



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



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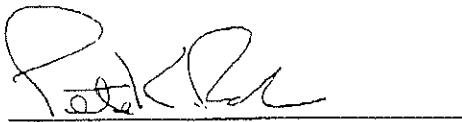
**Stewardship/Oversight Agreement
Between
The Missouri Department of Transportation
and
The Federal Highway Administration**

**Stewardship/Oversight Agreement
of the
Federal-aid Highway Program (FAHP)**

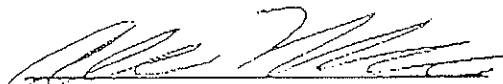
**Missouri Department of Transportation
and
Federal Highway Administration - Missouri Division**

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Transportation Equity Act for the 21st Century (TEA-21) of 1998 and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005 allow States to assume certain responsibilities for FHWA in some National Environmental Policy Act approvals and in the design, construction, award and inspection of certain Federal-aid projects.

Section 106 of Title 23, Project Approval and Oversight, requires an agreement between the Secretary of Transportation and the State relating to the extent to which the State assumes nearly all FHWA responsibilities for projects under Title 23 for project development (plans, specifications, and estimates), contract awards, and inspections/final acceptance of Federal-aid highway projects. This agreement supersedes the previous agreement between the Missouri Department of Transportation (MoDOT) and the FHWA Missouri Division (MoDivision) dated May 14, 1999. This agreement will become effective upon the signing by FHWA Missouri Division Administrator and MoDOT Director and remain in effect until both parties mutually agree to revise it.



Pete Rahn
MoDOT Director



Allen Masuda
FHWA Division Administrator

Date: 2-1-07

Date: 2 2 07

Federal-aid Highway Program (FAHP) Requirements and Responsibilities

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I. INTRODUCTION

Congress has charged the Federal Highway Administration (FHWA) with administering the Federal-Aid Highway Program (FAHP) under Title 23 and other associated laws. Section 106 of Title 23, United States Code, requires that FHWA and the State Department of Transportation (SDOT) enter into an agreement documenting the extent to which the State assumes the responsibilities of FHWA. This Stewardship/Oversight Agreement explains and formalizes the division of responsibilities and authorities between MoDOT and the FHWA Missouri Division Office in administering the FAHP.

The FHWA and MoDOT have jointly administered the FAHP for many years. Together we have been tasked with carrying this out efficiently and effectively in accomplishing national, State, and local goals. Our long-time stewardship efforts include administering the many day-to-day activities and actions that are routinely performed by either or both agencies to ensure regulatory compliance, delivery of high quality products and, in many ways, enhancing the value of the program serving the public. This partnership has resulted in mutual confidence in one another and a high level of trust between the two agencies.

Several years ago, when Stewardship Agreements were first introduced and developed in response to 1991 ISTEA provisions, the documents that were produced principally addressed how MoDOT and FHWA would handle the delegated authorities of some project actions and some oversight responsibilities. Since that time and with the passage of TEA-21 and SAFETEA-LU and FHWA HQ emphasis, the overall program has evolved requiring a more comprehensive Agreement that covers the many aspects of the FAHP. This Agreement provides a road map in executing the Federal-aid program relating to a wide variety of programs, financial integrity, and delivery of a large number of projects.

Together MoDOT and FHWA are partnering to provide a world-class transportation experience that delights our customers and promotes a prosperous Missouri. We are taking a systematic approach to bringing our entire system into good condition. Programs such as "Smooth Roads Initiative", "Better Roads Brighter Future", and "Safe and Sound" when complete will bring 85% of our major roads and 800 bridges into good condition. We are utilizing innovation and creativity in engineering and contracting to meet our funding challenges. Practical design and value engineering allow us to meet the project need while receiving the best value for the least cost while maintaining a safer roadway. The use of performance specifications and design build have allowed the consulting and contracting industry to best utilize their knowledge and experience when designing and building our projects. Alternate bid and mechanistic pavement design ensures competitive bidding on paving projects. We will also focus on improving safety with "Missouri Blueprint for Safe Roadways. This is a focused approach that outlines opportunities to reduce fatalities and serious injuries.

The completion of these and future initiatives will be accomplished through our strong partnership.

II. PURPOSE

The changes in Federal law have recognized (1) the need to redefine what is in the national interest that requires FHWA involvement, (2) the maturity of State DOTs to manage their own programs in a competent manner, and (3) the challenges for FHWA to keep pace with a continually expanding and complex program without additional staff. The intent of this Stewardship-Oversight Agreement and attachments is to describe the roles, the division and assignments of responsibilities and authority of each agency in the stewardship of the FAHP so that employees of either agency who are assigned to any element of the FAHP will have a ready reference to guide them. It also describes how both agencies can work better and more efficiently together in identifying quality improvements in process, products, and services.

This agreement does not supersede or replace the provisions of *Title 23*, USC and related laws. The FHWA retains responsibility for all aspects of Federal-aid programs and this Agreement does not preclude FHWA's access to and review of all records related to the FAHP or projects at any time.

As described in this agreement, FHWA will continue to provide stewardship of the FAHP through a risk management process, general actions and concurrences, certain program and project approvals and providing training, technical assistance, and development and deployment of new technologies.

III. METHODS OF OVERSIGHT

Process reviews and/or program evaluations will be conducted on various elements of the FAHP in addition to individual project reviews or inspections. Various techniques will be used in determining which reviews and evaluations are to be conducted including risk assessments, agreed upon activities, pre-determined review schedules for specific programs or components, and FHWA and/or MoDOT management emphasis or decisions. The reviews can be conducted by individuals or teams from FHWA, MoDOT, other State agencies, or stakeholder groups and organizations. FHWA, MoDOT, or both may initiate process reviews and program evaluations of any aspect of the FAHP.

The following techniques will be used to provide stewardship of the FAHP:

- a. Program Assessments – This technique may take many forms including joint risk assessments, self-assessments, and program assessments. All of these tools are based on the common concepts of identifying strengths, weaknesses and opportunities and the identification and sharing of “best” practices to continually improve the program.
- b. Program Reviews – These are in-depth analysis of key program components and the processes employed by MoDOT in managing the program. The reviews are conducted to (1) ensure compliance with Federal and State requirements; (2) identify opportunities for greater efficiencies and improvements to the program; and/or (3) identify exemplary practices. These are also known as program improvement

reviews, process reviews, program/product evaluations, or continuous process improvement initiatives.

- c. Program and Project Management – This includes the daily stewardship of any aspect of the FAHP including project and program oversight and program and technical assistance. Program/Project management ensures Federal and State program requirements are met while actively seeking opportunities to add value in the course of routine program actions through task forces, committees, or quality improvement teams, and aiding and assisting transportation stakeholders in answering questions on program issues.

IV. PROGRAM AND PROJECT RESPONSIBILITIES

This Agreement does not modify the FHWA's non-Title 23 program oversight and project approval responsibilities for such activities as required under the *Clean Air Act*; 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.

The ten (10) different program partnering agreements between FHWA and MoDOT program managers describe the agreed upon day-to-day working relationship between the agencies and are an integral part of this Agreement. These agreements are intended to assure open communications, improved cooperation and coordination, help focus resources on priorities, and facilitate efficient use of staff.

For all programs where MoDOT has assumed the FHWA approval responsibilities, MoDOT will collaborate with FHWA to improve or develop procedures and performance indicators that gauge the effectiveness of the program administration. By assuming the program or project-level responsibilities under 23 USC 106, MoDOT agrees to comply with FHWA-approved standards in accordance with 23 CFR 625.4, 655.603 and related federal regulations and policies. MoDOT will utilize the flexibility allowed by law to design and construct projects. The FHWA shall approve MoDOT standards that expand on, amplify, or amend these standards before they are issued for use.

In accordance with 23 USC 106, FHWA and MoDOT mutually agree that MoDOT assumes FHWA project approvals primarily in design and construction. Please see Appendix A: *Project and Program Action Responsibilities* for a detailed listing of the following categories:

- a. All new or reconstruction Interstate projects with an estimated construction cost less than \$1,000,000 unless it is a major/unusual bridge.
- b. All non-Interstate National Highway System (NHS) projects unless it is a major or unusual bridge.
- c. All non-NHS projects including Intelligent Transportation System (ITS).

The above delegated projects are not subject to further FHWA approvals beyond the National Environmental Policy Act (NEPA) and Right-of-Way phases, unless it is jointly agreed that FHWA should be involved. However, nothing in this Agreement shall prohibit FHWA from

reviewing any projects that have unique features, high-risk elements, unusual circumstances, or if the project is included in a program or process review sampling.

MoDOT Responsibilities

MoDOT's approval and oversight responsibilities on all delegated projects approvals are listed in Appendix A: *Project and Program Action Responsibilities* and shall also, as a minimum, comply with the following:

- a. Comply with all Title 23 and certain non-Title 23, USC Federal-aid program requirements, such as metropolitan and statewide planning, procurement of engineering and design related service contracts, participation by disadvantaged business enterprises, prevailing wage rates, and Buy America, etc.
- b. Assure that right-of-way approval, utility approval, environmental permits issuance, railroad approval and related activities, design approval, design exceptions, PS&E approval, concurrence in award, and construction-related activities are performed in accordance with State policies, practices and standards, and in accordance with all requirements of Title 23, USC.
- c. Provide sufficient oversight to ensure projects or programs that are developed and administered by local agencies comply with Federal-aid requirements.

FHWA Responsibilities

For all projects or programs, FHWA retains authority for many actions and approvals. Some examples, but not limited to, are the following actions and approvals:

- a. Statewide and Metropolitan Transportation Planning specified in 23 USC 134 and 135.
- b. Federal air quality conformity determinations required by the Clean Air Act.
- c. Federal-aid project agreement (PR-2).
- d. Waivers to Buy America requirements.
- e. Special Experimental Project -14 / Special Experimental Project -15 methods.
- f. Civil Rights program approvals.
- g. NEPA approvals.
- h. Addition or modification of access points on the Interstate System.
- i. Use of Interstate airspace for non-highway-related purposes.
- j. Hardship acquisition and protective buying.
- k. Disposal of federally purchased Right-of-Way on the Interstate.
- l. Final vouchers.

For a more detailed listing, see Appendix A: *Project and Program Action Responsibilities*.

V. FULL OVERSIGHT PROJECTS AND RESPONSIBILITIES

FHWA retain full oversight for the following Federal-aid project categories:

- a. All projects on the Interstate System over \$1 million regardless of project type including ITS
- b. All bridges over the Missouri or Mississippi Rivers and all unusual bridges on the NHS with a single span length over 500 feet.

Please see Appendix A for a detailed listing of the program areas

However, based upon risk assessment, FHWA and MoDOT will develop a procedure to determine types of projects that can be classified as programmatic exclusion. Minimal FHWA involvement will be required on these full oversight projects. The programmatic exclusion projects, as a minimum, will be selected based upon project types, complexity, contract amount, etc.

VI. GLOSSARY

Delegated / Exempt Projects – Projects that do not require FHWA to review and approve actions pertaining to project design, specifications, estimates, right-of-way certification statements, contract awards, inspections, and final acceptance of Federal-aid projects on a project by project basis.

Full Oversight Projects – Projects that require FHWA to review and approve actions pertaining to project design, specifications, estimates, right-of-way certification statements, contract awards, inspections, and final acceptance of Federal-aid projects on a project by project basis.

Major/Unusual Bridges – Bridges over the Missouri or Mississippi Rivers and any bridge with a single span of 500 feet or more irrespective of the total bridge length.

Major Projects – Projects with an estimated total cost greater than \$500 million or projects approaching \$500 million with a high level of interest by the public, Congress, or the Administration.

Oversight – The act of ensuring that the Federal highway program is delivered consistent with laws, regulations and policies.

Performance/Compliance Indicators – These indicators track performance trends, health of the Federal-aid Highway Program, and compliance with Federal requirements.

Practical Design – Developing efficient solutions to meet the project need. The surrounding context will determine the design criteria. Reducing cost in key areas will provide the best value for the taxpayer. Every project we do will make the facility safer after its completion.

Risk Management – The systematic identification, assessment, planning, and management of threats and opportunities faced by FHWA projects and programs.

Stewardship – The efficient and effective management of the public funds that have been entrusted to the FHWA.

VII. APPENDICES

Appendices are available at <http://www.fhwa.dot.gov/modiv/index.htm>
<http://www.modot.org/business/index.htm>

Appendix A: Project and Program Action Responsibilities
Appendix B: Partnering Agreements
Appendix C: MoDOT/FHWA Manuals

Appendix A
Project and Program Action Responsibilities

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Bridge	1
Civil Rights	2
Construction	3
Design	4
Environment	5
Finance	6
Intelligent Transportation Systems	10
Maintenance	11
Materials	11
Outdoor Advertising Control	12
Planning	12
Recreational Trails	15
Research and Technology Transfer	15
Right-of-Way	16
Safety	17
Scenic Byways	19

Appendix B Partnering Agreements

2006 Joint Strategic Activities Addressing MoDOT's Tangible Results and FHWA's Vital Few

Bridge

Civil Rights

Construction

Design

Environment

Finance

Planning

Right-of-Way

Safety

Traffic

BRIDGE				
BRIDGE PROJECT ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	Reference Document	Full-Oversight	Federal Exempt	Non-NHS
Preliminary Structure Layout	SAFETEA-LU, Section 1905 TEA-21, Sec. 1305 23 USC 106 & 109	FHWA	MoDOT – except for bridges meeting the definition of Major/Unusual Bridge Projects on the NHS.	MoDOT
Design Exception Requests	8/20/98 HQ Memo – Implementation Guidance.			
Final PS&E	11/13/98 HQ Memo – Project Oversight Unusual Bridges and Structures.			
BRIDGE PROGRAM ACTIVITIES				
Approval Action	Reference Document	Approve	Remarks	
Use of Debris from Demolished Bridges and Overpasses	SAFETEA – LU Sec. 1805	MoDOT	The legislation directs a State to first make the debris from the demolition of such structure available for beneficial use by a Federal, State, or local government, unless such use obstructs navigation. Coordinated through MoDOT's Construction and Materials Division. FHWA shall provide a concurrent review.	
Buy America Requirements	23 CFR 635.410	FHWA	States may request a waiver if they feel certain conditions are warranted. The request for waiver needs to be submitted in writing to the FHWA Division Administrator.	
National Bridge Inspection Standards	23 CFR 650, Subpart C (650.301 – 317)	MoDOT	States are required to inspect (or ensure inspection) of “bridges” on all public roads and maintain an inventory of these bridges, and annually submit to the FHWA for incorporation into the National database.	
Innovative Bridge Research and Deployment (IBRD) Program and, Highways for LIFE (HFL) Pilot Program	SAFETEA – LU Sec. 5202 23 USC 503 (b) SAFETEA – LU Title I, Sec. 1502	FHWA	FHWA HQ solicits candidates from the States through the Division Office. Highways for Life is a program intended to act as complement to IBRD. IBRD is coordinated through MoDOT's Organizational Results Division. HFL is coordinated through MoDOT's Planning Division.	

CIVIL RIGHTS				
CIVIL RIGHTS PROJECT ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	Reference Document	Full-Oversight	Federal Exempt	Non-NHS
Standard Highway Act Assurances of the 1968 Federal-Aid Highway	23 CFR Part 230 Subparts a. and b. 23 CFR Part 200 49 CFR Part 21	MoDOT	MoDOT	MoDOT
CIVIL RIGHTS PROGRAM ACTIVITIES				
Approval Action	Reference Document	Approve	Remarks	
Disadvantaged Business Enterprise Program and Supportive Service Plans	49 CFR Part 26; Title VI of the 1964 Civil Rights Act; 23 CFR Part 230, Subpart B; 13 CFR Part 21 SBA, Size Standards	FHWA	Coordination of Approval with Washington Office Review Team. Division Administrator approves program. Division Office reviews DBE/SS work plan and approves.	
State Highway Agency Affirmative Action (Internal/External) Plans	Programs 23 U.S.C. 140; 23 CFR Part 230, Subpart C; Title VI of the 1964 Civil Rights Act; Equal Employment Opportunity Act of 1972; Americans with Disabilities Acts of 1967 and 1990	FHWA	Programs are reviewed annually and approved by FHWA Division Office.	
Contract Compliance Review Program	Section 22(a) 1968 Federal-Aid Highway Act (23 U.S.C., 140); 23 CFR Part 230, Subparts A. and D.; Title VI of the 1964 Civil Rights Act	FHWA	Federal-aid highway projects (\$10,000) are monitored by MoDOT. Contract compliance reviews/audits are conducted by MoDOT. Reviews are audited by FHWA at annual review period.	
ADA Compliance	23 CFR 35.150/ADA	FHWA	ADA Compliance is required of all public entities	
Limited English Proficiency (LEP)	EO 13166	FHWA	ADA Compliance is required of all public entities	
Equal Employment Opportunity On-the-Job Training/Supportive Services Programs	Programs 23 U.S.C. 140 23 CFR Part 230, Subpart C; Title VI of the 1964 Civil Rights Act; Equal Employment Opportunity Act of 1972; The Americans with Disabilities Acts of 1967 and 1990	MoDOT/ FHWA	OJT Training Programs are reviewed and approved by MoDOT with FHWA concurrence. FHWA reviews the Supportive Service work plan and approves each year.	
Title VI/ Nondiscrimination	Title VI of the 1964 Civil Rights Act; 49 CFR Part 21; 23 CFR Part 200; Sec. 504 of the Rehabilitation Act of 1973; 49 CFR Part 27; Age Discrimination Act of 1975; Civil Rights Restoration Act of 1987; Uniform Relocation Act of 1987; Federal-Aid Highway Act of 1973, as amended (23 U.S.C. 142)	FHWA	Programs are developed by MoDOT and reviewed and approved annually by FHWA Division Office.	

CONSTRUCTION

CONSTRUCTION PROJECT ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	Reference Document	Full-Oversight	Federal Exempt	Non-NHS
Quality Assurance Program	23 CFR 637.207	FHWA	MoDOT	MoDOT
Construction Inspections	Federal Aid Program Guide and 23 CFR 635 and 23 USC 114	FHWA	MoDOT	MoDOT & LPA
Contract Changes and Extra Work	23 CFR 635.120	FHWA	MoDOT	MoDOT
Contract Time & Contract Time Extensions	23 CFR 635.121	FHWA	MoDOT	MoDOT
Participation in Contract Claim Awards and Settlements	23 CFR 635.124	FHWA	MoDOT	MoDOT
Termination of Contract	23 CFR 635.125	FHWA	MoDOT	MoDOT
Record of Materials, Supplies, & Labor	23 CFR 635.126	FHWA	MoDOT	MoDOT
Determination of more Cost Effective Methods	23 CFR 635.204	FHWA	FHWA	FHWA

CONSTRUCTION PROGRAM ACTIVITIES

Approval Action	Reference Document	Approve	Remarks
Buy America Requirements	23 CFR 635.410	FHWA	States may request a waiver if they feel certain conditions are warranted. The request for waiver needs to be submitted in writing to the FHWA Division Administrator.
Emergency Relief Program	23 CFR 668	FHWA	
Local Public Agency Program	23 CFR 635.105	MoDOT/FHWA	
Force Account	23 CFR 635.201-635.205	FHWA	

DESIGN				
DESIGN PROJECT ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	Reference Document	Full-Oversight	Federal Exempt	Non-NHS
Design and PS&E Reviews and Approval/ Project Authorization	Federal Aid Program Guide G6021.2 23 CFR 630.205 23 CFR 630.106 23 USC 109(a)	FHWA	MoDOT	MoDOT
Design Exceptions	23 CFR 625.3(f)	FHWA	MoDOT	MoDOT
Concurrence in acceptance or rejection of bids	23 CFR 635.113(b)	FHWA	MoDOT	MoDOT
New or revised access	23 CFR 630 23 CFR 630C	FHWA	FHWA (Interstate)	MoDOT
Approve consultant agreements	23 CFR 172.7 – 172.9	MoDOT	MoDOT	MoDOT
DESIGN PROGRAM ACTIVITIES				
Approval Action	Reference Document	Approve	Remarks	
Design Standards, policies, and standard specifications for application to geometric and structural design.	23 CFR 625.1 – 625.4	FHWA	Identify standards acceptable to FHWA. Primarily AASHTO and FHWA documents. Listed in 23 CFR.	
Manual on Uniform Traffic Control Devices (MUTCD) Compliance	23 CFR 655 (f)	FHWA	FHWA Headquarters maintains MUTCD. FHWA Missouri Division monitors statewide compliance.	
Value Engineering Program	23 CFR 627.1- 627.5	MoDOT	VE Analysis required for all NHS projects with an estimated cost of \$25 million or more.	
Consultant Selection Procedures	23 CFR 172.7-172.9	FHWA		
Design-Build	23 CFR 636	FHWA		

ENVIRONMENT			
ENVIRONMENT PROGRAM ACTIVITIES		AGENCY RESPONSIBLE	
Approval Action	Reference Document	Approve	Remarks
Programmatic CE	23 CFR 771	MoDOT	Every six months, MoDOT will provide, for review by Division office, a list of projects classified as Categorical Exclusions under the programmatic agreement.
Categorical Exclusion	23 CFR 771 40 CFR 1500-1508 Technical Advisory (T.6640.8a)	FHWA	Prepared by MoDOT or local public agencies with input from Division office.
Environmental Assessment	23 CFR 771 40 CFR 1500-1508 23 USC 128 Technical Advisory (T.6640.8a)	FHWA	Prepared by MoDOT or local public agencies with input from Division office.
Environmental Impact Statement	SAFETEA-LU 6002 23 CFR 771 40 CFR 1500-1508 23 USC 128 Technical Advisory (T.6640.8a)	FHWA	Prepared by MoDOT or local public agencies with input from Division office. Timeframes, schedules, participating agencies and coordination plans to be developed and agreed upon by joint lead agencies. MoDOT shall be joint lead agency on local agency projects.
Section 4(f) Statement	23 CFR 771 Technical Advisory (T.6640.8a),	FHWA	Prepared by MoDOT or local public agencies with input from Division office.
Section 106 Compliance	36 CFR 800 23 USC 138 23 USC 139 Technical Advisory (T.6640.8a)	FHWA	Prepared by MoDOT or local public agencies with input from Division office.