

**STEWARDSHIP AND OVERSIGHT AGREEMENT
ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT
BY AND BETWEEN
FEDERAL HIGHWAY ADMINISTRATION, NEBRASKA DIVISION
AND THE
NEBRASKA 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 Nebraska Division and the Nebraska Department of Transportation (NDOT) on the roles and responsibilities of the FHWA and the NDOT with respect to Title 23 project approvals and related responsibilities, and FAHP oversight activities.

The scope of FHWA responsibilities, and the legal authority for State DOT 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 State DOT 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 State DOT 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 State DOT to enter into an agreement relating to the extent to which the State DOT 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 Nebraska Division Office (FHWA or Division) and the Nebraska Department of Transportation (NDOT) 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 State 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 State 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 NDOT *may assume* the FHWA's Title 23 responsibilities for design, plans, specifications, estimates, contract awards, and inspections, with respect to *Federal-aid projects on the National Highway System (NHS) including projects on the Interstate System* if both the NDOT and FHWA determine that assumption of responsibilities is appropriate.

- B. Approvals and related activities for which the NDOT 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 Risk Based Projects Guidelines
- C. The NDOT may not assume responsibilities for Interstate projects that are in high risk categories. (23 U.S.C. 106(c)(1))
- D. The NDOT 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 NDOT *shall assume* the FHWA’s Title 23 responsibilities for design, plans, specifications, estimates, contract awards, and inspections, with respect to *Federal-aid projects off the NHS (non-NHS)* unless the *NDOT* 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 NDOT is to exercise the Secretary’s approvals and related responsibilities on these projects in accordance with Federal laws.
- C. The NDOT, 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 RBP Guidelines.
- 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 NDOT may permit local public agencies (LPAs) to carry out the NDOT’s assumed responsibilities on locally administered projects. The NDOT is responsible and accountable for LPA compliance with all applicable Federal laws and requirements.

SECTION VI. PERMISSIBLE 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 NDOT

- 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 NDOT:**
 - 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 NDOT 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 NDOT 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 State under 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as approvals and related responsibilities reserved to FHWA.

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)(8), the Secretary may define high risk categories on a national basis, State-by-State basis, or national and State-by-State basis.
- B. The Division has determined there are no high risk categories.

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 State's processes and management practices, including those involved in carrying out the approvals and related responsibilities assumed by the State 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 NDOT's financial management system in accordance with 23 U.S.C. 106(g)(2)(A). FHWA will periodically review the NDOT'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 NDOT, 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 NDOT 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 NDOT 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 NDOT 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.

The following techniques and processes will be used to carry out the requirements of 23 U.S.C. 106(g):

- 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

See Attachment C.

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 Division and NDOT program contact offices.

F. Manuals and Operating Agreements

NDOT 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. A list of NDOT Manuals, Guidelines, Policy and Procedures applied to Federal Aid projects, not officially reviewed and approved by FHWA are also provided in Attachment C.

G. Stewardship and Oversight Indicators

The Division and NDOT may jointly establish Stewardship and Oversight Indicators . The Indicators should set targets, track trends, and implement countermeasures and actions when the data is moving away from the desired target direction. Indicators can provide documented evidence that the NDOT assumption of responsibilities is functioning appropriately. Stewardship and Oversight Indicators should be reviewed on an annual basis. If utilized, the Indicators shall be incorporated by reference to this S&O Agreement.

SECTION XI. NDOT OVERSIGHT AND REPORTING REQUIREMENTS

A. NDOT Oversight and Reporting Requirements

The NDOT 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 NDOT will follow the operational manuals and agreements as approved by FHWA listed in the Attachment C.

B. NDOT Oversight of Locally Administered Projects

NDOT directly administers the local federal aid projects to ensure federal requirements are being complied with from conception to completion.

As outlined in the LPA Guidelines Manual:

- All forms, agreements and processes are developed and provided by NDOT. Locals are required to use them.
- NDOT administers the financial aspects of projects by directly making obligations in FMIS. Local agencies do not have access to FMIS.
- All consultants (PE/CE) are procured using the NDOT's RFP process or On-calls established by NDOT.
- NDOT provides direct oversight of activities with check lists and gives Notice to Proceed for all projects in the two TMA areas (MAPA and LCLC). NDOT takes an even more direct administration role of being the Responsible Charge for all Federal-aid projects outside of the two TMA areas. This role includes inspection, sampling and testing during the construction phase.
- NDOT prepares all final NEPA and permitting documents.
- NDOT provides ROW certificates for every project.
- NDOT requires the use of State specifications and Material Sampling/Testing.
- NDOT requires the use of the State electronic management system (AASHTOware Project).
- NDOT awards all contracts to letting.
- NDOT pays all construction and consultant invoices.

B.1. State DOT's are required to provide adequate oversight of sub-recipients including oversight of any assumed responsibilities the NDOT delegates to a LPA.

B.2. Pursuant to 23 U.S.C. 106(g)(4), the NDOT shall be responsible for determining that sub-recipients 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).

- B.3. The NDOT acknowledges that it is responsible for sub-grantee 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 NDOT shall carry out these responsibilities using the following actions, programs, and processes:

NDOT shall administer the LPA Program in accordance with the Nebraska Department of Transportation LPA Manual as amended and approved by the FHWA Nebraska Division.

- B.4. The NDOT 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:

NDOT Administers the LPA Program as described above.

- B.5. The NDOT 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:

NDOT Administers the LPA Program as described above.

- B.6. The NDOT 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:

If a consultant or LPA forces are used for this work, a Nebraska Department of Transportation State Representative is assigned to provide oversight.

- B.7. The NDOT 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 NDOT's process to ensure compliance with this requirement is documented by the following actions, programs, and processes:

Federal Aid projects within a TMA, are managed by an LPA Responsible Charge and oversight is provided by an NDOT Project Coordinator or State Representative.

Federal Aid Projects outside of TMA's, are managed by an NDOT Responsible Charge.

- B.8. The NDOT shall ensure that project actions will be administered in accordance with all applicable Federal laws and regulations. The NDOT will use the process and required approvals on sub-recipient projects as outlined in the Nebraska Department of Transportation LPA Manual.

The activities for ensuring compliance, at a minimum, oversight should cover these areas:

- a. Consultant selection and management;
 - b. Environment;
 - c. Design;
 - d. Civil Rights;
 - e. Financial management including audits and indirect cost allocation plans;
 - f. Right-of-way;
 - g. Construction monitoring, including Quality Control/Quality Assurance (QC/QA); and
 - h. Construction Contract administration including the NDOT's responsibility to approve a sub-recipient to pursue a contract procurement method other than competitive bidding.
- B.9. The NDOT shall document its oversight activities for LPA-administered projects and findings, and how it will share this information with the FHWA.

NDOT administers all projects sponsored by LPAs. NDOT serves as the Responsible Charge (RC) for LPA projects outside of the TMA's. Currently the TMA's are still required to have a RC on their staff to oversee the daily activities of their project; but NDOT retains the administration of those projects by directly controlling such items as notices to proceed for each activity, Federal Fund obligations, Right-of-Way Certifications, and project bid lettings. All project documentation including documentation for LPA projects follows NDOT's standard processes and is available to FHWA for review.

SECTION XII. IMPLEMENTATION AND AMENDMENTS

- A. This S&O Agreement will take effect as of the effective date of the signature of the FHWA Nebraska Division Administrator, who shall sign this S&O Agreement last.
- B. The Division and NDOT 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 NDOT or FHWA; or
 - Priorities shift as a result of audits, public perception, or changes in staffing at either the NDOT or Division Office.
- C. The Division and NDOT 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 NDOT 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.

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EXECUTION BY THE FHWA NEBRASKA DIVISION OFFICE

Executed this 16th day of August, 2023.

Signature

RICHARD W FEDORA

Digitally signed by RICHARD W FEDORA
Date: 2023.08.16 08:25:32 -05'00'

R. Wayne Fedora
Division Administrator

EXECUTION BY THE NEBRASKA DEPARTMENT OF TRANSPORTATION

Executed this 16th day of August, 2023

Signature



Vicki Kramer
Director

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 ones 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, by choosing to enter "FHWA" for that box. If the FHWA retains any approval or related action in any box marked "FHWA or State", the project is a RBP, and will follow RBP Guidelines.

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 and requests FHWA take responsibility for the action. In such cases, the box should read "FHWA".

If FHWA retains an action the State could have assumed (on the NHS) or has a right to assume (off the NHS), the affected projects become RBP projects. Matrix users may find it easier to identify such situations if you mark such instances in the matrix with a note or asterisk (). Divisions also may wish to include in Attachment A's introduction information about where readers can find a list of RBP projects and copies of RBP plans.*

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. While FHWA may not delegate decision-making authority to a State unless authorized by law, FHWA may authorize a State DOT to perform work needed to reach the decision point, or to implement the decision.]

The following matrix identifies Federal-aid highway program (FAHP) project approvals and related responsibilities on a program-wide basis. The matrix specifies which actions are assumed by the State 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. Projects classified as RBP projects are not covered by the matrix, as those projects will be governed by a separate RBP plan that specifies FHWA and State responsibilities for the project. In the matrix, actions marked with an asterisk ("FHWA") are those that FHWA has retained but that could have been assumed by the State through FHWA discretion (on the NHS) or by right (off the NHS). Projects requiring those actions are RBP projects because of FHWA's retained authority. Those projects will be governed by RBP Guidelines.*

The State DOT 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.

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
PROGRAMMING (All phases)		
Ensure project in Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP)	STATE	STATE
Identify proposed funding category	STATE(1)	STATE(1)
FINANCIAL MANAGMENT (All phases)		
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
ENVIRONMENT (All phases)		

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
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 programmatic agreement pursuant to Section 1318(d) of MAP-21 and 23 CFR 771.117(g))	FHWA(2)	FHWA(2)
PRELIMINARY DESIGN (Design Phase)		
Consultant Contract Selection	STATE (3)	STATE (3)
Sole source Consultant Contract Selection	STATE (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(3)	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

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
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) [23 CFR 620.104]	STATE	STATE
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
DETAILED / FINAL DESIGN (Design Phase)		
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).	FHWA* (4)	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
[23 USC 109(a) and FHWA Policy]		
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]	FHWA*	STATE
Approve use of publicly owned equipment [23 CFR 635.106]	FHWA*	STATE
Approve the use of proprietary products, processes [23 CFR 635.411]	FHWA *	STATE
Concur in use of publicly furnished materials [23 CFR 635.407]	FHWA*	STATE
RIGHT-OF-WAY (Design and Operational Phases)		
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	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 *	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	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)

ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
action cannot be assumed by State)		
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	STATE (3)
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	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]	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
(Note: this action cannot be assumed by State)		
SYSTEM OPERATIONS AND PRESERVATION (Design Phase)		
Accept Transportation Management Plans (23 CFR 630.1012(b))	STATE	STATE
Approval of System Engineering Analysis (for ITS) [23 CFR 940.11]	FHWA*	STATE
PS&E AND ADVERTISING (Design Phase)		
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
CONTRACT ADVERTISEMENT AND AWARD (Design Phase)		
All contracts to be done by competitive bidding unless otherwise authorized by law		

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
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]	FHWA*	STATE
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]	N/A	N/A
CONSTRUCTION (Construction Phase)		
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]	FHWA*	STATE
Accept materials certification [23 CFR 637.207]	STATE	STATE
Concur in settlement of contract claims [23 CFR 635.124]	FHWA*	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
Concur in termination of construction contracts [23 CFR 635.125]	STATE	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
CIVIL RIGHTS (All phases)		
Approval of Disadvantaged Business Enterprise (DBE) Project Contract Goal set by the NDOT under 49 CFR 26.51(d). [49 CFR 26.51(e)(3)]	STATE	STATE
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 Approval [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	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding RBPs, which are subject to separate RBP Guidelines)

ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
cannot be assumed by State) [23 CFR 230.111(d), (e)]		

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 hydraulic elements, or that are designed with procedures that depart from currently recognized acceptable practices (i.e., cable-stay, suspension, arch, segmental concrete, moveable, truss, tunnels, or complex geotechnical walls or ground improvement systems) In Nebraska the terminology used in the NBI and NDOT Inspection Program includes movable, suspension, cable stayed and other bridges with unusual characteristics. Currently NDOT has two types of bridges that are considered to be complex; Concrete Continuous Segmental Box Girder and Steel Arch-Thru.

**ATTACHMENT B
PROGRAM RESPONSIBILITY MATRIX**

PROGRAM ACTION RESPONSIBILITY

The following matrix is an example list of program actions. The Division should refer to <http://our.dot.gov/office/fhwa.hq/OfficeofInfrastructure/hipa/so/Resources/> for the latest updated version which can be incorporated into the agreement or referenced as a control document. Modify the matrix to reflect the Division and State “Responsible Program Office.” The primary office of contact should be listed, rather than an individual or the approving official.

Activity	Authority	Frequency	Due Date	FHWA HQ Program Office	FHWA Division Responsible Program Office	NDOT Responsible Program Office	Remarks
Appropriations, Allotments, Obligations	31 USC 1341(a)(1)(A)& (B); 31 USC 1517(a); 23 USC 118(b), 23 USC 121	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Controller	State will monitor appropriations, allotments and obligations to ensure that all funding is used efficiently within each quarter and use all Obligation Authority (OA) by the end of the year.
Approval of Indirect Cost Allocation Plans (ICAPs)	2 CFR 200 Subpart E; ASMBC-10	Annually	Not Applicable	Office of Chief Financial Officer	Finance	Controller	The State will certify that the ICAP was prepared in accordance with 2 CFR 200 Subpart E.

FIRE Program Activities	FHWA Order 4560.1C (or as superseded)	Ongoing	September	Office of Chief Financial Officer	Finance	Controller	State will continue to provide oversight and conduct reviews to ensure Federal-aid compliance. FHWA will review and monitor. State responsibilities include multiple tasks in support of risk assessments, conducting reviews and implementation of recommendations.
Audit Coordination/FHWA Financial Statement Audit/State External Audit Reviews/State Internal Audit Reviews	FMFIA, 2 C.F.R. Part 200, Subpart F; GAAP, CFO Act of 1990; DOT Order 8000.1C	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Controller	State assures corrective action is taken to resolve audit findings and FHWA will monitor activities to ensure implementation.
Improper Payments Review	Improper Payments Information Act of 2002, PL 107-300, Improper Payments Elimination and Recovery Act of 2010, PL 111-204, Improper Payments Elimination and Recovery Improvement Act of 2012, PL 112-248	Annually	As determined by external auditors	Office of Chief Financial Officer	Finance	Controller	State will provide all information necessary to document sampled payments and FHWA offices will review and complete appropriate data submittal forms.
Transfer of Funds between programs or to other FHWA offices or agencies as requested by State	23 USC 126 23 USC 132, and FHWA Order 4551.1	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Controller	State will submit requests for transfer and FHWA approves and processes the funding transfers between programs, to other States, to other agencies, and to FHWA HQ, Federal Lands, or Research offices.

Reviews of State Transportation Departments Financial Management Systems - Financial Integrity	23 USC 106(g)(2)(A)	Annually	Not Applicable	Office of Chief Financial Officer	Finance	Controller	23 USC 106(g)(2)(A) states that the Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).
Review Adequacy of Sub-recipient Project Delivery Systems and Sufficient Accounting Controls to Manage Federal Funds	23 USC 106(g)(4)(A)(i)	As needed	Not Applicable	Office of Chief Financial Officer	Finance	Local Assistance	
Periodic Reviews of States Monitoring of sub-recipients	23 USC 106(g)(4)(B)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations	Local Assistance	
Approval of Increased Federal Share Agreement (Sliding Scale)	23 USC 120(b)(2)	As determined by the Federal Share Agreement	Not Applicable	Office of Chief Financial Officer	Finance	Controller Division	A State must enter into an agreement with FHWA for use of the increased Federal share allowable under this section, which must be reviewed and updated periodically as agreed to in the agreement. States must demonstrate that they are in compliance with the statute and the agreement.
Prepare / Review Title VI Plan Accomplishments and Next Year's Goals	23 CFR 200.9(b)(10)	Annually	1-Oct	Office of Civil Rights	Program Delivery Team	Program Management	Division office reviews, comments, and approves.
Prepare / EEO Contractor Compliance Plan accomplishments and next year's goals	23 CFR 230, Subpart C, Appendix A, Part I, III	Annually	1-Oct	Office of Civil Rights	Program Delivery Team	Program Management	Division office reviews comments, and approves.
Prepare / Review State Internal EEO Affirmative Action Plan (Title VII) Accomplishments and Goals	23 CFR 230.311	Annually	1-Oct	Office of Civil Rights	Program Delivery Team	Program Management	Division office reviews comments, and approves. Courtesy copy to HQ.

Review DBE Program Revisions	49 CFR 26.21(b)(2)	As needed	Not Applicable	Office of Civil Rights	Program Delivery Team	Program Management	Division sends to HCR for review and approval as
Prepare / DBE Uniform Awards and Commitment Report	49 CFR 26, Appendix B	Semi-Annual	June 1st December 1st	Office of Civil Rights	Program Delivery Team	Program Management	Division Office reviews and sends to HCR
Prepare / Annual Analysis and Corrective Action Plan (if necessary)	49 CFR 26.47(c)	Annual (as necessary)	December 31st	Office of Civil Rights	Program Delivery Team	Program Management	Division Office approves sends copy to HCR
Prepare / State DBE Program Goals	49 CFR 26.45(f)(1)	Triennial	August 1st	Office of Civil Rights	Program Delivery Team	Program Management	Division reviews and approves; HCC provides legal sufficiency review and approval sends copy to HCR
Prepare / Review On-the-Job-Training (OJT) goals & accomplishments	23 CFR 230.111(b)	Annually	TBA	Office of Civil Rights	Program Delivery Team	Program Management	Division office reviews and comments.
Approval of OJT and DBE Supportive Services fund requests	23 CFR 230.113 & 23 CFR 230.204	Annual	TBA	Office of Civil Rights	Program Delivery Team	Program Management	Division recommends approval submits to HCR for final approval
Return of any unused discretionary grant program funding	23 CFR 230.117(2)	Annual	TBA	Office of Civil Rights	Program Delivery Team	Program Management	Division works with HCR and CFO
Prepare / Review of Report on Supportive Services (OJT & DBE)	23 CFR 230.113(g), 230.121(e), 230.204(g)(6)	Quarterly		Office of Civil Rights	Program Delivery Team	Program Management	Division office reviews and comments.
Prepare / Review Annual Contractor Employment Report (Construction Summary of Employment Data (Form PR-1392)	23 CFR 230.121(a); Appendix D to Subpart A, Part 230, General Information and Instructions	Annually	1-Dec	Office of Civil Rights	Program Delivery Team	Program Management	Recommendation sent to HQ for approval.
Prepare / Review State DOT Employment Statistical Data (EEO-4)	23 CFR, Subpart C, Appendix A	Biannual	1-Dec	Office of Civil Rights	Program Delivery Team	Human Resources	Report sent to HQ quarterly for informational purposes and recommendation sent to HQ annually for approval.

Prepare / Review Annual Federal Projected Awards Reports - Historically Black Colleges & Universities/Tribal Colleges & Universities/Hispanic Serving Institutions, American Indian, Alaskan Native, Asian Pacific & American Islander.	Presidential Executive Orders: 13230, 13256, 13270, 13361, 13515	Annual	TBA	Office of Civil Rights	Program Delivery Team	Human Resources	Divisions submit data to HCR who prepares report for DOCR
Prepare / Review ADA Complaint Reports of Investigation	28 CFR 35.190	As needed	Not Applicable	Office of Civil Rights	Program Delivery Team	Program Management	Division office investigates, prepares report FHWA HQ approves and issues finding.
Review Americans with Disabilities Act (ADA) /Sec. 504 Program Plan accomplishments and next year's goals	49 CFR 27.11(c), EO 12250	Annually	1-Oct	Office of Civil Rights	Program Delivery Team	Program Management	Division office reviews and comments.
Return of unexpended funds used for Summer Transportation Institutes	23 CFR 230.117(2)	Annual	August 30; however, State procurement rules may govern	Office of Civil Rights	Program Delivery Team	Program Management	Divisions work with HCR and CFO
Prepare / Review Request for National Summer Transportation Institute (NSTI) Proposals (SOWs)	23 USC 140(b)	Annual	TBA	Office of Civil Rights	Program Delivery Team	Program Management	Divisions recommend approval. HCR gives final approval
Prepare / Review NSTI Report (questionnaire)	23 USC 140(b)	Annual	October 15th	Office of Civil Rights	Program Delivery Team	Program Management	Divisions provide to HCR
Receipt of State Consultation Process with Tribal Governments	23 CFR 450.210(c)	As needed	Not Applicable	Office of Federal Lands Highway	Program Delivery Team	Communications Project Development Strategic Planning Districts	Informational Purposes.
Approval of Contracting Procedures for Consultant Selection	23 CFR 172.5 & 172.9	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team Leader	Planning & Project Development	FHWA Division Office Approval.

Determination of High Risk Categories - Limitation on Interstate Projects	23 USC 106(c)(4)(B)	As needed	Not Applicable	Office of Infrastructure	Division Administrator	NDOT Deputy Director for Engineering	Office of Program Administration determines national categories and must concur on any State designations. FHWA Division Office Approval.
Approval of State 3R Program	23 CFR 625.4(a)(3), 23 USC 109(n)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Roadway Design Bridge	FHWA Division Office Approval.
Verify adoption of Design Standards (National Highway System, including Interstate)	23 CFR 625, 23 USC 109(b), 23 USC 109(c)(2), 23 USC 109(o)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Roadway Design	FHWA HQ regulatory action to adopt NHS standards.
Approval of preliminary plans of Major and Unusual Bridges on the Interstate Highway System	(M1100.A)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Bridge	Director of HIBT has approval of preliminary plans of Major and Unusual Bridges on the Interstate Highway System (M1100.A)
Approval of State Standard Specifications	23 CFR 625.3	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Construction	FHWA Division Office Approval.
Verify State Design Exception Policy complies with FHWA Policy	23 CFR 625.3	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Roadway Design	FHWA Division Office Approval.
Approval of State Standard Detail Plans	23 CFR 625.3	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Roadway Design Traffic Engineering Bridge	FHWA Division Office Approval.
Approval of Pavement Design Policy	23 CFR 626.3	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Materials & Research	FHWA Division Office Approval.
Review of Value Engineering Policy and Procedures	23 CFR 627.1(b)&(c), 23 CFR 627.7 FHWA Order 1311.1B	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Construction Roadway Design	FHWA Division Office Review.
Review of Value Engineering Annual Report	23 CFR 627.7, FHWA Order 1311.1B	Annual	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Construction Roadway Design	FHWA Division Office collects, reviews, and submits to HQ for review and reporting.
Review and Approval of Interstate Access Requests	23 USC 111, 23 CFR 710.74 FR 43743-43746 (Aug. 27, 2009)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Roadway Design Traffic Engineering	FHWA Division Office approval with concurrence from HQ on more complex access requests.
Approval of Liquidated Damages Rate	23 CFR 635.127	Every 2 years	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Construction	FHWA Division Office Approval.

Approval of Quality Assurance Program	23 CFR 637.205	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Materials & Research	State administrators, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Assure Central Laboratory accredited by AASHTO Accreditation Program or FHWA approved comparable program	23 CFR 637.209	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Materials & Research	State administrators, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Assure Non-STD designated lab performing Independent Assurance sampling and testing accredited by AASHTO Accreditation Program or FHWA approved comparable program	23 CFR 637.209	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Materials & Research	State administrators, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Assure Non-STD designated lab used in dispute resolution accredited by AASHTO Accreditation Program or FHWA approved comparable program	23 CFR 637.209	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Materials & Research	State administrators, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Review Independent Assurance Annual Report	23 CFR 637.207	Annually	1-Mar	Office of Infrastructure	Engineering & Operations Team	Materials & Research	State administrators, with programmatic agreement by the Division Office, as part of their materials testing and construction quality assurance/acceptance program.
Assure Labor Compliance - Prevailing Wage Rate	23 USC 113	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Construction	FHWA Division Office Review and Approval

Determination of Eligible Preventive Maintenance Activity - Cost-Effective Means of Extending Useful Life Determination	23 USC 116(e)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Materials & Research	FHWA Division Office Approval
Approval of Utility Agreement / Alternate Procedure	23 CFR 645.119	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Roadway Design	FHWA Division Office Approval
Approval of Utility Accommodation Policy	23 CFR 645.215, 23 USC 109(i), 23 USC 123	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Right of Way Roadway Design	FHWA Division Office Approval
Review Bridge Construction, Geotechnical, and Hydraulics	23 CFR 650	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Bridge Materials and Research	
Review Plans of Corrective Action established to address NBIS compliance issues	23 CFR 650, 23 USC 144	Annually		Office of Infrastructure	Engineering & Operations Team	Bridge	Division office performs annual compliance review and reports results to HQ.
Review NBI Data Submittal	23 CFR 650 Subpart C, Annual Memo from HQ, 23 USC 144	Annually	1-Apr	Office of Infrastructure	Engineering & Operations Team	Bridge	Division resolve errors with States; States submit to HQ.
Review structurally deficient bridge construction Unit Cost submittal	23 USC 144	Annually	1-Apr	Office of Infrastructure	Engineering & Operations Team	Bridge	Submit to HQ.
Review Section 9 of the Rivers and Harbors Act Submittals (Bridge Permits)	23 CFR 650 Subpart H; 33 CFR 114 & 115	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Bridge	
Approval for reduction of expenditures for off-system bridges	23 USC 133(g)(2)(B)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team/Division Administrator	Deputy of Engineering	The FHWA Administrator may reduce the requirement for expenditures for off-system bridges if the FHWA Administrator determines that the State has inadequate needs to justify the expenditure.
Determination on Adequacy of State's Asset Management Plan	23 USC 119(5)	Annually beginning second fiscal year after establishment of the process		Office of Infrastructure	Engineering & Operations Team	Deputies of Engineering and Operations Materials and Research	

Certification and Recertification of States Process for Development of State Asset Management Plan	23 USC 119(6)	Recertification every four years after establishment of the process	Office of Infrastructure	Engineering & Operations Team	Deputies of Engineering and Operations Materials and Research	
Review Reporting on Performance Targets	23 USC 150(e)	Beginning four years after enactment of MAP-21 and biennially thereafter	Office of Infrastructure	Program Delivery Team /Engineering & Operations Team	Deputies of Engineering and Operations Strategic Planning	
Review National Highway System Performance Achievement Plan for Actions to achieve the targets (when State does not achieve or make significant progress toward achieving)	23 USC 119(7)	Required if State does not achieve targets (or significant progress) for 2 consecutive reports	Office of Infrastructure	Program Delivery Team /Engineering & Operations Team	Deputies of Engineering and Operations Materials and Research	
States and sub-recipient failure to maintain projects - Notice and withholding Federal-aid Funds	23 USC 116(d)	As needed	Office of Infrastructure	Engineering & Operations Team/Division Administrator	Deputies of Engineering and Operations	
Emergency Relief (ER) Damage Assessments and Reports	23 CFR 668 23 USC 120 and 125	As needed	Office of Infrastructure	Engineering & Operations Team	Materials and Research Bridge Program Management Local Assistance	Perform with State.
Toll Credit and Maintenance of Effort (MOE) Calculation and Agreement	23 USC 120(i)	Annually	Office of Infrastructure	Engineering & Operations Team/Finance	Controller	State will calculate the amount of eligible toll credit and submit for approval. FHWA will review and approve the request.

Local Public Agency (LPA) Oversight	2 CFR 200.33123 USC 106(g)(4)	As needed	Not Applicable	Office of Infrastructure	Engineering & Operations Team	Local Assistance Construction Districts	States are responsible to ensure that LPAs are aware of all the applicable Federal-aid Program requirements; States are responsible to ensure monitoring and oversight to assure compliance with Federal requirements. 23 USC further reinforces stressing accountability on "project delivery systems" and "accounting controls." Division Office reviews and submits for Office of Program Administrator for Administrator Approval
Approval to Sell, Lease or Otherwise Dispose of a Ferry Purchased with Federal-aid Funds	23 USC 129 (c)(6)	As needed	Not Applicable	Office of Infrastructure	Finance/Division Administrator	N/A	Division Office works with Office of Program Administration and HCC
Territorial Highway Program - Approval of Territory Agreement	23 USC 165(c)(5)	Reviewed and Revised as needed every two years		Office of Innovative Program Delivery	N/A	N/A	Project sponsors submit requests for credit assistance to the TIFIA JPO for review; approval by the Secretary
TIFIA Credit Program	23 USC 601-609	As needed	Not Applicable	Office of Innovative Program Delivery	Finance/Division Administrator	Controller	MOUs strongly suggested for each GARVEE issue. FM contacts OIPD for review/concurrence before final approval
GARVEES	23 USC 122; GARVEE Guidance 3/14	As needed	Not Applicable	Office of Innovative Program Delivery	Finance/Division Administrator	Controller	Division sends copy of report to OIPD. SIB submits annual report to Division Office.
State Infrastructure Banks	NHS Act Section 308; 23 USC 610; SIB Guidance 3/14	Annual Report	Not Applicable	Office of Innovative Program Delivery	Finance/Division Administrator	Controller	At the option of the project sponsor, may execute a Tolling Eligibility MOU with the Division Office; HIN coordinates FHWA HQ review
Section 129 Tolling Authority Requests	23 USC 129(a)	As needed	Not Applicable	Office of Innovative Program Delivery	Finance/Division Administrator	Controller	

Section 166 HOV/HOT Lanes Tolling Authority Requests	23 USC 166(d)	As needed	Not Applicable	Office of Innovative Program Delivery	Finance/Division Administrator	Controller	At the option of the project sponsor, may execute a Tolling Eligibility MOU with the Division Office; HIN coordinates FHWA HQ review
Value Pricing Pilot Program Tolling Authority Requests	ISTEA Section 1012(b)	As needed	Not Applicable	Office of Innovative Program Delivery	Finance/Division Administrator	Controller	Requests submitted to HIN to coordinate review; approval by the Administrator
Interstate System Reconstruction and Rehabilitation Pilot Program Tolling Authority Requests	TEA-21 Section 1216(b)	As needed	Not Applicable	Office of Innovative Program Delivery	Finance/Division Administrator	Controller	Applications submitted to HIN to coordinate review; approval by the Administrator
Annual Audit of Toll Facility Records and Certification of Adequate Maintenance - Report Submittal	23 USC 129(a)(3)(B); TEA-21 Section 1216(b)(5)(B); SAFETEA-LU Section 1604(b)(3)(A); ISTEA Section 1012(p)(3)	Annually		Office of Innovative Program Delivery	Finance	Controller	Division Office to receive the reports.
Project Management Plan (Major Projects)	23 U.S.C. 106(h)(2)	Prior to first federal authorization of construction funds for a Major Project	Not Applicable	Office of Innovative Program Delivery	Division Office will conduct concurrent review with HQ Office of Innovative Program Delivery.	State DOT or Project Sponsor will prepare and submit Project Management Plan.	Division Office will provide approval after receiving concurrence from HQ Office of Innovative Program Delivery.
Financial Plan (Major Projects)	23 U.S.C. 106(h)(3)	Prior to first federal authorization of construction funds for a Major Project and then annually.	Annually as noted in the approved Initial Financial Plan	Office of Innovative Program Delivery	Division Office will conduct concurrent review with HQ Office of Innovative Program Delivery.	State DOT or Project Sponsor will prepare and submit annual Financial Plans.	Division Office will provide approval after receiving concurrence from HQ Office of Innovative Program Delivery.
Financial Plan (Other Projects)	23 U.S.C. 106(i)	Prior to first federal authorization of construction funds for an Other Project and then annually.	Annually as noted in the approved Initial Financial Plan	Office of Innovative Program Delivery	Division Office will review and approve Financial Plans for Other Projects in accordance with its stewardship and oversight agreement with the State DOT or Project Sponsor.	State DOT or Project Sponsor will prepare and submit annual Financial Plans to the Division Office, only upon request. Roadway Design Controller Program Management	Other Projects are defined as projects with an estimated total cost of \$100 million or more that have not been designated as Major Projects.

Review Designation and Re-designation of Primary Freight Network	23 USC 167(d)	One year after enactment of MAP-21 and every ten years thereafter	Office of Operations	Program Delivery Team	Strategic Planning	
Review Development and Update of National Freight Strategic Plan	23 USC 167(f)	Three years after enactment of MAP-21 and every five years thereafter	Office of Operations	Program Delivery Team	Strategic Planning	OST lead
Review Freight Transportation Conditions and Performance Report	23 USC 167(g)	Two years after enactment of MAP-21 and every two years thereafter	Office of Operations	Program Delivery Team	Materials and Research Strategic Planning	OST lead
Review HOV Operations Report for Tolloed Use and Low-Emission and Energy-Efficient Vehicle Use	23 USC 166(d)	Annually	Office of Operations	Program Delivery Team	Traffic Engineering	
Traffic Incident Management Self-Assessment	Annual Memo from HQ	Annually	Office of Operations	Engineering & Operations Team	Operations Division	Complete with partners and forward to HQ.
Work Zone Self-Assessment	Annual Memo from HQ	Annually	Office of Operations	Engineering & Operations Team	Traffic Engineering Construction Districts	Complete with partners and forward to HQ.
Approval of State-Supplement to Manual on Uniform Traffic Control Devices - State Traffic Control Manuals	23 CFR 655.603, 23 USC 109(d)	Within two years of new manual.	Office of Operations	Engineering & Operations Team	Traffic Engineering	
Review Vehicle Size & Weight Enforcement Plan	23 CFR 657.11, 23 USC 127	Annually	Office of Operations	Program Delivery Team	Strategic Planning	
Review Vehicle Size & Weight Enforcement Certification	23 CFR 657.13, 23 USC 141	Annually	Office of Operations	Program Delivery Team	Strategic Planning	
Approval of National Network Modifications	23 CFR 658.11	As needed	Office of Operations	Program Delivery Team	Strategic Planning	

Intelligent Transportation System Architecture & Standards	23 CFR Part 940	As needed	Not Applicable	Office of Operations	Engineering & Operations Team	Operations Division ITS Section	
Approval of Work Zone Significant Project Determination	23 CFR 630.1010	As needed		Office of Operations	Engineering & Operations Team	Traffic Engineering	
Approval of Exceptions to Work Zone Procedures for Interstate Projects	23 CFR 630.1010	As needed		Office of Operations	Engineering & Operations Team	Traffic Engineering	
Approval of Work Zone Policy and Procedures Conformance Review	23 CFR 630.1014	At appropriate intervals		Office of Operations	Engineering & Operations Team	Traffic Engineering	
Process Review of Work Zone Safety and Mobility Procedures	23 CFR 630.1008, 23 USC 109(e)(2), 23 USC 112(g)	Every 2 years		Office of Operations	Engineering & Operations Team	Traffic Engineering Construction Districts Operations	
Approval of State Planning Work Program and Revisions (Part 1)	23 CFR 420.111, 23 CFR 420.115, and 23 CFR 420.209	Annually	Prior to Program Period	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	FHWA Division Office Approval.
Approval of State Research and Development Work Program. (Part 2)	23 CFR 420.111, 23 CFR 420.115, and 23 CFR 420.209	Annually	Prior to Program Period	Office of Planning, Environment & Realty	Program Delivery Team	Materials and Research	FHWA Division Office Approval.
Approval of State's Distribution of Planning Funds Formula - Allocation Formulas for PL Funds	23 CFR 420.109, 23 USC 104(d)(2)(A)(i)	When Revised	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	FHWA Division Office Approval.
Review of State Public Involvement Procedures	23 CFR 450.210(a)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Communications Division, Project Development	FHWA Division Office Review to Assure Compliance.
Receipt of State Consultation Process for Non-metropolitan Local Officials	23 CFR 450.210(b)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Project Development Local Assistance	Informational Purposes.
Review of Long-range Statewide Transportation Plan	23 CFR 450.214	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	FHWA Division Office Review to Assure Compliance.
Approval of Statewide Transportation Improvement Program (STIP)	23 CFR 450.216, 23 CFR 450.218(a) & (c), 23 USC 135(g)(7)	At least every 4 years	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Program Management	Joint FHWA and FTA approval.
Approval of STIP Amendments	23 CFR 450.218(a) & (c)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Program Management	Joint FHWA and FTA approval.

Finding of Consistency of Planning Process with Section 134 and 135	23 USC 135(g)(8), 23 CFR 450.218(b)	Concurrent with STIP approval	Not Applicable	Environment & Reality	Program Delivery Team	Strategic Planning and Program Management	FHWA and FTA issue a joint finding concurrent with STIP approval.
Review of State Self-certification that Planning Process is in Accordance with Applicable Requirements	23 CFR 450.218(a)	Submitted with proposed STIP or STIP amendments	Not Applicable	Office of Planning, Environment & Reality	Program Delivery Team	Deputy of Engineering and Operations	Received with STIP.
Approval of Transportation Management Area (TMA) MPO Unified Planning Work Programs (UPWP)	23 CFR 450.308(b) and 23 CFR 420 (Subpart A)	Prior to Program End	Not Applicable	Office of Planning, Environment & Reality	Program Delivery Team	Strategic Planning	
Approval of Non-TMA UPWP	23 CFR 450.308(b) and 23 CFR 420 (Subpart A)	Prior to Program End	Not Applicable	Office of Planning, Environment & Reality	Program Delivery Team	Strategic Planning	May use simplified work statement.
Approval of UPWP Revisions and Amendments (All MPOs)	23 CFR 420.115	As needed	Not Applicable	Office of Planning, Environment & Reality	Program Delivery Team	Strategic Planning	
Review of UPWP Performance and Expenditure Reports (All MPOs)	23 CFR 420.117(b)	Not more frequently than quarterly	Not Applicable	Office of Planning, Environment & Reality	Program Delivery Team	Strategic Planning	
Approval of Report Before Publication (All MPOs)	23 CFR 420.117(e)	As needed	Not Applicable	Office of Planning, Environment & Reality	Program Delivery Team	Strategic Planning	Waiver may be granted.
Approval to use Planning Funds outside Urbanized Areas for States Receiving Minimum Apportionment	23 USC 104(d)(1)(A)(ii)	As needed	Not Applicable	Office of Planning, Environment & Reality	Program Delivery Team/Division Administrator	Strategic Planning Materials and Research Program Management	
Review of Metropolitan Planning Area Boundary (Establishment and Changes)	23 CFR 450.312	As needed	Not Applicable	Office of Planning, Environment & Reality	Program Delivery Team	Strategic Planning	Approval by MPO and the Governor, shape files forwarded to HQ. (Comment: No action is required by FHWA/FTA).

Review of Metropolitan Transportation Planning Organizations (MPO) Designation and Re-designation	23 CFR 450.310	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	Require agreement between Governor and local governments.
Review of Metropolitan Planning Agreements (MPA) for Attainment or Entire Nonattainment Area	23 CFR 450.314(a)	When Completed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Project Development Strategic Planning	Between MPO/State DOT/Transit Operator. Included in UPWP or Prospectus (23 CFR 450.314(d)).
Review of MPA - for MPA that do not include the entire nonattainment or maintenance area	23 CFR 450.314(b), 23 USC 109(i)	When Completed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Project Development Strategic Planning	Between MPO/State DOT/State AQ Agency.
Review of MPO Public Participation Procedures	23 CFR 450.316(a)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	Must be developed and published.
Review of Metropolitan Transportation Plan (MTP) in Attainment Areas (and Updates)	23 CFR 450.322	Every 4 years	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Project Development Strategic Planning	
Review of MTP in Non-Attainment and Maintenance Areas (and Updates)	23 CFR 450.322	Every 5 years	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Project Development Strategic Planning	
Review of MTP Amendments	23 CFR 450.322(c)	As Needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	
Air Quality Conformity Determination on LRTP in Non-attainment and Maintenance Areas	23 CFR 450.322(d)	Concurrent with LRTP updates at least every 4 years and as needed on amendments	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Project Development Strategic Planning	After receipt of MPO determination; Joint FHWA and FTA determination; In consultation with the Environmental Protection Agency (EPA).
Review of Transportation Improvement Program (TIP)	23 CFR 450.300(a); 23 CFR 450.324(b); 23 CFR 450.328(a); 23 USC 134(j)(1)(D)	Prior to Program Period	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning Program Management Local Assistance	No succinct Federal approval action is required for the TIP. FHWA/FTA approval of the TIP is through the STIP approval process.

Review of TIP Amendments	23 CFR 450.324(a); 23 CFR 450.328(b)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning Program Management Local Assistance	No succinct Federal approval action is required for the TIP. FHWA/FTA approval of the TIP is through the STIP approval process.
Approval of Air Quality Conformity Determination on TIP	23 CFR 450.326; 23 CFR 450.328	At least every 4 years, or when the TIP has been modified (unless exempt projects)	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	Applies to non-attainment and maintenance areas only. After receipt of MPO determination, joint determination with FTA (in cooperation with EPA).
Federal Finding of Consistency of Planning Process with Section 134 and 135	23 CFR 450.218(b); 23 CFR 450.334(a)	Concurrent with (S)TIP submittal	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	At least every four years, joint finding with FTA when TIP is submitted.
In Metropolitan Planning Areas, Review of State and MPO Self-certification that Planning Process is in Accordance with Applicable Requirements	23 CFR 450.334 (a), 23 CFR 218(a)	Annually or concurrent with the STIP/TIP cycle	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	Required for all MPO's. May be included in the STIP, TIP, or UPWP, at least every 4 years.
In TMA's, Certification that Planning Process is in Accordance with Applicable Requirements	23 CFR 450.334(b), 23 USC 134(k)(5)	Every 4 years		Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	Joint FHWA and FTA Certification.
Approval of Federal-Aid Urban Area Boundaries	23 CFR 470.105 (a), 23 USC 101(a)(33)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Program Management Materials and Research	
Approval of Revision of Functional Classification	23 CFR 470.105 (b)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Materials and Research	
Approval by Administrator of Interstate Additions & Revisions	23 USC 103(c)(1)(D), 23 CFR 470.111, 23CFR 470.115 (a)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team/Division Administrator	Roadway Design Materials and Research	Approval by HQ – Administrator.
Approval by Office Director of National Highway System (NHS) Additions and Revisions	23 USC 103(b)(3), 23 CFR 470.113 and 470.115(a)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Materials and Research	Approved by HQ - Office Director.

Review of CMAQ Annual Report	CMAQ Guidance Memo October 31, 2006	Annually	1-Mar	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	Division provides information on CMAQ projects including: amount of obligation, project description and location, and air quality benefits. The report must be submitted via the web-based CMAQ Tracking System.
Transportation Planning Excellence Awards		Annually	1-Feb	Office of Planning, Environment & Realty	Program Delivery Team	Strategic Planning	Call for entries for the FHWA FTA Transportation Planning and Excellence Awards.
Approval of Local Technical Assistance Program (LTAP) Centers Work Plan and Budget	FHWA LTAP Field Manual	Annually	31-Mar	Office of Planning, Environment & Realty	Program Delivery Team/Engineering & Operations	Local Assistance	FHWA HQ approval.
Approval of Public Involvement Program Procedures	23 CFR 771.111(h), 23 USC 128	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Communications Project Development Program Management	
Approval of NEPA Procedures, including Section 4(f)	23 CFR 771; 23 CFR 774; SAFETEA-LU 6007 & 6009, 23 USC 109(h)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Project Development	
Approval of Noise Policies	23 CFR 772.7, 772.9, and 772.13, 23 USC 109(i)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Project Development	FHWA approves State's noise abatement policy.
EIS Status Updates	FHWA Strategic Goal - EIS Timeliness	Quarterly	(Fiscal Year - Oct, Jan, Apr, Jul)	Office of Planning, Environment & Realty	Program Delivery Team	Project Development	Monitor time required to complete EIS's. Determine projects which have exceeded recommended timeline (3 years). Identify projects which should be listed as dormant. Submit to HEPE.
Endangered Species Act Cost Report		Annually	1-Mar	Office of Planning, Environment & Realty	Program Delivery Team	Project Development	
Exemplary Ecosystem Initiatives Applications		Annually	1-Apr	Office of Planning, Environment & Realty	Program Delivery Team	Project Development	

Approval of Acquisitions, Appraisals, and Relocations Program and Procedures	49 CFR Part 24, The UA	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Early Acquisitions	23 CFR 710.501	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Local Public Agency Oversight	49 CFR 24.4(b); 23 CFR 710.201	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team/Engineering & Operations Team Lead	Local Assistance	
Approval of Highway Facility Relinquishment	23 CFR 620.203	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team/Division Administrator	Roadway Design	
Approval of ROW Disposal Authorization Request	23 CFR 710.409	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Approval of ROW Operations Manual (Organization, Policies and Procedures), Updates, and Certification	23 CFR 710.201	January 1, 2001 and every 3 years thereafter or as required by changes in State law or Federal regulation or law	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Approval of Exception to Charging Fair Market Value	23 CFR 710.403 and 23 CFR 710.409	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Approval of Interstate Real Property Use Agreements	23 CFR 710.405	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Approval of Request for Federal Land Transfer	23 CFR 710.601	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Approval of Request for Direct Federal Acquisition	23 CFR 710.603	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	

Approval of Outdoor Advertising Policies and Procedures, and Regulation and Procedure Approval	23 CFR 750.304, 23 CFR 750.705, 23 USC 131	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Approval of Requests to Exempt Certain Nonconforming Signs, Displays, and Devices	23 CFR 750.503	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Approval of Railroad Agreement Alternate Procedure	23 CFR 646.220	As needed	Not Applicable	Office of Planning, Environment & Realty	Engineering & Operations Team/Program Delivery Team	Local Assistance	
Approval of Uniform Act Waivers and Waivers from Availability of Comparable Replacement Dwelling before Displacement	49 CFR 24.7, 49 CFR 24.204(b)	As needed	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	Requests reviewed and approved by HEPR Office Director.
Review of Uniform Relocation Assistance & Real Property Acquisition Report - (OMB Form 2125-0030)	49 CFR 24.9c & Appendix B 49 CFR 24.603	Annually	15-Nov	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	Submitted to FHWA Headquarters (HQ).
Review of Real Property Acquisition Statistical Report	FHWA Order 6540.1	Annually	15-Nov	Office of Planning, Environment & Realty	Program Delivery Team	ROW Division	
Approval of Management Process and Project Selection Procedures and Certification for Research, Development & Technology Transfer Program and Revisions to Process	23 CFR 420.115 and 23 CFR 420.209	As needed	Not Applicable	Office of Planning, Environment & Realty	Engineering & Operations Team	Materials and Research	FHWA Division Office Approval.
Periodic Review of States Management Process of the Research, Development & Technology Transfer Program	23 CFR 420.209	Periodic	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Materials and Research	FHWA Division Office Periodic Review.

Approval of Performance and Expenditure Reports for SPR Research Work Programs	23 CFR 420.117	No less frequently than annual and no more frequently than quarterly	90 Days After End Of Period	Office of Planning, Environment & Realty	Program Delivery Team	Materials and Research	FHWA Division Office Approval.
Approval of SPR research reports	23 CFR 420.117	Prior to publication unless prior approval is waived	Not Applicable	Office of Planning, Environment & Realty	Program Delivery Team	Materials and Research	FHWA Division Office Approval unless waived.
Annual Traffic Reports	Traffic Monitoring Analysis System and Traffic Monitoring Guide reporting	When Published	As needed	Office of Highway Policy information	Program Delivery Team	Strategic Planning	When Published
Approval of Annual Field Review Report	HPMS Field Review Guidelines (June 2001) Continuous Process Improvement Model for HPMS(February 2003)	Annually	1-Nov	Office of Highway Policy information	Program Delivery Team	Strategic Planning Materials and Research	Review memo to HQ.
Approval of Certified Public Road Mileage	23 CFR 460.3(b)	Annually	1-Jun	Office of Highway Policy information	Program Delivery Team	Materials and Research	Each year, the Governor of each State and territory or a designee must certify Public Road Mileage. FHWA division reviews the Mileage and sends to HQ with division review/concurrence. This is reported to NHTSA for Apportionment of Safety Funds.
Approval of Data Submittal	23 CFR 420.105(b), HPMS Field Manual	Annually	15-Jun	Office of Highway Policy information	Program Delivery Team	Materials and Research	State DOT sends directly to Division Office and HQ.
Highway Statistics Reports	Guide to Reporting Highway Statistics			Office of Highway Policy information	Program Delivery Team	Controller	State DOT of Division Office sends directly to HQ.
Motor Fuels Report	A Guide to Reporting Highway Statistics, Chapter 2	Due 60 days after end of each reporting month		Office of Highway Policy information	Program Delivery Team	Controller	
Vehicles and Drivers (561, 562, 566, and 571)	A Guide to Reporting Highway Statistics, Chapters 3, 4, 5, and 6	1-Apr	1-Apr	Office of Highway Policy information	Program Delivery Team	Controller	

Finance (531, 532, 541, 542, and 543 (optional))	A Guide to Reporting Highway Statistics, Chapters 8 and 9	1-Apr	1-Apr	Office of Highway Policy information	Program Delivery Team	Controller	
Transportation Bond Referendums	A Guide to Reporting Highway Statistics, Chapter 9	When Published	When Published	Office of Highway Policy information	Program Delivery Team	Controller	
State DOT / Toll Authority Audits and Published Annual Reports and Form 539 (optional)	A Guide to Reporting Highway Statistics, Chapter 10	When Published	When Published	Office of Highway Policy information	Program Delivery Team	Controller	Annually, Due as soon as available.
Finance (536)	A Guide to Reporting Highway Statistics, Chapter 11	30-Sep	30-Sep	Office of Highway Policy information	Program Delivery Team	Controller	Biennially for odd-numbered years. Due nine months after end of reporting year
Finance (534)	A Guide to Reporting Highway Statistics, Chapter 12	15-Jun	15-Jun	Office of Highway Policy information	Program Delivery Team	Controller	Annually for State, Biennially for local
Highway Finance and Tax Legislation	A Guide to Reporting Highway Statistics, Chapter 13	When Published	When Published	Office of Highway Policy information	Program Delivery Team	Controller	
State DOT Budgets and Published Annual Reports	A Guide to Reporting Highway Statistics, Chapter 13	When Published	When Published	Office of Highway Policy information	Program Delivery Team	Controller	
Motor Fuel Oversight Review	July 24, 2001 HQ Memo	Initial baseline reports no later than December 31, 2003		Office of Highway Policy information	Program Delivery Team	Controller	Annual progress reports and statement of verification by June 30. Submitted via UPACS.
Review of Biennial - Toll Facilities in the United States	23 CFR 450.105(b) HPMS Field Manual	Biennially - Odd Years	June 15 (Odd Years)	Office of Highway Policy information	Program Delivery Team	Controller	Division Office sends to HQ.
State Highway Maps (Tourist)		When Published	When Published	Office of Highway Policy information	Program Delivery Team	Materials and Research	Two copies to each Division Office and 100 copies to HQ.
Traffic Flow Maps		When Published	When Published	Office of Highway Policy information	Program Delivery Team	Materials and Research	When Published.
Vehicle Classification Data	MAP-21, HPMS Field Manual, Traffic Monitoring Guide	15-Jun	15-Jun	Office of Highway Policy information	Program Delivery Team	Strategic Planning Materials and Research	Part of Annual HPMS submittal.

Highway Use Tax Evasion Grant Awards	23 USC 143	Annual	Not Applicable	Office of Highway Policy Information	Program Delivery Team	Department of Revenue	FHWA along with the Internal Revenue Service will review applications and select awardees for projects designed to reduce or eliminate fuel tax evasion. FHWA will also review annual progress reports on projects.
Heavy Vehicle Use Tax (HVUT) – Certification of verifying proof-of-payment of HVUT	23 CFR 669.7	1-Jul	1-Jul	Office of Highway Policy Information	Program Delivery Team	Department of Motor Vehicles	Each year, the Governor of each State, or a designee must certify that the State is verifying that the HVUT has been paid before they issue or renew registrations on vehicles over 55,000 lbs. The HVUT program is administered by the Internal Revenue Service.
Heavy Vehicle Use Tax (HVUT) – Certification of verifying proof-of-payment of HVUT	23 CFR 669	Annual	1-Jan	Office of Highway Policy Information	Program Delivery Team	Department of Motor Vehicles	Each year, the Governor of each State, or a designee must certify that the State is verifying that the HVUT has been paid before they issue or renew registrations on vehicles over 55,000 lbs. The HVUT program is administered by the Internal Revenue Service.

Heavy Vehicle Use Tax (HVUT) – Triennial review of State program	23 CFR 669.21	Triennial	Not Applicable	Office of Highway Policy information	Program Delivery Team	Department of Motor Vehicles	Every 3 years, the local Division Office will perform a review of the State process for verifying that the HVUT has been paid before a registration can be issued or renewed for vehicles over 55,000 lbs. The HVUT program is administered by the Internal Revenue Service.
Permanent ATR Data	Heavy Vehicle Travel Information System Field Manual	Monthly	Monthly	Office of Highway Policy information	Program Delivery Team	Strategic Planning	Submit monthly, within 20 days after the close of the month for which the data were collected.
Continuous Automatic Vehicle Classifier Data	Heavy Vehicle Travel Information System Field Manual	Monthly	Monthly	Office of Highway Policy information	Program Delivery Team	Strategic Planning	Send up to one week of data per quarter

Weight and Vehicle Classification Data Collected at Weigh-in-motion sites	Heavy Vehicle Travel Information System Field Manual	15-Jun	As needed	Office of Highway Policy Information	Program Delivery Team	Strategic Planning	WIM data collected at non-continuous sites during a year should be submitted by June 15 of the following year. If continuous WIM data are available, then up to one week of data per quarter.
Approval of MAP-21 compliant SHSP update within the legislatively required timeframe.	23 U.S.C. 148 (d)(2)(B)	Non Recurring	By Aug. 1 of the fiscal year after the HSP final rule is established	Office of Safety	Engineering & Operations Team	Traffic Engineering	FHWA Division Offices provide copy of SHSP process approval letter to HQ.
Highway Safety Improvement Program (HSIP) and Railway-Highway Crossing Program (RHCP) Reports	23 USC 148(h), 23 CFR 924.15	Annually	31-Aug	Office of Safety	Engineering & Operations Team	Traffic Engineering Roadway Design Local Assistance	As per MAP-21 guidance, reports are due to FHWA Division Office by August 31st and to the Office of Safety by September 30.
Transportation Performance Management (TPM) for Safety	23 USC 150, 23 USC 134, 23 USC 135, 23 USC 148(i)	Annually	31-Aug	Office of Safety	Engineering & Operations Team	Traffic Engineering	Per MAP-21, States and MPOs must set targets for established measures. Targets must be assessed for achievement
Review Drug Offender Driver's License Suspension Law & Enforcement Certification (Section 159)	23 USC 159 23, CFR 192.5	Annually	1-Jan	Office of Safety	Engineering & Operations Team	Communications	Certifications due to the Division Office by January 1.
Section 154/164 Compliance Status - Funds Reservation	23 USC 154 and 23 USC 164	Annually	30-Oct	Office of Safety	Engineering & Operations Team	Controllor Communications	States must submit a Shift letter to the Division Office by Oct. 30 indicating how to apply the penalty. New penalty states have additional time. The Office of Safety processes the compilation of information in a memo to the CFO.
Review Safety Belt Compliance Status	23 USC 153, 23 CFR 1215.6	Annually	Annually	Office of Safety	Engineering & Operations Team	Controllor Communications	NHTSA

High Risk Rural Roads (HRRR) Special Rule	23 USC 148(g)(1)	Annually	Annually	Office of Safety	Engineering & Operations Team	Traffic Engineering	After the final FARS and HPMS data are available, FHWA HQ will inform the States if the HRRR Special Rule applies for the following FY.
Older Drivers and Pedestrians Special Rule	23 USC 148 (g)(2)	Annually	31-Aug	Office of Safety	Engineering & Operations Team	Traffic Engineering	States should include in their annual HSIP reports (due August 31st) the calculations performed, verifying whether the Older Driver Special Rule applies in the State. If the Special Rule applies to a State in a given year, the State must include in its subsequent SHSP strategies to address the increases in the fatality and serious injury rates for drivers and pedestrians over the age of 65.
FHWA Emergency Preparedness Program	Executive Order 12656 and FHWA Order 1910.2C	As needed	Not Applicable	Office of Operations	Engineering & Operations Team	Operations	National Programs.

All actions taken on or after December 26, 2014, shall be governed by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. Part 200 of 2 CFR supersedes 49 CFR Parts 18 and 19, and requirements from OMB Circulars A-21, A-87, A-110, and A-122 (which have been placed in OMB guidances); Circulars A-89, A-102, and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up.

**ATTACHMENT C
MANUALS AND OPERATING AGREEMENTS**

NDOT Manuals (approved by FHWA for use on Federal-aid projects --

EEO Contractor Compliance Program Plan
Limited English Proficiency (LEP) Plan
Bridge Inspection Program Manual
Systematic Preventative Maintenance Program Manual for Bridges
Consultant Selection Process
Disadvantaged Business Enterprise (DBE) Plan
Environmental Process and related Manuals
Public Involvement Procedure
Highway Safety Improvement Program Process Document Strategic Highway Safety Plan;
Strategic Plan for HSIP Expenditures
ITS and Systems Engineering Process Document (Under development)
Statewide and Regional ITS Architectures
Local Public Agency (LPA) Guidelines Manual
Materials Sampling Guide and QA/QC Program
NDOT Right of Way Manual
Right of Way Acquisition Guide for Local Public Agencies
NDOT Encroachment Policy
LPA Encroachment Policy
Standard Plans
NDOT Roadway Design Manual
Statewide Transportation Improvement Program (STIP) Development Guidelines
STIP Public Involvement Plan
NDOT Supplemental and Standard Specifications
Title VI Implementation Plan
Nebraska State Supplement to the MUTCD Manual
Workforce Development Memorandum of Understanding

NDOT Manuals, Guidelines, Policy and Procedures Applied to Federal Aid Projects, not officially reviewed and approved by FHWA

Bid Evaluation Procedures
Bridge Operating Policies & Procedures Manual
Design Process Outline
Pavement Design Manual
Pavement Management Systems Manual
Pavement Maintenance Manual
Traffic Engineering Policies and Procedures Manual
Construction Project Manager Best Practices
Construction Project Final Review Manual
LPA Project Coordinator Guidelines Manual
State of Nebraska, Department of Transportation Accounting Manual
NDOT Construction Manual
Materials Standard Operating Procedures
SiteManager Help Files
MPO Operating Manual

Work Programs

- Local Technical Assistance Program (LTAP)
- Statewide Planning and Research Program
- Transportation Management Area/Metropolitan Planning Organization (TMA/MPO)
- Workforce Development Program
- Disadvantaged Business Enterprise (DBE) Program

Operating (Programmatic) Agreements

NEPA Programmatic Agreement
Current CE and Environmental Programmatic Agreements
ESA Matrix
Section 106 No Potential Impact Letter
Programmatic Agreement for Statewide Bridge Inspections
Stewardship and Oversight Indicators (Under Development)
Risk-Based Project Level Oversight (Under Development)
Programmatic Utility Agreement between FHWA and NDOT

Appendix A: Glossary

Assumption of Responsibilities – The act of State DOT to accept responsibility for carrying out and approving certain actions in the place of the FHWA. Such actions are to be taken by the State DOT in conformance with Federal laws, regulations, and policies.

Assumed Projects – Federal projects that the State DOT reviews in the place of the FHWA and has the authority to approve certain specified actions pertaining to design; plans, specifications, and estimates; contract awards; and inspections.

Certification Reviews – A review that formalizes the continuing oversight and day-to-day evaluation of the planning process.

Control Document – Applicable laws, regulations, standards, policies, and standard specifications approved by FHWA for use on Federal-aid highway projects.

Core Functions – Activities that make up the primary elements of the division office’s Federal-aid oversight responsibilities based on regulations and national policies. Core functions in the division office are Planning, Environment, Right-of-Way, Design, Construction, Finance, Operations, System Preservation, Safety, and Civil Rights.

Locally Administered Projects – For the purpose of the S&O Agreement, a Federal-aid project in which an entity other than a traditional State DOT is a sub-recipient and this entity is administering the particular phase being authorized, i.e., Preliminary Engineering, ROW, or Construction. These would include projects where the non-traditional entity will either perform the work itself or enter into a contract for services or construction. State DOT remains responsible for the local public agency’s compliance on locally administered projects.

Local Public Agency (LPA) – Any organization, other than a traditional State DOT, with administrative or functional responsibilities that are directly or indirectly affiliated with a governmental body of any Tribal Nation, State, or local jurisdiction. LPAs would most often include cities or counties. However, an LPA, as defined here, could also include a State entity as well, perhaps even a part of a State DOT. An example could include a Port Authority or Toll Authority that had not traditionally worked with the Federal-aid highway program (FAHP).

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

Program Assessments – This evaluation technique may take many forms, including joint risk assessments and self-assessments. 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.

Program Reviews – A thorough analysis of key program components and the processes employed by the State DOT in managing the program. The reviews are conducted to: 1) ensure compliance with Federal requirements; 2) identify areas in need of improvement; 3) identify

opportunities for greater efficiencies and cost improvement to the program; and/or 4) identify exemplary practices.

Risk Based Projects (RBPs) – RBPs are those projects that have an elevated risk, contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting project objectives.

For RBPs, FHWA has made a risk-based decision to retain project approval actions or conduct stewardship and oversight activities for the project as provided for in 23 USC 106.

Recurring Reviews – Reviews that the division office conducts annually or on a regular periodic basis. Examples include NBIS, HPMS, HVUT, etc.

Risk Assessment – The process of identifying a risk event, determining the likelihood of the event happening, determining the impact (positive or negative) of the event on the delivery of the FAHP, and identifying an appropriate risk response strategy.

Risk-Based Approach – Incorporating risk assessment and risk management into investment and strategic decision making (the means by which limited resources are focused).

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.

Unit Performance Plan – The annual performance plan prepared by an individual FHWA unit that address unit responsibilities and priorities taking into account the National Performance Objectives and National Initiatives identified in the FHWA's Strategic Implementation Plan (SIP) as well as specific initiatives identified at the unit level based on risk.

Appendix B: Project Oversight Designation Requirement in the Fiscal Management Information System (FMIS)

RBP/State Administered – Projects of Division Interest that are administered by the State DOT. If specific 106(c) responsibilities are assumed by the State DOT, the responsibilities assumed should be noted in the project description and/or remarks fields. (Projects where all six 106(c) responsibilities are retained by FHWA would need no such notation.) These are projects where FHWA will review and approve actions pertaining to one or more of the following (design, plans, specifications, estimates, contract awards, and project inspections) and may also include additional areas of focus by the division.

RBP/Locally Administered – Projects of Division Interest that are locally administered. If specific 106(c) responsibilities are assumed by the State DOT, the responsibilities assumed should be noted in the project description and/or remarks fields. (Projects where all six 106(c) responsibilities are retained by FHWA would need no such notation.) These are projects where FHWA will review and approve actions pertaining to one or more of the following (design, plans, specifications, estimates, contract awards, and project inspections) and may also include additional areas of focus by the division.

Assumed/State Administered – Projects where *responsibility for all six Section 106(c) items* is assumed by the State DOT and the project is administered by the State DOT. These are projects where the State DOT has assumed responsibility for review and approval actions pertaining to all of the following: design, plans, specifications, estimates, contract awards, and project inspections.

Assumed/Locally Administered - Projects where *responsibility for all Section 106(c) items* is assumed by the State DOT and the project is administered by a local agency. These are projects where the State DOT has assumed responsibility for review and approval actions pertaining to all of the following: design, plans, specifications, estimates, contract awards, and project inspections.

Other – There may be situations that do not fit the previous categories. In cases where the project is identified as “Other,” additional details should be provided in the project description and/or remarks fields. Examples could include non-State DOT direct recipients.