

Agreement End Date – The last day that costs may be incurred on a project to be eligible for reimbursement for such project.

Delegated Project (State/Local) – A project in which the State DOT assumes oversight per 23 U.S.C. 106, in line with the State DOT’s Stewardship and Oversight Agreement with FHWA. The State DOT will retain oversight and act as a passthrough entity in accordance with 2 CFR 200.331 when providing funds to subrecipients, i.e., local agencies.

Direct Recipient – A recipient of Federal funding administered by the FHWA, this may or may not be a State DOT.

Effective Authorization Date – The date entered in the Fiscal Management Information System (FMIS) project authorization field corresponding with the specific phase of work authorized. This is the date that costs begin eligibility to be incurred for such phase.

FMIS – The FHWA major financial information system for tracking Federal-aid highway projects on a project-by-project basis. It contains data related to highway projects financed with Federal-aid Highway Program funds.

Major Project – A project with a total estimated cost of \$500 million or more that is receiving Federal financial assistance.

National Environmental Policy Act of 1969 (NEPA) – Mandates Federal agencies to consider the potential environmental consequences of their proposals, document the analysis, and make this information available to the public for comment prior to implementation.

Obligation – When used in connection with a non-Federal entity's utilization of funds under a Federal award, obligations means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period (2 CFR 200.71). It is essentially an action that creates a legal liability or definite commitment on the part of the Government, or creates a legal duty that could mature into a legal liability by virtue of an action that is beyond the control of the Federal Government.

Preliminary Engineering (PE) – PE is the location, design, and related work preparatory to the advancement of a project to physical construction. Preliminary engineering includes preliminary and final design and other project-related work leading to physical construction. Preliminary design defines the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design. Final design means any design activities following preliminary design and expressly includes the preparation of final construction plans and detailed specifications (i.e., plans, specifications, and estimates) for the performance of construction work. (See 23 CFR 636.103.) PE does not include planning

activities and feasibility studies to determine if a project should be included in a transportation plan and TIP/STIP or not conducted for NEPA purposes.

Project – Any undertaking eligible for assistance under 23 U.S.C. by a State DOT for highway construction, including preliminary engineering, acquisition of rights-of-way and actual construction, or for highway planning and research, or for any other work or activity to carry out the provisions of the Federal laws for the administration of Federal aid for highways.

Project Agreement – A formal contract between the State DOT and the Federal Government defining the funding, scope of work, period of performance, and other project-related commitments to meet Federal requirements.

Project Authorization – FHWA’s act of authorizing the project and executing the project agreement. The project authorization will either obligate Federal funds (23 U.S.C. 106, 23 CFR 630.106) or use Advance Construction (23 U.S.C. 115). For purposes of this document, authorization includes all new authorizations, modifications, and close out actions.

Projects of Corporate Interest (PoCI) – PoCIs are a subset of Projects of Division Interest (PoDI). These are projects deemed significant enough that FHWA is willing to commit additional resources beyond those available at the division level to help ensure successful delivery of the project.

Projects of Division Interest (PoDI) – Projects where FHWA has made a risk-based decision to retain project approval actions or to conduct stewardship and oversight activities for the project as provided for in 23 U.S.C. 106. PoDI projects are those with an elevated risk, contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting program or project objectives.

Right-of-Way (ROW) – Right-of-way means real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under 23 U.S.C. (23 CFR 710.105).

State DOT – The individual State department, commission, board, or official of any State charged by its laws with the responsibility for highway construction (23 U.S.C. 101(a)(28)). The term “State” means any of the 50 States, the District of Columbia, or Puerto Rico.

State Planning and Research (SPR) Program - The SPR Program funds States' statewide planning and research activities. The funds are used to establish a cooperative, continuous, and comprehensive framework for making transportation investment decisions and to carryout transportation research activities throughout the State. (See 23 U.S.C. 505.)

Statewide Transportation Improvement Program (STIP) – A statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and TIPs, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53. It identifies the Federal funding and scheduling for multi-modal transportation projects and programs and includes projects on the Federal, State, city, and county transportation systems, including multi-modal projects (highway, passenger rail, freight, public transit, bicycle and pedestrian).

III. PURPOSE/OBJECTIVE

This Standard Operating Procedure (SOP) establishes the procedures and internal controls for the [State] Division Office to authorize and modify programs and projects, executing project agreements, including modified project agreements, in accordance with pertinent Federal laws, regulations, and FHWA policy. This document will be updated *[Enter the timeframe that the division office will review this document annually for accuracy against the processes in place.]*

This SOP covers the procedures used to authorize the phases of programs and projects, including preliminary engineering (PE), right-of-way (ROW), construction and others (e.g., Disadvantaged Business Enterprise, On-the-Job Training Supportive Services, Workforce Development, and Training). Procedures to authorize program-specific projects are contained in the appendices.

The purpose of this SOP is to:

- Ensure consistency and efficiency in how the division office executes and modifies Federal-aid project agreements;
- Ensure project authorizations are executed in compliance with all pertinent Federal laws, regulations, and FHWA policy; and
- Provide reasonable assurance that the execution of project agreements results in accurate and reliable reporting of data.

IV. SCOPE

This SOP is primarily intended for FHWA [State] Division Office personnel reviewing and approving project authorization requests, which includes modifications of the project agreement, for work through the execution of a project agreement as required by 23 U.S.C. 106(a)(2). The SOP covers authorization of all phases and project types approved via FMIS. FHWA's requirement to separate the review, recommendation, and approval signatures in FMIS, with at least two individuals signing each authorization and modification to a project is covered throughout. FHWA requires that a qualified division office employee is responsible for signing the final signature on a project agreement.

V. PROCEDURES

This section details the minimum requirements to be addressed in this SOP. The SOP will sufficiently describe the required steps and controls implemented by the division to ensure proper project authorizations and appropriate modifications are approved. The procedures identified in this section align with the division's delegation of authority document and provide sufficient detail to describe the authorization process from initiation through final signature for each type of authorization and modification request. In addition, the procedures identify the responsible staff performing each procedural activity, steps to be performed, and the timeframes to complete each step.

23 U.S.C. 145 provides for a federally assisted State program in which the States determine which projects shall be federally financed. 23 U.S.C. 106 requires the State DOT to enter into an agreement with FHWA for each Federal-aid highway project. This agreement, normally referred to as the "project agreement," is a formal contract between the State DOT and the Federal Government defining the funding, scope of work, period of performance, and other project-related commitments to meet Federal requirements. An executed Federal-aid project agreement will authorize work, establish an eligibility date for costs incurred per phase of work, and allow for the reimbursement of eligible costs incurred in completing a project or program of projects.

The following describes the authorization process from initiation through final signature for each authorization and modification request. Each step of the process will describe who is responsible for taking action, when the action is performed, and the length of time provided to perform each step.

- A. Overall routing procedures for responsible FHWA division office staff to review and authorize a project agreement. *This section covers the overarching responsibilities of staff, to be completed before beginning the explanation of routing a request, which begins with receiving the request from the State DOT.*
 - a. *Reference the division's delegation of authority on staff authority to review, recommend, and approve authorizations and modifications.*
 - b. *Describe each individual's responsibility for each type of project agreement.*
 - c. *Describe the requirements and expectations of each FMIS signature line.*
- B. State DOT submission of an authorization/modification request (e.g., electronically, paper).
 - a. *Explain the process of how FHWA receives requests sent from the State DOT for project actions, including how often the FMIS pending action list is reviewed. (Note if the process differs between new authorizations and modifications.)*

C. Division office staff's review of the submission.

- a. The appropriate division office staff reviews each project authorization or modification request to ensure it is properly prepared for approval. *Describe the process to review and document verification of at least the following, as applicable for the type of project and level of division oversight:*
 - i. *The project description provides sufficient information to determine the scope of work and eligibility of funding obligated. State-specific acronyms and jargon should be avoided. If earmarked funds are being obligated, the project description must be consistent with the description in statute.*
 - ii. *The proper effective authorization date is established. The authorization date should be within a reasonable timeframe from the division's approval signature. Authorization dates should not be backdated unless there was a documented, paper authorization provided, and no project authorization dates are to be after the date of the division's final signature.*
 - iii. *A reasonable end date is established or modified as appropriate before which all costs must be incurred if the State wants to be reimbursed for such costs. End date parameters should be documented in the stewardship and oversight agreement.*
 - iv. *The STIP reference is valid.*
 - v. *The environmental clearance (e.g., no more than 3 years old) is valid, as applicable (23 CFR 771.113).*
 - vi. *Evidence of the ROW certification, as applicable (23 CFR 635.309(b)).*
 - vii. *Evidence of the utility coordination or agreement, as applicable (23 CFR 635.309(b)).*
 - viii. *Evidence of railroad coordination or agreement, as applicable (23 CFR 635.309(b), 23 CFR 646.216(b), 23 CFR 646.214(d)).*
 - ix. *Evidence of airport coordination, if applicable (23 CFR 620.101).*
 - x. *The program codes on the request are eligible.*
 - xi. *Funding from the requested program codes and obligation limitation is available.*
 - xii. *Data entered on the mile markers, inventory route number, congressional district, and county code is accurate.*
 - xiii. *The project is on a Federal-aid route (major collector or greater), unless specifically eligible by legislation for the particular fund source.*
 - xiv. *The Federal share is accurate (e.g., the project is on the interstate versus non-interstate) and the non-participating share is clearly defined or a lump sum is established on the project that does not exceed the maximum Federal share. If sliding scale is used, it aligns with the FHWA's guidance.*
 - xv. *The indirect cost rate is entered and appropriate.*
 - xvi. *The Catalog of Federal Domestic Assistance identification number is entered for each project and is accurate.*
 - xvii. *The appropriate National Bridge Inventory number(s) is entered when required by the fund source.*

- xviii. *Identify the process the division office has to review waiver requests from the State DOT for cases where costs were incurred prior to authorization and the documentation of the approval or denial. (i.e., 23 CFR 1.9(b) waiver with Division Administrator approval.)*
 - xix. *When modifying a PE or ROW project, the project has not passed the timeframes per 23 CFR 630.112(c)(1) & (c)(2).*
 - xx. *When modifying a project, the Federal share was not adjusted, except as permitted except before or shortly after contract award (23 CFR 630.106(f)(2))*
 - xxi. *The program code obligated has not changed (i.e., obligated Federal funds cannot be replaced with another source of Federal funding unless specifically authorized by law) or removed and replaced with an AC authorization. The review of the project to increase funds should include a review of all previous transactions to ensure Federal funds are not being replaced with another Federal fund source and/or a previously decreased Federal share is not increased.*
 - xxii. *Conditions to proceeding with a project (e.g., Federal requirements that have not yet been met or are pending) should be avoided, but must be well documented in the authorization.*
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- b. *[Reserved] If pertinent to the project authorization process, detail the process for and documents needed by the division office to determine, review, and authorize PoDI and PoCI projects.*
 - c. *[Reserved] Describe the use of checklists where applicable (e.g., plans, specifications, and estimates (PS&E); project authorization).*
 - d. *[Reserved] Describe the paper authorization process for direct recipients, other than the State DOT, of funding. Paper authorizations may be for projects such as TIFIA, TIGER, Motor Fuel Tax Evasion, and Recreational Trails. If your office does not have any need for paper authorizations (i.e., all funds go to the State DOT, not other direct recipient, via FMIS), enter N/A here.*

- D. Division office staff's review associated with the submission of specialized programs.
- a. *Describe specific requirements associated with specialized programs, as applicable to the State DOT's programs. Examples of special cases of review and documentation include:*
 - *Allocated/discretionary funding;*
 - *Federal Lands funded;*
 - *Credits (toll, bridge, land value);*
 - *Tapered match;*
 - *Donations;*
 - *Third Party In-kind match;*
 - *Non-participating Items;*
 - *Method of Construction, other than low bid (construction only) (e.g., force account);*
 - *Shortened Advertisement Period (construction only);*
 - *Design Build;*
 - *Major Projects;*
 - *Earmarks / High Priority Funding; and*
 - *Proprietary Items.*
 - b. *Describe the process to provide assurance that a value engineering study is conducted, as applicable. (23 CFR 627.1)*
 - c. *Describe the process to provide assurance that the requirements for the Emergency Relief Program are met, as applicable.*
 - d. *Describe any additional processes associated with authorizing and modifying Department-level allocated programs (e.g., Transportation Investment Generating Economic Recovery (TIGER)). (Include verification that the project authorization request aligns with the Grant Agreement on a single FMIS agreement and the process to ensure no funding is de-obligated unless the project is completed after the funding period of availability expired.)*
- E. Division office responsibilities align with the Stewardship and Oversight Agreement.
- a. *Describe the timeframe(s) to process each type of request.*
 - b. *Explain how issues are resolved/communicated when a project action is not ready for approval.*
 - c. *Describe the record retention process for each authorization and modification request (i.e., electronic and/or paper project files are created).*
 - d. *Include an explanation of how the division office authorizes projects when the electronic system is not available and an authorization is needed.*
 - e. *Explain the annual risk assessment process, annual reviews to ensure compliance with Federal regulations and policies, and monitoring of corrective action plans.*

VI. CONTROLS

This section identifies the procedures followed by the FHWA division office to mitigate fraud, waste, and abuse related to the review and approval of project agreements and modifications (e.g., segregation of duties, password protection). This includes ensuring that all information systems are protected by adequate cyber security measures and adequate controls are in place to safeguard real property.

The State DOT and FHWA division office have executed a Stewardship and Oversight Agreement that formalizes the roles and responsibilities of each office in administering the Federal-aid highway program. In it, both agencies agree to monitor activities and exercise controls as necessary within their respective areas of responsibility to ensure all Federal-aid projects are carried out in compliance with applicable laws, regulations, and standards.

Title 23, U.S.C. Section 106 requires a project agreement to be submitted by the State DOT to FHWA and executed before work is started. Before the agreement is executed, the applicable requirements of Federal laws and implementing regulations and directives must be satisfied.

Staffs of the division office and the State DOT are assigned specific FMIS access and levels of project approval authority. The division office has documented the approvals and segregation of duties for project authorizations in the division's delegation of authority document. All project authorization approval signatures are performed in accordance with the delegation of authority and FMIS password authority.

- A. *Describe any periodic reviews conducted to ensure staff with access and approval authority aligns with the delegated responsibilities with the appropriate access levels. (Include the frequency of the review/certification.)*
- B. *Describe the review process to ensure all FMIS project authorization requests are reviewed by at least two FHWA individuals as described in the above procedures. (Include any check sheets (e.g., PS&E approval, ROW certifications, authorization/modifications) required as part of the review and approval process for a project action.)*

VII. REFERENCES

23 U.S.C. §102, §106, §107, §109, §112, §113, §115, §118, §120, §121, §122, §129, §134, §135, §320, §601-610, §630

31 U.S.C. §1552, §1553

2 Code of Federal Regulations (CFR) 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

2 CFR 25 - Universal Identifier and System of Award Management

2 CFR 170 - Reporting Subaward and Executive Compensation Information

2 CFR 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension

2 CFR 1200 - Nonprocurement Suspension and Debarment

2 CFR 1201 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

23 CFR 1.3 - Federal-State cooperation; authority of State highway departments.

23 CFR 1.9 - Limitation on Federal Participation

23 CFR 1.11 - Engineering Services

23 CFR 172 - Administration of Engineering and Design Related Service Contracts

23 CFR 420 - Planning and Research Program Administration

23 CFR 450.220 - Project Selection from the Statewide Transportation Improvement Program (STIP)

23 CFR 450.330 - Project Selection from the Transportation Improvement Program (TIP)

23 CFR 630 - Subpart A - Project Authorization and Agreements
Subpart B - Plans, Specifications, and Estimates
Subpart G - Advance Construction of Federal-aid Projects

23 CFR 635 - Subpart A - Contract Procedures
Subpart B - Force Account Construction
Subpart C - Physical Construction Authorization

23 CFR 668 - Emergency Relief Program

23 CFR 646.216(d) - State Railroad Agreements

23 CFR 645.113 - Utility Agreements and Authorizations

23 CFR 710 - Subpart C - Project Development

23 CFR 771 - Environmental Impact and Related Procedures

[Federal Highway Administration \(FHWA\) Policy and Guidance Center](#)

Office of the Chief Financial Officer (HCF)

[Financial Integrity Review and Evaluation \(FIRE\) Order 4560.1C](#), April 21, 2014

HCF FMIS Project Agreement Signature Responsibility Guidance, May 2015

HCF [Funds Availability and Re-obligating Expired Funds Guidance](#), January 17, 2014

HCF [Project Funds Management Guide for State Grants](#), October 29, 2014

HCF [Non-Federal Matching Requirements and Tapered Match Provisions](#),
December 29, 2009

HCF [Clarification on Modification of Lump Sum Federal Share – Project Agreement](#),
January 3, 2012

Office of Infrastructure (HIF) [Guidance on Preliminary Engineering Authorizations in Fiscal Management Financial System](#), March 11, 2015

HIF [Risk Based Stewardship and Oversight Guidance](#), March 28, 2015

HIF [Increased Federal Share under 23 U.S.C. 120\(c\)\(1\)](#) (11/25/2014)

HIF [State Administration of the Federal-Aid Program \(Direct Versus Indirect Costs\)](#)
(09/22/2011)

[A Guide to Federal-Aid Programs and Projects](#)

FHWA [Order M1100.1A](#) FHWA Delegations and Organization Manual

[FMIS 4.0 Users Guide, as amended](#)

[Contract Administration Core Curriculum Participant’s Manual and Reference Guide](#) 2014

[Federal Highway Administration Area Engineer Manual](#) 2010

[Guidelines on Preparing Engineer’s Estimate, Bid Reviews, and Evaluation](#) January 20, 2004

[Development and Review of Specifications](#) March 24, 2010

HCF [Sliding Scale Rates in Public Land States](#) March 17, 1992

HCC [FHWA Suspension and Debarment Process](#) November 7, 2014

[Principles of Appropriations Law \(GAO Red Book\)](#)

[Standards for Internal Control in the Federal Government \(GAO Green Book\)](#)

Division specific Delegations of Authority

State specific Stewardship and Oversight Agreement

VIII. FLOWCHART

This section provides the flow of transactions, staff actions, and approvals made during the project authorization process, or portions thereof. Flowcharts capture the complexity of a system succinctly, allowing staff, subject matter experts, program managers, and management to focus on key controls within the process. This allows the identification of internal control weaknesses, gaps, and inefficiencies, while also providing the opportunity to implement process improvements as necessary. *(Insert a diagram of the transaction flow.)*

IX. APPENDIX

This section includes any pertinent supplementary information related to specific types of authorizations. Each appendix includes sample documentation and/or specific reference material as required by the division office (e.g., authorization checklist, project review requirements for specific types of authorizations by program). *Include authorization processes that differ from the overall process outlined in the SOP. This includes SPR funds and innovative finance techniques (e.g., GARVEE, SIB, TIFIA).*

APPENDIX A: PROJECTS THAT UTILIZE SPR FUNDS

This appendix provides the supplemental requirements to be addressed when reviewing and authorizing the use of SPR funds (23 CFR 420). The procedures identified in this section align with the division's delegation of authority document and provide sufficient detail to describe the authorization process from initiation through final signature for each request. In addition, the procedures identify the responsible staff performing each procedural activity, steps to be performed, and the timeframes to complete each step.

A. SPR projects involving the administration of FHWA Planning and Research Funds (subpart A).

a. *Describe the procedures to verify:*

- i. *The eligibility requirements per 23 U.S.C. 505.*
- ii. *At least 25% of the SPR funds are spent for research purposes, unless the State DOT certifies, and the Secretary accepts, that more than 75% of the funds are needed for statewide and metropolitan planning.*
- iii. *The Federal share is 80% unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.*
- iv. *The proposed use of the funds is documented by the State DOT and subrecipient in a work program, which is submitted to the division office.*
 1. *Describe the process to review the work program, which includes the description of work to be accomplished, the cost estimates by activity/task, and a financial summary showing funding levels and Federal share.*
- v. *The proposed use of the funds is documented by the Metropolitan Planning Organization (MPO) subrecipient in a work program, which is submitted to the division office.*
 1. *Describe the review process of the work program, which includes a description of the work to be accomplished, the cost estimates by activity/task, a financial summary showing funding levels and Federal share, and addresses whether the air quality needs are met (2 CFR 450).*
 2. *If the MPO is not designated as a Transportation Management Area, describe the review process to ensure a work program or simplified statement of work is submitted to the division office. Describe the review process by the division office and the documentation for approval/disapproval.*

B. SPR projects involving the administration of FHWA Research, Development, and Technology (RD&T) Transfer Program Management (23 CFR 420).

- a. *Describe the procedures to ensure the work plan includes:*
 - i. *Description of RD&T activities to accomplish during the program period.*
 - ii. *Estimated costs for each eligible activity/task.*
 - iii. *Description of any cooperative activities (pooled fund studies and the National Cooperative Highway Research Program).*
 - iv. *Inclusion of studies from previous work programs.*
 - v. *Financial summary showing funding levels and Federal share (recipients are encouraged to include any activity funded 100% with State funds for informational purposes).*

- b. *Describe the process to ensure the RD&T management process includes the following, as well as FHWA's approval process:
(As a condition for approval of FHWA planning and research funds for RD&T activities, a State DOT must develop, establish, and implement a management process that identifies and results in implementation of RD&T activities expected to address high priority transportation issues. 23 CFR 420.209(a))*
 - i. *An interactive process for identification and prioritization of RD&T activities.*
 - ii. *Flexible use of all FHWA planning and research funds set aside for RD&T activities.*
 - iii. *Procedures for tracking program activities, schedules, accomplishments, and fiscal commitments.*
 - iv. *Support and use of the Transportation Research Information Services database.*
 - v. *Participation in peer exchanges on a periodic basis (usually 3 years, and the line item in the work program to fund travel for this activity is eligible for 100% Federal funding).*

- c. *Describe the procedures to determine the effectiveness of the State DOT's management process in implementing the RD&T program.*

- d. *Describe the procedures for documenting RD&T activities through the preparation of final reports.*