> Programmatic PoDIs are treated differently than Project Specific PoDIs because it is not practical to administer and report on the potentially large number of projects affected by programmatic PoDIs (often unknown at the start of the year) using individual project specific risk plans. The expectations for Division actions and reporting on individual projects with risk (Project Specific PoDIs) and program areas of retained action due to programmatic risk (Programmatic PoDIs) differ and are highlighted in greater detail in this guidance.

The two categories for PoDIs can be broken down into the six (6) types described below:

### ***Project Specific PoDIs***

1. *Major Projects (>\$500M); 23 U.S.C. 106(h)*

Major Projects (>\$500M) will always be identified as PoDIs with individual PoDI plans since Congress has directed an increased involvement by FHWA in these projects. This applies to projects both on and off the NHS, and FHWA may re-assume actions that the State DOT assumed on a program-wide basis in the Stewardship & Oversight Agreement.

2. *Appalachian Development Highway Projects; 23 U.S.C. 106(q)(5)(B)*

Appalachian Development Highway Projects will always be identified as PoDIs with individual PoDI plans since Congress has directed an increased involvement by FHWA to retain project approval actions (design, plans, specifications, estimates, contract awards, inspections) listed in Section 106(c) for these projects. This applies to projects both on and off the NHS, and FHWA may re-assume actions that the State DOT assumed on a program-wide basis in the Stewardship & Oversight Agreement.

3. *TIGER Discretionary Grant Projects*

TIGER Projects will always be identified as PoDIs with individual PoDI plans since Congress has directed an increased involvement in these projects and the administration of these projects has been delegated to FHWA by the Secretary of Transportation. This applies to projects both on and off the NHS, and FHWA may re-assume actions that the State DOT assumed on a program-wide basis in the Stewardship & Oversight Agreement.

4. *Other Projects Individually Selected for Risk-based Stewardship & Oversight; 23 USC 106(q)*

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<sup>1</sup> For purposes of this guidance, "programmatic" means situations where FHWA retains the responsibility for a particular action for all projects or for a sub-group such as Interstate or Local Public Agency projects. This most often involves an action retained in the applicable Stewardship & Oversight Agreement, but may also occur as a result of an annual review or reflect a decision that the action likely will be retained for only a short period of time.

Identification of other Project Specific PoDIs will be done using a risk-based process that considers consistent risk criteria in the context of individual projects. Any Federal-aid highway project that the Division identifies as having an elevated level of risk can be selected for risk-based stewardship and oversight and would then be identified as a Project Specific PoDI with an individual PoDI plan. The scope of potential Division oversight actions on Project Specific PoDIs is determined in part by whether the project is on the NHS or off the NHS:

- For Project Specific PoDIs on the NHS, the Division may decide to “take back” approvals assumed by the State DOT in the Stewardship & Oversight Agreement.
- For projects off the NHS, 23 U.S. C. 106(c)(2) requires the State to assume project actions unless the State determines it is inappropriate and asks FHWA to retain the action. Identification of a project as a PoDI does not supersede 23 U.S.C. 106 (c)(2). On non-NHS PoDI projects, the State DOT will continue to do approvals assumed by it under the Stewardship & Oversight Agreement unless it requests FHWA to re-assume the approval for the specific project. The Division can still take other actions on these projects to mitigate risk, such as inspections, post-approval reviews (such as spot checks or process reviews). or take other oversight actions.

#### ***Programmatic PoDIs***

5. *NHS Projects with Retained FHWA Project Approval; 23 USC 106(c)(1)*

Where FHWA has retained responsibility (that could be assumed by the State) for one or more of the project approval actions (design, plans, specifications, estimates, contract awards, inspections) in the Stewardship & Oversight Agreement, projects involving that action will always be identified as a Programmatic PoDI. The identification of these types of Programmatic PoDIs will reflect the risk-based need for FHWA to retain responsibilities for certain project approval actions on a program-wide basis. Where FHWA has decided the State DOT may assume responsibility for a particular action on a program-wide basis, FHWA nonetheless may identify certain types of projects or conditions under which FHWA will retain responsibility for that action. Projects in these categories also are Programmatic PoDIs.

6. *Non-NHS Projects with Retained FHWA Project Approval; 23 U.S.C. 106(c)(2)*

Where, as requested by the State DOT, FHWA has retained program-wide responsibility for one or more of the project approval actions in the Stewardship & Oversight Agreement, projects involving that action will always be identified as Programmatic PoDIs. On a less than a program-wide basis, at the State’s request, FHWA may assume responsibility for a particular action on certain types of projects off the NHS, or when certain conditions affect projects off the NHS. Projects in these categories also are Programmatic PoDIs. Note that for any projects off the NHS, project actions cannot be retained for approval by FHWA unless specifically requested by the State DOT. Identification of a project as a PoDI does not supersede 23 U.S.C. 106 (c)(2), which provides that FHWA may retain action on projects off the NHS only if requested by the State DOT.

## Projects of Corporate Interest (PoCIs)

Projects of Corporate Interest (PoCIs) are a subset of PoDIs. These are projects deemed to be so significant that FHWA is willing to commit additional resources beyond those available at the individual Division level to help ensure successful delivery of the project. Project selection should be risk-based and the stewardship and oversight activities should be directed toward addressing the identified risks. This may require retaining certain project approval actions, where that is permissible (see discussion in Paragraph 4 above), or directing stewardship and oversight activities to a specific phase or element of the project.

### Project-Specific PoDI Identification Process

The identification of PoDI projects will be risk-based. For Project Specific PoDIs, this will be a two-step process including a “pre-screening” to identify a short-list of potential PoDI projects and a risk-based assessment to identify projects risks.

#### *Pre-screening*

Divisions will pre-screen Federal-aid projects and develop a short-list of projects that will require a risk-based assessment to identify their possible areas of risk and to determine if they should be considered further for selection as final PoDIs. Divisions should develop and document their own pre-screening criteria driven by “areas for concern and/or opportunity” to identify these potential PoDIs. Examples of pre-screening criteria include: project cost thresholds on the Interstate/NHS; regional significance; political or community interest; innovative financing or contracting; and geographic coverage.

#### *Risk-based Assessment*

Divisions will conduct a risk-based assessment of the short-list of PoDI projects. Major Projects, Appalachian projects, and TIGER projects are by definition final Project Specific PoDIs, but each must still receive a risk-based assessment to identify project risk areas and appropriate stewardship and oversight activities. As a minimum, each Division will develop and document a process that considers the following ten risk areas<sup>2</sup> when identifying the final Project Specific PoDIs. Divisions may add other risk considerations at their discretion:

1. Complexity
2. Cost
3. Schedule
4. Urgency
5. Environmental Considerations/Stakeholders
6. Funding
7. Project Administration
8. National/Regional Significance
9. Corporate Actions
10. Local Considerations

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<sup>2</sup> More detailed criteria regarding the 10 risk areas can be found in the Resource Deployment Tool.

The Resource Deployment Tool (RDT) (available at FHWA internal Sharepoint site) has been developed using these ten risk areas and it provides a structured way to evaluate project risks. Divisions are encouraged to use this tool for assessing the short-list of potential Project Specific PoDIs. Divisions may utilize an alternative mechanism, but they must address the minimum criteria identified above, and there must be a documented risk analysis for all Project Specific PoDIs. Divisions are required to perform a risk-based assessment using the RDT for Major projects.

#### *Final PoDI Selection*

Divisions will make the final selection of Project Specific PoDIs from the short-list taking into consideration the results of the risk-based assessment, available resources, State-specific considerations, and how each project fits into the Division's overall oversight objective. As noted above, Major Projects, Appalachian projects, and TIGER projects are by definition final Project Specific PoDIs and will have individual PoDI plans. There is no firm number or percentage of projects that should be designated for Project Specific PoDIs by each Division. However, the number of final projects shall reflect the level of stewardship and oversight needed to mitigate the elevated risks identified by each Division. Directors of Field Services (DFSs) will discuss the range of PoDI projects and the selection process with the Division as necessary. Divisions are encouraged to collaborate with their respective State DOT in the PoDI identification process. However, the final PoDI selection decision and the level of involvement remains the responsibility of the Division.

### **PoCI Identification Process**

#### *Pre-screening*

It is anticipated that a short-list of projects that have the potential to be PoCIs will be identified early in the Project Specific PoDI pre-screening process. All Major Projects will be included in the short-list of potential Project Specific PoCIs.

#### *Risk-based Assessment*

Major Projects and all other pre-screened projects that have the potential to be PoCIs will be entered into the FHWA internal SharePoint-based Resource Deployment Tool (RDT). This tool will be used to conduct a risk-based assessment to identify areas of elevated risk for each project, identify the level of Division office capacity to manage the risk, and determine if the project is recommended by the Division Office for selection as a final PoCI.

#### *Final PoCI Selection*

For each project entered into the RDT, the Division Office will indicate if the project is selected as a final Project Specific PoDI and if it is recommended as a final PoCI. The DFSs will concur in the final selection of PoCIs after consultation with key Headquarters offices. If a Division recommends a Major Project as a PoCI, the DFSs will also consult with the Office of Innovative Program Delivery (HIPD) prior to concurring in the selection of the project as a final PoCI. Concurrence for each project will be documented in the RDT. The DFSs and/or Headquarters offices will consult with the Division Administrator if they have concerns with whether a project is a good candidate for a final PoCI.

## Scope of Involvement in PoDI & PoCI Projects

Project selection will be risk-based and stewardship and oversight activities will be directed toward addressing the identified risks. This may include retaining certain project approvals, where permissible (see discussion in Paragraph 4 above), or directing stewardship or oversight activities to a specific phase or element of the project. For both Project Specific and Programmatic PoDIs, the scope of a Division's stewardship and oversight activities, beyond any project approval actions retained by FHWA, will be tailored to the level of risk ascertained by the Division. For PoCIs, the scope of involvement will include the dedication of corporate resources to ensure the successful delivery of the project.

### Project Specific PoDI & PoCI Stewardship & Oversight Plans

The Division will prepare a Project Specific PoDI Stewardship & Oversight Plan for each project selected as a Project Specific PoDI. The Project Specific Stewardship and Oversight Plan is meant to be concise and will include the following elements:

1. Project information – including project name, description, location, FMIS#, and State ID#
2. FHWA contact
3. Primary PoDI type
4. Indication if the project is also a PoCI
5. Risk areas associate with the project (from risk-based assessment)
6. Project elements that will be reviewed in response to the risks
7. Activities that will be conducted on the project (retained/reassumed approval action(s), inspections, etc.)
8. If a PoCI, the specific corporate resources committed to the project
9. The results of the Division involvement in the project

This plan only applies to a single project that the Division has evaluated for risk. If a Division identifies several individual projects with the same risk, the Division can replicate the same project specific plan for each of those Project Specific PoDIs. The PoDI & PoCI project identification and plan creation process should take place throughout the performance year as needed. Once a Division identifies a project, the plan should be entered into the PoDI S&O Plan SharePoint Site (available at FHWA internal Sharepoint site). Areas of elevated risk must be reported in the plan, along with the project specific actions to be taken by Division staff to address the risk(s). The Divisions are also expected to document the results of the Division involvement in the project. Since PoCIs are a subset of Project Specific PoDIs, a plan will be prepared in the SharePoint site for all PoCIs as well. Divisions will indicate within the plan what additional corporate resources have been committed to the PoCI projects.

A Word version of the standard Project Specific PoDI Plan has been provided. This may be used for preparation of the plan prior to entering the information into the PoDI S&O Plan SharePoint Site (available at FHWA internal Sharepoint site) and for sharing with the State DOT. If desired, the Division can use other plan types (more detailed or a different format) for their use and record as well as for communicating Project Specific PoDI information to the State DOT.

## **Programmatic PoDI Stewardship & Oversight Reports and Action Plans**

A Programmatic PoDI is used for project actions retained by FHWA in the Stewardship and Oversight Agreement that could be assumed by the State, and for project actions re-assumed by FHWA for a group of projects that all involve the same identified risk.<sup>3</sup> A single Programmatic PoDI Stewardship and Oversight Report will be developed to identify all actions to be retained as Programmatic PoDIs during the Performance Year (PY). Divisions will identify and track action plans to address the risks in the annual Unit Plan in INPUT, as described below.

The Programmatic PoDI Stewardship and Oversight Report covers a large number of projects that cannot be easily identified or managed using individual Project Specific PoDI plans because the identification of programmatic PoDIs is based on program risk, and not based on project-specific screening. Anytime a Division retains an action in its Stewardship and Oversight Agreement that could have been assumed by the State according to the Stewardship and Oversight Agreement Template Master Project Action Responsibility Matrix (Attachment A), the Division must include that Programmatic PoDI in the Programmatic PoDI S&O Report. Similarly, any actions the Division wishes to retain programmatically for a selection of projects with a similar risk beyond what was identified in the Stewardship & Oversight Agreement will be Programmatic PoDIs and will be included in the Programmatic PoDI S&O Report. Note that for any projects off the NHS, project actions cannot be retained for approval by the Division unless specifically requested by the State DOT. Identification of a project as a Project Specific PoDI, or inclusion of non-NHS projects in a Programmatic PoDI, does not supersede 23 U.S.C. 106(c), which provides that FHWA may retain action on projects off the NHS only if requested by the State DOT.

The objective of these Programmatic PoDIs is to allow the Division to retain certain aspects of project action oversight while working with their State DOT to respond to the associated risk. Over time, the Division's role in retaining these project actions should decrease. The goal is to have the State assume any action FHWA retained programmatically due to risk. Individual projects will always be subject to risk-based retention of authority actions using the Project Specific PoDI plans.

The Division will create the Programmatic PoDI S&O Report prior to the start of the performance year. The Report is a checklist of the actions to be retained, the reason for that retention, the population of projects for which this action will be retained (i.e. all Projects, Interstate Only, NHS-Only, Local Only, etc.), and an estimate of the number of projects with that relevant retained action for the performance

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<sup>3</sup> For purposes of this guidance, "programmatic" means situations where FHWA retains the responsibility for a particular action for all projects or for a sub-group such as Interstate or Local Public Agency projects. This most often involves an action retained in the applicable Stewardship & Oversight Agreement, but may also occur as a result of an annual review or reflect a decision that the action likely will be retained for only a short period of time.

year. Project specific information is not required for the Programmatic PoDI Stewardship and Oversight Report or for an actual reconciliation of the number of relevant projects that were impacted at the end of the year.

In conjunction with the Programmatic PoDI Stewardship and Oversight Report, Divisions are expected to consider activities to address the underlying risks and resources which have resulted in the retention of an action. Divisions will identify and track those activities and their implementation status through the annual Unit Plan in INPUT. A flag field in INPUT will be used to identify activities which correspond to programmatically retained actions. A corresponding text field will indicate to which retained action(s) the activities pertain. Additional information is available in the INPUT administrators guide as to how to identify these activities in INPUT.

A Word version of the Programmatic PoDI Stewardship and Oversight Report has been provided below. This may be used for preparation of the Report prior to entering the information into the PoDI S&O Plan SharePoint Site (FHWA internal website) and for sharing with the State DOT.

Attachment: Programmatic PoDI S&O Report Template in [Word](#) (0.1 kb), in [PDF](#) (0.1 pdf)