

STEWARDSHIP and OVERSIGHT AGREEMENT

**FOR IMPLEMENTATION OF THE
MOVING AHEAD FOR PROGRESS IN THE
21st CENTURY ACT (MAP-21) P.L. 112-141**

BETWEEN



AND



**U.S. Department of Transportation
Federal Highway Administration**

May 14, 2015

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**STEWARDSHIP AND OVERSIGHT AGREEMENT
ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT
BY AND BETWEEN
FEDERAL HIGHWAY ADMINISTRATION, NEW HAMPSHIRE DIVISION
AND THE
STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION**

SECTION I. BACKGROUND AND INTRODUCTION

The Federal-aid Highway Program (FAHP) is a federally-assisted program of State-selected projects. The Federal Highway Administration (FHWA) and the State Departments of Transportation have long worked as partners to deliver the FAHP in accordance with Federal requirements. In enacting 23 U.S.C. 106(c), as amended, Congress recognized the need to give the States more authority to carry out project responsibilities traditionally handled by FHWA. Congress also recognized the importance of a risk-based approach to FHWA oversight of the FAHP, establishing requirements in 23 U.S.C. 106(g). This Stewardship and Oversight (S&O) Agreement sets forth the agreement between the FHWA and the State of New Hampshire Department of Transportation (NHDOT) on the roles and responsibilities of the FHWA and the NHDOT with respect to Title 23 project approvals and related responsibilities, and FAHP oversight activities.

The scope of FHWA responsibilities, and the legal authority for NHDOT assumption of FHWA responsibilities, developed over time. The U.S. Secretary of Transportation delegated responsibility to the Administrator of the FHWA for the FAHP under Title 23 of the United States Code, and associated laws. (49 CFR 1.84 and 1.85) The following legislation further outlines FHWA's responsibilities:

- 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; and
- Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012 (P.L. 112-141).

The FHWA may not assign or delegate its decision-making authority to a State Department of Transportation unless authorized by law. Section 106 of Title 23, United States Code (Section 106), authorizes the State to assume specific project approvals. For projects that receive funding under Title 23, U.S.C., and are on the National Highway System (NHS) including projects on the Interstate System, the State may assume the responsibilities of the Secretary of the U.S. Department of Transportation under Title 23 for design, plans, specifications, estimates, contract awards, and inspections with respect to the projects unless the Secretary determines that the assumption is not appropriate. (23 U.S.C. 106(c)(1)) For projects under Title 23, U.S.C. that are not on the NHS, the State shall assume the responsibilities for design, plans, specifications,

estimates, contract awards, and inspections unless the State determines that such assumption is not appropriate. (23 U.S.C. 106(c)(2))

For all other project activities which do not fall within the specific project approvals listed in Section 106 or are not otherwise authorized by law, the FHWA may authorize a NHDOT to perform work needed to reach the FHWA decision point, or to implement FHWA's decision. However such decisions themselves are reserved to FHWA.

The authority given to the NHDOT under Section 106(c)(1) and (2) is limited to specific project approvals listed herein. Nothing listed herein is intended to include assumption of FHWA's decision-making authority regarding Title 23, U.S.C. eligibility or Federal-aid participation determinations. The FHWA always must make the final eligibility and participation decisions for the Federal-aid Highway Program.

Section 106(c)(3) requires FHWA and the NHDOT to enter into an agreement relating to the extent to which the NHDOT assumes project responsibilities. This Stewardship and Oversight Agreement (S&O Agreement), includes information on specific project approvals and related responsibilities, and provides the requirements for FHWA oversight of the FAHP (Oversight Program), as required by 23 U.S.C. 106(g).

SECTION II. INTENT AND PURPOSE OF S&O AGREEMENT

The intent and purpose of this S&O Agreement is to document the roles and responsibilities of the FHWA's New Hampshire Division Office (FHWA or Division) and New Hampshire Department of Transportation (NHDOT) with respect to project approvals and related responsibilities, and to document the methods of oversight which will be used to efficiently and effectively deliver the FAHP.

The Project Action Responsibility Matrix, Attachment A to this S&O Agreement and as further described in Section VIII of this S&O Agreement, identifies FHWA FAHP project approvals and related responsibilities New Hampshire DOT assumes from FHWA on a program-wide basis pursuant to 23 U.S.C. 106(c) and other legal authorities. Upon execution of this agreement, Attachment A shall be controlling and except as specifically noted in Attachment A, no other agreements, attachments, or other documents shall have the effect of delegating or assigning FHWA approvals to New Hampshire DOT on a program-wide basis under 23 U.S.C 106 or have the effect of altering Attachment A.

SECTION III. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS ON THE NATIONAL HIGHWAY SYSTEM

- A. The NHDOT *may assume* the FHWA's Title 23 responsibilities for design; plans, specifications, and estimates (PS&E); contract awards; and inspections, with respect to *Federal-aid projects on the National Highway System (NHS)* if both the *NHDOT* and *FHWA* determine that assumption of responsibilities is appropriate.
- B. Approvals and related activities for which the NHDOT has assumed responsibilities as shown in Attachment A will apply program wide unless project specific actions for which the Division will carry out the approval or related responsibilities are documented in

accordance with the FHWA Project of Division Interest/Project of Corporate Interest Guide (FHWA PoDI/PoCI Guide) and Attachment F. FHWA PoDI/PoCI Guide is located at: <http://www.fhwa.dot.gov/federalaid/stewardship/>

- C. The NHDOT may not assume responsibilities for Interstate projects that are in high risk categories. (23 U.S.C. 106(c)(1))
- D. The NHDOT is to exercise any and all assumptions of the Secretary responsibilities for Federal-aid projects on the NHS in accordance with Federal laws, regulations and policies.

SECTION IV. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS OFF THE NATIONAL HIGHWAY SYSTEM

- A. The NHDOT *shall assume* the FHWA's Title 23 responsibilities for design, PS&Es, contract awards, and inspections, with respect to *Federal-aid projects off the NHS (non-NHS)* unless the *NHDOT* determines that assumption of responsibilities is not appropriate. (23 U.S.C. 106(c)(2))
- B. Except as provided in 23 U.S.C.109(o), the NHDOT is to exercise the Secretary's approvals and related responsibilities on these projects in accordance with Federal laws.
- C. The NHDOT, in its discretion, may request FHWA carry out one or more non-NHS approvals or related responsibilities listed as "State" in Attachment A on a program-wide basis. For a project specific request, the State may request FHWA carry out any approval or related responsibility listed in Attachment A off the NHS. Such project-specific requests shall be documented in accordance with the FHWA PoDI/PoCI Guide.
- D. Pursuant to 23 U.S.C. 109(o), non-NHS projects shall be designed and constructed in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

SECTION V. ASSUMPTION OF RESPONSIBILITIES FOR LOCALLY ADMINISTERED PROJECTS

The NHDOT may permit local public agencies (LPAs) to carry out the NHDOT's assumed responsibilities on locally administered projects. The NHDOT is responsible and accountable for LPA compliance with all applicable Federal laws and requirements.

SECTION VI. PERMISSABLE AREAS OF ASSUMPTION UNDER 23 U.S.C. 106(c)

An assumption of responsibilities under 23 U.S.C. 106(c) may cover only activities in the following areas:

- A. Design which includes preliminary engineering, engineering, and design-related services directly relating to the construction of a FAHP-funded project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services.
- B. PS&E which represents the actions and approvals required before authorization of construction. The PS&E package includes geometric standards, drawings, specifications, project estimates, certifications relating to completion of right-of-way acquisition and relocation, utility work, and railroad work.
- C. Contract awards which include procurement of professional and other consultant services and construction-related services to include advertising, evaluating, and awarding contracts.
- D. Inspections which include general contract administration, material testing and quality assurance, review, and inspections of Federal-aid contracts as well as final inspection/acceptance.
- E. Approvals and related responsibilities affecting real property as provided in 23 CFR 710.201(i) and any successor regulation in 23 CFR Part 710.

SECTION VII. FEDERAL APPROVALS AND RELATED RESPONSIBILITIES THAT MAY NOT BE ASSUMED BY THE NHDOT

- A. Any approval or related responsibility not listed in Attachment A cannot be assumed by the State without prior concurrence by FHWA Headquarters. The following is a list of the most frequently-occurring approvals and related responsibilities that may not be assumed by the NHDOT:
 - Civil Rights Program approvals;
 - Environmental approvals, except those specifically assumed under other agreements. (23 U.S.C. 326 and 327; programmatic categorical exclusion agreements);
 - Federal air quality conformity determinations required by the Clean Air Act;
 - Approval of current bill and final vouchers;
 - Approval of federally-funded hardship acquisition, protective buying, and 23 U.S.C. 108(d) early acquisition;
 - Project agreements and modifications to project agreements and obligation of funds (including advance construction);
 - Planning and programming pursuant to 23 U.S.C. 134 and 135;
 - Special Experimental Projects (SEP-14 and SEP-15);
 - Use of Interstate airspace for non-highway-related purposes;
 - Any Federal agency approval or determination under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended, and implementing regulations in 49 CFR Part 24;
 - Waivers to Buy America requirements;

- Approval of Federal participation under 23 CFR 1.9(b);
 - Provide pre-approval for preventive maintenance project (until FHWA concurs with NHDOT procedures);
 - Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations, or other contributions applied to a project;
 - Functional replacement of property;
 - Approval of a time extension for preliminary engineering projects beyond the 10-year limit, in the event that actual construction or acquisition of right-of-way for a highway project has not commenced;
 - Approval of a time extension beyond the 20-year limit for right of way projects, in the event that actual construction of a road on the right-of-way is not undertaken;
 - Determine need for Coast Guard Permit;
 - Training Special Provision – Approval of New Project Training Programs; and
 - Any other approval or activity not specifically identified in Attachment A unless otherwise approved by the FHWA, including the Office of Chief Counsel.
- B. For all projects and programs, the NHDOT will comply with Title 23 and all applicable non-Title 23, U.S.C. Federal-aid program requirements, such as metropolitan and statewide planning; environment; procurement of engineering and design related service contracts (except as provided in 23 U.S.C. 109(o)); Civil Rights including Title VI of the *Civil Rights Act*, and participation by Disadvantaged Business Enterprises; prevailing wage rates; and acquisition of right-of-way, etc.
- C. This Agreement does not modify the FHWA’s non-Title 23 program approval and related responsibilities, such as approvals required under the Clean Air Act; National Environmental Policy Act, Executive Order on Environmental Justice (E.O. 12898), and other related environmental laws and statutes; the Uniform Act; and the Civil Rights Act of 1964 and related statutes.

SECTION VIII. PROJECT ACTION RESPONSIBILITY MATRIX

Attachment A, Project Action Responsibility Matrix, to this S&O Agreement identifies FAHP project approvals and related responsibilities. The Matrix specifies which approvals and related responsibilities are assumed by the NHDOT under 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as approvals and related responsibilities reserved to FHWA. Deviations from Attachment A will be documented on a project by project basis with the development of a PODI oversight plan. The PODI selection process is described in Attachment F.

SECTION IX. HIGH RISK CATEGORIES

- A. In 23 U.S.C. 106(c), Congress directs that the Secretary shall not assign any approvals or related responsibilities for projects on the Interstate System if the Secretary determines the project to be in a high risk category. Under 23 U.S.C. 106(c)(4)(B), the Secretary may define high risk categories on a national basis, State-by-State basis, or national and State-by-State basis.

- B. Per the date of this Agreement, the Division has determined there are no high risk categories for the NHDOT.

SECTION X. FHWA OVERSIGHT PROGRAM UNDER 23 U.S.C. 106(g)

- A. In 23 U.S.C. 106(g), Congress directs that the Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out the FAHP. This program includes FHWA oversight of the NHDOT's processes and management practices, including those involved in carrying out the approvals and related responsibilities assumed by the NHDOT under 23 U.S.C. 106(c). Congress defines that, at a minimum, the oversight program shall be responsive to all areas relating to financial integrity and project delivery.
- B. The FHWA shall perform annual reviews that address elements of the NHDOT's financial management system in accordance with 23 U.S.C. 106(g)(2)(A). FHWA will periodically review the NHDOT's monitoring of subrecipients pursuant to 23 U.S.C. 106(g)(4)(B).
- C. The FHWA shall perform annual reviews that address elements of the project delivery systems of the NHDOT, which elements include one or more activities that are involved in the life cycle of project from conception to completion of the project. The FHWA will also evaluate the practices of the NHDOT for estimating project costs, awarding contracts, and reducing costs. 23 U.S.C. 106(g)(2) and (3).
- D. To carry out the requirements of 23 U.S.C. 106(g), the FHWA will employ a risk management framework to evaluate financial integrity and project delivery, and balance risk with staffing resources, available funding, and the State's transportation needs. The FHWA may work collaboratively with the NHDOT to assess the risks inherent with the FAHP and funds management, and how that assessment will be used to align resources to develop appropriate risk response strategies.

Techniques the Division and NHDOT may use to identify and analyze risks and develop response strategies include the following:

- Program Assessments;
- FIRE Reviews;
- Program Reviews;
- Certification Reviews;
- Recurring or periodic reviews such as the Compliance Assessment Program (CAP);
and
- Inspections of project elements or phases.

These techniques will be carried out in a manner consistent with applicable Division Standard Operating Procedures or other control documents relating to program assessments, FIRE, program reviews, CAP, etc. Reviews may be conducted by individual FHWA staff or by teams including NHDOT staff.

E. Program Responsibility Matrix

Attachment B to this S&O Agreement is the Program Responsibility Matrix example that identifies all relevant FHWA program actions, and New Hampshire Division and NHDOT program contact offices.

F. Manuals and Operating Agreements

NHDOT manuals, agreements and other control documents that have been approved for use on Federal-aid projects are listed in Attachment C to this S&O Agreement. Any new or updated manuals for use on the Federal-aid program require FHWA review and approval/concurrence.

G. Stewardship and Oversight Indicators

The New Hampshire Division and NHDOT have jointly established Stewardship and Oversight Indicators (Indicators). The Indicators assist to identify if implementation of countermeasures and actions are needed when the data is moving away from the desired targets or trends. Indicators also provide documented evidence that the NHDOT assumption of responsibilities is functioning appropriately. The Stewardship and Oversight Indicators are risk-based and will be reviewed on an annual basis. The Indicators are incorporated by reference to this S&O Agreement, Attachment G.

SECTION XI. NHDOT OVERSIGHT AND REPORTING REQUIREMENTS

A. NHDOT Oversight and Reporting Requirements

The NHDOT is responsible for demonstrating to the FHWA how it is carrying out its responsibilities in accordance with this S&O Agreement. In order to fulfill this responsibility, the NHDOT will:

- Follow all processes and procedures as documented in the NHDOT Manuals approved by the New Hampshire Division for use on Federal-aid projects.
- Maintain individual Federal-aid project files that will include documentation of all required FHWA actions and NHDOT's assumed project approvals as set forth in this Agreement. NHDOT will provide FHWA access to the project files when requested.
- Provide the information, as noted in Section X. G. above to analyze the agreed upon set of Stewardship and Oversight Indicators.
- Conduct program and project reviews, as needed
- Complete quarterly/annual reports and provide program and project information, as needed.
- Work with the New Hampshire Division to implement the Supercircular (2 CFR 200) and the FHWA Project Funds Management Guide for State Grants.

- NHDOT and the New Hampshire Division, as part of the annual Risk Assessment, will assess the Program to determine if there are opportunities to improve the processes outlined.

B. NHDOT Oversight of Locally Administered Projects

- B.1. NHDOT is required to provide adequate oversight of subrecipients including oversight of any assumed responsibilities the NHDOT delegates to a LPA.

NHDOT will assign a Program Manager to oversee each program that provides funding to LPA's for transportation projects. A Project Manager (PM) will be assigned to oversee each individual project. The PM's will seek input from other NHDOT bureaus with special expertise as needed including but not limited to: Environment, Traffic, Highway Design, Bridge Design, Right-of-Way, Materials and Research, Public Works, Construction, Highway Maintenance, and Bridge Maintenance. All aspects of the projects are reviewed for compliance with the NHDOT LPA Manual and other NHDOT standards as defined in NHDOT design manuals and the NHDOT Standard Specifications for Road and Bridge Construction.

- B.2. Pursuant to 23 U.S.C. 106(g)(4), the NHDOT shall be responsible for determining that subrecipients of Federal funds have adequate project delivery systems for locally administered projects and sufficient accounting controls to properly manage such Federal-aid funds. The State DOT is also responsible for ensuring compliance with reporting and other requirements applicable to grantees making sub-awards, such as monthly reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, PL 109-282 (as amended by PL 110-252).

As required by the process defined in the LPA Manual, the sub-recipients or LPA Project sponsors will be required to designate "a Person in Responsible Charge (PiRC)". The PiRC will be required to obtain LPA Program Certification by attending training offered by NHDOT Bureau of Planning and Community Assistance. If the LPA engages a consultant to assist with design and construction of the project, the consultant's Project Manager and Contract Administrator will be LPA Program Certified. The LPA will be required to submit a Single Audit Report or municipal financial report in compliance with OMB circular A133. LPA project will be required to follow a process through the entire project development process that includes numerous points of contact and meetings with the project sponsor, submission of documents for review and approval, and authorizations to proceed at each step. The LPA will be required to submit monthly status reports and requests for reimbursement. The LPA will be required to execute an LPA Project Agreement with NHDOT that outlines each parties' responsibilities and requirements.

- B.3. The NHDOT acknowledges that it is responsible for sub-recipient awareness of Federal grant requirements, management of grant awards and sub-awards, and is familiar with and comprehends pass through entity responsibilities (2 C.F.R 200.331 Requirements for Pass-thru Entities). The NHDOT shall carry out these responsibilities using the following actions, programs, and processes:

NHDOT administers the day-day activities of the LPA subrecipients to ensure that federal-aid is used for authorized purposes, in compliance with Federal statutes, regulations, and follow the terms and conditions of the project agreement.

NHDOT assigns a State Project Manager (PM) to each locally administered project with the authority to enforce all requirements. The PM is responsible for project oversight in accordance with NHDOT's LPA Manual and all other actions necessary to ensure the proper performance of the NHDOT/LPA Project Agreement.

NHDOT's LPA Certification Course certifies individuals. To administer federal-aid projects in New Hampshire, LPAs must employ someone with decision-making authority who has LPA certification.

LPA requests to administer projects are sent to the NHDOT Program Manager with documentation of the following:

- Experience carrying out projects of similar size/complexity
- Staff experience and qualifications
- Ability to manage and track federal and state funds

- B.4. The NHDOT shall assess whether a sub-recipient has adequate project delivery systems and sufficient accounting controls to properly manage projects, using the following actions, programs, and processes:

As outlined in LPA Manual v 2.0, Section 11 Single Audit Requirements, NHDOT has the following responsibilities as the pass-through entity:

- Send out request for certified audit reports
- Maintain a file of single audit reports, annual financial reports, and correspondence received from sub-recipients
- Evaluate single audit reports and send a copy of the single audit report to FHWA
 - For single audit reports with findings, the NHDOT Bureau of Finance & Contracts conducts additional investigations and coordination with the sub-recipient.
 - The sub-recipient must provide access to the records and financial statements as necessary.

- NHDOT Bureau of Finance & Contracts issues a management decision on audit findings within six months after receipt of the sub-recipient’s audit report to ensure that the sub-recipient takes appropriate and timely corrective action. NHDOT is only responsible for preparing and issuing a management decision for finding related to the federal program with CFDA 20.205.

B.5. The NHDOT shall assess whether a sub-recipient is staffed and equipped to perform work satisfactorily and cost effectively, and that adequate staffing and supervision exists to manage the Federal project(s), by using the following actions, programs, and processes:

As outlined in the LPA Manual v. 2.0 Section 4 and 5 the project sponsor is required to designate a Person-in-Responsible Charge (PiRC) for the project who is a full-time employee of the project sponsor. That person shall be NHDOT LPA certified by attending the NHDOT LPA Certification Training. If the project sponsor hires a consultant, the consultant’s Project Manager shall be fully certified and any contract administrators shall be certified for Construction. NHDOT will monitor the status of certifications for the PiRC and consultant staff. NHDOT will continue to maintain the list of currently certified individuals.

NHDOT will continue to approve the consultant selected through a Qualification-based selection (QBS) process based on review of submitted documentation summarizing the QBS process. NHDOT will continue to approve the contractor selected by a competitive bidding process prior to the contract being awarded and after review of the bidding process and bid tabulation.

NHDOT will continue to require scoping meetings with the project sponsor and their Person-in-Responsible Charge at the beginning of the project.

B.6. The NHDOT shall assess whether sub-recipient projects receive adequate inspection to ensure they are completed in conformance with approved plans and specifications, by using the following actions, programs, and processes:

NHDOT Project Managers (PM) or their representatives shall attend key project meetings including Pre-construction Meeting, final inspection and project progress meetings as required. The NHDOT Project Manager shall visit the project as needed during construction and oversee construction activities and records as deemed appropriate. The NHDOT PM will review and approve any change orders required during construction. The NHDOT also requires all projects to have a “Person in Responsible Charge”.

B.7. The NHDOT shall ensure that when LPAs elect to use consultants for engineering services, the LPA, as provided under 23 CFR 635.105(b), shall provide a full-time employee of the agency to be in responsible charge of the project. The NHDOT’s process to ensure compliance with this requirement is documented by the following actions, programs, and processes:

NHDOT will continue to enforce the requirements of the LPA Manual, Sections 1 and 5 that require the project sponsor to provide a qualified full-time public employee to be the person in responsible charge. That person is required to have a current LPA certification by attending the training offered by NHDOT. One of the responsibilities of that person is to oversee the activities of the design consultant.

The LPA Manual outlines the QBS process which is required by NH State and Federal regulations for procuring Engineering, Architectural or Surveying consultant services. NHDOT also reviews and approves the QBS process and NTP for LPA's to begin negotiations over scope of work and fee proposals.

- B.8. The NHDOT shall ensure that project actions will be administered in accordance with all applicable Federal laws and regulations. The NHDOT will use the following process on required approvals on sub-recipient projects and approved on sub-recipient administered projects.

The activities for ensuring compliance are based on the most current version of the LPA Manual and shall include the following:

- a. Consultant selection and management shall be in compliance with Sections 12, 13 and 14 of the LPA Manual in particular and any references therein plus other pertinent references in other sections. Section 13 outlines the requirements for the qualification-based consultant selection process. Section 14 outlines the requirements and process for developing contracts including independent government estimates. Section 12 outlines the reimbursement process including invoice requirements.
- b. Environment shall be in compliance with Section 17 of the LPA Manual and any references therein plus other pertinent references in other sections. In particular, NHDOT shall require an environmental review process that meets the requirements outlined in the LPA Manual resulting in an approved environmental classification including commitments prior to completing final design. The environmental classification memo with commitments shall be included in the PS&E package submitted as part of the process seeking authorization of federal aid for construction.
- c. Design shall be in compliance with Sections 15, 16, 20, and 25 of the LPA Manual and any references therein plus other pertinent references in other sections. In particular, the design shall be done by a Professional Engineer licensed in the State of NH. The design shall meet all pertinent design requirements of NHDOT unless design exceptions are granted. The design shall be done in three phases as outlined in the LPA Manual including engineering study, preliminary plans, and final contract plans or PS&E. All phases will be reviewed and approved by NHDOT to ensure compliance. The design documents will be reviewed as necessary by other bureaus with special

expertise as needed including highway design, bridge design, environment, geotechnical, materials, traffic, rail and transit, highway and bridge maintenance, office of federal compliance, and any others as needed. The design process shall include coordination with utilities as needed for projects resulting in a utility certificate to be included as part of the PS&E submission.

- d. Civil Rights shall be in compliance with Section 22 of the LPA Manual and any references therein plus other pertinent references in other sections. In particular, NHDOT shall review with the assistance of the Office of Federal Compliance the bidding documents to ensure that the required documents are included. The LPA Project Agreement executed by NHDOT and the project sponsor will continue to include the most current civil rights requirements.
 - e. Financial management including audits and indirect cost allocation plans shall be in compliance with Section 11 of the LPA Manual and any references therein plus other pertinent references in other sections. See Section B.4 for additional information. Any parties including project sponsors or consultants shall have indirect cost rates approved by NHDOT prior to notice-to-proceed on pre-approved work defined in contracts.
 - e. Right-of-way shall be in compliance with Section 19 of the LPA Manual and any references therein plus other pertinent references in other sections. In particular, right-of-way (ROW) process for a federal aid LPA project shall be done in compliance with the current NHDOT Right-of-way Manual. A ROW certificate and all related ROW documents shall be submitted by the project sponsor to NHDOT for review and approval prior to the submission of the PS&E for authorization of funds for construction.
 - f. Construction monitoring, including Quality Control/Quality Assurance (QC/QA) shall be in compliance with the NHDOT Quality Assurance Program and any requirements listed therein. The project sponsor and their consultant shall engage qualified persons to conduct the QA program. NHDOT shall conduct assurance testing as needed to monitor that the individuals are qualified.
 - h. Contract administration including the NHDOT's responsibility to approve a sub-recipient to pursue a contract procurement method other than competitive bidding shall be handled in accordance with the LPA Manual Section 15 that outlines the process for force account and public interest findings.
- B.9. The NHDOT shall document its oversight activities for LPA-administered projects and findings, and how it will share this information with the FHWA.

The NHDOT shall continue oversight activities for LPA-administered projects based on the most current version of the LPA Manual. NHDOT has developed specific guidance, checklists, and tools as needed for specific elements of

oversight activities. These currently include the Single Audit Report procedures, invoice review checklist, PS&E checklist, environmental review checklists, project closeout checklist, etc. Projects will continue to be reviewed throughout the design process with the oversight summarized by the documents assembled as part of the PS&E submission in ProMIS and made available to FHWA for review as part of authorization of funds through FMIS. In addition, NHDOT will:

- Maintaining individual Federal-aid project files that include documentation of all required FHWA actions and NHDOT's assumed project approvals as set forth in this Agreement. NHDOT will provide FHWA access to the project files when requested.
- Conduct and document all program and project reviews, as needed
- Complete quarterly/annual reports and provide program and project information, as needed
- Work with the New Hampshire Division to implement the Supercircular (2 CFR 200) and the FHWA Project Funds Management Guide for State Grants.
- NHDOT and the New Hampshire Division, as part of the annual Risk Assessment, will assess the LPA Program to determine if there are opportunities to improve the processes outlined.

SECTION XII. IMPLEMENTATION AND AMENDMENTS

- A. This S&O Agreement will take effect as of the effective date of the signature of the FHWA New Hampshire Division Administrator, who shall sign this S&O Agreement last.
- B. The Division and NHDOT agree that updates to this Agreement will be considered periodically on a case-by-case basis or when:
- Significant new legislation, Executive orders, or other initiatives affecting the relationship or responsibilities of one or both parties to the S&O Agreement occurs;
 - Leadership, or leadership direction, changes at the NHDOT or FHWA; or
 - Priorities shift as a result of audits, public perception, or changes in staffing at either the NHDOT or Division Office.
- C. The Division and NHDOT agree that changes may occur to the contents of the Attachments to this S&O Agreement and documents incorporated by reference into the S&O Agreement. Except as provided in paragraph XII.D and E, changes to the Attachments and documents incorporated by reference will not require the Division and NHDOT to amend this S&O Agreement. The effective date of any revisions to one of these documents shall be clearly visible in the header of the revised document. This Agreement and any revised document shall be posted on the Division's S&O Agreement internet site within five (5) business days of the effective date.

- D. Any changes to the high risk categories must be documented by an amendment to this S&O Agreement.
- E. Any changes to the Project Action Responsibility Matrix must be approved by the FHWA Office of Infrastructure in writing and documented by an amendment to this S&O Agreement.

SECTION XIII. ISSUE RESOLUTION PROCESS

The FHWA New Hampshire Division and NHDOT work as partners in delivering the Federal-aid transportation program in New Hampshire. It is recognized, however, that there may be times when consensus cannot be achieved between the two agencies. Whenever these situations arise, the FHWA New Hampshire Division and NHDOT agree to work together to resolve disputes in a timely manner. In those cases where a solution cannot be identified, NHDOT and the FHWA New Hampshire Division may elevate the issue to the next level in the “chain of command.” It has been agreed that only the NHDOT Commissioner or NHDOT Assistant Commissioner/Chief Engineer will make NHDOT appeals to FHWA Headquarters’ offices.

SECTION XIV. FRAUD, WASTE, AND ABUSE

The reporting of fraud, waste, and abuse is everyone’s responsibility, specifically, those involved in the delivery of the Federal Aid Highway Program and for all public servants in general. As stewards of public funds, our duties involve verifying that work performed by private contractors meets the required specifications, both in materials used and in construction practices rendered. On behalf of the FHWA and NHDOT, it is expected that fraudulent activities will not be tolerated and will be reported immediately to the appropriate authorities. Proactive and effective fraud prevention and detection is a collateral duty of all public employees and citizens of the state. Pursuant to the Inspector General Act of 1978, the Office of the Inspector General (OIG) Office of Investigations, the U.S. Department of Transportation (USDOT) is responsible for conducting investigations of fraud, waste, and abuse involving FHWA programs. Any suspected fraudulent activities by federal or state employees, contractors, subcontractors, and any other participants on federally funded highway construction projects, should be reported to the FHWA New Hampshire Division and OIG.

The OIG maintains a hotline to facilitate the reporting of allegations of fraud, waste, abuse, or mismanagement in USDOT program or operations. Per the OIG Web site; “Confidentiality is established by Section 7(b) of the Inspector General Act of 1978, which precludes the IG from disclosing the identity of a DOT employee who reports an allegation or provides information, without the employee's consent, unless the IG determines that disclosure is unavoidable during the course of the investigation. Non-Department of Transportation employees who report allegations may specifically request confidentiality.”

Contact Information:

OIG National Hotline (800) 424-9071

OIG Regional Office-Cambridge, MA (617) 494-2701

EXECUTION BY THE FHWA NEW HAMPSHIRE DIVISION OFFICE

Executed this 14th day of May, 2015.

Signature
/s/ Patrick A. Bauer

Patrick A. Bauer
Division Administrator

EXECUTION BY THE NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION

Executed this 14th day of May, 2015.

Signature
/s/ William Cass

William Cass
Acting Commissioner

ATTACHMENT A
PROJECT ACTION RESPONSIBILITY MATRIX
(As of February 6, 2015)

The following matrix identifies Federal-aid highway program (FAHP) project approvals and related responsibilities. The matrix specifies which actions are subject to State assumption under the provisions of 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as those which are reserved to FHWA.

In the column entitled “Projects on the NHS” if an item is marked “FHWA or State,” it means the State may assume the specified approval and related responsibilities if the Division determines the assumption is appropriate. For projects on the NHS, the FHWA may retain any approval or related action in any box marked “FHWA or State” as deemed appropriate by the Division. If the FHWA retains any approval or related action in any box marked “FHWA or State”, the project is a PoDI, and will require a PoDI plan.

For the column marked “Projects off the NHS”, the State must assume all items marked “State” unless the State determines the assumption of a particular item by the State is not appropriate.

Except as expressly stated in notes to the matrix below, the State cannot assume any item marked only as “FHWA” in either column. Any item marked only “FHWA” is reserved to FHWA because it is outside the scope of 23 U.S.C. 106(c), or otherwise is reserved to FHWA by law. The NHDOT is responsible for ensuring all individual elements of the project are eligible for FAHP funding, but all final eligibility and participation determinations are retained by FHWA. While FHWA may not delegate decision-making authority to a State unless authorized by law, FHWA may authorize a NHDOT to perform work needed to reach the decision point, or to implement the decision.

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Ensure project in Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP)	STATE	STATE
Identify proposed funding category	STATE (1)	STATE (1)

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015)
(Excluding PoDIs, which are subject to separate PoDI Plans)

ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Obligate funds/approve Federal-aid project agreement, modifications, and project closures (project authorizations) (Note: this action cannot be assumed by State)	FHWA	FHWA
Authorize current bill (Note: this action cannot be assumed by State)	FHWA	FHWA
Review and Accept Financial Plan and Annual Updates for Federal Major Projects over \$500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Review Cost Estimates for Federal Major Projects over \$500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Develop Financial Plan for Federal Projects between \$100 million and \$500 million. [23 U.S.C. 106(i)]	STATE	STATE
All EA/FONSI, EIS/ROD, 4(f), 106, 6(f) and other approval actions required by Federal environmental laws and regulations. (Note: this action cannot be assumed by STATE except under 23 U.S.C. 327)	FHWA (2)	FHWA (2)
Categorical Exclusion approval actions (Note: this action cannot be assumed by the State except through an assignment under 23 U.S.C. 326 or 327, or through a	FHWA (2)	FHWA (2)

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
programmatic agreement pursuant to Section 1318(d) of MAP-21 and 23 CFR 771.117(g))		
Exempt bridge from Coast Guard permit requirements (23 CFR 650.805)	FHWA	FHWA
Consultant Contract Selection	STATE (3)	STATE (3)
Sole source Consultant Contract Selection	FHWA (3)	STATE (3)
Approve hiring of consultant to serve in a “management” role (Note: this action cannot be assumed by State) [23 CFR 172.9]	FHWA	FHWA
Approve consultant agreements and agreement revisions (Federal non-Major Projects) [23 CFR 172.9]	STATE	STATE
Approve consultant agreements and agreement revisions on Federal Major Projects [23 CFR 172.9] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve exceptions to design standards [23 CFR 625.3(f)]	STATE	STATE
Interstate System Access Change [23 USC 111] (Note: this action cannot be assumed by State)	FHWA	N/A
Interstate System Access Justification Report [23 USC 111] (Note: action may be assumed by State pursuant to 23 USC 111(e))	FHWA	N/A
Airport highway clearance coordination and respective public interest finding (if required)	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
[23 CFR 620.104]		
Approve Project Management Plan for Federal Major Projects over \$500 million [23 USC 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve innovative and Public-Private Partnership projects in accordance with SEP-14 and SEP-15 (Note: this action cannot be assumed by State)	FHWA	FHWA
Provide pre-approval for preventive maintenance project (until FHWA concurs with STATE procedures) (Note: this action cannot be assumed by State)	FHWA	FHWA
Provide approval of preliminary plans for unusual/complex bridges or structures on the Interstate. [23 USC 109(a) and FHWA Policy]	FHWA (4)	N/A
Provide approval of preliminary plans for unusual/complex bridges or structures (non-Interstate). [23 USC 109(a) and FHWA Policy]	STATE (4)	STATE
Approve retaining right-of-way encroachments [23 CFR 1.23 (b) & (c)]	STATE	STATE
Approve use of local force account agreements [23 CFR 635.104 & 204]	STATE	STATE
Approve use of publicly owned equipment	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
[23 CFR 635.106]		
Approve the use of proprietary products, processes [23 CFR 635.411]	STATE	STATE
Concur in use of publicly furnished materials [23 CFR 635.407]	STATE	STATE
Make feasibility/practicability determination for allowing authorization of construction prior to completion of ROW clearance, utility and railroad work [23 CFR 635.309(b)]	FHWA for Interstate STATE for Non-Interstate	STATE
Make public interest finding on whether State may proceed with bid advertisement even though ROW acquisition/relocation activities are not complete for some parcels [23 CFR 635.309(c)(3)]	FHWA for Interstate STATE for Non-Interstate	STATE
Ensure compliant ROW certificate is in place [23 CFR 635.309(c)]	STATE	STATE
Approve Hardship and Protective Buying [23 CFR 710.503] (If a Federal-aid project) (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve Interstate Real Property Interest Use Agreements [23 CFR 710.405] (Note: this action cannot be assumed by State)	FHWA	N/A
Approve non-highway use and occupancy [23 CFR 1.23(c)]	FHWA for Interstate STATE for Non-Interstate (3)	STATE (3)

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015)
(Excluding PoDIs, which are subject to separate PoDI Plans)

ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Approve disposal at less than fair market value of federally funded right-of-way, including disposals of access control [23 U.S.C. 156] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve disposal at fair market value of federally funded right-of-way, including disposals of access control [23 CFR 710.409] (Note: 23 CFR 710.201 authorizes FHWA and STATE to agree to scope of property-related oversight and approvals for all actions except those on the Interstate System)	FHWA for Interstate STATE for Non-Interstate (3)	STATE (3)
Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations or other contributions applied to a project (Note: this action cannot be assumed by State)	FHWA	FHWA
Federal land transfers [23 CFR 710, Subpart F] (Note: this action cannot be assumed by State)	FHWA	FHWA
Functional replacement of property [23 CFR 710.509] (Note: this action cannot be assumed by State)	FHWA	FHWA
Accept Transportation Management Plans (23 CFR 630.1012(b))	STATE	STATE
Approval of System Engineering Analysis (for ITS) [23 CFR 940.11]	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015)
(Excluding PoDIs, which are subject to separate PoDI Plans)

ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Approve PS&E [23 CFR 630.201]	STATE	STATE
Authorize advance construction and conversions [23 CFR 630.703 & 709] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve utility or railroad force account work [23 CFR 645.113 & 646.216]	STATE	STATE
Approve utility and railroad agreements [23 CFR 645.113 & 646.216]	STATE	STATE
Approve use of consultants by utility companies [23 CFR 645.109(b)]	STATE	STATE
Approve exceptions to maximum railroad protective insurance limits [23 CFR 646.111]	STATE	STATE
Authorize (approve) advertising for bids [23 CFR 635.112, 309]	STATE	STATE
Approve cost-effectiveness determinations for construction work performed by force account or by contract awarded by other than competitive bidding [23 CFR 635.104 & .204]	FHWA	STATE
Approve emergency determinations for contracts awarded by other than competitive bidding [23 CFR 635.104 & .204]	FHWA	STATE
Approve construction engineering by local agency [23 CFR 635.105]	STATE	STATE
Approve advertising period less than 3 weeks [23 CFR 635.112]	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015)
(Excluding PoDIs, which are subject to separate PoDI Plans)

ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Approve addenda during advertising period [23 CFR 635.112]	STATE	STATE
Concur in award of contract [23 CFR 635.114]	STATE	STATE
Concur in rejection of all bids [23 CFR 635.114]	STATE	STATE
Approval of Design-Build Requests-for-Proposals and Addenda [23 CFR 635.112]	FHWA	STATE
Approve changes and extra work [23 CFR 635.120]	STATE	STATE
Approve contract time extensions [23 CFR 635.120]	STATE	STATE
Concur in use of mandatory borrow/disposal sites [23 CFR 635.407]	STATE	STATE
Accept materials certification [23 CFR 637.207]	STATE	STATE
Concur in settlement of contract claims [23 CFR 635.124]	STATE	STATE
Concur in termination of construction contracts [23 CFR 635.125]	FHWA	STATE
Waive Buy America provisions [23 CFR 635.410] (Note: this action cannot be assumed by State)	FHWA	FHWA
Final inspection/acceptance of completed work [23 USC 114(a)]	STATE	STATE
Approval of Disadvantaged Business Enterprise (DBE) Project Contract Goal set by the NHDOT under 49 CFR 26.51(d). [49 CFR 26.51(e)(3)]	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority	Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority
Acceptance of Bidder's Good Faith Efforts to Meet Contract Goal [49 CFR 26.53] or of Prime Contractor's Good Faith Efforts to Find Another DBE Subcontractor When a DBE Subcontractor is Terminated or Fails to Complete Its Work [49 CFR 26.53(g)] (Note: this action cannot be performed by the FHWA)	STATE	STATE
Equal Employment Opportunity (EEO) Contract Compliance Review [23 CFR Part 230, Subpart D]).	STATE	STATE
Training Special Provision – Approval of Project Goal for training slots or hours [23 CFR Part 230, Subpart A]	STATE	STATE
Training Special Provision – Approval of New Project Training Programs (Note: this action cannot be assumed by State) [23 CFR 230.111(d), (e)]	FHWA	FHWA

FOOTNOTES:

- (1) State is responsible for ensuring that all individual elements of the project are eligible. FHWA will check that the scope of the project as described in submitted project agreement is eligible for the category of funding sought. All final eligibility and participation determinations are retained by FHWA.
- (2) If there is a 23 U.S.C. 326 or 325 assignment or PCE agreement, decisions are handled in accordance with those assignments or agreements.
- (3) State's process and modifications to, or variation in process, require FHWA approval.
- (4) Unusual/Complex bridges and structures are those that the Division determines to have unique foundation problems, new or complex designs, exceptionally long spans, exceptionally large foundations, complex hydrologic (including climate change and extreme weather events) aspects, complex hydraulic elements or scour related elements, or that are designed with

- Maintain a close working relationship with NHDOT Materials and Construction staff,
- Promote improvements when new approaches or technologies are developed and where deficiencies are identified,
- Ensure that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing, are in conformity with the approved plans, specifications, special provisions, and the NHDOT standard specifications,
- Provide oversight of construction materials and compliance with Federal requirements on a statewide basis, and
- Ensure there is adequate and qualified NHDOT staff to maintain NHDOT QA and Independent Assurance (IA) programs.

Oversight Activities

The FHWA Division Office will review and approve NHDOT Materials QA Program on an on-going basis. The NHDOT Materials QA Program includes the Acceptance Program, the IA Program, the Materials Certification of projects located on the NHS, the AASHTO Accreditation Inspection Reports, the Qualified Laboratory Program, and the Qualified Sampling and Testing Personnel Program. Additionally, the FHWA Division Office will have an ongoing involvement in the development and implementation of the NHDOT's Materials QA Program. In general, the FHWA Division Office will monitor the implementation and effectiveness of the QA Program through process reviews.

ASSET MANAGEMENT

Asset management is a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost. (23 U.S.C. 101(a)(2), MAP-21 § 1103)

Per MAP-21, each State is required to develop a risk-based asset management plan for the National Highway System (NHS) to improve or preserve the condition of the assets and the performance of the system. To avoid a reduction in the Federal share under National Highway Performance Program (NHPP), States are required to have developed and implemented an NHS asset management plan by the second fiscal year beginning after the USDOT Secretary establishes by regulation the process for asset management plan development. (23 U.S.C. 119(e)(1), MAP-21 § 1106)

Not less than once every 4 years, FHWA will review and recertify that the process the State used to develop and maintain the State asset management plan for the NHS meets requirements established under 23 U.S.C. 119(e)(8), MAP-21 § 1106.

16. PLANNING AND PROGRAMMING OVERVIEW

Work Programs: Title 23 CFR, Part 420, Planning and Research Program Administration contains the policies and procedures for administering activities and studies undertaken by

States and Metropolitan Planning Organizations (MPO) funded through their respective Work Program or as separate projects not included in a Work Program.

1. Statewide Planning and Research (SPR) Work Program: NHDOT prepares the Work Program every two years. FHWA provides pre-program guidance, planning emphasis areas, draft review comments, approves the Work Program, and authorizes SPR funds. FHWA monitors the work throughout the cycle using day-to-day involvement as appropriate. NHDOT submits annual progress reports to FHWA consistent with 23 CFR 420.117.

2. MPO Unified Planning Work Program (UPWP): The UPWP is prepared every two years by each MPO and is reviewed by NHDOT, FHWA, and Federal Transit Administration (FTA). FHWA authorizes Planning Funds upon joint FHWA/FTA approval of the UPWPs. These funds are traditionally referred to as “PL” funds. NHDOT and FHWA monitor the Work Program through participation in MPO meetings, pre-UPWP meetings, and annual reports.

Statewide Transportation Planning: Title 23 CFR, Part 450, Subpart B, addresses the requirements of the statewide transportation planning process:

1. Statewide Long Range Transportation Planning: NHDOT develops a Statewide Long Range Transportation Plan (Transportation Plan) which considers all modes of transportation. The Transportation Plan covers at least a 20-year planning horizon, considers the planning factors as outlined in the CFR, provides an opportunity for consultation and participation by interested parties, and is coordinated with the Metropolitan Transportation Plans of each MPO.

2. Statewide Transportation Improvement Program (STIP): NHDOT develops a STIP containing all projects proposed to be funded by FHWA and FTA for a four-year period. The STIP is amended, modified, or updated by NHDOT and submitted to FHWA and FTA on an agreed-to schedule, but updates shall happen at least every four years. Projects contained in the STIP must be consistent with the Statewide Transportation Plan and the MPO plans, and must provide reasonable opportunity for consultation and participation by interested parties. Along with the STIP, NHDOT will certify that the projects in the STIP are based on a planning process that meets the requirements of 23 CFR 450.218.

Metropolitan Transportation Planning: Title 23, CFR Part 450, Subpart C, addresses metropolitan planning requirements:

1. MPO Transportation Plan: Each MPO must update its Metropolitan Transportation Plan every four years in non-attainment and maintenance areas, and every five years for attainment areas. The plan is project-specific, must be financially constrained, and must cover at least a 20-year planning horizon; include long range and short range strategies which lead to an integrated intermodal plan; include a financial plan which compares estimated revenues with costs of construction, maintenance, capital purchases, and operations; consider the planning factors as outlined in the CFR; and provide opportunity for public participation and comment.

2. MPO Transportation Improvement Program (TIP): Contains all projects proposed to be funded by FHWA and FTA for a four year period. The TIP is amended, modified, or updated by the MPO and submitted to FHWA and FTA on an agreed-upon schedule, but updates shall happen at least every four years. The TIP shall include all required information as outlined in 450.324. The TIP development process must provide a reasonable opportunity for public participation and comment. Along with the STIP, NHDOT will certify that the projects in the TIP are based on a planning process that meets the requirements of 23 CFR 450.334.

3. Traffic Monitoring: Title 23 CFR, Part 500, Subpart B provides the regulatory guidance for the development and operation of a traffic monitoring system for highways, including traffic counting, vehicle classification, and weigh-in-motion programs. The system is guided by the AASHTO Guidelines for Traffic Data Programs, augmented by the FHWA Traffic Monitoring Guide and the Highway Performance Monitoring System Field Manual. The required traffic data is collected by NHDOT (with some assistance from local agencies) and are reported electronically to FHWA through the Traffic Monitoring Analysis System (TMAS) and through the Highway Performance Monitoring System (HPMS). Some data, such as the Automatic Traffic Recorder counts, are submitted monthly, while other data, such as coverage counts are submitted annually. The FHWA works with NHDOT to ensure that the applicable regulations are being followed and that the required information is submitted in an accurate and timely fashion. FHWA conducts periodic quality control reviews and works with NHDOT to resolve any issues that might arise.

4. Highway Performance Monitoring System (HPMS): Title 23 CFR, Part 420 addresses the policy for states to provide data that support FHWA responsibilities to the Congress and to the public. The Highway Performance Monitoring System Field Manual provides instructions for collecting and reporting quality and timely data on the condition and performance of the highways and streets. The required data is collected by NHDOT (with some assistance from local agencies) and is submitted electronically to FHWA on an annual basis. The FHWA works with NHDOT to ensure that the applicable regulations are being followed and that the required information is submitted in an accurate and timely fashion. FHWA conducts periodic quality control reviews and works with NHDOT to resolve issues that might arise. FHWA must annually attest to the accuracy of the HPMS data used in the apportionment process.

5. Certification of Public Road Mileage: Title 23 CFR, Part 460 addresses the policies and procedures for identifying and reporting public road mileage for utilization in the statutory formula for the apportionment of Highway Safety funds under 23 USC 402(C). Submitted to FHWA Headquarters by June 1 of each year, the Governor or NHDOT Commissioner certifies the public road mileage in the State as of the end of the previous calendar year. In New Hampshire, the NHDOT Commissioner has been selected as the Governor's designee. The NHDOT submits it to the FHWA New Hampshire Division Office, which in turn submits it to FHWA headquarters.

6. National Functional Classification: Title 23 CFR, Part 470 describes the Federal aid Highway System, its designation, and description. NHDOT will have the primary responsibility for developing and updating a statewide highway functional classification in rural and urban areas. NHDOT shall cooperate with responsible local officials, or appropriate federal agency in the case of areas under federal jurisdiction, in developing and updating the

functional classification. Proposed changes to the National Functional Classification shall be mapped and submitted to FHWA for approval.

7. Other areas of interest: Title 23 CFR requires states to compile and submit to FHWA: (1) a Highways Statistics Report, (2) a Certification of Enforcement of Heavy Vehicle Use Tax Certification, (3) the Vehicle (Truck) Size and Weight Enforcement Certification and supporting information on related activities, and (4) a report outlining the Annual Truck Weight Characteristics Data.

Approved Procedures, Agreements, and Manuals

NHDOT is required to submit to FHWA and FTA, for joint approval, a Statewide Transportation Improvement Program (STIP). Under MAP-21, NHDOT is required to update the STIP and submit for approval to FHWA and FTA at least every four years.

NHDOT and the MPO shall certify to FHWA that the planning process is addressing the major issues facing the area and is being conducted in accordance with all applicable requirements. This certification is submitted with the STIP update.

Under MAP-21, the NHDOT is required to provide for 50% statewide suballocation of funds under the Surface Transportation Program (STP) and Transportation Alternatives Program (TA). In addition, there will be STP funds suballocated for the Nashua urbanized area (UZA) due to its current Transportation Management Area (TMA) designation. MAP-21 also requires that an MPO serving a TMA select all projects except those on the NHS, which are selected by the State with MPO cooperation.

Under MAP-21, projects carried out in areas having less than 50,000 persons shall be selected from the approved STIP (excluding NHS projects, Bridge program, IM program, or under sections 5310 and 5311 of title 49) by the State in cooperation with the affected non-metropolitan local officials with responsibility for transportation, or, if applicable, through Regional Transportation Planning Organizations (RTPOs).

NHDOT will work with FHWA and New Hampshire's MPOs and non-MPO RPCs to establish procedures and agreements as necessary to ensure that these suballocation and project selection requirements are in place by May 31, 2015, at the latest.

NHDOT will monitor all SPR and UPWP activities to assure the work is being managed and performed satisfactorily and that time schedules are being met. NHDOT will submit a report annually to FHWA documenting the results of its monitoring process.

NHDOT will periodically review its statewide long-range transportation plan to assure its goals and objectives are still relevant, and that the plan still meets the requirements of 23 CFR 450.214. As NHDOT and FHWA deems it necessary, NHDOT will update or reaffirm the long-range transportation plan.

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

FHWA and FTA conduct certification reviews of Transportation Management Areas (TMA) and MPO planning reviews for non-TMA areas on a four-year cycle. NHDOT will participate as a partner agency in these reviews.

NHDOT will provide FHWA (and FTA and EPA, where appropriate, at least 30 business days to review and comment on the draft and final Statewide Transportation Improvement Program, Metropolitan Transportation Improvement Program, State Planning and Research Work Program, the Metropolitan Planning Organization Unified Planning and Work Program, and the Statewide and Metropolitan Transportation Plans.

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

NHDOT will comply with all sub-grantee reimbursement requirements for PL and SPR funds in a timely manner, including the 15 business day turnaround that is required under MAP-21 for metropolitan planning funds that are requested for reimbursement by a MPO.

As a condition for receipt of Federal aid funds, NHDOT agrees to develop plans and work programs for statewide transportation planning activities, as required in 23 CFR, Parts 420 and 450, and in cooperation with Metropolitan Planning Organizations. FHWA will review these plans and programs to assure they meet applicable laws and regulations.

Programs requiring oversight include:

1) SPR Part 1 Program and MPO UPWPs: The SPR Part 1 Program and amendments, and MPO UPWPs and amendments, are reviewed and approved by FHWA for the SPR Program, and USDOT (FHWA/FTA) for the MPO UPWPs, the latter consistent with the current Memorandum of Agreement between the FHWA New Hampshire Division Office and FTA Region I. The SPR Part I Program is prepared on a 2 year cycle by NHDOT's Bureau of Planning and Community Assistance. A UPWP is the MPO's transportation planning work program, including all activities supported by FHWA and FTA planning funds. NHDOT will schedule SPR Part 1 Program and UPWP Review Meetings with FHWA and FTA as appropriate for the review of draft program updates. UPWP Review Meetings will include the participation of MPO staff. The purpose of having UPWP Review Meetings with each New Hampshire MPO is to help enhance interagency coordination and communication, and as such, they are attended by staff from the MPO, NHDOT, FHWA, and FTA. The meetings provide MPOs with an opportunity to highlight accomplishments from the current UPWP cycle, and present goals and activities that are planned for the upcoming UPWPs. Typically, review of any comments on the draft UPWPs from the federal agencies or NHDOT occurs at these meetings, and also provides FHWA and FTA an opportunity to discuss planning emphasis areas and answer questions. Issues discussed range from the more practical aspects of funding eligibility and billing, to actual planning activities listed in the UPWP documents. As the UPWPs in New Hampshire are also on a 2 year update cycle, the SPR Part 1 and UPWP Review Meetings should occur on a 2 year cycle, at least 2 months before SPR Part 1 and UPWP adoption, during the update process.

2) Statewide transportation planning process, including the STIP: New Hampshire DOT prepares the STIP and STIP revisions, including amendments and updates requiring FHWA

approval. Sometimes FHWA approval will be provided jointly with FTA consistent with terms of approval identified in the current Memorandum of Agreement between the Federal Highway Administration Division Offices in Connecticut, NH, Massachusetts, New Hampshire, Rhode Island, Vermont, and the Federal Transit Administration, Region I. STIP revisions will be processed and approved by FHWA (and FTA) as necessary consistent with current approved STIP Revision Procedures (March 25, 2008). These procedures also document the activities and role of New Hampshire's interagency consultation process, also referenced under the Air Quality section of this document.

3) Metropolitan transportation planning process: MPO long-range transportation plans and TIPs are prepared by New Hampshire's MPOs. While no approval actions are required by FHWA or NHDOT for these documents, NHDOT and FHWA will work together to ensure that New Hampshire's MPOs understand and are in compliance with requirements related to these products. This in turn will ensure that Federal STIP approval actions occur in a timely manner. NHDOT and FHWA will regularly attend monthly MPO Technical Advisory Committee (TAC) meetings to provide oversight.

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

17. RESEARCH, DEVELOPMENT and TECHNOLOGY PROGRAM

The purpose of the program is to implement the provisions of 23 U.S.C. 307 for research, development and technology transfer programs and studies undertaken with FHWA planning and research funds.

State Planning and Research (SPR) Program

The main requirements under 23 CFR 420 are to create a SPR Work Program, monitor planning and research activities, submit performance and expenditure reports, conduct peer reviews, develop and maintain an FHWA approved research and development manual, and maintain program certification. The SPR Work Program consists of two parts: (1) Part I, Planning, which is prepared by NHDOT's Bureau of Planning and Community Assistance and (2) Part II, Research, which is prepared by NHDOT's Research Section of the Bureau of Materials and Research.

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

SPR Part I

Title 23 CFR, Part 420, Planning and Research Program Administration contains the policies and procedures for administering activities and studies undertaken by States and

Metropolitan Planning Organizations (MPOs) funded through their respective Work Program or as separate projects not included in a Work Program.

SPR Part II

NHDOT is responsible for preparation and overall coordination of the Work Program in accordance with 23 CFR 420. The SPR program operates on a biennial state fiscal-year basis. NHDOT considers how to address research needs and may, at its option: 1) conduct research with in-house personnel or contracted researchers, including university, federal, or private organizations, 2) conduct research through a transportation pooled fund project wherein NHDOT or another NHDOT or FHWA is the lead agency, or 3) participate in one of the regional or national cooperative transportation research programs.

FHWA exercises its oversight responsibilities through review and approval of the biennial SPR Work Program prior to approval actions, review of SPR Work Program amendments prior to approval, and ongoing participation of its technical specialists in study technical panels. As appropriate, FHWA personnel participate in peer exchanges.

The FHWA Division Research and Technology Specialist oversees the administrative aspects and coordinates with the Division Office specialists for technical aspects.

FHWA reviews and approves an updated version of the *NHDOT RD&T² Primer - Official Manual of the Research, Development and Technology Transfer Program* when there are significant changes in the management process or new Federal regulation/policy are enacted.

Eligible SPR funded activities include:

- Engineering and economic surveys and investigations
- Planning of future highway programs and local public transportation systems, and planning of the financing of such programs and systems, including metropolitan and statewide planning
- Development and implementation of management systems, plans, and processes under the NHPP, HSIP, CMAQ, and the National Freight Policy
- Studies of the economy, safety, and convenience of surface transportation systems, and the desirable regulation and equitable taxation of such systems
- Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems
- Study, research, and training on the engineering standards and construction materials for transportation systems described in the previous bullet, including the evaluation and accreditation of inspection and testing, and the regulation and taxation of their use
- Conduct of activities relating to the planning of real-time monitoring elements
- Implementation by the Secretary of the findings and results of the Future Strategic Highway Research Program

18. RIGHT-OF-WAY

All recipients of Federal assistance must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), and its amendments, on programs and projects that require real property acquisition. The Uniform Act applies whenever Federal funds are used in any phase of the program or project. The Uniform Act encourages agencies to negotiate with property owners in a prompt and amicable manner in order to avoid litigation.

While there are no oversight exemptions in the Right of Way (ROW) program, there are essentially two levels of Federal interest. On Federal-aid projects where ROW is acquired without federal funds, the Federal concern is to ensure that the rights of property owners and displaced persons are protected. On Federal-aid projects where ROW is acquired with federal funds, there is a dual Federal concern for the rights of property owners and displaced persons, as well as the stewardship of federal dollars.

49 CFR 24 provides the implementing regulations for the Uniform Act regarding appraisal, acquisition, and relocation. 23 CFR 710 provides requirements concerning the ROW operations manual, direct and indirect costs, ROW project agreements, Interstate and NHS air rights, airspace leases and joint use agreements, transfers of excess ROW, early acquisition, protective buying, hardship acquisitions, donations, functional replacements, and Federal land transfers. 23 CFR 750 provides requirements for highway beautification; 23 CFR 751 provides requirements for junkyard control; and 23 CFR 752 has requirements for roadside development.

The Division will conduct regular reviews of specific ROW activities to ensure compliance with Uniform Act requirements. The Division will also conduct process reviews and program evaluations as needed. These will be typically conducted jointly with the NHDOT.

The NHDOT is responsible for ensuring that ROW acquisitions and relocations by local agencies on Federal-aid projects are made in compliance with Federal and State requirements.

The NHDOT and the Division agree to the following roles and responsibilities regarding the listed actions. Typically, 5-7 day review times, after receipt by the Division, should be adequate.

Outdoor Advertising Control

The Highway Beautification Act requires States to provide effective outdoor advertising control along certain Federal-aid highway systems. Prior to MAP-21, these highway systems were the Interstate system, the Federal-aid primary system (as it existed on June 1, 1991), and the National Highway System (NHS). Effective October 1, 2012, MAP-21 Section 1104 amended 23 U.S.C. 103 to incorporate additional routes not previously included in the NHS and created an enhanced NHS. This enhanced NHS is now subject to outdoor advertising control. The penalty for not providing effective control of outdoor advertising remains at 10 percent.

Junkyard Control

Effective October 1, 2012, MAP-21 Section 1404(b) amended 23 U.S.C. 136 to require States to now provide effective junkyard control in areas adjacent to the enhanced NHS.

Section 1404(b) also amended 23 USC 136 by reducing the penalty for not providing effective control of junkyards from 10 to 7 percent.

19. SAFETY

Highway Safety Improvement Program (HSIP)

The HSIP is a core Federal-aid program with the purpose of achieving a significant reduction in fatalities and serious injuries on all public roads. States shall fund safety projects or activities that are most likely to achieve fatality and serious injury performance targets.

The program and policy language for implementing the Highway Safety Improvement Program (HSIP) is codified as 23 USC 148, with related policies in 23 CFR 924. Specific provisions related to the Highway Safety Improvement Program (HSIP) are also provided under section 1112 of MAP-21. Each State is required to develop, implement, and evaluate on an annual basis a comprehensive HSIP that has the objective of significantly reducing fatalities and serious injuries resulting from crashes on all public roads. Further guidance on implementing the HSIP is given through various FHWA HSIP program guidance documents.

NHDOT has the responsibility for carrying out the State's HSIP. FHWA exercises its oversight responsibilities through review of the annual program of projects, review of program processes, and review of annual reports, as well as through various approval and acceptance actions in accordance with 23 USC 148, 23 CFR 924 and other guidance as released by FHWA.

NHDOT will maintain a documented process, approved by FHWA, for programming projects that conforms to 23 USC 148 and 23 CFR 924. This documented process will be updated by NHDOT as needed. All changes to this process will be approved by FHWA.

The NHDOT will establish and maintain a multi-disciplined HSIP Steering Committee that includes local representation for the purpose of establishing program guidance and HSIP project selection and prioritization criteria; FHWA will have representation on that committee. The Committee will meet regularly throughout the year and as needed to address issues.

The NHDOT, in cooperation and consultation with FHWA, will establish and maintain an HSIP Guidance document that aligns with Federal regulation and guidance on administering a State HSIP program. The Guidance will include the methodology for establishing HSIP project selection, reevaluation of projects throughout development, and project prioritization. The Guidance will also include the tracking of goals and established measures. This guidance document will be used by the NHDOT and HSIP Committee in administering the HSIP program of projects.

In addition, NHDOT will provide project analysis/selection information to FHWA for review at the time a Federal-aid Project Agreement for an HSIP funded project is submitted to FHWA and/or during HSIP Committee meetings where projects are to be included in the HSIP program. Oversight of HSIP projects will be determined using risk based criteria determined through cooperative agreement with NHDOT, and as may be determined for any other Federal-aid highway projects as described in other sections of this Agreement.

NHDOT will manage the overall HSIP in accordance with 23 USC 148 and 23 CFR 924. NHDOT will prepare an annual report on the progress made and on the effectiveness of the HSIP. The report will be submitted to FHWA on or before August 31st of each year. The report contents will substantially follow the HSIP Reporting Guidance document developed by FHWA for this program.

Strategic Highway Safety Plan (SHSP)

23 USC 148 states that safety projects funded with HSIP funds must be consistent with the SHSP. NHDOT has met the requirement to develop an SHSP. NHDOT and the SHSP steering committee will evaluate the effectiveness of the SHSP annually using the HSIP reporting process. NHDOT will revise the SHSP every three to five years, or earlier as needed.

As part of the SHSP, safety emphasis areas will be established based on safety data. FHWA and NHDOT will ensure that action plans and strategies are developed and tracked for each emphasis area and where appropriate projects are implemented that will significantly reduce the number of fatal and serious injury highway crashes.

FHWA and NHDOT will ensure that SHSP implementation efforts are developed and tracked for each emphasis area. Through crash and other safety data analysis the SHSP will be utilized to identify, prioritize, and program appropriate highway safety related projects that will correct hazardous road locations, sections, and elements.

Crash Data Systems and Analysis

23 USC Section 148(c) provides that States, as part of their Strategic Highway Safety Plans, shall have crash data systems capable of identifying and determining the relative severity of hazardous locations on all public roads using criteria that the States deem most appropriate. Therefore, NHDOT and FHWA will continue to actively participate in the New Hampshire State Traffic Records Coordinating Committee (TRCC) to assist in the development of comprehensive, statewide safety data systems. NHDOT will assist the TRCC in efforts to improve Statewide system crash data. NHDOT will work with FHWA and other agencies, cities, local municipalities, and State regional planning organizations to develop a process to analyze safety data from all public roads to be included as part of the annual reporting process, by the deadline documented by FHWA. NHDOT and FHWA will actively participate in reviews of traffic records efforts.

23 USC 148 outlines specific requirements for identifying and prioritizing projects. NHDOT will continue to use crash data analysis as the foundation of the HSIP and as a major factor when making funding decisions and allocating resources. Federal-aid Safety funds will be focused on the most effective treatments at the locations with the greatest needs and potential.

Rail-Highway Crossing Safety

The NHDOT will continue to administer the Rail-Highway Grade Crossing Program per 23 USC 130 and 23 USC 148. The FHWA will review this program in conjunction with the annual HSIP reporting process.

USC Section 130(g) requires each State to submit an annual report to the Secretary of Transportation on the progress being made to implement the railway-highway crossings program, the effectiveness of such improvements, an assessment of the costs of the various

treatments employed, and subsequent crash experience at improved locations. MAP-21 Section 148(g) requires States to submit to the Secretary a report that describes how improvements contributed to reducing fatalities and serious injuries at railway-highway crossings, which may be included in the Section 130 report. NHDOT will submit a report(s) annually at the time of the HSIP report submission that meets the above requirements. FHWA will review and take acceptance action on the report(s).

Required Safety Programs – NHDOT and FHWA will maintain a written agreement on how safety will be addressed on 3R and preventive maintenance projects in accordance with FHWA requirements. FHWA will review the use of the safety planning factor as part of our HSIP reviews and MPO certification process. FHWA and NHDOT will perform process improvement reviews of other safety program elements as needed, such as Safe Routes to School, High Risk Rural Roads, design standards, MUTCD compliance, work zones, etc.

Additional Highway Safety-Related Activities:

Safety Considerations in the Statewide and MPO 3C Planning Process

FHWA will review NHDOT and MPO compliance with 23 CFR 450.206 (2) and 23 CFR 450.306 (2) during the MPO certification reviews and HSIP related review and reporting activities.

Section 159 Certification (Drug Offender's Driver's License Suspension)

23 USC 159 and 23 CFR 192 encourage States to enact and enforce drug offender's driver's license suspensions. By January 1 of each year, the Governor shall submit written notification to the FHWA Division Administrator whether the State has enacted and is enforcing a law or whether the State opposes such a law. The NHDOT will coordinate the submission of this certification with the NH Department of Safety to FHWA.

Reports

NHDOT will annually submit required reports on the progress made and on the effectiveness of the highway safety program. These reports are comprised of the HSIP report; and the highway-railway crossing report. All of these reports are to be submitted on or before August 31st of each year.

Process Reviews

The FHWA, with assistance from NHDOT and through the annual FHWA risk assessment, will perform process improvement reviews as needed of the various safety programs.

20. TRAFFIC OPERATIONS

Traffic Control and Standards

The NHDOT will adopt in a timely manner the latest version of the national Manual on Uniform Traffic Control Devices (MUTCD) as required by 23 CFR 655.603 and will submit all NHDOT proposed supplements to the FHWA for approval of substantial conformance with the MUTCD prior to implementation. NHDOT will provide and update traffic control devices on Federal-aid routes to meet the standards of the MUTCD, and approved supplements. NHDOT will develop, implement, and maintain a program acceptable to FHWA for maintaining the minimum retroreflectivity requirements in the MUTCD and for

maintaining traffic control devices in an acceptable condition on Federal-aid highways. Projects on Federal-aid highways, as well as those funded with Federal-aid funds, shall only include traffic control devices in compliance with the MUTCD and approved NHDOT supplements.

NHDOT will develop and maintain a policy and guidance on the use of Changeable Message Signs and the messages thereby put on them. The NHDOT policy and guidance shall substantially conform to the MUTCD and associated FHWA policy and guidance. The FHWA will work with the NHDOT on any updates to the policy and guidance and shall concur in any changes made thereto.

Work Zone Safety and Mobility (23 CFR 630 Subpart J)

23 CFR 630 Subpart J provides guidance and establishes requirements for systematically addressing the safety and mobility impacts of work zones, and developing strategies to help manage these impacts on all Federal-aid highway projects through the development of project level Traffic Management Plans (TMP). The NHDOT and FHWA will partner in the development, implementation, and maintenance of policies, procedures, and processes to address work zone impacts both early on and throughout the project delivery process, and to expand work zone planning beyond the project work zone itself to address corridor, network, and regional issues. This effort also includes expanding work zone management beyond traffic safety and control, to encompass broader solutions that address the need for continued mobility during road construction, including operational and public outreach plans on project considered 'Significant' per NHDOT policy.

The NHDOT will maintain a Traffic Control Committee (TCC) for the purpose of administering the Departments work zone safety and mobility program in conformance with 23 CFR 630 Subpart J and K. FHWA will maintain an active presence on the TCC. NHDOT will conduct a process review, at a minimum of every two years, of the Departments work zone safety and mobility procedures as required by and in conformance with 23 CFR 630.1006(e).

NHDOT will participate with appropriate personnel in the FHWA facilitated annual Work Zone Self-Assessment. The Self-Assessment will use the FHWA Work Zone Self-Assessment Tool and results will be reported to FHWA Headquarters office for general analysis with other States, but will not be released to other States.

Temporary Traffic Control Devices (23 CFR 630 Subpart K)

The NHDOT and FHWA will partner in the development and implementation of policies and procedures for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations. FHWA will review the NHDOT's policies and procedures, and revision thereto, for conformance with appropriate regulations.

Real-Time System Management Information Program (23 CFR 511)

NHDOT, with participation from public safety agencies, transit operators, and other operating agencies necessary to sustain mobility through the region and/or municipality, will establish a 'Real-time Information Program' as required by 23 CFR 511, by which they will gather and make available data for traffic and travel conditions. The program shall be consistent with the parameters defined under 23 CFR 511.309, 311, and 313.

Traffic Incident Management (TIM)

NHDOT, in partnership with FHWA, will maintain a program to address traffic incidents on major highways in the State for the purpose of reducing the impact of non-recurring delays. NHDOT will partner with NH Department of Safety (State Police), NH Department of Environmental Services, NH Department of Health and Human Services, private towing associations, and others as may be appropriate, and to the extent practical, to establish statewide and regional policies and procedures for safely and quickly clearing highways of such incidents. The NHDOT, FHWA, and other partners will meet on a regular basis to address TIM issues, plan and implement training, and administer post incident reviews as may be desired.

ATTACHMENT F
Projects of Division Interest (PODI) Selection Process

Two-step process

Annually, FHWA and NHDOT will meet in the Fall to review the current list of PoDIs and select additional projects to be designated as PoDIs based FHWA or NHDOT goals and/or have an elevated potential to either pose a risk or present an opportunity to advance key initiatives.

Step 1: Using Table 1 to initially screen projects, FHWA and NHDOT will jointly identify oversight projects based on risk. These projects could also be candidates for Projects of Corporate Interest which are submitted annually for FHWA HQ approval. Please note that PoCIs are a subset of the PoDIs.

Step 2: Document project oversight activities that are deemed higher risk via a concise Project S&O Plan. This step can also verify activities that are of lower risks to the program or individual project (formerly known as Inherently Low Risk Projects).

NHDOT and FHWA staff will also discuss new projects as they become active to determine if they are selected as PoDI. Risk-based projects may not necessarily be what are traditionally known as Full Oversight. A risk-based example could include the selection of locally administered projects or non-NHS projects typically administered by the NHDOT that could be designated as a PoDI for FHWA oversight due to implementation of an EDC innovation. In addition, and most importantly, within that same PoDI, FHWA may only be involved in targeted areas such as PS&E, consultant procurement, etc. Furthermore, the NHDOT may, at any time, invite FHWA to participate on assumed projects.

The provisions of this Agreement do not modify FHWA’s non-Title 23 program oversight and project approval responsibilities for activities such as required under the Clean Air Act as amended in 1970; the National Environmental Policy Act of 1969 (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, and MAP-21. Also, under Title 23, Planning functions cannot be delegated. In addition, since the NHDOT does not have Assumption of Responsibility for Categorical Exclusions, NEPA functions cannot be delegated.

Table 1. Federal-aid Project Oversight Initial Project Screening

Project Type	Description/Criteria	Oversight	Standards
Interstate Projects	New/Reconstruction \geq \$10 million ¹	FHWA	Meet or Exceed AASHTO
	New/Reconstruction < \$10 million	State	
	3R & Other	State	
	Turnpike ²	State	
	EIS Projects ³	FHWA	
	Major or Unusual Structures	FHWA	
Lower Risk Projects ¹	State		

Project Type	Description/Criteria	Oversight	Standards
Non-Interstate/ NHS Projects	≥\$30 million	FHWA	Meet or Exceed AASHTO
	Major or unusual structures	FHWA	
	EIS Projects ³	FHWA	
	All Others	State	Meet or Exceed AASHTO or FHWA Approved Standards
Non-NHS Projects	Major or unusual structures	FHWA	Meet or Exceed AASHTO or FHWA Approved Standards
	All Others	State	
Bi-State Projects	All projects > \$5M with NH as the lead state	FHWA	Meet or Exceed AASHTO
Innovative Project Delivery	Design-Build, PPP, CMGC, or Alternate Technical Concepts, see APP. A section 11	FHWA	Meet or Exceed AASHTO
Direct Recipients	Such as TIGER projects ⁴	FHWA	Meet or Exceed AASHTO or FHWA Approved Standards
Special Congressional Programs	All Projects ⁵	FHWA	Meet or Exceed AASHTO or FHWA Approved Standards
ITS Projects	Higher Risk ITS Projects	FHWA	FHWA Approved Standards and 23 CFR 940
	Lower Risk (All Others)	State	

*Note: FHWA and NHDOT may agree at any time to select other NHS or non-NHS high priority corridors or portions thereof for FHWA oversight (PoDI), including Federal-aid projects on the Turnpike System.

¹ Section 1503 of MAP-21 and FHWA memo *Interim Revised Guidance on Stewardship and Oversight Agreements, April 2, 2013* eliminated the prohibition on State assumption of responsibilities for new construction and reconstruction projects on the Interstate System exceeding \$1 million in cost. The memo also rescinds the inherently low risk oversight projects programmatic agreement.

² Interstate Turnpike Projects are defined as projects on Interstate signed toll sections of the NH Turnpike system, including concurrent sections of the Interstate System which are not built with federal funds. The NHDOT agrees to provide FHWA with a set of half sized plans of projects with construction estimates greater than \$1M (for informational purposes). NHDOT agrees to notify FHWA if design exceptions are being contemplated for the 13 controlling geometric elements and when Interchange Modifications are planned.

³ These projects will be reviewed for FHWA oversight, based on risk, for final design and construction pending completion of the Record of Decision.

⁴ Once a project is identified, FHWA will discuss oversight roles with NHDOT.

⁵ Projects resulting from congressional actions such as the Recovery Act, of high political interests, or community interest.

ATTACHMENT G PERFORMANCE/COMPLIANCE INDICATORS

This section of the Agreement identifies performance/compliance indicators that will be an integral part of the joint Federal/State stewardship/oversight agreement (See Table below). FHWA and the NHDOT jointly developed a broad set of performance/compliance indicators that both parties will use to gauge the effectiveness of the FAHP. These indicators should be used to track performance trends and to implement countermeasures/actions when the data is not moving in the desired direction. For example, countermeasures may include raising the attention level of the issue, instituting additional data and trend analysis, developing new processes or procedures, initiating additional targeted oversight activities, or implementing additional program review activities. These indicators may be revised and the targets refined

more frequently as capabilities mature, asset management plans are developed, and National Performance Management Rules and requirements are advanced.

The NHDOT will generally provide the performance/compliance indicator data to the FHWA on a schedule (TBD), although some indicator data may be provided less frequently, as agreed. The agreed upon performance/compliance indicators are identified in the table below:

Performance/Compliance Indicators for New Hampshire

ID	Program Area	Indicator	Description	Target
1	Planning	STIP	% of construction projects (including Grouped Projects) listed in the FY baseline Statewide Transportation Improvement Program (STIP) which is advanced (authorized in FMIS).	80%
2	Environment	Environmental Streamlining	Number of NEPA/Environmental Documents Processed	#
			% of Categorical Exclusions Processed	%
			% of Programmatic Categorical Exclusions Processed	%
			% Projects Processed Utilizing the Section 106 Programmatic Agreement	%
3	Right-of-Way (R/W)	Clear R/W Certifications	% of Federal-aid construction projects with clear R/W certifications at time of construction authorization.	100%
4a	Design & Construction	Engineer's Estimate	% of advertised projects > \$1million that are within $\pm 10\%$ of the low bid amount at time of contract award.	>50%
4b		Advertising Schedule	% of Advertised Projects (\$ and #) Advertised On Time (within 30 days)	>75%
4c		Project Cost Growth Bid vs. Final Amounts	% Projects with Final Construction Cost within 5% of Construction Bid	>90%
4d		Contract Duration	% of Federal-aid construction projects with work completed by established contract completion date at time of award.	> 95%
4e			Number of days from substantial completion to final voucher	< 1 yr

ID	Program Area	Indicator	Description	Target
4f		Change Orders	Average CO's per project	< 5
4g		Project Audits	% Avg dollars difference from Construction Costs vs Engineering Audits (less fuel or asphalt adjustment)	< 5%
4h			Avg Engineering Audit Score of CA records	> 70
5a	Safety & Operations	Roadway Departure Fatality Rate	Roadway departure fatalities per 100 million vehicle miles traveled. (5 year rolling average).	50% reduction by 2030 from 2010 base year
5b		Highway Fatalities	# of highway related fatalities (5 year rolling average)	50% reduction by 2030 from 2010 base year
5c		Motorcycle Crash Fatalities	# of Motorcycle Crash Fatalities per year. (5 year rolling average)	50% reduction by 2030 from 2010 base year
5d		Bike/Ped Fatalities	Number of Bike and Pedestrian fatalities	Less than the National Average
6a	System Preservation	3R & Pavement Preservation	% of Total Program dollars authorized for System Preservation type projects on the Interstate.	TBD
6b			Ride Comfort Index/IRI for the Interstate	PSR > 3.5
6c			Pavement Condition Surveys completed on the NHS system every year.	(Yes)
6D			Number of lane miles per year receiving a preservation treatment both inclusive and exclusive of crack sealing.	10% of Network
7	Finance	Inactive Obligations	% of obligated but unexpended balance for all inactive projects compared to total annual apportionments.	2%
8a	Civil Rights	DBE Goal	% DBE goal met for all completed Federal-aid construction projects.	5.63%
8b		Program Management	<ul style="list-style-type: none"> Number of completed subrecipient Title VI reviews Number of completed Contract Compliance reviews 	TBD

ID	Program Area	Indicator	Description	Target
			<ul style="list-style-type: none"> • Number of graduated OJT Program trainees • Number of completed subrecipient ADA/Section 504 reviews • Number of PROW deficiencies corrected 	
9a	Structures	NBIP Compliance	% Full compliance with all 23 NBIP metrics	80%
9b			Element Level inspections on NHS Bridges due for inspection	100%
9c		Red List Bridges	% Structurally Deficient by Deck Area (State)	< 10% of NHS SD
9d			% of Deficient Bridges (State)	< 7%
10	MAP-21 Safety and Operations	Safety	To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.	TBD
11	MAP-21 System Preservation	Infrastructure Condition	To maintain the highway infrastructure asset system in a state of good repair	TBD
12a	MAP-21 Planning	Congestion Reduction	To achieve a significant reduction in congestion on the National Highway System	TBD
12b		System Reliability	To improve the efficiency of the surface transportation system. W33	TBD
12c		Freight Movement and Economic Vitality	To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development	TBD
13	MAP-21 Environment	Environmental Sustainability	To enhance the performance of the transportation system while protecting and enhancing the natural environment	TBD
14	MAP-21 Design and Construction	Reduced Project Delivery Delays	To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.	TBD

ATTACHMENT H
GLOSSARY

3R:	Resurfacing, Rehabilitation, and Restoration
4R:	Resurfacing, Rehabilitation, Restoration and Reconstruction
AASHTO:	American Association of State Highway and Transportation Officials
A/C	Advance Construction
CAP:	Compliance Assessment Program
CE:	Construction Engineering
CMGC:	Construction Manager/General Contractor
CPIS:	Continuous Process Improvement Study
D/B:	Design/Build
DBE:	Disadvantaged Business Enterprise Program
FAHP:	Federal-aid Highway Program
FHWA:	Federal Highway Administration
FIRE:	Financial Integrity Review and Evaluation Program
FTA:	Federal Transit Administration
HPMS:	Highway Performance Monitoring System
HSIP:	Highway Safety Improvement Program

