Federal Highway Administration Michigan Division
and
Michigan Department of Transportation

Stewardship and Oversight Agreement

U.S. Department of Transportation
Federal Highway Administration

November 2011

MDOT
Michigan Department of Transportation

LETTER OF AGREEMENT

Letter of Agreement
Between the Federal Highway Administration and the Michigan Department of Transportation

Stewardship reflects our collective responsibility for the development, implementation, and delivery of the Federal-Aid Highway Program and involves all necessary activities such as leadership, technology deployment, technical assistance, problem solving, program administration, and oversight. Oversight is the compliance or verification component of the Federal Highway Administration's (FHWA) stewardship activities. Narrowly focused, oversight activities ensure the Federal-Aid Highway Program areas are implemented in accordance with the applicable laws, regulations, and policies.

In October 2010, both FHWA and the Michigan Department of Transportation (MDOT) began a journey to update the Stewardship and Oversight Agreement using a team-based, partnering approach. Through this approach, both agencies agreed to five principles as part of a shared vision that established common goals and documented general working relationships to further the delivery of the Federal-Aid Highway Program in Michigan. Along every step of the way, leadership and program managers worked side-by-side to document the parameters of our working relationships and think of new ways of delivering the Federal-Aid Highway Program more efficiently and effectively. The level of commitment shown to updating this document and integrating it into day-to-day operations demonstrates the pledge by both agencies to enhance the delivery of transportation projects for future generations.

With the implementation of this revised Stewardship and Oversight Agreement, the State of Michigan has an opportunity to move toward a data-driven decision-making process, as well as developing joint goals and strategies addressing transportation issues throughout Michigan. With dwindling resources at both the federal and state levels, the use of performance management principles has become important in making decisions and monitoring program effectiveness, particularly when it comes to transportation agencies. Both agencies agree to use the performance measures to track and monitor the health of the Federal-Aid Highway Program. A periodic evaluation of those performance measures will provide the tools to determine where changes should be made in the oversight of projects, or where to focus our collective stewardship efforts.

Congress has charged FHWA with administering the Federal-Aid Highway Program under *Title 23* and other associated laws. FHWA and MDOT jointly administered the Federal-Aid Highway Program for many years. This Stewardship and Oversight Agreement formalizes these delegated roles and responsibilities to address how the program will be administered in Michigan. This agreement replaces the Federal-Aid Project Administration and Oversight Agreement dated March 10, 2004, and is effective immediately. It may be modified at any time by mutual agreement between FHWA and MDOT.

Russell L. Jorgenson
Division Administrator
Federal Highway Administration

Approved on November 29, 2011

Kirk T. Steudle
Director
Michigan Department of Transportation

Approved on November 29, 2011

Federal Highway Administration

MDOT
Michigan Department of Transportation

MDOT/FHWA Stewardship & Oversight Agreement

We, as MDOT and FHWA-MI Division leaders, agree to adopt, support and facilitate the provisions of this Stewardship & Oversight Agreement to achieve a successful partnership in delivering the Michigan Federal-aid program.

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Federal Highway Administration Michigan Division AND Michigan Department of Transportation Stewardship AND Oversight Agreement

This Agreement supersedes all previous Stewardship and Oversight Agreements between FHWA Michigan Division and MDOT.

SECTION I: INTRODUCTION

This Stewardship and Oversight Agreement ("Agreement") is established to outline the parameters of the relationship between the Federal Highway Administration (FHWA) Michigan Division and the Michigan Department of Transportation (MDOT) and clarifies our respective roles and responsibilities in delivering all phases and aspects (planning through system operations) of the Federal aid Highway Program (FAHP) in Michigan. This Agreement formalizes these roles and responsibilities to address how the FAHP will be administered in the State of Michigan.

The FHWA and MDOT have jointly delivered the FAHP for many years. Both agencies have been tasked with carrying out the FAHP efficiently and effectively to help accomplish national goals, as well as the mutual federal-state and/or local goals. Stewardship efforts include oversight and approval actions, as well as many day-to-day actions that are routinely performed to ensure that the FAHP is administered in regulatory compliance and in ways that enhance the value of the program funds authorized by Congress. This Agreement is intended to result in the efficient and effective management of public funds and to ensure that the FAHP is delivered consistent with laws, regulations, policies, and good business practices.

This Agreement is intended to be a living document and supersedes all previous oversight agreements between FHWA and MDOT. In order to ensure that the Agreement stays current, FHWA and MDOT leadership will jointly review the document annually. Each organization will have the opportunity to suggest a change to the document at any time when there is mutual agreement that the change(s) is necessary.

This Agreement is comprised of seven sections that address the general working relationships and responsibilities of both agencies. This Agreement also contains chapters on 19 broad program areas that address most of the main elements of the FAHP, based on regulations and national policies.

Background

The U.S. Secretary of Transportation has delegated to the Administrator of FHWA the responsibility for administering the FAHP under Title 23 of the United

States Code (USC), and other associated laws. In addition, FHWA responsibility for administering the FAHP has been clearly outlined in the following legislation: the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991; the Transportation Equity Act for the 21st Century (TEA-21) of 1998; and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005. These laws allow states to assume the Secretary's responsibilities in the design, construction, award, and inspection of certain Federal aid projects. Congress has also enacted programs allowing the Secretary to assign, and for the states to assume, certain environmental responsibilities pursuant to Sections 6004 and 6005 of SAFETEA-LU.

Section 106 of Title 23 of the USC, requires the FHWA and the state transportation agency to enter into an agreement that documents the delegation of responsibilities between the two agencies. SAFETEA-LU further defines the requirements of stewardship and oversight responsibilities, including increased efforts pertaining to major projects. While FHWA is charged with administering the FAHP under Title 23 of the USC, SAFETEA-LU allows the state transportation agency to accept certain delegated responsibilities for the FHWA, including approvals related to the National Environmental Policy Act (NEPA) of 1969 and the design, award, and construction of Federal aid projects and programs.

This Agreement has been prepared in accordance with the applicable laws, regulations and guidance to establish the framework by which the FHWA and MDOT will administer the FAHP efficiently and effectively. This Agreement will further many goals set forth by each agency, including maintaining the state's highway network, improving operations, improving safety, and providing for transportation security -- while at the same time ensuring the protection and enhancement of the natural environment and the social, cultural and economic resources of the communities served by that transportation system.

In October 2010, FHWA Division Administrator Russell Jorgensen and MDOT Director Kirk Steudle assembled the leadership of their respective agencies in a facilitated session to apply a team-based, partnering approach to develop this Agreement. As a result of that partnering approach, in addition to the specific roles and responsibilities outlined in the subsequent chapters of this Agreement, the FHWA and the MDOT agree to the following parameters to guide our working relationship in administering the FAHP.

Vision

The FHWA and MDOT commit that our stewardship relationship will be a productive partnership that lives out the principles of being:

- ***Collaborative*** – we work together to resolve problems and issues, to achieve the best outcome for both agencies and our mutual customers.

- ***Proactive*** – we are forward looking, and work together to address potential issues rather than react to problems after they occur.
- ***Flexible*** – while we acknowledge and respect defined roles, responsibilities and processes, we are open to new ideas and approaches to solving issues.

Goals

The FHWA and MDOT commit to work to ensure the mutual success of both agencies and to achieve the following mutually agreed upon high-level goals:

1. We will plan, build, maintain and operate the highest quality, integrated transportation system for the economic benefit, safety, and improved quality of life for our customers.
2. We will optimize the use of all available Federal aid to achieve the best outcomes for the transportation system and our customers.
3. We will collaborate to be as efficient and streamlined as possible in delivering the FAHP.
4. We will collaborate to pursue innovative approaches to improve Federal aid Highway Program processes and to enhance transportation system performance.
5. We will apply value-added stewardship and risk-based management to ensure effective management of the Federal aid Highway Program.

Communication

In order to achieve the vision and goals set forth in the previous paragraphs, purposeful and regular communication between the two agencies is key. Timely, open and honest communication is the foundation upon which FHWA and MDOT commit to provide stewardship and oversight of the FAHP. The expectation is that meaningful communication will be integral to our organizational relationships, with the goal of building and maintaining trust and credibility both mutually and with our shared customers. Both agencies agree to the following elements of successful communication:

- *Early involvement with full disclosure of information* – yields flexibility and good decision making.
- *Timely and purposeful communication* – demonstrates commitment and respect between the agencies.
- *One-on-one verbal discussions* – builds trust and strengthens the business relationship.
- *Mutual respect and professionalism at all times* – enables difficult issues or disagreements to be resolved in a positive and proactive manner.
- *Peer-to-peer communication* – addresses issues directly with the parties of interest.
- *Advance notice of potential issues* – minimizes surprises and ensures that appropriate staff members are involved in discussions.

- *Sharing draft correspondence* – ensures common understanding by both parties prior to final decisions.
- *Being open-minded* – recognizes that without change, there is no improvement.
- *Celebration of success* – shares recognition of accomplishments.

SECTION II: OVERSIGHT RESPONSIBILITIES

The FHWA and MDOT are responsible for the effective and efficient use of federal highway funds for the State of Michigan. The FHWA expects, and MDOT agrees, to act on behalf of the U.S. Secretary of Transportation for those projects and programs delegated to MDOT. MDOT will exercise similar judgment as the FHWA based upon federal laws, regulations, and FHWA policies. The following section describes the oversight roles and responsibilities for each agency regarding programs and projects. FHWA is responsible for all aspects of Federal aid programs. The provisions of this Agreement do not preclude FHWA access to and review of a Federal aid project at any time and do not replace the provisions of Title 23 USC.

Effective oversight will require communication between FHWA and MDOT and can be either formal/informal, technical/non-technical, or strategic/tactical. Routine program and project oversight activities provide many opportunities to facilitate routine communication and build the foundation for relationships between FHWA and MDOT personnel. Formal opportunities also are essential to ensure alignment of common strategic goals and provide a framework for discussing issues that are important to both agencies.

Program Oversight Determination

The goal of program oversight is to ensure that FHWA and MDOT meet the requirements set forth in USC, regulations and policies to carry out the FAHP in Michigan. Program oversight occurs in many differing formats, such as monitoring performance, program approvals, establishing business standards or establishing formal agreements. While some program oversight activities can be delegated to MDOT, certain non-Title 23 responsibilities cannot be modified. This Agreement does not modify FHWA non-Title 23 program oversight and project approval responsibilities for activities required under the Clean Air Act of 1970; the National Environmental Policy Act of 1969 (NEPA) and other related environmental laws and statutes; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; and the Civil Rights Act of 1964 and related statutes, unless expressly permitted by SAFETEA-LU sections 6004 and 6005.

Each program area is listed as part of this Agreement to define applicable laws, regulations, orders, procedures, program monitoring, business standards, program and project level approvals, and performance indicators. Please refer to each individual program section for further information. In addition to the provisions of this Agreement, FHWA and MDOT have established a number of administrative agreements to streamline the delivery of the Federal aid Highway Program. These agreements are listed in Appendix C.

One program of mutual interest is the use of alternative financing instruments. Due to the continued decline of traditional financing revenues as well as the reduced purchasing power of those revenues, MDOT and FHWA are interested in the potential use of innovative financing techniques. Several financing instruments exist to support the construction of Federal aid highway projects such as Section 129 Loans, State Infrastructure Banks, Grant Anticipation Revenue Vehicles (GARVEE), TIFIA Credit Assistance, Private Activity Bonds, and Build America Bonds. As projects become more costly and complex, MDOT and FHWA will explore integrating financial and procurement planning into the project delivery processes, facilitating earlier consideration of revenue options and financial tools, and of long-term maintenance and operating costs Prior to implementing any of these innovative techniques, MDOT and FHWA will discuss and mutually agree to the financing technique or approach to be used.

Project Oversight Determination

The approach to project oversight determination in this Agreement takes a risk-based programmatic approach, to identify low-risk projects, new or reconstruction projects on the Interstate over $1 million. Inherently low-risk oversight projects include those that are routine, simple, repetitious and generally non-controversial in which MDOT has a high level of experience and documented procedures and processes in place for ensuring compliance with federal regulations. Inherently low-risk projects are reflected in Table 1 (page 12) and will be MDOT Oversight projects.

Full Oversight Projects

Full oversight projects are projects that require FHWA to review and approve actions pertaining to design, plans, specifications, estimates, right-of-way certification statements, contract awards, inspection, and final acceptance of Federal aid projects on a project by project basis. FHWA and MDOT leadership determine appropriate project oversight annually after the adoption of the five-year construction plan. The annual review will make a determination for the new fifth year, as well as a reassessment of the previous project oversight determinations for the projects in the prior four years. An assessment of how the construction plan projects will be packaged into a construction contract (i.e., use of multiple templates) will need to be performed to determine the project costs and applicability of FHWA oversight.

MDOT's Local Agency Program section is responsible for notifying FHWA of any local administered National Highway System (NHS) project that meets the criteria contained in the following table, as soon as the projects become available.

If new projects are added to the five-year construction plan, the projects are combined, or if projects have major scope changes after the joint annual FHWA and MDOT oversight determination, the projects will be re-evaluated to

determine if the oversight responsibility should change. This re-evaluation should occur as soon as possible after the program change. Typical project oversight responsibility is detailed in Table 1 below.

All major projects will be full oversight. Major projects are defined as costing over $500 million or as designated by the U.S. Secretary of Transportation. For major projects, MDOT will be required to submit initial and annual financial plans and a project management plan. MDOT also will be required to prepare for and participate in the FHWA cost estimate review. Projects over $100 million but less than $500 million are required to have an MDOT-prepared financial plan regardless of oversight designation.

Project Oversight Responsibility

Type of Project	Primary Oversight Responsibility
Interstate 4-R ≥ $5 million	FHWA
Interstate 4-R < $5 million	MDOT
Interstate 3-R ≥ $5 million	FHWA or MDOT - to be determined
Interstate 3-R < $5 million	MDOT
Non-Interstate NHS ≥ $5 million	FHWA or MDOT – to be determined
Non-Interstate NHS < $5 million	MDOT
Non-NHS - All Projects	MDOT
Major Projects≥ $500 million	FHWA
Projects $100-500 million	FHWA or MDOT – to be determined

Note 1: NHS-projects are defined by system, regardless of the federal funding source.
Note 2: Major projects are defined as costing over $500 million or as designated by the U.S. Secretary of Transportation.
Note 3: For purposes of determining the applicability of MDOT oversight, the terms “4R” New Construction/Reconstruction and “3R” Resurfacing, Restoration, and Rehabilitation shall be as defined in Section 3.08.01 of the MDOT Road Design Manual
Note 4: Oversight responsibilities for Design-Build projects shall follow the above table.

FHWA may review MDOT oversight projects as part of a program/process review or as part of a general review of MDOT’s oversight of Federal aid projects. Other projects may be selected for full oversight by mutual agreement by FHWA and MDOT. Examples of projects likely to be selected are:

- Projects using innovative contracting techniques
  - Public-Private Partnerships
  - Non-routine Use of SEP 14
  - SEP 15
- Projects that Contain High-risk Elements
- Complex Emergency Relief Projects
- Complex Reconstruction Projects
- Large, Complex, or Unusual Structures, Complex Local Public Agency (LPA) Projects

FHWA will organize the number of oversight projects by MDOT region and FHWA functional area. In those cases where the number of FHWA oversight projects in a region is less than two based on the criteria in Table 1, additional projects will be mutually selected on a case-by-case basis to ensure a minimum of two FHWA full oversight projects per MDOT region. FHWA will strive for a minimum of seven full oversight projects per FHWA area engineers' area of responsibility. Additionally, FHWA will strive for providing oversight on five to 10 percent of all Federal aid projects in Michigan and 20 to 40 percent of the total Federal- aid funding for Michigan. If the selection of additional full oversight projects is necessary to meet these goals, the additional projects will be mutually selected on a case-by-case basis.

For additional information on oversight responsibility by FHWA and MDOT, see the discussion in the various program area chapters.

Delegated Program and Project Responsibilities/MDOT Oversight

Delegated projects are projects in which the MDOT ensures compliance with Federal aid requirements and assumes review and approval actions for FHWA. When program and project responsibilities are delegated to MDOT, FHWA expects MDOT to act on behalf of the U.S. Secretary of Transportation. MDOT will also exercise similar judgment as the FHWA when carrying out those responsibilities based upon federal laws, regulations, and FHWA policies. For programs and projects delegated to MDOT, MDOT's actions and approvals responsibilities are as follows:

1. MDOT shall comply with Title 23 and certain non-Title 23 USC FAHP requirements, such as metropolitan and statewide planning, environment, procurement of engineering and design-related service contracts, Title VI of the Civil Rights Act, participation by Disadvantaged Business Enterprises, prevailing wage rates, and acquisition of right-of-way, etc.
2. MDOT shall assure that right-of-way approval; utility approval; environmental approvals; railroad approval and related activities; design approval; design exceptions (NHS); PS&E approval; concurrence in award; and construction-related activities are performed in accordance with state policies, practices, and standards, and in accordance with all requirements of Title 23 USC.
3. For MDOT oversight programs or projects that are developed and administered by local agencies, MDOT shall provide the necessary review and approval to assure compliance with federal requirements. See section below for further details (Locally Administered Projects).

For programs and projects delegated to MDOT, FHWA retains authority for the following actions and approvals:

1. All federal responsibilities for planning and programming oversight specified in Title 23 USC 134 and 135,

2. Federal air quality conformity determinations required by the Clean Air Act,
3. Obligation of funds,
4. Waivers to Buy America requirements,
5. SEP-14/SEP-15 methods,
6. Civil Rights program approvals,
7. Environmental approvals, except those specifically assumed under Sections 6004 and 6005 of SAFETEA-LU,
8. Addition of access points on the Interstate system,
9. Use of Interstate airspace for non-highway related purposes,
10. Hardship acquisition and protective buying,
11. Modifications to project agreements,
12. Final vouchers,
13. Toll authority, and
14. Section 1.9(b) Approval of Federal Participation.

Locally Administered Projects

FHWA expectation is that MDOT shall assume the responsibility and represent FHWA when administering the FAHP to local governments. MDOT also will exercise similar judgments as FHWA, based upon federal laws, regulations, and FHWA policies including sub recipient oversight (23 USC 106(g) (4)), sub grantee awareness of grant requirements (49 CFR Part 18.37), management of grants (49 CFR 18.40) and pass through entity responsibilities (OMB Circular A-133part 400(d). MDOT shall determine an LPA is able to satisfy the following requirements:

1. The LPA has adequate project delivery systems and sufficient accounting controls to properly manage projects.
2. The LPA is staffed and equipped to perform work satisfactorily and cost effectively, and that adequate staffing and supervision exists to manage the federal project(s).
3. Use of any contract procurement method, other than competitive bidding, by an LPA must be reviewed and approved by MDOT before its use.
4. Projects receive adequate inspection to ensure that they are completed in conformance with approved plans and specifications.
5. When the LPA elects to use consultants for engineering services, the LPA shall provide a full-time employee of the agency to be responsible for and in charge of the project.

Summary

FHWA and MDOT mutually agree to the exemptions defined in this section of the Agreement as allowed by Title 23 Section 106 and further agree to abide by the procedures, practices, and business standards outlined throughout this Agreement in regards to oversight determination. This Agreement may be modified upon mutual agreement of both parties.

SECTION III: STEWARDSHIP AND OVERSIGHT METHODS

In general, evaluations and assessments should determine what is working well, opportunities for improvement, and potential risks for the program. Routine FAHP management is performed by the program area leaders from both agencies. It is recognized that FHWA will also perform independent program and project assessments. The performance of the Agreement and health of the FAHP are evaluated through the use of various stewardship and oversight methodologies. Some of these methods are formal and regularly scheduled, while others are used on an ad-hoc basis. The stewardship and oversight methodologies include, but are not limited to:

- Program and Risk Assessments
- Project Reviews
- Program Reviews (FHWA)
- Quality Assurance Reviews (MDOT)
- Financial Integrity Review and Evaluation Program
- Peer Reviews, Partnering and Task Force Activities

Program and Risk Assessments

Program assessments are used to evaluate the current state of the program and determine the desired future state. Program assessments then identify initiatives intended to 'close the gap' between current practice and the desired future state. Program assessments are used to document and ensure programs operate efficiently and effectively, compliance with federal regulations, and to ensure project oversight.

The FHWA conducts annual program and risk assessments. Program assessments are conducted in conjunction with the risk assessments for the various program areas. The FHWA is responsible for preparing the program assessments. The primary purpose of the assessments is to identify the strengths and opportunities for improvement of the various program areas (i.e. provide the current state of the various programs). In addition, these assessments document the risk rating for the established risk criteria, and discuss the future direction and goals for the programs.

During the months of January and February of each year, FHWA program managers will conduct program assessments of the prior year's program and identify potential risks. This is a joint activity in which the FHWA assessment results are considered and the program indicators, described within Appendix F, are reviewed. The appropriate MDOT program managers for each agency will be contacted to participate in all or portions of these FHWA-led assessments.

These Assessments provide key input in identifying FHWA major initiatives and activities in the Division's Unit Performance Plan, the Division's Program of Oversight Initiatives (POI), and the selection of the Division's Program Reviews. The FHWA Unit Performance Plan is developed annually and serves as the key strategic planning document for delivering the FAHP. The FHWA POI captures risk-based initiatives associated with FHWA oversight responsibilities and positions the FHWA to respond to various reviews and audits, and to further demonstrate that FHWA oversight is reasonable and consistent. The Program Reviews are discussed further in this section and strategic planning is discussed in Section IV of this Agreement.

Project Reviews

Project reviews are a valuable tool for determining adherence to applicable laws, regulations, and policies. Project reviews also give the FHWA a general understanding of the individual MDOT TSC/Region/Central Office's oversight. In addition, project reviews help guide the selection process for future FHWA-led Program Reviews.

The degree of project review activity is established by the FHWA Engineering and Operation Manager, in discussions with the individual FHWA Area Engineer and appropriate MDOT Program Specialist, based on risk, comfort level, and resources to conduct reviews. If possible, issues should be resolved during the time of the review. Each FHWA Area Engineer and FHWA Program Specialist will devise a method during project reviews to address any future follow-up needed or necessary changes to program or project level processes.

The FHWA may also use various other project review techniques, including participation in project-related meetings, participation in value engineering teams, project inspections, and certification reviews. Project reviews conducted by FHWA in conjunction with MDOT field staff are used as a quality assurance instrument and communication tool between Region TSC offices and MDOT Central Office.

Program Reviews

Program Reviews are a primary tool used by FHWA to evaluate and oversee the delivery of the FAHP. The size and intensity of the Program Review will depend on the topic or program being reviewed. The primary purpose of the Program Review is to provide the FHWA with a control technique that documents Federal Aid funds are being spent in accordance with federal laws, regulations, and policies. In addition, the Program Review may evaluate the effectiveness of the processes, procedures, and products developed by MDOT, as well as the internal operations of the FHWA. Based in part on these reviews, assurances can be made that a program is being implemented as intended and is producing a quality product.

FHWA staff lead the Program Reviews in their respective program areas, and participation by MDOT staff is encouraged. Program Reviews are selected as a result of the FHWA Risk Assessment process, as well as identified special emphasis areas and can be conducted on a statewide, area-wide, or program basis. The Program Review coverage is applicable to Title 23 and non-Title 23 activities on all Federal Aid projects, regardless of route designation [i.e., National Highway System (NHS) or non-NHS] or Federal Aid funding category. These reviews are typically jointly sponsored by the FHWA and MDOT management.

Quality Assurance Reviews (QAR)

Quality Assurance Reviews assist both MDOT and FHWA in the stewardship and oversight of the Federal Aid Highway Program. The QAR is intended to establish or improve MDOT control processes and documents for functional areas of responsibility (environment, design, construction, etc.). MDOT Central Office personnel lead these compliance-based reviews, and FHWA personnel are encouraged to actively participate in these reviews.

Financial Integrity Review and Evaluation Program

The FHWA conducts the Financial Integrity Review and Evaluation (FIRE) to ensure that Federal-Aid funds are properly managed and effectively used in accordance with federal policies, and that safeguards are in place to minimize fraud, waste, and abuse. In addition, the FIRE program ensures that proper internal controls are established and followed, with objectivity and a separation of financial duties in conducting MDOT day-to-day operations. The FHWA conducts FIRE reviews on an annual basis, and they coordinate with MDOT personnel and division staff, as necessary. The FIRE activities consist of the following:

1) Financial Program Reviews
2) Improper Payment Reviews
3) Inactive Federal-Aid projects Reviews
4) Single Audit Review
5) Other Federal Audit Findings Review (as applicable)

In support of the FHWA FIRE program, MDOT conducts various financial audits (involving respective program staff, as applicable) of external agencies receiving Federal-Aid funds to ensure the proper use of these funds and that Federal and State requirements are met. The audits are conducted both in conjunction with and independent of the FIRE program.

Peer Reviews, Partnering and Task Force Activities

Ad hoc groups and activities improve communication, enhance program delivery and provide a host of other benefits to delivering the FAHP in Michigan. All of these activities can be used as methods for monitoring the health of the FAHP, enhancing individual program areas, and furthering the visions and goals set forth in this Agreement. The FHWA and MDOT have used many of these techniques for a variety of program areas and issues.

Peer reviews are typically ad-hoc groups created to discuss and review management processes/practices in a particular program area. Information on policies and procedures are exchanged with the intent to improve overall program processes. The information gathered from the exchange is presented to agency management for process improvement typically in a final report of best practices or recommendations for improvement.

Partnering is another effective ad-hoc technique used to improve communications and enhance the resolution of conflicts during project development and construction. Active participation in partnering activities has resulted in improved communications and better working relationships between FHWA, MDOT, Federal and State Resource Agencies, and the transportation industry in general.

Task force activities are typically ad-hoc and temporary groups established to address specific issues or make specific recommendations. The FHWA may participate in joint FHWA/MDOT teams under the purview of value-added, re-engineering, or quality improvement. These activities can be an effective method of oversight, an opportunity to strengthen the FHWA/MDOT partnership, and an effective means of adding value and effecting change to a particular program.

SECTION IV: STRATEGIC PLANNING & PERFORMANCE MANAGEMENT

In order to successfully achieve the mission, vision and goals of this agreement, as outlined in the introduction, both agencies are committed to perform a regular and collaborative process that will further the accomplishment of the high level, mutual goals of both agencies. This process will be carried out as part of the Program and Risk Assessment reviews conducted in January and February of each year and will further drive the strategic planning process of both agencies.

Each year, as part of the program assessment process, FHWA program managers and their MDOT counterparts will convene to assess the current year's program performance against stated objectives and measures established in this agreement. Program managers from each agency will be responsible to review commitments made for each program in regards to monitoring, business standards, and performance indicators, as well as the results from performance indicators settled on in this agreement.

The FHWA and MDOT have identified stewardship and oversight indicators that represent all program areas and will be used to track the effective administration of the FAHP. Appendix F list all the program indicators mutually agreed upon between both agencies. Each agency will gather measures and related input from existing sources to the extent possible, such as the FHWA quarterly data reports and the MDOT Dashboard (Performance Measurement Task Force), to evaluate current performance of their respective program areas. This analysis will become part of the annual program and risk assessment process, and will feed into both agencies' strategic planning process.

In late March of every year, the FHWA and MDOT will have a facilitated discussion of high priority recommendations to meet objectives, standards, or performance set forth in this agreement for each program area. Both FHWA and MDOT leadership will consider the highest priority recommendations based on the relative risk of failure to adequately administer the Federal-aid Highway Program. It is intended that the recommendations will lead to action items that can be directly linked to activities in both agency's strategic planning documents.

SECTION V: CONTROL DOCUMENTS

Internal controls are a critical piece of stewardship and oversight, and are an integral part of delivering the FAHP effectively and consistently. These should be constantly evaluated through the methodologies outlined in Section III of this Agreement. Deficiencies in management controls also may be addressed through the strategic planning process, FHWA Program of Oversight Initiatives (POI) or other such planning documents. Certain control documents apply in implementing this agreement.

In assuming certain program and project-level responsibilities under Title 23 USC Section 106 and SAFETEA-LU – Section 1904, 6001, 6003 and 6004, MDOT agrees to comply with FHWA-approved standards in accordance with 23 CFR 625.4, 655.603, and related Federal regulations and policies. The FHWA shall approve required MDOT policies or standards that expand on, amplify, or amend these documents. Refer to Appendix D for a list of key MDOT policies involving the FAHP.

The implementation and management of this Agreement will be made with the following understanding in regard to control documents:

1. All projects on the National Highway System (NHS) (Interstate and non-Interstate) shall conform to MDOT-adopted design and construction standards, as approved or accepted by FHWA. Regardless of which standards apply, case-by-case exceptions will continue to be approved where justified and documented for all types of projects. MDOT procedures for processing design exceptions are contained in Chapters 3 and 14 of the MDOT Road Design Manual. Approval of design exceptions will be by FHWA on FHWA full oversight projects and by MDOT on delegated projects.

2. ISTEA Section 1016 modified Title 23 USC Section 109 Standards, which requires state-developed/FHWA-approved standards for NHS projects. It also specified that non-NHS projects be designed, constructed, operated and maintained in accordance with State laws, regulations and directives. FHWA interpreted this section to mean that states would follow their own laws and procedures for the design, construction and maintenance of Federal aid and non-NHS projects as they would for State-funded projects. However, certain Federal-aid requirements continue to apply to all Federal-aid projects. These requirements include non-Title 23 requirements:

   - The Clean Air Act of 1970 and as amended in 1990,
   - The Clean Water Act of 1977 and as amended in 1987,
   - The National Environmental Policy Act (NEPA) of 1969,, and other environmental law and requirements,

- The Statewide and Metropolitan Planning Provisions of Title 49,
- The Uniform Relocation Assistance and Real Property Acquisition Act of 1970,
- The Civil Rights Act of 1964 and other Civil Rights laws and requirements including the DBE Program,
- The Davis-Bacon and Related Acts,
- The Common Rule (49CFR 18) with respect to procurement,
- The Brooks Act (Qualification Based Selection of Engineer and Architects), or
- Required Federal contract provisions (FHWA Order 1273).

These requirements include general Title 23 USC requirements:

- Competitive Bidding Requirements
- Buy America
- The Statewide and Metropolitan Planning Provisions of (Title 23 USC Sections 134 and 135)
- Manual on Uniform Traffic Control Devices (MUTCD)
- Proprietary Products
- Outdoor Advertising Control
- Federal Land Transfers
- Sale of Excess Land
- Value Engineering

SECTION VI: ISSUE RESOLUTION PROCESS

While most requests to address project or program matters result in a positive response within reasonable time frames, there are occasions when an agreement cannot be reached by both parties. It is the intent of both agencies that all issues should be resolved at the lowest working level between FHWA and MDOT staff, and where the issue originated. For this to occur, effective communication is absolutely essential, as it is the foundation of a solid partnership. Effective communication, grounded in mutual trust, will help assure proper issue identification and resolution. It is the intent of this section of the Agreement to provide a template for resolving issues that have reached an impasse at the normal operational level.

Generally, issues should not be elevated before each agency has exhausted available options, including referencing the repository of previously documented issues, within a reasonable time frame. Depending on the urgency of the issue, and for the purposes of this Agreement, reasonable time frames are defined as two to five business days to resolve the issue before both parties agree to escalate an issue. Both parties are encouraged to reach out and contact each other at the lowest working level via phone (first option) or face-to-face (second option), using due diligence to resolve issues or clarify misunderstandings (i.e., clarify comments or requests, better understand positions, etc). This includes consulting existing relevant policy and guidance documents.

Frequently an issue arises because current policy is either unclear or needs interpretation. Identifying and resolving issues provides both parties with an opportunity to clarify existing and future policy, and proactively avoid future issues. Issue resolution also should be documented in a manner that is mutually agreeable. Exchanging draft e-mails or letters, for example, to confirm proper issue identification, next steps, etc., will facilitate open communication and will help ensure third-party misunderstandings or unintended consequences are minimized and the public benefit to the partnership is optimized.

While the intent is to resolve issues at the lowest possible organizational level, some issues may need to be elevated when the lower operational levels cannot come to a satisfactory agreement. The Issues Resolution Process (IRP) includes the option of using a Joint Issues Resolution Team to overcome an impasse or help resolve complex challenges. When this occurs, the FHWA Assistant Division Administrator and the MDOT Chief Operations Officer/Chief Administrative Officer may choose to resolve issues that are time-bound, carry a significant amount of risk, or that may result in the loss of Federal aid. In this case, they may select specific individuals who are deemed to have expertise/knowledge known as the Strategic Management and Resolution Team (SMART) to resolve the issue or provide recommendations or they may utilize the Joint Issues Resolution

Team. Additionally, if the FHWA Assistant Division Administrator and the MDOT Chief Operations Officer/Chief Administrative Officer cannot reach agreement on an issue, including whether or not to utilize the Joint Issues Resolution Team, they will advance the issue to the FHWA Division Administrator and the MDOT Director. Please see Appendix E for membership, scope and further details of the IRP.

In summary, both agencies expect the formal dispute resolution process will be used on an infrequent basis. As such, both parties are expected to make sustained good faith efforts to efficiently resolve all issues at the appropriate level.

SECTION VII: WASTE, FRAUD, AND ABUSE

All public agencies face significant pressure to handle more challenges with fewer resources than ever before. MDOT and FHWA are operating with significantly smaller budgets and reduced staffing levels, while striving to meet the demands of maintaining an ever-growing transportation system. MDOT increasingly relies on contract services and products to accomplish goals, for which both agencies have oversight accountability. As stewards of public funds, we need to remain vigilant because the consequence of fraud, waste, and abuse is less money available to meet program objectives. More importantly, public confidence will be compromised. Prevention of fraud, waste and abuse is especially critical at a time when infrastructure needs are increasing and the state's fiscal resources are struggling to meet increased demands.

Simply put, fraud is an intentional misrepresentation for personal or corporate gain involving deception to gain an unfair advantage over another. Nationwide, fraud in highway construction projects is relatively common, increasingly sophisticated, and crosses geographical boundaries. Highway fraud cases can involve a variety of situations. Some examples include bid rigging, price fixing, product substitution, bribery and kickbacks, conflicts of interest, false statements and claims, labor and materials overbilling, and corruption of public officials. Although there are many examples that could indicate risk of fraud in any phase of the contract process for highway construction projects, a few include:

- Specifications that appear to favor the services and materials of certain contractors, subcontractors, suppliers, sole sources, etc.
- Paying employees appropriate wages, then demanding cash kickbacks.
- Conflict of interest resulting when an employee in a decision-making position where the employee's private interests may benefit from his or her public actions.
- Collusion as a result of competitors conspiring prior to submitting bids, such as competitors agreeing in advance who will submit the winning bid on a contract or agreeing to raise, fix, or otherwise maintain the price at which their goods or services are sold.
- Product substitution involving the introduction of counterfeit and/or substandard materials in place of the specified materials.
- Disadvanged Business Enterprise (DBE) fraud such as a business misrepresenting its standing as a DBE to win contract awards when a firm is owned by the DBE on paper only or when a contractor misrepresents who performed the contract work while appearing to be in compliance with contract goals for involvement of DBE-owned businesses.

Reporting Fraud

The reporting of fraud is the responsibility of everyone specifically involved in the delivery of the FAHP and for all public servants in general. As stewards of public funds, our duties involve verifying that work performed by private contractors meets the required specifications, both in materials used and in construction practices rendered. On behalf of the FHWA and MDOT, it is expected that fraudulent activities will not be tolerated and will be reported immediately to the appropriate authorities. Proactive and effective fraud prevention and detection is a collateral duty of all public employees and citizens of the state.

Pursuant to the Inspector General Act of 1978, the Office of the Inspector General (OIG) Office of Investigations, the U.S. Department of Transportation (USDOT) is responsible for conducting investigations of fraud, waste, and abuse involving FHWA programs. Any suspected fraudulent activities by federal or state employees, contractors, subcontractors, and any other participants on federally funded highway construction projects should be reported to the OIG. The OIG maintains a hotline to facilitate the reporting of allegations of fraud, waste, abuse, or mismanagement in USDOT program or operations. Per the OIG Web site; "Confidentiality is established by Section 7(b) of the Inspector General Act of 1978, which precludes the IG from disclosing the identity of a DOT employee who reports an allegation or provides information, without the employee's consent, unless the IG determines that disclosure is unavoidable during the course of the investigation. Non-Department of Transportation employees who report allegations may specifically request confidentiality."

MDOT has established a hotline for employees, contractors, consultants, and others to report suspected fraud or abuse for all state programs. The Office of Commission Audit conducts auditing activities for MDOT. The Commission Auditor then submits to the Commission reports of financial and operational audits, as well as investigations performed by staff for acceptance.

If MDOT staff members suspect fraudulent activities with a contractor regarding a Federal-aid highway project, they should immediately contact the FHWA Michigan Division Office. If MDOT staff members suspect the FHWA Michigan Division of fraudulent activities, they should immediately contact the Office of the Inspector General which coordinates fraud investigations of FHWA programs.

Contact Information:

OIG National Hotline _____ **(800) 424-9071**

OIG Regional Office-Chicago:

Audits _____ **(312) 353-0104**

Investigations	**(312) 353-0106**
FHWA Michigan Division Assistant Division Administrator	**(517) 702-1835**
MDOT Fraud Hotline	**(866) 460-6368**
MDOT Office of Commission Audit	**(517) 373-2110**

CONCLUSION

In summary, this Agreement is a living document that is intended to result in the efficient and effective management of public funds and act as a guide for delivering the FAHP in Michigan. This Agreement also will ensure that the FAHP is delivered consistent with laws, regulations, policies, and good business practices.

APPENDIX A

PROGRAM AREA STANDARDS

The following chapters lay out the specific standards which apply to the Federal Highway Administration Michigan Division and the Michigan Department of Transportation Stewardship and Oversight Agreement. This part of the agreement covers 19 program areas that address the main elements of the FAHP: Air Quality Planning; Bridges and Structures; Civil Rights; Construction and Contract Administration; Design Programs; Emergency Relief; Environmental Programs; Financial Management; Intelligent Transportation Systems; Local Public Agencies; Maintenance and Preservation; Pavements and Materials; Planning; Research, Development and Technology Transfer; Real Estate; Specifications; Traffic Operations; Traffic Safety; and Vendor Procurement. Each section makes reference to specific laws, regulation, orders and procedures that apply to the program area as well as activities for monitoring, maintaining business standards and approval. As in the sections of the agreement above, this information is provided to help ensure that the FAHP is delivered in a manner consistent with laws, regulations, policies and good business practices.

1. AIR QUALITY PLANNING PROGRAM OVERVIEW

Accounting for air quality in transportation is a requirement of the Clean Air Act of 1990 (the Act), as amended. In accordance with this Act, FHWA cannot fund, authorize, or approve federal actions to support programs or projects that are not first found to conform to the Act's requirements or are exempt activities under those requirements. The transportation conformity process integrates transportation planning and air quality planning by requiring that transportation plans, programs, and projects demonstrate that emissions resulting from their implementation are consistent with and conform to the purpose of the State Implementation Plan (SIP). The SIP is the document that reports the regulations and other materials for meeting clean air standards and Act requirements. The FHWA Michigan Division Office and Federal Transit Administration (FTA) Region 5, in consultation with US Environmental Protection Agency (USEPA) Region 5, make joint conformity determinations on projects contained within the Statewide Transportation Improvement Plan (STIP), Metropolitan Planning Organization (MPO) Transportation Improvement Plans (TIP), and amendments to these plans.

One means to improve air quality is the implementation of the Congestion Mitigation and Air Quality Improvement (CMAQ) program. The purpose of the CMAQ program is to fund transportation projects or programs that will contribute to attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). The FHWA Michigan Division Office, jointly with FTA Region 5, determines eligibility for inclusion in this funding program on a project-by-project basis using criteria contained in the 2008 Program Guidance issued jointly by the FHWA Office of Planning and Environment and the FTA Office of Planning. Key Division actions include project eligibility determinations and submittal of the annual State CMAQ Report to headquarters.

Applicable Laws, Regulations, Orders, and Procedures

- 42 USC 7401-7671q (Clean Air Act)
- 40 CFR 51
- 40 CFR 93
- Transportation Conformity Regulation (August 15, 1997)
- 23 CFR 450
- 23 USC 134 - Metropolitan Planning
- 23 USC 135 - Statewide Planning
- 49 USC 53 - Mass Transportation CMAQ
- 23 USC 104
- 23 USC 110
- 23 USC 149

Monitoring

- MDOT will monitor MPO Plans and TIP development activities to ensure that the work is being managed and performed satisfactorily and that conformity requirements are being met.

- FHWA and MDOT will consult with USEPA and the Michigan Department of Environmental Quality and work closely with each MPO in non-attainment and maintenance areas to assure the timely delivery and approval of documents relative to program delivery schedules.

Business Standards

- FHWA will review and take action on CMAQ projects within 30 business days of receipt.
- FHWA will review and comment on the draft and final conformity documentation for Metropolitan Transportation Plans and the TIP within 60 business days. This time frame includes a 30-business day FHWA review/comment period and a 30-business day-period to coordinate with the FTA and United States Environmental Protection Agency (EPA). MDOT will involve FHWA in decisions involving special and unusual circumstances at the earliest reasonable time to ensure thorough and appropriate decisions can be made.
- MDOT will provide the FHWA Michigan Division Office an annual report of each fiscal year's CMAQ program that meets the requirements of 23 USC 149 by January 31 of each calendar year. Additional guidance for preparing the annual report is discussed in the 2008 Program Guidance issued jointly by the FHWA office of Planning and Environment and the FTA Office of Planning.

PROGRAM ACTIVITY APPROVAL CHART

PROGRAM	REFERENCE	ACTION NEEDED	FREQUENCY	LEAD AGENCY
Conformity	42 USC 7401-7671q (Clean Air Act) 40 CFR 51 40 CFR 93 August 15, 1997 Transportation Conformity Regulation 23 CFR 450 23 USC 134 - Metropolitan Planning 23 USC 135 - Statewide Planning 49 USC 53 - Mass Transportation	Conformity Determination	Not less than every 4 years	FHWA
CMAQ Annual Report	23 USC 149 (h) (2)	Review MDOT's report and submit to FHWA HQ	Annually in February	FHWA
CMAQ Eligibility	23 USC 104 23 USC 149 (primarily)	Eligibility Determinations	Periodically – individual submissions by MDOT	FHWA

2. BRIDGES AND STRUCTURES PROGRAM OVERVIEW

Key bridge program stewardship and oversight activities serve to ensure bridge projects are designed, constructed, inspected, and maintained safely and economically in accordance with sound engineering practices. Some activities are required by law, regulation or FHWA policy. Other beneficial activities, which are not necessitated by law or regulation, are encouraged subject to risk assessment and resource availability. Key bridge program stewardship and oversight focus areas include:

1. The National Bridge Inspection Program
2. The Highway Bridge Program
3. Bridge Design
4. Bridge Construction
5. Hydraulics and Scour Plans of Action
6. Bridge Maintenance and Preservation
7. Indian Reservation Roads Bridge Program

Applicable Laws, Regulations, Orders, and Procedures

- Title 23 USC 144 Highway Bridge Program
- Title 23 USC 151 National Bridge Inspection Program
- 23 CFR 625, Design Standards for Highways
- 23 CFR 627, Value Engineering
- 23 CFR 630, Preconstruction Procedures
- 23 CFR 650 Bridges, Structures, and Hydraulics
- 23 CFR 652, Pedestrian and Bicycle Accommodations and Projects
- 23 CFR 658, Truck Size and Weight, Route Designations – Length, Width and Weight Limitations
- 23 CFR 661, Indian Reservation Road Bridge Program

Approved Procedures, Agreements, and Manuals

- MDOT Bridge Design Manual
- MDOT Bridge Analysis Guide
- MDOT Bridge Standard Plans
- MDOT Drainage Manual
- MDOT Bridge Design Guides
- MDOT Scoping Manual
- MDOT Standard Specifications for Construction
- MDOT Frequently Used Special Provisions
- MDOT Bridge Inspection Manual
- FHWA Bridge Inspection Coding Guide
- AASHTO A Policy on Geometric Design of Highways and Streets
- AASHTO Standard Specifications for Highway Bridges

- AASHTO LRFD Bridge Design Specifications
- Technical Advisory T 5140.21, Revisions to the National Bridge Inspection Standards (NBIS)

Monitoring

FHWA Michigan Division Office will:

- Screen bridges for Highway Bridge Program funding eligibility.
- Review Preliminary Engineering Studies and Project Scopes.
- Review Type Size and Location reports (Structure Studies).)
- Review bridge design plans on FWHA full oversight projects.
- Provide oversight of bridge construction.
- Review Critical Bridge Inspection reports.
- Review semi-annual scour critical Plan of Action (POA) status.
- Perform special process reviews of specific program elements such as hydraulics, geotechnical, design, or construction on a periodic basis.
- Perform annual reviews to establish compliance with the NBI.
- Following completion of a project or maintenance work, ensure that MDOT remeasure the vertical clearance of any bridge possibly affected within 30 business days.
- Review Bridge Construction Unit Costs submittal and forward to FHWA Headquarters.
- Review MDOT applications for Innovative Bridge Research and Deployment grants and forward to FHWA headquarters.
- Review MDOT applications for the National Historic Covered Bridge Preservation Program grants and forward to FHWA headquarters.
- Review systematic processes for preventive maintenance projects on a periodic basis to confirm compliance with the National Bridge Inspection Standards (NBIS).
- Provide technical assistance.

Business Standards

- FHWA will review and comment on Preliminary Engineering Studies and Project Scope Reports within 30 business days of receipt.
- MDOT will submit the annual update of NBI data for the previous calendar year to FHWA Michigan Division Office for review by April 1 of each year. The FHWA Michigan Division Office will forward to FHWA Headquarters.
- MDOT will submit the annual update of Bridge Construction Unit Cost data for the previous calendar year to FHWA Michigan Division Office for review by March 1 of each year. The FHWA Michigan Division Office will forward the update to FHWA headquarters.

Program Approval Actions

- FHWA will make an annual determination of compliance with the NBIS.

PROGRAM ACTIVITY APPROVAL CHART

PROGRAM	REFERENCE	AGENCY RESPONSIBLE
NBIS Review	23 CFR 650 Subpart C	FHWA
Inventory and maps of deficient bridges on the 16' component of the STRAHNET	23 CFR 625	MDOT
Bridge Unit Cost submittal	23 CFR 650 Subpart D	MDOT
Innovative Bridge Research and Deployment Program candidate submittals	23 USC 503 (b)	MDOT
National Historic Covered Bridge Candidate submittals	Section 1224 - TEA21	MDOT
Semi-Annual scour POA updates	N/A	FHWA
Reports for: Bridge Posting, Critical Findings, and Inspection Frequency	N/A	MDOT

Project Approval Actions

- FHWA will approve eligible bridge projects according to Section II of this Agreement.
- Unusual or complex bridge projects on the Interstate system will require FHWA headquarters review and approval of the preliminary Type Size and Location (TS&L) report.

PROJECT ACTIVITY APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE			
Approval Action	**Reference Document**	**FHWA Oversight Projects**	**MDOT Oversight Projects**	**MDOT Oversight Projects: All Non- NHS Projects**	**Other Projects Subject to FHWA Oversight by Mutual Agreement**
HBRRP eligibility determinations	23 CFR 650 Subpart D	FHWA	MDOT	MDOT	FHWA/MDOT
Preliminary Engineering Studies and Project Scopes	NA	FHWA	MDOT	MDOT	FHWA/MDOT
TS & L	23 USC 106 23 CFR 630	FHWA	MDOT	MDOT	FHWA/MDOT
Structural Plans	23 USC 106 23 CFR 630	FHWA	MDOT	MDOT	FHWA/MDOT
Construction Inspections	FAPG G 6042.8	FHWA/MDOT	NA	NA	NA
Exempt bridge from Coast Guard permit requirements	23 CFR 650.805	FHWA	FHWA	FHWA	FHWA

3. CIVIL RIGHTS PROGRAM OVERVIEW

The FHWA Michigan Division Office and MDOT are committed to effectively implementing and enforcing Civil Rights programs within the Federal aid Highway Program. Civil Rights programs are administered by FHWA, MDOT, and MDOT's sub-recipients in the planning, construction, and management of Michigan's Federal aid Highway System.

Continual emphasis and monitoring of Civil Rights programs by FHWA and MDOT occurs on a regular basis. The purpose of MDOT's Civil Rights programs is to protect the rights of those employed in, benefiting from, or affected by the FHWA or the programs, policies and activities of its recipients, sub-recipients, or contractors. Every Federal aid highway project/program must be in compliance with some aspect of Civil Rights laws, statutes, and/or executive orders regardless of whether the program, service, or activity is federally funded.

MDOT Civil Rights programs are administered between two units in State government. The Office of Business Development oversees:

1. Equal Employment Opportunity (EEO) Contractor Compliance,
2. Disadvantaged Business Enterprise (DBE),
3. Disadvantaged Business Enterprise Supportive Services (DBE/SS),
4. On-the-Job Training Supportive Services (OJT/SS).

The Executive Office's Civil Rights Program Unit oversees:

1. Title VII State Department of Transportation Internal EEO,
2. Title VI of the Civil Rights Act, including related statutes and Executive Orders (e.g., Limited English Proficiency and Environmental Justice),
3. The Americans with Disabilities Act of 1990,
4. Section 504 of the Rehabilitation Act of 1973.

FHWA and MDOT will ensure that all Federal aid highway programs, services, and activities provide equal opportunity and prohibit discrimination based on race, color, national origin, disability, sex, age, or socio-economic status. The Civil rights of low-income populations, minority populations, the elderly, non-minority populations, persons with disabilities, and Tribal governments, will be routinely and carefully considered. Complaints of discrimination will be addressed through an established complaint procedure process as described in MDOT Civil Rights program policy and procedures.

<u>Approved Procedures, Agreements, and Manuals</u>

- MDOT DBE Program Administration Guidelines
- MDOT OJT Program Guidelines
- MDOT EEO Contractor Compliance Manual
- MDOT Title VI Nondiscrimination Plan Guidelines
- MDOT Programmatic Responsibilities
- MDOT Environmental Justice

- MDOT Limited English Proficiency
- MDOT Standard Assurances
- MDOT Internal Equal Employment Opportunity (EEO) Plan (Title VII)
- MDOT Environmental Justice Guidance Document
- MDOT ADA Transition Plan
- MDOT ADA Guidance Document
- FHWA Civil Rights Program Toolkit

Monitoring

- FHWA will review and approve MDOT's programs on an ongoing basis through process assessments, and program reviews and through active participation in continuous program evaluation and improvement.
- Appropriate FHWA representatives will actively participate in MDOT-initiated reviews, task forces, and other Civil Rights initiatives upon request and to the extent feasible.
- Appropriate MDOT representatives will actively participate in FHWA-initiated reviews, task forces, and other Civil Rights initiatives. MDOT will ensure nondiscrimination and compliance with Civil Rights laws by its sub-recipients.
- Monthly meetings with FHWA and MDOT (internal and external programs)
- Review of required program plan/updates prepared by MDOT, providing feedback and need for corrective actions as deemed necessary before granting approval.
- Analyzing progress reports or other data submitted by MDOT to identify trends/provide feedback and recommendations.
- Process/Program reviews (including Planning Certification Reviews, environmental documents, et al).

PROGRAM ACTIVITIES APPROVAL CHART

PROGRAM		ROLES AND RESPONSIBILITIES			
Approval Action	**Reference Document**	**Due Date**	**Frequency**	**MDOT Role**	**FHWA Role**
ADA Transition Plan	23 CFR 652 Americans With Disabilities Act Section 504 of the Rehabilitation Act of 1987	Update as needed		Programs are developed by MDOT	Review Guidance
Contractor Compliance Review Program	Section 22 (a.) 1968 Federal aid Highway Act (23 USC 140) 23 CFR Part 230 Subparts A&D Title VI of the CRA of 1964 Executive Order 11246 23 CFR Part 633 FHWA 1273	30 business days from date received Review Complete	Annually	Federal aid highway contracts of $10,000 or more are monitored by MDOT. Contractor compliance reviews/audits are conducted by MDOT.	Monitor Review Concur or No concur
Disadvantaged Business Enterprise Program-Semi-Annual report	49 CFR Part 26 Title VI of the CRA of 1964 23 CFR Part 230 Subpart B 13 CFR Part 121 SBA, Size Standard	As needed 1-Dec 1-June	As needed Twice a year	Update program procedures Monitor CUF of DBE firm(s) participating on Federal aid contracts	Monitor Approve Report to FHWA HQ
DBE Goal Methodology	49 CFR Part 26	Aug 1, 2014	Every three years	Update goal methodology	Monitor Review and send to FHWA HQ for approval
DBE Supportive Service Plans	23 CFR Part 230	April 1	Annually	Prepare Plan	Monitor Review and send to FHWA HQ for funding approval
Environmental Justice Program	Executive Order 12898	Ongoing	As Needed	Programs are developed by MDOT EEO Officer and approved by MDOT Director	Review Guidance Approve
Equal Employment Opportunity On-the-Job Training/Supportive Services Program	23 USC 140 23 CFR Part 230 Title VI of the CRA of 1964 Equal Employment Opportunity Act of 1972 Americans With Disabilities Act of 1990	Ongoing	As Needed	Prepare proposal	Monitor Review and send to FHWA HQ for funding approval

PROGRAM		ROLES AND RESPONSIBILITIES			
Approval Action	**Reference Document**	**Due Date**	**Frequency**	**MDOT Role**	**FHWA Role**
Limited English Proficiency Program	Executive Order 13166	Ongoing	As Needed	Programs are developed by MDOT EEO Officer and approved by MDOT Director	Review Guidance Approve
State Transportation Equal Employment Opportunity (EEO) (Internal) Program	23 USC 140 23 CFR Part 230 Subpart C Title VII of the Civil Rights Americans with Disabilities Act (ADA) of 1990	7-Jan	As Needed	MDOT develops agency EEO Plan for review and approval by FHWA.	Monitor Review Approve
Title VI – Nondiscriminatio n Program	Title VI of the CRA of 1964 49 CFR Part 21 23 CFR Part 200 Section 504 of the Rehabilitation Act of 1973 49 CFR Part 27 Age Discrimination Act of 1975 Civil Rights Restoration Act of 1987 Uniform Relocation Act of 1987 23 USC 142 23 USC 324	7-Jan	Annually	Programs are developed by MDOT EEO Officer and approved by MDOT Director	Review Approve

Performance Measures and Indicators

In addition to the monitoring activities noted above, the following performance indicators from which we will measure MDOT's Civil Rights program effectiveness and determine compliance are listed below:

Office of Business Development-Disadvantaged Business Enterprise Performance Measures	**Due**	**Responsible Agency**
Percent of DBE participation on Federal aid contracts	June 1-Dec 1	MDOT
Number of DBE firms certified, graduated, and decertified	Annually	MDOT
Number of DBE Commercially Useful Function (CUF) reviews performed and outcomes	Annually	MDOT
Number of complaints received (formal/informal) regarding prompt payment/return of retainment and actions taken	Annually	MDOT
Number of complaints filed in all areas affecting Civil Rights and the actions taken of the accommodations made	Annually	MDOT
Timeliness of reporting	Annually	MDOT
Number of pre-qualified DBEs	Annually	MDOT
Number of projects with DBE Goal	Annually	MDOT
DBE program race-neutral	Annually	MDOT

Office of Business Development-Supportive Services Performance Measures	**Due**	**Responsible Agency**
Number and type of Supportive Services activities, i.e., training, conferences, contractor consultations	Annually	MDOT
Office of Business Development-Contractor Compliance Performance Measures	**Due**	**Responsible Agency**
Number of EEO Contractor Compliance reviews performed and percent with violations	Annual Report	MDOT
Number of contractors in deficiency status and type of deficiency	Annual Report	MDOT
Number of contractor training sessions on FHWA 1273	Annual Report	MDOT
Office of Business Development-On-the-Job Training Performance Measures	**Due**	**Responsible Agency**
Number of OJT trainees by race and gender	Nov 15	MDOT
Number of contractors utilized in the OJT Program	Nov 15	MDOT
Number of OJT training hours	Nov 15	MDOT
MDOT Civil Rights Programs Unit-(Internal/External)-Title VII Performance Measures	**Due**	**Responsible Agency**
Submission and approval of a comprehensive and valid EEO Plan	As needed	MDOT
Number of complaints, law suits, investigated and resolved	Included in Annual Report	MDOT
Underutilization analysis and goals to eliminate underutilization when discrimination has been determined to be the reason for the underutilization	Included in Annual Report	MDOT
Number of training sessions and the number of participants in the prevention of discriminatory harassment	Included in Annual Report	MDOT
Number of managers and supervisors trained in the effective implementation of equal employment opportunity and non-discrimination policies	Included in Annual Report	MDOT
MDOT Civil Rights Programs Unit-(Internal/External)-Title VI Performance Measures	**Due**	**Responsible Agency**
Submission and approval of a comprehensive and valid Title VI Plan	Included in Annual Report	MDOT
Number of Title VI reviews; deficiencies noted and corrections recommended	Included in Annual Report	MDOT
Number of Title VI Training sessions (internal employees and sub-recipients)	Included in Annual Report	MDOT
Number and type of Title VI complaints investigated and resolved	Included in Annual Report	MDOT
MDOT Civil Rights Programs Unit-(Internal/External)-ADA Performance Measures	**Due**	**Responsible Agency**
Number of ADA complaints (Internal and External)	Included in Annual Report	MDOT/FHWA
Number of projects completed to ensure ADA compliance as listed in the MDOT Transition Plan	Included in Annual Report	MDOT

4. CONSTRUCTION AND CONTRACT ADMINISTRATION PROGRAM OVERVIEW

To protect the public investment in Federal aid highway projects, FHWA is required to assure compliance with Federal aid contract provisions on all state and local projects that utilize Federal aid funds. FHWA is responsible to assure specific advertisement and award procedures and effective highway project quality controls/quality assurance processes are used. In addition, FHWA is required to support transportation agencies by providing technical assistance and sharing best practices.

Advertisement and Award Compliance

Federal responsibility includes assurance that specific procedures are followed in the advertisement and award of Federal aid contracts. FHWA-specific contract administration responsibilities, in accordance with federal law include, but are not limited to:

- Project Authorization
- Competitive Bidding
- Contract Awards
- Buy America Provisions

Inspection Compliance

FHWA is responsible for the inspection of state and local construction projects utilizing Federal aid funds. FHWA is to verify that the project is completed in accordance with the plans, specifications, and special provisions. ISTEA and TEA-21 allow the delegation of FHWA construction review, oversight, and administration responsibilities, except those based on non-Title 23 Federal requirements, to MDOT. SAFETEA-LU does not substantially change this delegation. FHWA-specific construction monitoring responsibilities include, but are not limited to:

- Quality Control and Assurance
- Contract Claims
- Contract Modifications
- Payment to Contractor
- Time Extensions
- Liquidated Damage

Technical Assistance

FHWA provides technical assistance in problem solving and recommendations for improvements to state and local construction programs to ensure that high quality projects are constructed.

Sharing Best Practices

FHWA provides sharing of identified state-of-the-art practices and innovations in materials, equipment, construction practices, and contracting methods for the purposes of highlighting best practices.

MDOT has been delegated the advertisement, award, and inspection compliance authority for state and local highway projects as described within Section II of this Agreement.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC, 106, 112, 114, 117, 121
- 40 USC 276(a) Davis-Bacon Act
- 23 CFR 635 Construction and Maintenance
- 23 CFR 637 Construction Inspection and Approval
- 49 CFR Part (18): Requirements for Agreements to State and Local Governments

Applicable Procedures, Agreements, and Manuals

- MDOT Construction Manual
- MDOT Standard Specifications for Construction
- MDOT Frequently Used Special Provisions and Supplemental Specifications
- MDOT Documentation Guide
- MDOT Hot Mix Asphalt Production Manual
- MDOT Construction Warranties Manual
- MDOT Density Testing and Inspection Manual
- MDOT File Manual for Construction
- MDOT Materials Quality Assurance Procedures Manual
- MDOT Materials Source Guide
- Michigan Manual of Uniform Traffic Control Devices
- Part 6 of the MMUTCD
- Michigan Test Methods
- Soil Erosion and Sedimentation Control Manual
- FHWA Contract Administration Core Curriculum Manual
- FHWA Construction Program Management and Inspection Guide
- Federal aid Policy Guide

Monitoring

The FHWA Michigan Division Office will:

- Evaluate MDOT's transportation construction program, including staffing levels, procedures, and controls, to assure that transportation

improvements are constructed in accordance with approved standards and acceptable contracting methods.
- Evaluate the quality of materials, equipment, construction practices, and work force used for the purpose of evaluating the quality of the constructed product.
- Track the cost of a sample of construction projects in order to determine the relationship of the final cost to the amount bid for the project.

Business Standards

- FHWA will review and approve special provisions, supplemental specifications, Plans Specifications & Estimates (PS&E), construction plans, contract modifications, and extension of time requests within 14 business days of receipt. The 14 business day time frame may be reduced in emergency or unusual circumstances.

Program Approval Actions

- FHWA will have specific approval authority for the authorization and obligation of Federal aid funds for all Federal aid projects.
- FHWA will approve MDOT standard specifications, special provisions, and supplemental specifications on a program basis in order to facilitate project approvals.
- FHWA will approve the updates to the Liquidated Damages specification every two years (every even-numbered year).

PROGRAM ACTIVITIES APPROVAL CHART

PROGRAM	REFERENCE	AGENCY RESPONSIBLE
Buy America	23 CFR 635.410	FHWA
Local Public Agency Projects **	23 CFR 635.105	MDOT
Project/ Construction Authorization	23 CFR 635.106 (a)	FHWA
Program Reviews	N/A	FHWA
Labor Compliance	29 CFR Parts 1, 3, 5, 6, & 7	FHWA (Forwarded to HQ)

Project Approval Actions

- FHWA will approve all project and construction authorizations.
- FHWA will approve project agreements, modified project agreements and final vouchers on all Federal aid highway projects.
- FHWA will conduct routine project and final inspections on FHWA oversight projects.
- For all other federal NHS and non-NHS projects, FHWA may conduct inspections, including finals, on a statewide sampling basis.

PROJECT ACTIVITIES APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE			
Approval Action	**Reference Document**	**FHWA Oversight Projects:**	**MDOT Oversight Projects:**	**MDOT Oversight: All Non-NHS Projects**	**Other Projects Subject to FHWA Oversight by Mutual Agreement**
Approve exceptions to competitive bidding	23 CFR 635.104 & 204	FHWA	FHWA	FHWA	FHWA
Approve advertising period of <21 calendar days	23 CFR 635.112	FHWA	FHWA	FHWA	FHWA
Concur in award of contracts	23 CFR 635.114	FHWA	MDOT	MDOT	FHWA
Concur in rejection of bids	23 CFR 635.114	FHWA	MDOT	MDOT	FHWA
Approve contract modifications	23 CFR 635.120	FHWA	MDOT	MDOT	FHWA
Approve time extensions	23 CFR 635.121	FHWA	MDOT	MDOT	FHWA
Accept material certifications	23 CFR 637.207	MDOT	MDOT	MDOT	MDOT
Concur in settlement of claims	23 CFR 635.124	FHWA	MDOT	MDOT	FHWA
Concur in termination of contracts	23 CFR 635.125	FHWA	MDOT	MDOT	FHWA
Final Acceptance/Inspection	23 USC 114a & 121	FHWA	MDOT	MDOT	FHWA
Construction inspections	FAPG G 6042.8	FHWA	MDOT	MDOT	MDOT
Determination of cost effective methods	23 CFR 635.204 & 104	FHWA	MDOT	MDOT	FHWA
Emergency Relief *	23 CFR 668	FHWA	MDOT	MDOT	FHWA

***** See Emergency Relief Section
****** See Local Public Agencies Section

5. **DESIGN PROGRAM OVERVIEW**

On the program level, the FHWA Michigan Division Office approves design standards for new construction, reconstruction, resurfacing, restoration, rehabilitation, and pavement preservation of the Interstate system and other highways on the National Highway System (NHS) within the State of Michigan. FHWA provides guidance to MDOT and other public agencies on the implementation of and conformance to federal laws, regulations, and policies pertaining to preliminary and detailed design activities. FHWA also shares technical information and provides training opportunities to facilitate professional development of engineering staffs from both the public and private sectors. FHWA and MDOT staffs jointly conduct concentrated program reviews of specific elements of design produced at the project level.

On a project level, the common goal of both agencies is to develop safe, cost-efficient designs that meet the appropriate standards. Through full oversight on a limited number of major projects, and in conformance with the thresholds and stipulations established in this Agreement, the FHWA Michigan Division Office formally reviews and approves various engineering-related submissions, participates in project development decisions from inception through completion of design plans, and determines the eligibility of Federal aid participation.

Design activities conducted during the Planning and the National Environmental Policy Act (NEPA) phases begin with a conceptual outlook and elevate in detail as the project advances. The technical information is used to compare and evaluate the feasibility of alternatives. As a project advances and a preferred alternative has been identified, design work is conducted in greater detail in order to more fully delineate the footprint of the improvement and, more accurately, verify and assess the impacts. Included in this effort, as necessary, FHWA will process and formally evaluate proposed exceptions to minimum design criteria (Design Exceptions), Interchange Justification Reports, Interchange Modification Reports, Interstate Access Reports, Interchange Operational Analysis Reports, Access Approval Reports, and Interstate Access Justification Studies.

During the design phase, FHWA area engineers ensure the design parameters and resulting NEPA mitigation commitments remain satisfied. With support from technical specialists in the FHWA Michigan Division Office and other offices, FHWA provides technical guidance to resolve issues as they arise, and makes certain that items of work are eligible for the various categories of Federal aid funds. These efforts are accomplished through active participation in routine plan reviews and ongoing coordination with MDOT's technical specialists and project-level staff. The final design product is then ready for estimation and subsequent Certification Acceptance (CA).

Applicable Laws, Regulations, Orders, and Procedures

- Title 23 USC Section 109 – Standards
- Title 23 USC Section 111 – Interstate Access
- 23 CFR 1.9 Limitation on Federal Participation
- 23 CFR 620 Engineering
- 23 CFR 625 Design Standards for Highways
- 23 CFR 627 Value Engineering
- 23 CFR 630 Preconstruction Procedures
- 23 CFR 636 Design-build Contracting
- 23 CFR 635.411 Material or Product Selection
- 23 CFR 635.413 Warranty Provisions
- 23 CFR 645 Utilities
- 23 CFR 646 Railroads
- 23 CFR 470 Highway Systems
- 23 CFR 650 Bridges, Structures, and Hydraulics
- 23 CFR 652 Pedestrian and Bicycle Accommodations and Projects
- 23 CFR 752 Landscape and Roadside Development
- 28 CFR 35 Nondiscrimination on the Basis of Disability in State and Local Government Services
- 28 CFR 36 Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities
- 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance
- 49 CFR 37 Transportation Services for Individuals with Disabilities (Americans with Disabilities Act)
- 74 FR, Vol 165 – Interstate Access
- SEP 14 – Special Experimental Projects
- FHWA Order 1311.1A – Value Engineering

Approved Procedures, Agreements, and Manuals

- MDOT Road & Bridge Design Manuals
- MDOT Standard Plans
- MDOT Drainage Manual
- MDOT Design Survey Manual
- MDOT Scoping Manual
- MDOT Innovative Construction Contracting Guide

Monitoring

- FHWA will monitor project design through step-by-step involvement in projects subject to FHWA Oversight. (Please refer to the Project Activities Approval Chart below for specific FHWA activities.)
- For Federal aid projects on the NHS with MDOT oversight, FHWA will monitor and review Design Exceptions on a periodic basis.

Business Standards

- FHWA will review and approve Design Exceptions within 14 business days of receipt.
- FHWA Michigan Division Office will review and approve Interstate System Access Change Requests within 30 business days of receipt for those actions not requiring FHWA headquarters approval. Additional time will be needed for those requiring FHWA headquarters approval.
- FHWA will review and approve Plans, Specifications, & Estimates (PS&E) within 14 business days of receipt.
- FHWA will provide written comments to MDOT on proposed changes to the Location & Design Manuals within 30 business days of the request.
- FHWA and MDOT will share respective delivery and response time data, as well as other relevant information on a quarterly basis.

Program Approval Actions

- MDOT Standard Plans are reviewed and approved by FHWA on an on-going basis.
- MDOT Specifications are reviewed and approved by FHWA on an on-going basis.
- FHWA approves MDOT design manuals through participation in the MDOT Engineering Operations Committee (EOC). FHWA will issue a letter approving the changes.
- Interstate System Access Change Requests are reviewed and approved by FHWA on an on-going basis.

PROJECT ACTIVITIES APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE			
Approval Action or Responsibility	**Reference Document**	**FHWA Oversight Projects**	**MDOT Oversight Projects**	**MDOT Oversight Projects: All Non-NHS Projects**	**Other Projects Subject to FHWA Oversight by Mutual Agreement**
Limitation on Federal Participation	23 CFR 1.9	FHWA	FHWA	FHWA	FHWA
Design standards, policies and standard specifications, for applications to geometric and structural design	23 CFR 625	FHWA	FHWA	MDOT	FHWA
New or Modified Access to the Interstate System	23 USC 111; Fed Reg February 11, 1998	FHWA	FHWA	FHWA	FHWA
Design exceptions	23 CFR 625.3(f)	FHWA	MDOT (1)	MDOT	FHWA
Value engineering	23 CFR 627.5	FHWA	MDOT	MDOT	FHWA
Monitoring Federal aid highway design projects	23 CFR 630.106 & 112	FHWA	MDOT	MDOT	FHWA
PS&E review and approval / project authorization	23 CFR 630.205	FHWA	MDOT (2)	MDOT (2)	FHWA
Maintenance of Traffic Plans	23 CFR 630.1002	FHWA	MDOT	MDOT	FHWA & MDOT
Traffic Control (MUTCD)	23 CFR 655	FHWA	MDOT	MDOT	FHWA
Federal aid Highway Systems	23 CFR 470	FHWA	FHWA	NA	NA
R/W Acquisition and Access	23 CFR 710	FHWA	MDOT	MDOT	FHWA
Design-Build	23 CFR 636 SEP-14	FHWA	MDOT	MDOT	FHWA
Utilities	23 CFR 645.113	FHWA	MDOT (3)	MDOT	MDOT

(1) – Vertical clearance exceptions are subject to coordination with the Military Traffic Command for the "26,000-mile priority network (mainly Interstate). Coordination may be accomplished through the FHWA.
(2) – FHWA still provides final authorization electronically through FMIS.
(3) – Except on the Interstate System.

6. **EMERGENCY RELIEF PROGRAM OVERVIEW**

Emergency Relief (ER) is a special program that uses non-formula funds for the repair or reconstruction of Federal aid highways that have suffered serious damage as a result of natural disasters or catastrophic failures from an external cause. This program supplements the commitment of resources by states, their political subdivisions, or other federal agencies to help pay for unusually high expenses resulting from extraordinary conditions.

ER funds are not intended to cover all damage repair costs or interim emergency repair costs that will be necessary to restore a facility to pre-disaster conditions. Work performed during the first 180 business days to restore essential traffic is funded at 100% Federal aid funds. Work for permanent repairs up to and after the first 180 business days is funded at the appropriate pro-rata for the highway. The maximum ER funding for an event is $100 million.

Disasters must be considered extraordinary to be considered for ER funding. To be considered extraordinary, the estimated federal portion of the damage must meet a threshold of $700,000. Individual sites must have estimated repairs in excess of $5,000 to be eligible.

Applicable Laws, Regulations, Orders, and Procedures

- Title 23, Section 125
- 23 CFR 668

Approved Procedures, Agreements, and Manuals

- FHWA Emergency Relief Manual

Monitoring

- FHWA will jointly inspect with MDOT and Local Public Agencies (LPA) where applicable, the damaged sites during the development of the disaster estimate. Depending on the extent of damage, FHWA may elect to perform a sampling of site inspections.
- FHWA will conduct final inspections of all ER projects requiring federal oversight.
- FHWA will conduct final inspection of additional ER projects using a sampling method.

Business Standards

- FHWA will respond to an MDOT Letter of Intent to seek ER funds within three business days with an Acknowledgement Letter.

- FHWA and MDOT will complete a reasonable survey of the damage and a Damage Survey Report within 30 to 60 business days of the event. This may vary depending on the area of impact of the disaster.
- FHWA will respond to MDOT requests for ER disaster eligibility supported by the Damage Survey Report within 14 business days with a Determination of Eligibility.
- MDOT will respond to FHWA within 30 business days of FHWA eligibility letter for MDOT or local agency appeals.

Program Approval Actions

- MDOT must specifically request assistance under the ER program for each natural disaster or catastrophic event. This should be initiated with a Letter of Intent to seek ER funds as soon as it is evident that there is eligible damage. (See the FHWA ER Manual for sequence of events.)
- FHWA will respond to written requests for ER assistance with a letter of acknowledgement and brief instructions on how to proceed.
- Following an MDOT/FHWA/LPA (if applicable) site-by-site inspection, MDOT and FHWA will jointly prepare a Damage Survey Report to support the request for ER funding. MDOT will then formally forward the report to FHWA with the request for ER funding.
- FHWA will respond to the report with a determination of ER eligibility. The list of sites outlined in the report constitutes the program of projects required prior to authorization of permanent repairs.

Project Approval Actions

- The FHWA Acknowledgement Letter will establish a date of eligibility for those emergency repairs and protective measures that must be undertaken immediately. This type of work is categorically excluded from NEPA by definition. Contracts to do this type of emergency repair may be accomplished with abbreviated procedures; however, this permission will be indicated on the completed Damage Survey Report for each site.
- An FHWA Determination of Eligibility Letter will inform MDOT of the projects which are to be considered full involvement by FHWA and which projects are to be state-administered. Because of the nature of the ER program, thresholds and criteria used normally to determine federal oversight may not be applicable for a particular disaster or damaged site.
- For ER projects, normal Federal aid procedures and requirements will apply.
- All ER projects that do not fall into the category of emergency repairs required to protect the facility from further damage or keep the route open for the safe flow of traffic, require environmental approval per the established programmatic agreements between FHWA and MDOT.
- FHWA will provide waivers of Federal aid requirements on ER projects when requested by MDOT on a project by project basis, if warranted by conditions and/or work characteristics.

- The state or local agency may disagree with the federal eligibility determination from FHWA. In that case, any appeal must be submitted by the state to the FHWA.

7. ENVIRONMENTAL PROGRAM OVERVIEW

FHWA is required to consider the social and natural environment in accordance with the National Environmental Policy Act of 1969 (NEPA) prior to making any decisions on projects that have federal involvement; that is, federal funding or federal action (e.g., permitting). FHWA has a direct oversight role in implementing NEPA. FHWA and MDOT will work together to ensure social, environmental, and economic factors are given proper consideration along with engineering factors in program and project decision-making.

In general, under environmental actions:

- FHWA primary role is to provide guidance and independently evaluate the adequacy of the NEPA process performed for all Federal aid transportation projects.
- MDOT is responsible for the environmental analyses for all Federal aid transportation projects in the state. MDOT will maintain qualified professional staff to conduct environmental analyses.
- MDOT maintains documentation of environmental activities.
- FHWA assures that appropriate analyses are conducted, approval actions are timely, and public involvement is an element of MDOT's environmental program.
- FHWA and MDOT will continue to work together to streamline the environmental process.

Applicable Laws, Regulations, Orders, and Procedures

The basis of the environmental evaluation of these transportation projects is the National Environmental Policy Act (NEPA) of 1969. Since the passage of NEPA, numerous environmental laws, Executive Orders, and agency policies and guidelines have been implemented to aid in interpreting NEPA mandates. See below.

Approved Procedures, Agreements, and Manuals

- FHWA Technical Advisory T6640.8A: Guidance for Preparing and Processing Environmental and Section 4(f) Documents.
- FHWA SAFETEA-LU Environmental Review Process: Final Guidance
- FHWA Section 4(f) Policy Paper
- MDOT Environmental Procedures Manual
- MDOT Scoping, Road, and Bridge Design Manuals
- MDOT Public Involvement Guide
- MDOT Stakeholder Engagement Guide
- MDOT Highway Noise and Abatement Manual (Draft expected to be finalized by July 2011.)

Applicable Laws, Regulations, Orders and Procedures

Environmental Topic	Law	Implementing Regulations
Antiquities Act, 1906	16 USC 431-433	36 CFR 251.50-64 42 CFR 3
American Indian Religious Freedom Act, 1978	42 USC 1996	N/A
American with Disabilities Act, 1990	42 USC 126	23 CFR 652
Archeological and Historic Preservation Act, 1974	16 USC 469	36 CFR 66
Archeological Resources Protection Act, 1980	16 USC 470	43 CFR 7 18 CFR 1312 32 CFR 79 36 CFR 229 36 CFR 296
Bald and Golden Eagle Protection Act, 1940	16 USC 668	N/A
Title VI of the Civil Rights Act, 1964	42 USC 2000d et seq.	49 CFR 21 and 23 CFR 200
Civil Rights Restoration Act, 1987	20 USC 1681 et seq.	N/A
Clean Air Act, 1970	42 USC 7401 et seq. 42 USC 7509, 75219(a) 23 USC 109(J)	23 CFR 771 40 CFR 51 & 93
Clean Water Act, 1972	33 USC 1251 et seq.	33 CFR 26 40 CFR 122-124
Coastal Zone Management Act, 1972	16 USC 1451	15 CFR 923-930
Comprehensive Environmental Response, Compensation, and Liability Act, Superfund Amendments and Reauthorization Act, 1986	42 USC 9601 et seq.	40 CFR 300 43 CFR 11
Department of Transportation Act, Section 4 (f), 1966	49 USC 303 23 USC 138	23 CFR 774
Endangered Species Act, 1973	16 USC 1531 et seq.	7 CFR 335; 50 CFR 17, 23, 81, 222, 225-227, 402, 424, 450, 453
Executive Order 11991, Protection and Enhancement of Environmental Quality, 1970	N/A	N/A
Executive Order 11988, Floodplain Management;	N/A	23 CFR 650, 771; 44 CFR 59-62, 64-68, 70-71, 75-77
Executive Order 11990, Protection of Wetlands	N/A	DOT Order 5660.1A 23 CFR 777
Executive Order 12898, Environmental Justice, 1994	N/A	Federal Register Vol. 60, No. 125, pp. 33896-33903 FR Vol. 59, No. 32

Environmental Topic	Law	Implementing Regulations
Executive Order 13166, Limited English Proficiency, 2000	N/A	Federal Register Vol. 70, No. 239, pp. 74087-74100
Executive Order 11990, Protection of Wetlands, 1977	N/A	23 CFR 777
Farmlands Protection Policy Act, 1981	7 USC 4201-4209	7 CFR 658
Federal aid Highway Act, 1956	23 USC 101	23 CFR
Fish and Wildlife Coordination Act, 1934	16 USC 661-666(C)	N/A
General Bridge Act, 1945	2 USC 525	2 CFR Parts 114-115
Highway Beautification Act, 1965	23 USC 131, 136, 319	23 CFR 750 23 CFR, 751, 752
Intermodal Surface Transportation Efficiency Act, 1991	40 CFR 93 (CEQ)	23 CFR 771 (FHWA)
Land & Water Conservation Act, Section 6(f), 1965	16 USC 4601-8(f);	N/A
Migratory Bird Treaty Act, 1918	16 USC 703 et seq.	N/A
National Environmental Policy Act, 1969	42 USC 4321 et seq.	23 CFR 771, 772, and 777
National Flood Insurance Act, 1968 and Flood Disaster Protection Act, 1973	42 USC 4001 et seq.	N/A
National Forest Management Act, 1976	16 USC 1604(g) (3) (B)	N/A
National Historic Preservation Act, Section 106, 1966	16 USC 470f,	23 CFR 771; 36 CFR 60; 36 CFR 63; 36 CFR 800
National Trails System Act, 1968	16 USC 1241-1249	251; 43 CFR 8350
Native American Graves Protection and Repatriation Act, 1990	25 USC 3001 et seq	43 CFR 10
Noise Control Act, 1972	42 USC 4901 et seq. 23 USC 109i	3423 CFR 772
Public Hearings/Public Involvement	42USC6901et seq.	43 CFR 10256-300 40 CFR 61, 23 CFR 751
Rivers and Harbor Act, 1899	Section 9, Section 10	33 CFR Parts 114-115; 23 CFR 650
Resource Conservation and Recovery Act, 1976 and Hazardous and Solid Waste Amendments, 1984	42 USC 6901 et seq.	40 CFR 280, 281, 260-265 40 CFR 61
Rivers and Harbor Act, Section 9, Section 10	33 USC 403	33 CFR Parts 114-115
Safe, Accountable, Flexible, Efficient Transportation Equity Act, 2005	23 USC 6002-6011	23 CFR 771
Safe Drinking Water Act, 1974	42 USC 300f et seq.	N/A
Surface Transportation & Uniform Relocation Assistance Act, 1987	23 USC 144(O)	23 CFR 752 (Wildflowers)

Environmental Topic	Law	Implementing Regulations
Wild and Scenic Rivers Act, 1968	16 USC 1271-1287	36 CFR 251, 297; 43 CFR 8350

Monitoring

The FHWA will monitor compliance with environmental requirements using project-by-project approval steps and, periodic quality assurance reviews of the environmental process.

Business Standards

Activity	MDOT Action	FHWA Action	Result
Level 1, 2, or 3 Categorical Exclusion (CE)	Prepare and Approve	Periodic Audit	Approved CE
Level 4 CE	Prepare, approve and submit to FHWA for approval	Approve CE (30 business days)	Approved CE or instructions for revision
Draft Environmental Assessment (EA)	Prepare and submit to FHWA for comment	Review and Comment (30 business days)	Comments
Environmental Assessment	Prepare, approve and submit to FHWA for approval	Approve EA for circulation or return for revision (15 business days)	Approved EA or instructions for revision
Finding of No Significant Impact (FONSI)	Prepare FONSI request and submit to FHWA	Prepare and Issue FONSI or notify MDOT of need for EIS (30 business days)	FONSI or consider NOI
Notice of Intent (NOI)	Prepare Draft Notice of Intent and forward to FHWA	Review and revise NOI and publish in the Federal Register (15 business days)	Published NOI in the Federal Register
Cooperating and Participating Agency Request Letters	Prepare and distribute request letters to state and local agencies	Prepare and distribute request letters to Federal agencies (15 business days)	Cooperating & Participating Agencies identified
Preliminary Draft Environmental Impact Statement (DEIS)	Prepare and submit to FHWA for review	Review and comment (30 business days)	Written comments
DEIS	Prepare, approve, and submit to FHWA for approval	Approve DEIS or return for revision (30 business days)	DEIS or instructions for revision
Draft Final Environmental Impact Statement (FEIS)	Prepare and submit to FHWA for review	Review and comment (30 business days)	Written Comments
FEIS Legal Sufficiency	Prepare and submit to FHWA for review	Request Legal Sufficiency review (15 business days)	FEIS Legal Sufficiency

Activity	MDOT Action	FHWA Action	Result
FEIS	Prepare, approve, and submit to FHWA for approval	Approve FEIS or return for revision (15 business days)	FEIS or instructions for revision
Record of Decision (ROD)	Prepare a Draft ROD and submit to FHWA	Review, Revise, and Issue ROD (30 business days)	ROD
Major Projects (total cost≥$500 million) – Project Management Plans	Prepare Project Management Plans (PMP) in accordance with SAFETEA-LU and FHWA HQ Project Management Plan Guidance. PMPs must be completed and approved prior to issuing ROD or FONSI and prior to issuing request for authorization of Federal aid funds for right-of-way acquisition or construction.	Review and approve	Approved PMP
Programmatic Section 4(f) Evaluation with Level 1, 2, or 3 CE	Prepare and approve, submit to FHWA for opportunity to object	No action required. FHWA Michigan Division can object to MDOT's approval within 15 business days	Approved Section 4(f) evaluation
Draft Programmatic Section 4(f) Evaluation with Level 4 CE	Prepare and submit for FHWA approval	Approve Programmatic Section 4(f) Evaluation or return for revision (15 business days)	Approved Section 4(f) Evaluation or instructions for revision
Draft Individual Section 4(f) Evaluation Draft Programmatic Section 4(f) Evaluation with Level 4 CE	Prepare and submit to FHWA for review Prepare and submit for FHWA approval	Review and comment (30 business days) Approve Programmatic Section 4(f) Evaluation or return for revision (15 business days)	Comments Approved Section 4(f) Evaluation or instructions for revision
Section 4(f) Legal Sufficiency Draft Individual Section 4(f) Evaluation	Prepare and submit to FHWA for review. Prepare and submit to FHWA for review.	Request Legal Sufficiency review (30 business days). Review and comment (30 business days)	Section 4(f) Legal Sufficiency Comments
Final Section 4(f) Evaluation Section 4(f) Legal Sufficiency	Prepare and submit for FHWA approval; acquire SHPO concurrence. Prepare and submit to FHWA for review.	Review and approve or return for revision (15 business days) Request Legal Sufficiency review (30 business days)	Final Section 4(f) Evaluation or instructions for revision Section 4(f) Legal Sufficiency
Section 106 Adverse Effect Determination Final Section 4(f) Evaluation	Make determination and forward to the Advisory Council on Historic Preservation Prepare and submit for FHWA approval; acquire SHPO concurrence	No action required. Review and approve or return for revision (15 business days)	Adverse Effect Determination Final Section 4(f) Evaluation or instructions for revision

Activity	MDOT Action	FHWA Action	Result
Section 106 Memorandum of Agreement (MOA) Section 106 Adverse Effect Determination	Negotiate MOA with SHPO and consulting parties. If ACHP requests participation, FHWA and ACHP will be signatories to MOA. Make determination and forward to the Advisory Council on Historic Preservation	No action required, except when ACHP is a party to MOA.	Executed Section 106 MOA or instructions for revision Adverse Effect Determination
Draft written Re-evaluation Section 106 Memorandum of Agreement (MOA)	Prepare and submit to FHWA for review. Negotiate MOA with SHPO and consulting parties. If ACHP requests participation, FHWA and ACHP will be signatories to MOA	Review and comment (30 business days). No action required, except when ACHP is a party to MOA	Comments on Executed Section 106 MOA or instructions for revision
Written Re-evaluation Draft written Re-evaluation	Prepare and submit to FHWA for approval Prepare and submit to FHWA for review	Approve Re-evaluation or return for revision (15 business days). Review and comment (30 business days)	Comments, Re-evaluation, or instructions for revision
Written Re-evaluation	Prepare and submit to FHWA for approval	Approve Re-evaluation or return for revision (15 business days)	Re-evaluation or instructions for revision

MDOT and FHWA will share respective delivery and response time data, as well as other relevant information, on a quarterly basis.

Program Approval Actions

- MDOT has been delegated programmatic approval authority for specific categorical exclusions.
- MDOT has been delegated programmatic approval authority for specific Section 4(f) evaluations.
- MDOT has been delegated programmatic approval authority for Section 106 determinations and specific consultation actions.
- MDOT also acts as an FHWA non-federal representative for informal Section 7 ESA consultation.
- MDOT public involvement procedures have been approved by FHWA (November 2002).

Project Approval Actions

- As early as practicable in a project's development, the FHWA and MDOT will collaborate on the proper environmental (NEPA) classification for a project:
    - Class I = EIS
    - Class II = CE
    - Class III = EA

- For all projects that require an action be taken by FHWA, FHWA and MDOT will work together in the project pre-engineering phase to ensure compliance with NEPA and other applicable laws before an alternative is selected. The level of involvement is commensurate with the level of environmental impacts or project complexity.
- FHWA will review and approve Level 4 Categorical Exclusions and associated Programmatic Section 4(f) Evaluations, EA, EIS, Section 4(f) Individual Evaluations, net benefit Section 4(f) evaluations, and Section 4(f) De Minimis determinations which are prepared by MDOT.
- FHWA is also an active member of individual project teams and helps guide the project planning.
- All documents requiring legal sufficiency review (final EIS and final Section 4(f) Evaluations) are sent to the FHWA Office of the Chief Counsel in Matteson, Illinois by the FHWA Michigan Division Office prior to approving these documents. The goal is to provide legal sufficiency review comments to the FHWA Michigan Division Office within 30 business days after receipt of the document. Environmental re-evaluations are conducted through informal consultation and formal written documentation when appropriate.

8. **FINANCIAL MANAGEMENT PROGRAM OVERVIEW**

FHWA is responsible for overall program oversight and ensuring compliance with federal requirements in the delivery of the Federal aid Highway Program to protect the public investment and ensure accountability in Federal aid expenditures. FHWA responsibility is implemented through this Agreement and in partnership with MDOT.

FHWA is responsible to perform financial integrity, project delivery, and major project oversight reviews of MDOT's financial management systems. To strengthen the oversight of projects and increase the accountability of MDOT's project delivery process, all major projects exceeding $100 million in total project costs are required to have finance plans.

MDOT recognizes that sound federal financial management stewardship and oversight encompasses the entire Federal aid Highway Program from the authorization to proceed with preliminary engineering through construction and debt retirement. Further, that the correctness and propriety of all Federal aid claims are MDOT's primary responsibility whether the primary cost document originates within MDOT or with some third party. This responsibility is fulfilled by MDOT maintaining adequate and tested financial and operating policies and procedures and a sound accounting system with proper internal controls together with suitable audit activities. In addition, MDOT is responsible for developing standards for estimating project costs.

FHWA recognizes a need for complete understanding of all pertinent financial and operating policies and procedures of MDOT. It is the responsibility of the FHWA to provide technical assistance and advice in funding and financial areas in a timely manner to meet the processing needs of MDOT.

The culmination of MDOT's and FHWA financial management stewardship and oversight is the annual Federal Managers' Financial Integrity Act certification, completed by FHWA Michigan Division Office, of internal and financial controls to substantiate MDOT's financial statements.

Applicable Laws, Regulations, Orders, and Procedures

The Federal aid Highway Program is a state-administered, federally-assisted program. Federal aid highway funds are authorized by Congress to assist the States in providing for construction, reconstruction, and improvement of highways and bridges on eligible Federal aid highway routes and for other special purpose programs and projects. Below is a list of applicable laws, regulations, and policies used in implementing the Federal aid program:

- 23 USC

- 23 CFR
- 49 USC
- 49 CFR
- 48 CFR
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- The Federal Funding Accountability and Transparency Act (FFATA)
- Transportation Equity Act for the 21st Century
- Chief Financial Officer Act of 1990
- Federal Managers' Financial Integrity Act of 1992
- Cash Management Improvement Act of 1990
- 2 CFR 225 (Cost Principles for State, Local and Indian Tribal Governments) Formerly known as OMB Circular A-133
- OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments)
- OMB Circular A-123 (Management Accountability and Control)
- OMB Circular A-127 (Financial Management Systems)
- 2 CFR 225 (Audits of States, Local Governments, and Non-Profit Organizations) Formerly known as OMB Circular A-133
- Financial Integrity Review and Evaluation (FIRE) Program Order and Toolkit
- FHWA SAFETEA-LU Implementing Guidance Memorandums

Approved Procedures, Agreements, and Manuals

- Federal Cash Management Improvement Act
- Advance Construction Guidelines
- MDOT Indirect Cost Allocation Plan
- MDOT Single Audit Report Monitoring
- FHWA Project Authorization Standard Operating Procedure
- FHWA Inactive Obligations Management Process Standard Operating Procedure
- FHWA Billing Review Improper Payment Review Process Standard Operating Procedure
- FHWA RASPS Standard Operating Procedure
- FHWA Project Close-out Standard Operating Procedure

Monitoring

- FHWA will monitor all financial management and accounting activities through process reviews, improper payment reviews, inactive Federal aid projects reviews, and Federal aid billing reviews, as prescribed by the FHWA Financial Integrity Review and Evaluation (FIRE) program. FHWA will conduct verification activities to assure that the laws, regulations, policies and agreements are followed by MDOT in carrying out the assumed responsibilities.

- Reviews will encompass both MDOT and local agencies. Through periodic contact with MDOT personnel, FHWA will provide guidance and technical assistance in such areas as project finance plan preparation, fiscal document processing, cost eligibility determinations, financial management and reimbursement.

- FHWA will, to the maximum extent possible, utilize the work of MDOT and State auditors to limit the scope of FHWA reviews. Risk assessment techniques will be used where appropriate to determine areas for review. Additionally, FHWA will promote best practices in financial management and project funds management to improve the efficiency in the administration of the Federal aid Highway Program. FHWA also will promote the use of innovative finance techniques that are effective in leveraging funds, reducing project costs, or expediting project completion.

Business Standards

WORK ACTIVITY	MDOT ACTION	FHWA ACTION	REMARKS
Rapid Approval State Payments System (RASPS) Billing	Submits electronically as often as desired	Act upon within the established deadline	Source documentation will be randomly sampled and reviewed by FHWA
Federal aid Billing Review	Responds to requests for information and documentation to validate Federal aid billing transactions from FHWA within 5 business days	Provide a listing of transactions being reviewed. Upon completion of review provide MDOT with results of Federal aid Billing Review	Results of review used to support annual FMFIA certification
SIB Annual Report	Prepare annually within 90 business days from the end of the Federal FY	Review the report and take appropriate action	
Major Projects (total cost≥$500 million) – Financial Plans	Prepare financial plans in accordance with SAFETEA-LU and FHWA HQ Project Financial Plan Requirements Guidance Memorandum. Financial plan must be completed and approved prior to request for authorization of Federal aid funds for construction	Review and approve, as appropriate	Some Financial Plans in this category will require FHWA HQ approval
Other Projects (total cost between $100 million & $500 million) – Financial Plans	Prepare financial plans in accordance with SAFETEA-LU and FHWA HQ Project Financial Plan Requirements Guidance Memorandum. Financial plan are to be completed prior to request for authorization of Federal aid funds for construction	Review financial plans as part of stewardship and oversight responsibility	N/A

WORK ACTIVITY	MDOT ACTION	FHWA ACTION	REMARKS
Project Funds Management	Review quarterly a designated list of inactive projects and submit to FHWA by last day of the month following the end of the quarter certification that the obligations are: (1) proper and valid; (2) the funds are being used effectively; and, (3) unused funds are properly safeguarded and/or de-obligated to minimize misuse.	Review and take appropriate action to provide reasonable assurance that the obligation amount is valid. Follow-up to ensure unneeded funds are de-obligated promptly	Results of review used to support annual FMFIA certification
Funds Transfer Requests	Prepare and submit Funds Transfer Requests as needed	Review and take appropriate action within 5 business days	Endorsed Funds Transfer Requests are submitted to FHWA HQ for further processing
MDOT Single Audit	Ensure audit is completed as required and copies of audit reports are submitted by June 30 of every odd year	Review and take action to ensure findings are resolved	Results of review used to support annual FMFIA certification
MDOT Sub-Recipient/ Single Audits	Review and take action to ensure findings are resolved, submit summary listing to FHWA	Review and take action to ensure compliance	N/A
Project Authorizations/ Agreements and Modifications	Prepare and submit as needed	Review and act upon within 5 business days	N/A
Final Vouchers/Final Acceptance	Prepare and submit as needed	See Contract Administration Section	N/A
Monthly Status of Funds, i.e. Advance Construction, etc.	Prepare and submit monthly	Review and monitor provide appropriate feedback to MDOT.	N/A
Year End Document for Utilization of Federal aid Funds	Prepare and submit by September 15.	Review and act upon within 5 business days	Documents that require processing must be submitted to MDOT Planning by September 1
Consultant Audits	Annually conduct audits and submits listing of audits completed	Review listing. Sample periodically to ensure compliance.	N/A

Program Approval Actions

- FHWA will approve the accounting process used to develop the payroll additive rates and indirect cost rates as needed.
- FHWA will approve the resolution of OIG and state audit findings as needed.
- FHWA will approve the Federal aid current billing as needed.

Project Approval Actions

- FHWA will approve final vouchers, project agreements, and modified project agreements on all projects.
- FHWA will approve finance plans for major projects exceeding $500 million in total project costs.

9. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM OVERVIEW

FHWA works in cooperation with MDOT in the development and implementation of Intelligent Transportation Systems (ITS) initiatives in Michigan. MDOT has established a multi-disciplinary ITS Steering Committee, of which FHWA is a member, to provide technical screening, strategic direction, and oversight at the program level.

FHWA and MDOT work cooperatively with Metropolitan Planning Organizations and Rural Task Force Committees to promote ITS planning, regional architecture use, and adoption and integration of ITS at the local level. MDOT and FHWA will work cooperatively to assure that ITS projects are consistent with the national ITS architecture, incorporate ITS standards, and are fully integrated.

FHWA and MDOT have formed partnerships in support of safety and congestion relief initiatives with other local, state, and international transportation agencies, including fire and law enforcement.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC Chapter 1
- SAFETEA-LU Title I Subtitle B section 1201 and Title V Subtitle C
- TEA - 21 Title V Subtitle C
- 23 CFR Part 940 Intelligent Transportation System Architecture and Standards

Approved Procedures, Agreements, and Manuals

- MDOT ITS Strategic Plan
- MDOT Connected Vehicle Strategic and Business Plan
- MDOT ITS Program Office Basis of Design Document
- MDOT Regional ITS Architectures and Deployment Plans for the Bay Region; Grand Region; North Region; the Southeast Michigan Council of Governments (SEMCOG) including Livingston County; the Southwest and University regions except Livingston County; Superior Region; the Grand Valley Metropolitan Council; and the Tri-county Regional Planning Commission
- MDOT Design Manual
- MDOT Construction Manual
- MDOT Standard Plans
- MDOT Special Details
- MDOT Standard Specifications for Construction
- MDOT Supplemental Specifications and Special Provisions

- MDOT Bureau of Highway Instructional Memoranda
- National ITS Architecture (US DOT Research and Innovative Technology Administration – ITS Joint Program Office)
- Regional ITS Architecture Guidance (FHWA/FTA)

Monitoring

- FHWA will review project development, review and approve Plans, Specifications, and Estimates (PS&E) for major ITS projects and other projects selected for FHWA oversight.
- FHWA will provide ongoing technical assistance in the use of regional ITS architectures, systems engineering analysis, and ITS standards, include these areas in routine risk assessment evaluations, and work cooperatively with MDOT to use process review techniques to assess and improve processes and procedures.
- FHWA will participate in project steering committees or other ongoing oversight processes for all major ITS projects and Congressionally-designated ITS projects.

Business Standards

- MDOT will provide FHWA with copies of ITS regional architectures or amendments within 30 business days of adoption. If the owners of the regional architectures choose to have FHWA concur in the architecture, FHWA will be allowed 21 business days, from receipt date, to review and act on the document.
- FHWA will follow prescribed processing requirements for individual project actions related to regional architecture conformity, systems engineering analysis completion, and standards conformity as defined in this program overview.
- FHWA will follow prescribed processing requirements for ITS “earmark” projects as defined in specific implementation processes issued by FHWA Headquarters for each appropriation cycle.

Program Approval Actions

- Regional ITS architectures must be developed and maintained to document the ITS integration strategies and guide the development of specific projects and programs. FHWA will serve as a technical resource during the development and revisions of the regional architectures and will be furnished a copy of the adopted regional architectures and any amendments. It will be up to the owners of the regional architecture to decide whether they want to request FHWA concurrence or acknowledgement of the regional architecture.

Project Approval Actions

- MDOT assumes the FHWA responsibility for all reviews and approvals for design, construction and final inspection of all ITS projects that are not major ITS projects. This applies to all ITS projects on NHS and on non-NHS facilities. FHWA will retain full federal oversight for major ITS projects, unless it is determined during project-by-project consultation and mutual agreement by FHWA and MDOT that MDOT assumes FHWA responsibility.
- All ITS projects (stand-alone or ITS-incorporated in other work) need to accommodate the interface requirements and information exchanges specified in the regional ITS architecture and there must be a commitment to the operations, management and maintenance of the overall system.
- MDOT will make a determination of conformity of ITS projects with the regional ITS architecture and document conformance using MDOT Form 2560 – Regional ITS Architecture Conformance and Maintenance Documentation Form. MDOT will forward the approved Form 2560 to FHWA for their records.
- All ITS projects need to be developed based on a systems engineering analysis. MDOT will make a determination of conformity of ITS projects with the systems engineering analysis requirement.
- All ITS projects need to use applicable ITS standards and interoperability tests that have been officially adopted, by rulemaking, by US DOT. MDOT will make a determination of conformity of ITS projects with the ITS standards requirement and notify the FHWA Michigan Division Office.
- Discretionary grants or earmarks (i.e., ITS Integration Program) are normally non-construction projects and will be advanced and/or approved on a case-by-case basis. Typically, the projects are designated by earmark in appropriations acts with specific implementation processes issued by FHWA headquarters for each appropriations cycle.

10. LOCAL PUBLIC AGENCIES PROGRAM OVERVIEW

To protect the public investment in Federal aid highway projects, FHWA is required to assure compliance with Federal aid contract provisions on all local projects that utilize Federal aid funds. FHWA is responsible to assure specific advertisement and award procedures and effective highway project quality controls/quality assurance processes are utilized. In addition, FHWA is required to support transportations agencies by providing technical assistance and sharing best practices.

Title 23 USC does not recognize local entities as direct recipients of Federal aid funds; therefore, MDOT is responsible and accountable for ensuring that Federal aid requirements are met on all Local Public Agency (LPA) projects. FHWA will work in partnership with MDOT to ensure Federal aid requirements are met.

Act 51 of 1951 as amended, authorizes MDOT to act as agent and to accept Federal aid funds on behalf of local public agencies for transportation projects. MDOT is required by law to share the Federal aid funds with the LPA at a ratio of 75 percent for the trunkline and 25 percent for the LPA, excluding the bridge funds. Public agencies include counties, cities, villages, and port authorities. Nearly all transportation projects under the jurisdiction of local agencies are projects off the National Highway System (NHS), or Federal aid eligible projects on non-Federal aid public roads or facilities.

Although MDOT cannot delegate responsibility, activities can be delegated to the LPA under Federal Regulation 23 CFR 1.11 and 635.105. In those cases where activities are delegated to the LPA, MDOT will review and take actions necessary to assure local compliance with all requirements of state and federal laws, regulations, and policies.

Non-NHS projects administered through MDOT will be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards as permitted under 23 USC 109(o), in lieu of NHS-based Title 23 USC requirements (23 USC 106).

Title 23 USC requirements that are applicable to all Federal aid projects include, but are not limited to, transportation planning, procurement of professional services, Davis-Bacon wage rates (as applicable), advertising for bids, Buy America Act provisions, and other requirements. All Federal aid projects must comply with applicable non-Title 23 USC requirements, as described in Section II of this Agreement.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC 106(c) (2)
- 23 USC 109(o)
- 23 USC 112
- 23 CFR 1.11
- 23 CFR 635 (for NHS routes only)
- ORC 5501.03(C)

Approved Procedures, Agreements, Manuals

- MDOT Locally Administered Transportation Projects Manual of Procedures
- MDOT Design Manual
- MDOT Standard Plans
- MDOT Standard Specifications for Construction
- Michigan Manual of Unified Traffic Control Devices (MMUTCD)
- FHWA Contract Administration Manual
- MDOT Construction Manual
- MDOT Frequently Used Special Provisions and Supplemental Specifications
- MDOT Documentation Guide
- MDOT Hot Mix Asphalt Production Manual
- MDOT Construction Warranties Manual
- MDOT Density Testing and Inspection Manual
- MDOT File Manual for Construction
- MDOT Materials Quality Assurance Procedures Manual
- MDOT Materials Source Guide
- Part 6 of the MMUTCD
- Michigan Test Methods
- MDOT Density Control Manual
- MDOT Road and Bridge Standard Plans
- Soil Erosion and Sedimentation Control Manual
- FHWA Contract Administration Core Curriculum Manual
- FHWA Construction Program Management and Inspection Guide
- Federal aid Policy Guide

Local Technical Assistance Program (LTAP)

The Michigan Local Technical Assistance Program (LTAP) conducts annual surveys of local agency training needs. Survey results are used as the basis for developing the curriculum of technical workshops and deployment training courses offered during the next year, and is regulated under 23 USC 504(b). LTAP was created to provide educational training, technical assistance and related support services for rural, smaller urban and tribal governments, as well as consultants and contractors that do work for local agencies on roads, bridges, and public transportation.

The Michigan LTAP Center is located at Michigan Technological University, Houghton, Michigan.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC applies to all research and technology transfer activities.
- Title 23, CFR, Part 420 and 450 apply to State Planning and Research Program Administration
- MDOT Research, Development and Technology Transfer Manual of Procedures

Monitoring

- FHWA provides oversight to the LTAP program through review of the annual work program.

Business Standards

- FHWA will review and approve the LTAP annual work plan within 14 business days.

Program Approval Actions

- Michigan LTAP coordinates with the FHWA to draft an Annual Work Plan based on the State fiscal year. FHWA reviews the draft LTAP Work Plan. FHWA comments are incorporated into the draft work plan and the final version is approved by FHWA.

PROJECT ACTIVITIES APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBILITY		
Approval Action	**Reference Document**	**Review**	**Approve**	**Remarks**
LTAP	23 USC 504(b)(1) and (2)	FHWA	FHWA	Annually develop the work plan

Monitoring

- FHWA shall review and concur with the MDOT LPA Manual for the administration of the Federal aid Highway Program to local agencies.
- FHWA may request data at any time to support the administration of the Federal aid Highway Program.
- FHWA will periodically perform Program Reviews to improve the efficiency and accountability of the program.
- FHWA will monitor compliance with environmental requirements through project-by-project approval actions, biennial quality assurance reviews and improvement reviews of the MDOT Local Agency Programs unit.
- Additional monitoring may be done on a program-wide basis using process reviews.

Business Standards

- FHWA will review and comment on revisions to the LPA Manual and Policy within 30 business days.
- Project-level approvals will follow agreed business standards described elsewhere in this Agreement.
- MDOT will involve FHWA in decisions involving special and unusual circumstances at the earliest reasonable time to ensure thorough and appropriate decisions are made collectively.
- FHWA and MDOT will share respective delivery and response time data, as well as other relevant information on a monthly basis.

For further information and related business standards/monitoring and program and project activities, refer to:

- Program Area 4 - Construction and Contract Administration.
- Program Area 7 - Environment
    - Environmental clearance must be obtained from the FHWA or acquired through MDOT prior to the final design or right-of-way actions. The MDOT Local Agency Programs (LPA) unit has specialists who will review the environmental classification and NEPA requirements on individual projects.
- Program Area 11 - Construction and Contract Administration.
- Program Area 15 - Real Estate.

Program Approval Activities

To the extent permitted in 23 USC Section 109(o), non-NHS projects administered by MDOT or LPA will follow State laws, rules, and standards for State-aid funded projects, in lieu of Title 23 requirements. For LPA-administered projects, MDOT shall maintain a Local Program Administration manual that encompasses the requirements of local governments to utilize Federal aid funds. FHWA will review and concur in any additions, modifications, or changes to the manual. MDOT-administered projects will follow MDOT procedures.

MDOT retains its responsibilities under federal law and regulations for all delegated activities. MDOT will provide the necessary processes, approvals, oversight, and review to ensure that delegated projects receive adequate supervision and inspection, and that they are completed in conformance with approved plans and specifications and applicable federal requirements.

FHWA-specific construction monitoring responsibilities include stewardship in the following areas (but not limited to):

- Quality Control and Improvement
- Contract Claims
- Contract Modifications
- Work Orders
- Payment to Contractor
- Extensions of Contract Time
- Liquidated Damages
- Construction File Administration
- File Retention

The following activities will not be delegated to local agencies:

- NEPA Review and Approval

- Design Exception Approval
- Right-of-Way Certification
- DBE Goals and Waivers
- Final Inspection and Acceptance
- Sole Source and Proprietary Justification Approval
- Labor Compliance Enforcement
- Rejection of Bids
- Project Cost Eligibility
- Federal aid Payments

By written agreement with a local agency, MDOT may delegate all or some project activities to local agencies, whether or not Federal aid funds are used. Those activities include, but are not limited to:

- Environmental studies
- Procurement of consultant services
- Design
- Surveying
- Right-of-Way acquisition
- Work by railroads or utility companies
- Preparation of plans, specifications and estimates
- Preparation of bid proposal package
- Advertisement for letting
- Contracting
- Contract administration
- Inspection

Project Approval Activities

MDOT shall assume the responsibility and represent FHWA in behalf of administering the Federal aid system to local governments. The following is a list of some specific project-related actions that shall be performed on projects that use Federal aid funds. However, this list is not a comprehensive list and is subject to change due to federal law, regulation, and policy modification.

- Environmental clearance must be obtained from FHWA or acquired through MDOT prior to the final design or right-of-way actions.
- Projects will be developed in accordance with MDOT LPA and location and design manuals, the appropriate AASHTO publication, or other MDOT-approved standards. MDOT will ensure that there are LPA written design standards or otherwise the LPA must use AASHTO standards.
- MDOT shall review and approve design exceptions and sole source requests by local agencies.
- MDOT shall review plans, specifications, and estimates of projects prior to construction authorization for compliance with applicable state and federal law, regulation, and policy.

- Procurement of consultant services, to be reimbursed with Federal aid funds, will be performed in accordance with MDOT procedures and state statutes.
- Project funding will be in accordance with federal and state requirements.
- Projects will be let in accordance with federal statutes.
- MDOT shall concur on award of projects let and awarded by local agencies.
- Projects will be constructed in accordance with the current edition of MDOT's Standard Specifications or written local specifications. MDOT will ensure that there are LPA-written local specifications or otherwise the LPA must use MDOT Standard Specifications. MDOT oversight of the construction of local projects includes but is not limited to the review and approval of billings; review and approval of change orders, time extensions, and claims; and final project acceptance.
- For FHWA Oversight projects, review and approval actions will be undertaken as described elsewhere in this Agreement.

11. MAINTENANCE AND PRESERVATION PROGRAM OVERVIEW

Title 23 USC defines maintenance as, "…the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway." Title 23 further requires a state transportation department to maintain each project constructed with Federal aid funds until such time that it no longer constitutes a part of the Federal aid system. FHWA is responsible for ensuring that maintenance of Federal aid projects is adequate and providing technical assistance in disseminating information on successful maintenance techniques.

Routine maintenance is not eligible for Federal aid funds. Preventive maintenance activities are eligible for Federal aid funds provided MDOT demonstrates to FHWA satisfaction that the activity is a cost-effective means of extending the useful life of a Federal aid highway.

This section of the Agreement pertains to maintenance activities and the management of maintenance activities that are required to be accomplished by MDOT (or caused to be accomplished by MDOT) to fulfill its obligation under Title 23.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC 101 (a) (14)
- 23 USC 109 (o)
- 23 USC 116 Maintenance
- 23 CFR 1.27 Maintenance
- MUTCD

Approved Procedures, Agreements, and Manuals

- MDOT Capital Preventive Maintenance Manual
- Local Agency Programs Guidance On Roadway Preventive Maintenance Projects

Monitoring

As a condition of receipt of federal funds, MDOT is required to maintain or cause to be maintained, the federally funded roadways and associated appurtenances in the state of Michigan. FHWA will review road and bridge maintenance through a sampling of field observations, process reviews, program reviews, and Quality Improvement Reviews. Any specific instances of inadequate maintenance or concerns regarding MDOT's overall maintenance program will be brought to the attention of MDOT by FHWA.

- MDOT, in compliance with 23 USC, formally conveys its maintenance obligation to local agencies through the use of various agreements.
- FHWA will monitor MDOT's Preventive Maintenance Program through construction inspections on FHWA oversight projects, as well as process reviews.
- FHWA will monitor the cost effectiveness of the Preventive Maintenance Program at extending the life of the system through periodic review of MDOT's asset management program.

Business Standards

- FHWA shall notify MDOT of instances of inadequate maintenance or concerns of MDOT's overall maintenance program.
- MDOT shall advise the FHWA of any major updates or changes to the MDOT maintenance program, or significant maintenance policy changes.
- FHWA will review and respond within 30 business days to MDOT for substantive changes to the Capital Preventive Maintenance Manual.

Program Approval Actions

There are no reporting or approval actions associated with maintenance activities or the management of maintenance activities that are required to be accomplished by MDOT (or caused to be accomplished by MDOT).

Preventive Maintenance eligibility determinations will be made by FHWA. MDOT demonstrates that preventive maintenance is a cost-effective means of extending the useful life of the system and therefore eligibility for Federal aid funds through the application of the MDOT asset management program and the guidelines established in the Capital Preventive Maintenance Manual.

- The MDOT Capital Preventive Maintenance Manual is approved by FHWA on a program basis.
- Local Agency Preventive Maintenance guidelines are reviewed by FHWA.

Project Approval Actions

FHWA approval is not required on a project level for maintenance activities unless special or unusual circumstances exist. The maintenance agreement, which is part of the project agreement, is a project-level agreement in which MDOT agrees to maintain the constructed facility.

Preventive Maintenance project level approvals are as follows:

- Preventive Maintenance projects determined to be oversight will be approved by FHWA.
- Non-oversight projects will be approved by MDOT.
- Non-standard, pilot or experimental preventive maintenance treatments not outlined in the CPM Manual will be approved by FHWA.
  - FHWA will approve project level changes to the CPM Manual on FHWA oversight projects.

PROGRAM/PROJECT ACTIVITY APPROVAL CHARTS

MDOT is directly responsible for the performance of maintenance operations for 17 counties. Maintenance operations for the remaining 66 counties are performed by the respective counties under contract by MDOT. The contract oversight is the responsibility of the regions to ensure that maintenance operations are adequate for preservation of the National Highway System and projects constructed with Federal aid funds.

MAINTENANCE ACTIVITIES		
AGENCY RESPONSIBLE FOR MAINTENANCE/MONITORING		
Interstate	State highways	Local Highways
FHWA/MDOT/Locals	FHWA/MDOT/Locals	MDOT/Locals

PREVENTIVE MAINTENANCE		
Activity/Item	**MDOT Action**	**FHWA Action**
Capital Preventive Maintenance Program	Develop and Implement	Review and Approve
Asset Management Program	Develop and implement	Review and make recommendations for consideration (as necessary)
Local Agency Preventive Maintenance Guidelines	Develop and implement	Review and make recommendations for consideration (as necessary)

12. PAVEMENTS AND MATERIALS PROGRAM OVERVIEW

Pavements: 23 CFR 626 requires that pavements be designed in accordance with current and predicted traffic needs in a safe, durable, and cost-effective manner. The regulations do not specify the procedures to be followed to meet this requirement. MDOT is expected to use an appropriate design procedure.

Materials: Subsection (a) of 23 USC 109 requires that the FHWA ensure that the plans and specifications for all proposed Federal aid highway projects provide for facilities that will adequately serve the existing and planned future traffic in a manner that is conducive to safety, durability, and economy of maintenance. To fulfill this requirement for all Federal aid highway projects, the FHWA Michigan Division Office prime objectives are to:

- Maintain a close working relationship with MDOT materials and construction staff.
- Promote improvements when new approaches or technologies are developed and where deficiencies are identified.
- Ensure that the materials incorporated in the construction work are of sufficient quality to help ensure the final product performs and provides the expected service life to the public.

Furthermore, FHWA is required, by means of an approved quality assurance program, to assure the quality of materials incorporated into Federal aid highway projects on the NHS. For Federal aid projects on the NHS, the primary objectives are to:

- Ensure that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing, are in conformity with the approved plans and specifications.
- Provide oversight of construction materials and compliance with federal requirements on a statewide basis.
- Ensure adequate and qualified staff to maintain MDOT's Quality Assurance responsibility as part of its Acceptance Program.
- Ensure adequate and qualified staff to maintain MDOT's Independent Assurance responsibility as part of its Acceptance Program.
- Ensure compliance with, and assist in, maintaining the MDOT Transportation Technician Qualification Program.

Applicable Laws, Regulations, Orders, and Procedures

- Title 23 USC, 106, 109, 114
- 23 CFR 625.4 Standards, policies, and standard specifications

- 23 CFR 626 Pavement Policy
- 23 CFR 635 Construction and Maintenance
- 23 CFR 637 Construction Inspection and Approval

Monitoring

- FHWA will monitor MDOT's Acceptance Program through construction inspections on FHWA oversight projects, as well as process reviews.
- FHWA will monitor the acceptance and testing of materials in accordance with MDOT's Construction and Material Specifications and the MDOT Sampling and Testing Manual on Federal aid projects through construction inspections and process reviews.
- MDOT will report annually on the Acceptance Programs Independent Assurance activities.

Business Standards

- FHWA will review and respond within 30 business days to MDOT for substantive changes in its Acceptance Program.
- See Quality Assurance Program Summary Table for more business standard details.

PROGRAM ACTIVITIES APPROVAL CHART

All NHS			**Non-NHS**	
Activity/Item	**MDOT Action**	**FHWA Action**	**MDOT Action**	**FHWA Action**
Quality Assurance Program Acceptance Requirements, Materials test methods, Field Sampling and Testing	Maintain (ongoing)	Review and Act Upon (10 Business days)	MDOT prepares and approves	Review, make recommendations for consideration (as necessary)
Buy America Provisions and Waivers	Develop and prepare	Review and approve	Develop and prepare	Review and approve
Laboratory and Technician Certification Programs	Develop and implement	Review and Act Upon when updated (10 Business days)	Required by MDOT	No action
AASHTO accreditation inspection reports, use of outside testing facility	Maintain accreditation, submit inspection report, approve outside testing facility	Review, make recommendations for consideration (as necessary)	Required by MDOT	No action

All NHS			Non-NHS	
Activity/Item	**MDOT Action**	**FHWA Action**	**MDOT Action**	**FHWA Action**
Michigan Construction and Material Specifications (Supplemental Issues)	Maintain (ongoing)	Review and Act Upon (10 Business days)	Required by MDOT	No action
Material or Product Selection: proprietary products, recycled materials, public interest findings (23 CFR 635.411)	Develop and prepare	Review and approve on FHWA Oversight projects only	Develop and prepare	No action

Program Approval Actions

- Each state must develop an acceptance program that will assure that materials and workmanship incorporated into each Federal aid highway construction project on the NHS are in conformity with the requirements of the approved plans and specifications. The program must be approved by FHWA.
- The MDOT Standard Specifications are approved by FHWA on a program basis to facilitate project approvals.
- Supplemental Specifications and Frequently Used Special Provisions are approved by FHWA on a program basis.

Project Approval Actions

- FHWA will approve changes in project specifications for materials on FHWA oversight projects.
- FHWA will approve project specific Special Provisions for FHWA oversight projects.
- FHWA will approve the Final Inspection/Acceptance and Certification Report for FHWA oversight projects.

13. PLANNING PROGRAM OVERVIEW

Work Programs: Title 23 CFR, Part 420, Planning and Research Program Administration contains the policies and procedures for administering activities and studies undertaken by States and Metropolitan Planning Organizations (MPO) funded through their respective Work Program or as separate projects not included in a Work Program.

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

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

When MDOT receives a notification from an MPO that it intends to use Flexible Match, MDOT, will forward the request with supporting documentation to FHWA for approval. Upon receiving FHWA approval, the appropriate MDOT program manager will forward the approval letter to the MPO to be included in the UPWP.

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

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

2. Statewide Transportation Improvement Program (STIP): MDOT develops a STIP containing all projects proposed to be funded by FHWA and FTA for a four-year period. The STIP is amended, modified, or updated by MDOT and submitted to FHWA and FTA on an agreed-to schedule, but updates shall happen at least every four years. Projects contained in the

STIP must be consistent with the Statewide Transportation Plan and the MPO plans, and must provide reasonable opportunity for consultation and participation by interested parties. Along with the STIP, MDOT will certify that the projects in the STIP are based on a planning process that meets the requirements of 23 CFR 450.218.

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

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

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

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

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

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

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

Other areas of interest: Title 23 CFR requires states to compile and submit to FHWA (1) a Highways Statistics Report, (2) a Certification of Enforcement of Heavy Vehicle Use Tax Certification, which the Secretary of State completes, (3) the Vehicle (Truck) Size and Weight Enforcement Certification and supporting information on related activities, which is completed by the Traffic Safety Division of the Michigan Department of State Police, and (4) a report outlining the Annual Truck Weight Characteristics Data.

Applicable Laws, Regulations, Orders, and Procedures

- Title 23 CFR, Part 420
- Title 23 CFR, Part 450, Subpart B
- Title 23 CFR Part 450, Subpart C
- Title 23 CFR, Part 460

- Title 23 CFR, Part 470
- Title 23 CFR, Part 500
- Title 23 CFR, Part 657
- Title 23 CFR, Part 669

Approved Procedures, Agreements, and Manuals

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

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

- Other documents influencing the implementation of this agreement include the Joint FTA/FHWA Planning Memorandum of Agreement and MDOT guidance documents for STIP Development and use of Flexible Match.

Monitoring

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

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

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

- FHWA conducts certification reviews of Transportation Management Areas (TMA) on a four-year cycle and periodic reviews of non-.Transportation Management Areas.

Business Standards

- MDOT will provide FHWA (and FTA and EPA where appropriate) at least 30 business days to review and comment on the draft and final Statewide Transportation Improvement Program, Metropolitan Transportation Improvement Program, State Planning and Research Work Program, the

Metropolitan Planning Organization Unified Planning and Work Program, and the Statewide and Metropolitan Transportation Plans.

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

Program Approval Actions

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

Programs requiring oversight include:

1) State and metropolitan planning sub-programs under the State Planning and Research Program.
2) Statewide transportation planning process, including the STIP.
3) Metropolitan Planning Organization transportation planning process.

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

PROGRAM ACTIVITIES APPROVAL CHART

PROGRAM ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	**Ref. Source**	**Review**	**Approve**	**Remarks**
20-year Statewide Transportation Plan	23 CFR 450.214	FHWA	MDOT	FHWA reviews and comments on LRTP but no official approval action is taken
Statewide Transportation Improvement Program (STIP)	23 CFR 450.216	FHWA / FTA	FHWA / FTA	Minimum 4 year period; update required every 4 years
State Planning & Research (SPR) Work Program	23 CFR 420.111	FHWA	FHWA	MDOT annually develops work program
Highway Performance Monitoring System (HPMS) Annual Data Submittal from State and Field Verification Review and Report	HPMS Field Review Guidelines	FHWA (HQ)	None	FHWA HQ required Field Verification review to be conducted by the Division Offices. Based on this review, the FHWA Michigan Division Office recommends the acceptance of the HPMS data for funding apportionment and allocation purposes. MDOT submits HPMS Submittal by June 15 of each year
Certification of Public Road Mileage	23 CFR 460.3	FHWA (HQ)	None	Due to FHWA HQ by June 1 of each year. Requires concurrence of FHWA Michigan Division Office.
Heavy Vehicle Use Tax Annual Certification by State & Triennial Division Office Review	23 CFR 669.7, 669.11, 669.21	FHWA (HQ)	None	Before July 1 of each year, the State Department of Revenue is required to certify that HVUT is being collected. FHWA HQ recommends a review be completed every 3 years.
Highway Statistics: 500 Series Reports	23 CFR 420.105(b)	FHWA	None	MDOT is required to submit several Highway Statistics forms annually.
Traffic volume Monthly Automated Traffic Recorder Data	23 CFR 1.5	FHWA (HQ)	None	MDOT submits required ATR data reports directly to FHWA HQ.
Annual Truck Weight Characteristics Data	23 CFR 1.5	FHWA (HQ)	None	MDOT annually submits required data directly to FHWA HQ.
Metropolitan Transportation Plan	23 CFR 450.322	FHWA, FTA & MDOT	MPO	FHWA, FTA & MDOT reviews and comments on Metropolitan Transportation Plans; FHWA, with FTA and EPA makes conformity determination.
Metropolitan Transportation Improvement Program (TIP)	23 CFR 450.324	FHWA, FTA & MDOT	Governor or Designee	Minimum 4 year period; updated at least every 4 years. FHWA reviews and comments on TIPs. All TIPs are developed by the MPO and included in the STIP by reference which is approved by FHWA.
Metropolitan Unified Planning Work Program	23 CFR 450.314	FHWA, FTA & MDOT	FHWA, FTA	Each MPO annually develops and submits the work program. FHWA & MDOT review and comment on UPWP from each MPO.
TMA Planning Certification Process Reviews in an MPO greater than 200,000.	23 CFR 450.334	FHWA & FTA	FHWA & FTA	TMA Planning process reviews in SEMCOG, Flint, Lansing, and Grand Rapids are completed on a 4-year cycle.
Vehicle (Truck) Size and Weight Enforcement Certification	23 CFR 657.13, 657.17	FHWA	FHWA	State certification that it is enforcing all state laws respecting maximum vehicle size and weight permitted in accordance with 23 USC 127. In Michigan, the plan and certification is completed by the Traffic Safety Division of the Michigan Department of State Police
National Functional Classification	23 CFR 470	MDOT	FHWA	NFC determinations and approvals are made as needed

Note: "(HQ)" designation above indicates involvement by FHWA headquarters.

Project Approval Action

- Projects not originally included in an approved work program or TIP/STIP will need approval from FHWA to be amended to the appropriate planning documents.

14. RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER PROGRAM OVERVIEW

The purpose of this program is to implement the provisions of 23 USC 505 State Planning and Research (SPR) for effectively utilizing FHWA SPR funds by undertaking research and development activities that have a direct bearing on improving Michigan's transportation program. A primary element of 23 CFR Part 420—Planning and Research Program Administration is to utilize SPR Part II funds for developing and implementing the Research, Development, and Technology Transfer Program. Through the establishment of this program:

- An annual work program and budget is established.
- Research, development, and technology transfer activities are monitored.
- Program performance and expenditure reports are submitted.
- Peer exchanges are conducted.
- Research and development management process is established.
- Research deliverables are incorporated into MDOT's transportation program processes (manuals), materials, and/or best practices.

MDOT is responsible for coordinating and monitoring the SPR Part II Program that operates on the basis of the state's fiscal year. MDOT may process amendments and revisions to the annual work program and budget as necessary.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC 505 State Planning and Research
- 23 CFR Part 420—Planning and Research Program Administration
- 49 CFR Part 18 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- MDOT Research & Implementation Manual

Approved Procedures, Agreements, and Manuals

- MDOT Research & Implementation Manual

Monitoring

- The FHWA Michigan Division is involved during the research idea development phase.

- Each proposed research idea is vetted and approved by the associated MDOT specialty group and the problem statement properly developed prior to the proposed study being added to the research priority list.

- FHWA reviews MDOT's prioritized project list of research ideas for eligibility and implementation.

- FHWA reviews and approves the work program and budget prior to authorization and obligation of funds.

- FHWA reviews and approves of each work program amendment and modified budget. MDOT will not conduct work on a project prior to FHWA approving the project's addition to the program.

- As appropriate, FHWA personnel may participate in peer exchanges.

- MDOT submits an annual performance and expenditure report to the FHWA Michigan Division Office in accordance with the requirements in 23 CFR, Part 420.117, (a) (c).

- MDOT hosts a peer exchange and reports its findings to the FHWA Michigan Division Office in accordance with 23 CFR, Part 420.209. In addition, MDOT program staff participate in peer exchanges hosted by other states and uses the knowledge gained to improve the MDOT research program.

Business Standards

- Draft work program and budget documents are provided to FHWA by August 1, with the final work program and budget documents provided to FHWA by September 1, for approval prior to the beginning of the next fiscal year.

- MDOT request for federal authorization and obligation of funds is to be made prior to the first week of October of each fiscal year.

Program Approval Actions

- MDOT administers the research program in accordance with the MDOT *Research & Implementation Manual* and 23 CFR Part 420 Planning and Research Program Administration. Changes to the manual pertaining to management procedures are reviewed and approved by the FHWA Michigan Division Office prior to implementation.

- In accordance with 23 CFR 420.115 Approval and Authorization Procedures, each annual SPR Part II work program and budget is reviewed by the FHWA Michigan Division Office and compared with the FHWA approved list of proposed research ideas. Upon the FHWA Michigan Division Office's formal concurrence of work program and budget, MDOT may request authorization and obligation of funds for approval prior to beginning work on activities in the work program. Obligation of funds is based on the total estimated cost for all the projects listed in the approved work program.

- Proposed amendments to an annual work program and budget by MDOT require FHWA prior approval before individual FHWA-funded project activities are begun. Funding changes will be based on the total program costs.

PROGRAM ACTIVITIES APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	**Reference**	**Review**	**Approve**	**Result**
MDOT submits final list of prioritized research ideas to FHWA.	N/A	FHWA	N/A	Review list of research ideas for eligibility and implementation.
MDOT submits the State Planning & Research (SPR) Part II work program and budget documents and FHWA reviews, comments, and approves it.	3 CFR 420.115	FHWA	FHWA	Annual work program and budget is approved for implementation.
Based on FHWA annual work program and budget approval, MDOT submits an MFOS electronic funding request. FHWA processes an Authorization/Obligation of SPR Part II funds through FMIS.	49 CFR Part 18	FHWA	FHWA	Authorization to proceed with project activities and incur project costs.
MDOT submits an amended work program and budget document and FHWA reviews, comments, and approves it.	23 CFR 420.115	FHWA	FHWA Within 5 business days*	Adding/removing projects into the annual work program.
Should the amended work program and budget require additional Federal aid funds, MDOT submits an MFOS electronic funding request and justification to modify the program's authorized funding amount. FHWA processes an Authorization/ Obligation of SPR Part II funds through FMIS.	49 CFR Part 18	FHWA	FHWA	Work program budget is modified to accommodate project changes.

*FHWA will respond (approve, reject, or need additional information) to an amendment request within 5 business days.

Project Approval Actions

MDOT identifies and implements research studies that address high priority transportation issues. An interactive process involving MDOT management, as described in the MDOT *Research & Implementation Manual,* is used for the identification and prioritization of projects to be included in the research work program. A list of research ideas will be reviewed for eligibility and implementation by FHWA prior to MDOT finalizing each problem statement. MDOT shall determine the funding level at which the identified and prioritized projects will be supported with FHWA research funds. Based on the approved list of prioritized studies, MDOT will develop a work program and budget for the next two subsequent fiscal years. MDOT will manage project activities and project

costs within the FHWA approved annual (fiscal year) work program and budget. Only those projects contained in the FHWA-approved list are eligible to be added to an annual program. Removing or adding projects to the work program will require FHWA prior approval. Any significant project scope change requires FHWA approval prior to MDOT conducting additional work. MDOT may advertise requests for proposals (RFP) once the SPR II work program has been approved by FHWA.

15. REAL ESTATE PROGRAM OVERVIEW

The purpose of this section is to address real property transactions for Federal aid projects and real property management. Real property transactions (fee title, easements, consents to grade, etc.) for Federal aid projects involve unique processes:

- Authority to begin real property acquisition
- Process for acquiring real property – Uniform Act
- Right-of-Way (ROW) Certification

FHWA and MDOT approval activities are related to the business process rather than the type of highway, i.e., Interstate system, National Highway System (NHS), and non-NHS. In this case FHWA approval (action) pertains to prior authorization for funding the ROW phase and ROW Certification approval prior to advertising a project. The activities relating to real property transactions are full MDOT oversight. Special situations relating to early acquisition credit for federal match and federal reimbursement for hardship acquisition and protective buying require prior FHWA approval for all Federal aid projects.

Property management activities relating to the Interstate and Limited Access Right-of-Way require FHWA prior approval. Disposal of excess property purchased with Federal aid funds, federal land transfer, and relinquishment of Federal aid facilities also require FHWA prior approval.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC 106, Project Approval and Oversight
- 23 USC 107, Acquisition of rights-of-way-Interstate System
- 23 USC 108 Advance Acquisition of Real Property
- 23 USC 109 Standards
- 23 USC 111 Agreements Relating to Use of and Access to Rights-of-Way-Interstate System
- 23 USC 131 Control of Outdoor Advertising
- 23 USC 323 Donations and Credits
- 42 USC 4601, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended
- 23 CFR 1.23, Right of Way
- 23 CFR Part 620, Subpart B, Relinquishment of Highway Facilities
- 23 CFR Part 630, Subpart A, Project Authorization and Agreements (630.102-112)
- 23 CFR Part 635, Subpart C, Physical Construction Authorization (635.102-309)
- 23 CFR Part 645, Subpart B, Accommodation of Utilities
- 23 CFR Part 646, Subpart B, Railroad-Highway Projects
- 23 CFR Part 710, Right-of-Way and Real Estate

- 23 CFR 750, Highway Beautification
- 23 CFR 751, Junkyard Control and Acquisition
- 49 CFR Part 18, Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments
- 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs, Subpart G Certification

Monitoring

- FHWA monitors the real estate program through prior approvals for specific activities (Federal aid project and real property management) and through procedure and policy approvals prior to implementation.

- Federal aid Project and Real Property Management
- FHWA prior approval for Federal aid participation in the ROW phase (funding obligation and authorization) is required before costs are incurred for this phase of project work. This is required for all ROW phase work with Federal aid funds and assures conformity with the Federal aid process, along with ensuring the best estimated cost for the ROW phase is being requested.

- FHWA ROW Certification approval for Interstate and NHS FHWA oversight projects (as identified in Section 4, Construction and Contract Administration) is required before the project is advertised. This ensures the higher cost projects are in conformity Federal requirements. All other MDOT oversight Federal aid projects are monitored by FHWA through process reviews and spot checks of projects in comparison with MDOT written processes. All conditional ROW Certifications require FHWA approval prior to advertising the project.

- MDOT monitors Uniform Act requirements by conducting annual Quality Assurance/Quality Control (QA/QC) reviews in each Region of the State in accordance with MDOT Real Estate Procedures Manual. The annual QA/QC project review reports by Region and Statewide summary are sent to FHWA for review to assure conformity with 49 CFR Part 24. FHWA also may participate during QA/QC reviews for monitoring conformity.

- MDOT develops an annual real estate statistical report regarding acquisitions and relocations in conformity with 49 CFR Part 24 (covering October 1 thru September 30 each fiscal year)—and submits it to FHWA during November of each year. This report is forwarded to FHWA headquarters for national trend analysis and state-to-state comparisons.

- MDOT develops periodic reports regarding site acquisitions and actual sign removals and submits it to FHWA on FHWA Form 1424.

- Other real property management activities are monitored by FHWA through prior approvals and through program reviews.

FHWA Approval of Procedures and Policies

Real Estate Procedures Manual:

- MDOT is responsible for maintaining a manual describing its Real Estate organization, policies and procedures. MDOT functions and procedures shall be described for all phases of the real estate program, including property acquisition, relocation, and property management.
- Changes to the manual will be made on a quarterly basis. Changes based on new FHWA requirements or changes in state law, etc., will be sent to FHWA within the respective quarter of the fiscal year for approval. An updated manual involving grammar and language clarity revisions will be sent to FHWA for informational purposes and does not require FHWA approval.
- In accordance with 23 CFR 710.201(c), MDOT's Chief Operation Officer shall certify to the FHWA every five years or less, that the Real Estate Procedures Manual conforms to existing practices and contains necessary procedures to ensure compliance with federal and state real estate laws and regulation.

Utility Accommodation Policy:

- This policy document is formally revised or updated as federal or state statutes and regulations change. Revisions require FHWA approval prior to implementation.

Highway Advertising Procedure and Desk Operating Manuals:

- This policy and procedures document is formally revised or updated as federal or state statutes and regulations change. Revisions require FHWA approval prior to implementation.

Business Standards

Work Activity	MDOT Action	FHWA Action	Result
Early Acquisition (Federal aid Credit for Match)	Approve	Concur (14 business days)	Eligible for Matching Credit
Real Property Donations (Federal aid Credit for Match)	Approve	Concur (14 business days)	Eligible for Matching Credit
State and Local Contributions (Federal aid Credit for Match)	Approve	Concur (14 business days)	Eligible for Matching Credit
Hardship Acquisition and Protective Buying	Prepare Submission	Review, Approve, and Authorize (14 business days)	Federal Reimbursement for eligible costs and Property Ownership
ROW Phase Funding, Authorization, and Agreement	Requests	Authorize – All Projects (7 business days)	Authorization & Agreements

Work Activity	MDOT Action	FHWA Action	Result
Real Property Acquisitions/transactions	Perform, Review, and Approve – All Projects	N/A	Property Ownership (Title/Easements) or legal access (Consents)
Relocations	Perform and Approve – All Projects	N/A	Occupants Relocated
ROW Certification	Approve	Approve (7 business days)	Certificates
Conditional ROW Certification	Approve	Approve (7 business days)	Construction project is advertised
Functional Replacement	Approval and Oversight	Concur (14 business days)	Functional Replacement of Real Property
Air Rights – Interstate (Non-highway purposes)	Request	Review and Approve (14 business days)	Airspace Agreement
Airspace Leases/Joint Use Agreements	Request (Federal aid facilities)	Approve (Federal aid facilities) (14 business days)	Leases/Agreements
Disposal of Excess Property (outside existing Highway ROW)	Approve (at fair market value)	When less than fair market value-Review and Approve (14 business days)	Property Sale & Revenue to Transportation Fund
Federal Land Transfer	Prepare Request	Review and Approve (90 business days)	Transfer Deeds
Change/Break in Limited Access ROW	Review/Approve/Request	Review and Approve (28 business days)	Limited Access Changed and Adjacent Property Access Granted
Relinquishment of Highway Facilities	Review/Approve/Request	Review and Approve (28 business days)	Conveyance of Highway Facility to another Government Agency
Real Estate Procedures Manual	Prepare and Maintain Manual	Review and Approve (30 business days)	Manual with updates
Highway Advertising Procedure and Desk Operating Manual	Prepare and Maintain Manual	Review and Approve (30 business days)	Manual with updates
Utility Accommodation Policy	Prepare and Maintain Policy	Review and Approve (30 business days)	Updated Policy

Program Approval Actions

The approval of the MDOT Real Estate Procedures manual is a program approval action required by 23 CFR 710.201(c).

FHWA Property Management Approval Actions:

- Interstate Access, use or occupancy changes
- Change/Break in Limited Access ROW
- Alternative use of a Federal aid facility
- Disposal of excess property purchased with Federal aid funds and sold at less than fair market value.
- Federal land transfer
- Relinquishment of Federal aid highway facilities
- Utility use of Limited Access ROW not covered by the MDOT Accommodation Policy

Project Approval Actions

FHWA project-level approval actions include authorization of Federal aid ROW activities, early acquisition approval, acceptance of project ROW certifications, etc. See the Project Activity Approval Chart for more detail.

- Early Acquisition Credit – All projects
- Hardship Acquisition and Protective Buying – All projects
- ROW Phase Funding – All projects
- ROW Certification – Interstate and NHS projects identified in Section 4 of this agreement and all Conditional ROW Certifications
- Functional Replacements – All Projects

PROJECT ACTIVITY APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE			
Approval Action	**Reference Document**	**Interstate**	**Non-Interstate NHS**	**Non-NHS Projects**	**Other Projects Subject to FHWA Oversight by Mutual Agreement**
Early Acquisition (Federal aid Credit for Match)	23 CFR 710	FHWA	FHWA	FHWA	FHWA
Real Property Donations (Federal aid Credit for Match)	23 CFR 710	FHWA	FHWA	FHWA	FHWA
State and Local Contributions (Federal aid Credit for Match)	23 CFR 710	FHWA	FHWA	FHWA	FHWA
Hardship Acquisition and Protective Buying	23 CFR 710	FHWA	FHWA	FHWA	FHWA
ROW Phase Funding, Authorization and Agreement	23 CFR 710	FHWA	FHWA	FHWA	FHWA
Real Property Acquisitions/transactions	23 CFR 710 49 CFR 24	MDOT	MDOT	MDOT	MDOT
Relocations	23 CFR 710 49 CFR 24	MDOT	MDOT	MDOT	MDOT
ROW Authorizations and Agreements	23 CFR 710	FHWA	FHWA	FHWA	FHWA
ROW Certification	23 CFR 710 23 CFR 635 49 CFR 24	MDOT FHWA**	MDOT FHWA**	MDOT	FHWA
Conditional ROW Certification	23 CFR 710	FHWA	FHWA	FHWA	FHWA
Functional Replacement (Federal Funds in ROW)	23 CFR 710	FHWA	FHWA	FHWA	FHWA
Air Rights – Interstate (Non-highway purposes)	23 CFR 710	FHWA	N/A	N/A	N/A
Airspace Leases/Joint Use Agreements	23 CFR 710	FHWA	FHWA	FHWA	FHWA
Disposal of Excess ROW	23 CFR 710	MDOT FHWA*	MDOT FHWA*	MDOT FHWA*	FHWA
Federal Land Transfer	23 CFR 710	FHWA	FHWA	FHWA	FHWA
Change/Break in Limited Access Right-of-Way	23 CFR 710 23 CFR 620	FHWA	FHWA	FHWA	FHWA
Relinquishment of Highway Facilities	23 CFR 620	FHWA	FHWA	FHWA	FHWA

* Below fair market value if Federal aid funds were used in the purchase of the property.
****** FHWA oversight projects - Interstate and NHS projects identified in this Agreement.

16. SPECIFICATIONS PROGRAM OVERVIEW

Specifications provide for the basis of payment and facilitate the administration of contracts. Specifications delineate the means and methods for the work, establish levels of acceptability, and serve as the basis for project decisions. In sum, specifications serve as the basis for delivering the highway product to the end user. Specifications include:

- MDOT Standard Specifications for Construction
- Supplemental Specifications
- Special Provisions-Frequently Used
- Project Specific/Inserted Special Provisions
- Local Agency Special Provisions
- Proposal Notes

Regulations require that the Plans, Specifications, and Estimates (PS&E) for Federal aid highway projects on the NHS be approved on a project-by-project basis prior to advertisement of the project. Standard specifications, supplemental specifications, and frequently used special provisions are not regulated documents, but are approved by the FHWA to simplify the PS&E review process. Once approved, standard specifications can be used on Federal aid projects without further review. In the absence of pre-approved standard specifications, all of the required specification information would have to be included and approved as part of the PS&E package for each project.

MDOT does not differentiate between NHS and non-NHS projects. When it comes to the development and implementation of standard specifications, a single set of standard specifications is used.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC 106 and 109
- 23 CFR 625
- 23 CFR 630 Subpart B
- 23 CFR 635.127 Federal aid Policy Guide Non-Regulatory Supplement NS 23 CFR 630B
- FHWA, Technical Advisory T 5080.16, Development and Review of Specifications

Approved Procedures, Agreements, and Manuals

- MDOT Design Manual
- BOHIM 2003-10, Review and Approval Process for Special Provisions
- BOHIM 1999-12, Special Provision Process Upgrade
- BOHIM 1998-11, Special Provisions for Maintaining Traffic

Monitoring

- FHWA will participate in the various specification committees.
- FHWA will assess the performance of individual specifications via program, process, and project reviews conducted in accordance with this Agreement.

Business Standards

- FHWA will participate on the various revision committees for the complete revision of the Standard Specifications for Construction Division. Final review timeframe and approval of the Standard Specifications for Construction will be negotiated prior to the activity.
- FHWA will review and respond to MDOT for Frequently Used Special Provision and Project Specific/Inserted Special Provisions revisions within 14 business days of receipt.

Program Approval Actions

- The MDOT Standard Specifications for Construction, Supplemental Specifications, Special Provisions-Frequently Used are approved by FHWA on a program basis to facilitate project approvals.

Project Approval Actions

- Non-standard Construction and Material Specifications or Project Specific/Inserted Special Provisions, and Previously Approved Project Special Provisions are approved on a project-by-project basis at the time of PS&E, in accordance with the agreed level of project oversight.

17. TRAFFIC OPERATIONS PROGRAM OVERVIEW

FHWA works collaboratively with MDOT on development and deployment of initiatives to improve safety and mobility and reduce congestion across the State of Michigan. FHWA and MDOT have formed numerous partnerships in support of increased safety, enhanced mobility, and congestion relief. This collaborative effort has engaged stakeholders (e.g., emergency service providers, law enforcement agencies, local government agencies, metropolitan planning organizations, other state departments of transportation, modal advocacy groups, and private companies) to improve safety and mobility and reduce congestion.

Traffic Operations is a cross-functional program area that considers a variety of elements of the highway program. Traffic Operations contributes to project planning, development, and delivery through engineering analysis of freight, vehicle, pedestrian, bicyclist, and other modal movements that are needed to produce sound project-level decisions affecting safe and efficient highway and non-motorist operations. Traffic Operations supports operations of highway facilities by providing operational techniques, procedures, processes, guidance, and data analysis.

FHWA regulations describe work zone safety and mobility expectations as well as uniform traffic control device standards. FHWA and MDOT collaborate to address work zone safety and mobility and address congestion as described below.

<u>Management of Non-Recurring Congestion</u>

1. Traffic Incident Management:
    a. Provides for the identification and response to vehicle crashes and breakdowns with appropriate emergency services to restore normal traffic flow and reduce secondary crashes.
    b. Provides guidance, training, and support of law enforcement and emergency service operations on highway facilities, as well as coordination and cooperation with these agencies.
    c. The utilization of Transportation Operation Centers (TOC) and Road Weather Information System (RWIS) deployments across the state to improve traffic flow on freeways by monitoring traffic, speeds, incidents, weather, and roadway conditions. These centers provide traffic and roadway information to motorists through dynamic message signs and the Mi Drive traffic information website.

2. Work Zone Safety and Mobility:
    a. Temporary traffic control helps to improve safety and efficiency of vehicular, bicycle, and pedestrian movement through work zones.

b. FHWA is an active participant on MDOT committees and review teams that examine and improve MDOT standards, practices, and applications of work zone safety and traffic control.

Management of Recurring Congestion

1. Highway Operations
    a. The expanded utilization of Transportation Operation Centers (TOC) to provide traffic information to motorists through dynamic message signs and the Mi Drive website.
    b. Traffic signal coordination and optimization of traffic flow by adjusting timing and patterns either based on time-of-day or in response to real-time traffic data.

2. Bottleneck Reduction Program
    a. The review and analysis of potential bottleneck locations for low cost solutions, such as signal timing alterations, additional turning lanes, and geometric enhancements.

General Traffic Operations and Safety

1. Traffic Control and Standards
    a. This includes the adoption and use of standard traffic control devices, such as signing, pavement markings, signals, and work zones detailed in the Manual on Uniform Traffic Control Devices (MUTCD) and the Michigan MUTCD. The FHWA is an active participant on MDOT committees to prepare revisions to the Michigan MUTCD.

2. Work Zone Safety and Mobility
    a. The FHWA partners with MDOT and provides compliance dialogue concerning the work zone final rule for subpart J and K. FHWA and MDOT partner in all aspects of work zone safety and mobility.
    b. The FHWA actively participates in work zone safety and mobility meetings with the construction industry, Michigan State Police, and the Michigan Occupational Safety and Health Administration (MIOSHA).

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC Chapter 1, Sections 101, 104, 109, 114, 116, 129, 149
- SAFETEA-LU Title I, Subtitle A, Section 1110
- SAFETEA-LU Title I, Subtitle D, Section 1402, 1409, 1410
- SAFETEA-LU Title I, Subtitle B Section 1201, and Title V Subtitle C
- 23 CFR Part 1.27, Part 630 and Part 655
- NCHRP 350 Report

- A Policy on Geometric Design of Highways and Streets – AASHTO (Green Book)
- Federal Manual on Uniform Traffic Control Devices (MUTCD)
- Michigan Manual on Uniform Traffic Control Devices (MMUTCD)

Approved Procedures, Agreements, and Manuals

- MDOT Design Manual
- MDOT Construction Manual
- MDOT Standard Plans
- MDOT Special Details
- MDOT Standard Specifications for Construction
- MDOT Supplemental Specifications and Special Provisions
- MDOT Bureau of Highway Instructional Memorandum
- MDOT Work Zone Safety and Mobility Manual
- Michigan Manual of Uniform Traffic Control Devices

Monitoring

- FHWA will conduct routine project and final inspections of Traffic Operations aspects on FHWA Oversight projects. For all other projects, FHWA may conduct process reviews.
- FHWA will conduct routine evaluation of the maintenance of traffic on active Federal aid projects to assure Traffic Operations components are being adequately maintained.
- FHWA will provide ongoing technical assistance in the area of Traffic Operations, will include this area in routine risk assessment evaluations, and will work cooperatively with MDOT to use process reviews to assess and improve processes and procedures.

Business Standards

- MDOT will notify FHWA of the adoption or significant locally produced application of regulatory provisions including the MUTCD, AASHTO Policy and Work Zone Safety and Mobility Regulations within 30 business days of adoption.
- FHWA will follow prescribed processing requirements for individual project actions related to Traffic Operations as defined in this Agreement.
- MDOT will fully involve FHWA in all aspects of freeway interchange addition or change studies and proposals.

Program Approval Actions

- FHWA will review and approve MDOT's work zone policies and standards for conformance with FHWA Work Zone Rule (23 CFR 630).

- FHWA reviews and approves the Michigan MUTCD for conformance to the national MUTCD. FHWA also reviews and approves modifications and supplements to the Michigan MUTCD.

Project Approval Actions

- FHWA-specific approval of Traffic Operations elements of project development will occur coincident with environmental approvals when the Traffic Operations studies are supporting alternative selection decisions.
- FHWA-specific approval of Traffic Operations elements of project plans will be approved coincident with PS&E approval dependent on the project's exemption status.
- FHWA approval of traffic analyses that support interchange/access modification will be approved coincident to the interchange/access modification.

18. TRAFFIC SAFETY PROGRAM OVERVIEW

The Strategic Highway Safety Plan (SHSP): Title 23 USC Section 148 requires that each state develop and implement an SHSP to ensure that the state focuses its resources on the most critical safety needs while addressing them from the perspectives of the “4E’s” – engineering, education, enforcement and emergency medical services. The Governor’s Traffic Safety Advisory Commission (GTSAC) is responsible for the SHSP and it updates.

The GTSAC is comprised of state and local representatives with a stake in traffic safety. The SHSP is required to be updated periodically (every four to five years, but may be updated as needed) to ensure that it remains reflective of the State’s safety problems. The GTSAC reviews and considers SHSP updates by holding traffic safety strategic planning meeting(s), where Michigan’s traffic safety partners from across the state and nationally, including FHWA, review traffic crash data and the progress of the SHSP and the individual emphasis area action plan implementation. The SHSP is updated and revised based upon the results of the data analysis and implementation activities. FHWA approved the process for the initial approval and serves as a member with MDOT on the GTSAC steering committee.

FHWA and MDOT serve as members of the engineering-related SHSP emphasis area committees providing direction in strategies. The MDOT safety program strategy is aligned with the strategies in the SHSP emphasis area action plans.

Highway Safety Improvement Program (HSIP): Title 23 USC Section 148 establishes a program area for purposes of hazard elimination and rail-highway crossing safety. This program also includes addressing safety on High Risk Rural Roads. MDOT performs HSIP components of Planning, Implementation, and Evaluation to accomplish requirements of the program for highway locations and railroad grade crossings. These components involve identification of high-volume crash locations, developing an annual program to address the locations, and an annual report on progress and effectiveness. FHWA provides input and informal technical assistance throughout the process.

Title 23 USC Section 148 also provides flexibility to states to use up to 10 percent of their apportioned HSIP funds for non-traditional safety projects. In any year in which MDOT wishes to take advantage of this opportunity, MDOT will submit a formal request to FHWA, listing the proposed non-traditional projects and estimated costs. In addition, MDOT will provide a statement in the letter, with attached documentation, that MDOT’s rail-highway and highway infrastructure safety needs for the fiscal year will be met with remaining HSIP funds.

Safe Routes to School (SRTS): Section 1404 of SAFETEA-LU established this program to: (1) to enable and encourage children, including those with

disabilities, in grades K – 8 to walk and bicycle to school; (2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and (3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools. MDOT administers the program for the state including the awarding of grants. FHWA provides input and informal technical assistance throughout the process.

Crash Data Collection: Title 23 USC 148 requires each state to collect and maintain data covering all public roads to ensure all local roadway agencies have access to crash data. Roadway agencies use crash data to conduct system wide analysis of their roadway networks in the identification of high crash locations. FHWA provides input to the state's Traffic Records Coordinating Committee (TRCC) and serves a member of the TRCC working subcommittee. The charge of TRCC is to improve the quality and timeliness of crash data from all law enforcement agencies within the state.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC Sections 130, 148, 159, 163 and 315
- 23 CFR Part 646, Part 924 and Part 1200

Approved Procedures, Agreements, and Manuals

- MDOT Highway Safety Improvement Program procedures

Monitoring

- FHWA participates as a team member in MDOT-led task forces and teams, including road safety audits, formed as needed to address perceived needs or problems.
- FHWA participates as a member of the MDOT Traffic Recommendations Committee that is responsible for assessing traffic control practices and safety, as well as new traffic and safety-related technology and devices.
- FHWA may conduct inspections, including finals, on a statewide sampling basis through annual and process reviews.
- FHWA will provide ongoing technical assistance in the planning, implementation, and evaluation components of the HSIP.
- FHWA and MDOT will monitor performance indicators.

Business Standards

- FHWA will review and approve the process used to develop SHSP updates within 14 business days.

- MDOT will submit a draft of its HSIP annual report to FHWA by August 31 of each year. FHWA will provide comments back to MDOT on the draft HSIP within five business days. MDOT will then submit a finalized HSIP report to FHWA by September 24 of each year.
- MDOT may submit request to FHWA for approval to flex HSIP funds at any time. FHWA will provide formal response and/or approval to MDOT within 14 business days.

Program Approval Actions

- 23 USC Sections 130 and 148: MDOT provides an annual program evaluation report under the HSIP, including Hazard Elimination Projects, High Risk Rural Roads, identification of the top 5 percent of the state's most hazardous locations, and Rail Crossing Improvement Projects. FHWA reviews the state's submission for compliance with the approved guidance regarding the annual reporting requirements.
- 23 USC Section 148: MDOT will submit request and documentation to FHWA in any year in which it wishes to flex HSIP funds for use on non-traditional safety projects. FHWA will review the request for compliance with 23 USC 148, and provide formal approval to MDOT.
- 23 USC Section 148: MDOT with the Michigan Office of Highway Safety Planning (OHSP) will submit Michigan's SHSP Updates to FHWA. FHWA will review that the state has followed the prescribed process for coordination with its safety partners.
- 23 USC Section 159: MDOT will submit an annual certification to FHWA indicating either opposition to or enactment/enforcement of a law requiring the revocation or suspension of driver's licenses of individuals convicted of drug offenses. FHWA will ensure that the certification language meets the requirements of 23 CFR 192.
- 23 USC Section 163: MDOT and OHSP must jointly notify FHWA and NHTSA of the intended use of the Section 163 incentive funds in any year such funds are made available. FHWA will coordinate with NHTSA to ensure that the funds will be expended in accordance with this regulation.

Project Approval Actions

- MDOT verifies that projects meet HSIP requirements on all Section 130 and 148 projects.
- FHWA approves project authorizations. MDOT approves modified project agreements and final vouchers.

19. VENDOR PROCUREMENT PROGRAM OVERVIEW

MDOT uses Federal aid funds to procure consultant/vendor services. FHWA is responsible for approving MDOT's consultant/vendor procurement guidelines and major changes such as modified or new procedures and exceptions such as non-competitive or sole-source selections. FHWA has direct oversight of the consultant/vendor procurement on major projects valued at over $500 million.

MDOT utilizes separate guidelines for Local Public Agencies (LPA) that utilize third-party agreements. MDOT's Local Agency Program employs a FHWA approved process for its oversight of the LPA consultant selection. The engineering or architectural contract is a third-party contract between the LPA and the LPA consultant. This third party contract is required to be in place as part of the cost sharing agreement, between MDOT and the LPA, an agreement that is executed for each phase of the project. The MDOT Local Area Program unit periodically updates and revises the LPA consultant selection document to meet current requirements. Major changes in the document are approved by FHWA.

In addition to approving MDOT and LPA consultant/vendor procurement guidelines, FHWA is responsible for periodic program/process review to assure compliance with the approved selection guidelines. This review generally occurs every three years and applies to the both MDOT's and the Local Agency Program consultant/vendor procurement/selection processes.

MDOT uses a qualification-based selection (QBS) process, a low-bid process, best value process, and a qualification review and low-bid process for procuring consultant/vendor services. Request for Proposals (RFP) for all services greater than $25,000 are posted on MDOT's Web site.

"Brooks Act" services for projects valued at $100,000 or more, are defined as

> "professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph; professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may locally or justifiably perform studies, investigations, surveying and mapping, tests, evaluation, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services."

Some services, whether QBS, low bid, or best value, will require a consultant/vendor to be prequalified to be eligible to participate in the selection. For these services, the RFP will clearly state what prequalification

classification(s) is required. The only exception to prequalification is the MDOT Small Business Development Program (pilot program).

MDOT's current approved process is comprised of three tiers plus a small purchase process for services estimated less than $25,000. The three Tiers are:

- Tier I Services ($25,000 to $99,999)
- Tier II (Greater than $100,000 to $250,000)
- Tier III (Greater than $250,000)

Tiers II and III comply with QBS and the Brooks Act, if the selection involves professional engineering or architectural services as noted above.

Applicable Laws, Regulations, Orders, and Procedures

- 23 USC 106, Project Approval and Oversight
- 23 USC 112, Letting of Contracts
- 23 USC 302, State Transportation Department
- 23 USC 306, Mapping
- 40 USC 11, Selection of Architects and Engineers (Brooks Act)
- 41 USC 403(11), Public Contracts, Definitions, Simplified Acquisition Threshold
- 23 CFR 1.33, Conflicts of Interest
- 23 CFR 172, Administration of Engineering and Design-Related Service Contracts
- 48 CFR 31, Contract Cost Principles and Procedures
- 49 CFR 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Grant Rule)
- 49 CFR 26, Participation By Disadvantaged Business Enterprises In Department Of Transportation Financial Assistance Programs

Approved Procedures, Agreements, Manuals

MDOT-specific procedure for consultant procurement and management is posted on the MDOT Web site and is not available to the public. MDOT does have a link for the consultants – Vendor/Consultant Services which has links for Consultant Advisories, Vendor Announcements, Request for Proposals, Vendor/Consultant Selections, Vendor/Consultant Contracts, Service Prequalification, and Vendor/Consultant Evaluations:
http://www.michigan.gov/mdot/0,1607,7-151-9625_21540---,00.html

MDOT Contractor Services Center covers Disadvantaged Business Enterprise, Design/Build, Prequalification, Bid Letting and Payment & Awards and is available on the MDOT Web site at:
http://www.michigan.gov/mdot/0,1607,7-151-9625_21539---,00.html

MDOT Local Agency Program (LAP) for contacts and policy changes is available on the MDOT Web site at:
http://www.michigan.gov/mdot/0,1607,7-151-9625_25885---,00.html

MDOT LAP Urban Road Program, covering instructions for preparing to bid Federal aid project through MDOT, consultant selection, permits, forms, etc., is available on the MDOT Web site at:
http://www.michigan.gov/mdot/0,1607,7-151-9625_25885_40457---,00.html

MDOT LAP Rural Road Program covering instructions for preparing to bid Federal aid project through MDOT, bridge selection process, permits, forms, etc., is available on the MDOT Web site at:
http://www.michigan.gov/mdot/0,1607,7-151-9625_25885_40512---,00.html

MDOT LAP Bridge Program covering instructions for preparing to bid Federal aid project through MDOT, consultant selection, permits, forms, etc., is available on the MDOT Web site at:
http://www.michigan.gov/mdot/0,1607,7-151-9625_25885_40558---,00.html

MDOT LAP Enhancement Program covering instructions letting through MDOT or Local, consultant selection, permits, forms, etc., is available on the MDOT Web site at:
http://www.michigan.gov/mdot/0,1607,7-151-9625_25885_35265---,00.html

MDOT LAP document specifically for "Local Agency Programs Subcontract Review Process for Local Agency Projects, December 1999, Revised 10/07/09, which specifically outlines the procedure for consultant procurement and management, is available on the MDOT Web site at
http://www.michigan.gov/documents/mdot_subcontract_78647_7.pdf

Monitoring

- FHWA will monitor the consultant/vendor selection through periodic program/process reviews, generally every three years. This is done on both MDOT Contract Services Division and Local Agency Program Unit activities. Written procedures as well as a sample of contracts will be reviewed for compliance with 23 CFR 172.9(a). This will be done according FHWA Michigan Division Standard Operating Procedures Consultant Procurement, Management, and Administration and generally covers scope, solicitation of proposals, negotiations, and monitoring consultant's work.

Business Standards

- FHWA has a five-business day review period to approve or deny an exception to procedures and requests relating to a major project consultant selection.
- FHWA has a 21-business day review period to approve or deny major changes to the program or procedures.

Program Approval Actions

- Major changes to the program such as modified/new procedures are approved by FHWA before posting to internal and external Web sites. This includes changes initiate by MDOT or mandated by new laws, regulations, or orders.
- FHWA performs eligibility billing reviews.

Project Approval Actions

- FHWA will review and approve all major projects consultant/vendor selection and any contract, revision of a contract or settlement of a contract for design services for a project that is expected to fall under 23 USC 106(h).
- FHWA will approve any consultant/vendor services in management roles. MDOT shall receive approval from FHWA before hiring a consultant to act in a management role for the contracting agency.
- FHWA will approve exceptions to the approved process such as non-competitive (sole-source) negotiations.
- FHWA will approve contract and contract settlements involving design services for design services that do not fall under the small purchase procedures in 172.5(a) (2).

PROGRAM AND PROJECT ACTIVITIES APPROVAL CHART

PROJECT OR PROGRAM ACTIVITIES		AGENCY RESPONSIBILITY		
Approval Action	**Reference Document**	**Review**	**Approve**	**Remarks**
Major changes to guidelines or procedures	23 CFR 172.5 and 23 CFR 172.9	MDOT/ FHWA	FHWA	FHWA Area Engineer with collateral duty for consultant/vendor selection in concert with Engineering & Operations Manager
Exceptions such as noncompetitive negotiations or sole-source	23 CFR 172.5 (3)	MDOT/ FHWA	FHWA	FHWA Area Engineer with collateral duty for consultant/vendor selection has approval
Contract and contract settlements involving design services for design services that do not fall under the small purchase procedures in 172.5(a)(2)	23 CFR 172.9 (b)	MDOT/ FHWA	FHWA	FHWA Area Engineer with collateral duty for consultant/vendor selection in concert with Engineering & Operations Manager
Major Projects consultant/ vendor selection. Any contract, revision of a contract or settlement of a contract for design services for a project that is expected to fall under 23 USC 106(h).	23 CFR 172.9 (c)	MDOT/ FHWA	FHWA	FHWA Major Projects Manager
MDOT hiring a consultant/ vendor in management roles	23 CFR 172.9 (d)	MDOT/ FHWA	FHWA	FHWA Area Engineer with collateral duty for consultant/vendor selection in concert with Engineering & Operations Manager

APPENDIX B

ACRONYMS

ACHP	Advisory Council on Historic Preservation
AASHTO	American Association of State Highway and Transportation Officials
ACHP	Advisory Council on Historic Preservation
ADA	Americans with Disabilities Act
BOHIM	Bureau of Highways Instructional Memos
BPD	Base Plan Date
CE	Categorical Exclusion
CFR	Code of Federal Regulations
CMAQ	Congestion Mitigation and Air Quality
CPG	Consolidated Planning Grant
CPM	Capital Preventative Maintenance
DBE	Disadvantaged Business Enterprise
DBE/SS	Disadvantaged Business Enterprise/Supportive Services
DEIS	Draft Environmental Impact Statement
EA	Environmental Assessment
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
ER	Emergency Relief
ESA	Environmental Site Assessment
FAHP	Federal aid Highway Program
FAPG	Federal aid Policy Guide
FHWA	Federal Highway Administration
FHWA-HQ	Federal highway Administration Headquarters (D.C)
FIRE	Financial Integrity Review and Evaluation
FTA	Federal Transit Administration
FONSI	Finding Of No Significant Impact
GIS	Geographic Information System
GTSAC	Governor’s Traffic Safety Advisory Commission
HBRRP	Highway Bridge Replacement and Rehabilitation Program
HPMS	Highway Performance Monitoring System
HSIP	Highway Safety Improvement Program
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
ITS	Intelligent Transportation Systems
LAP	Local Agency Program
LRFD	Load and Resistance Factor Design
LPA	Local Public Agency
LTAP	Local Technical Assistance Program

L&D	Location & Design
MDOT	Michigan Department of Transportation
MDNR	Michigan Department of Natural Resources
MDPS	Michigan Department of Public Safety
MIOSHA	Michigan Occupational Safety and Health Administration
MMUTCD	Michigan Manual on Uniform Traffic Control Devices
MUTCD	Manual on Uniform Traffic Control Devices
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
NAAQS	National Ambient Air Quality Standards
NBI	National Bridge Inspection
NBIS	National Bridge Inspection Standards
NEPA	National Environmental Policy Act of 1969
NHS	National Highway System
NHTSA	National Highway Traffic & Safety Administration
NOI	Notice of Intent
OHSP	Office of Highway Safety Planning
OIG	USDOT Office of Inspector General
OJT	On-the-Job Training
OJT/SS	On-the Job Training/Supportive Services
OMB	U.S. Office of Management and Budget
OPI	Organizational Performance Indicators
ORC	Office of Regional Counsel (EPA)
POA	Plans of Action
MPL	Metropolitan Planning Funds
PS&E	Plans, Specifications, and Estimate
QA	Quality Assurance
QAR	Quality Assurance Review
QBS	Quality-based Selection
QA/QC	Quality Assurance /Quality Control
QIR	Quality Improvement Review
RAC	Research Advisory Committee
RASPS	Rapid Approval State Payment System
RDC	Michigan Rail Development Commission
RFP	Request for Proposal
ROD	Record of Decision
ROW	Right-Of-Way
RWIS	Road Weather Information System
SAFETEA-LU	Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users
SHPO	Michigan State Historic Preservation Officer
SHSP	Strategic Highway Safety Plan

SRTS	Safe Routes to School
SPR	Statewide Planning and Research
SIP	State Implementation Plan
STIP	Statewide Transportation Improvement Program
STRAHNET	Strategic Highway Network
TEA-21	Transportation Equity Act for the 21st Century
TMA	Transportation Management Area
TOC	Traffic Operations Center
TRAC	Transportation Review Advisory Council
TRCC	Traffic Records Coordinating Committee
TS&L	Type Size and Location
UPWP	Unified Planning Work Program
USC	United States Code
USACE	United States Army Corps of Engineer
EPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
VE	Value Engineering

APPENDIX C

ADMINISTRATIVE AGREEMENTS

Formal Agreements

Title/Topic: Categorical Exclusion (CE) Programmatic Agreement
Description: Under this agreement, MDOT can approve most CE classifications, seeking FHWA prior approval on a few high impact projects.
Parties Involved: MDOT and FHWA
Date Issued/Revised: August 20, 2010

Title/Topic: Section 106 Programmatic Agreement
Description: MDOT acts on behalf of SHPO and FHWA for all actions that do not have an Adverse Effect, pursuant to Section 106.
Parties Involved: ACHP, SHPO, MDOT, and FHWA
Date Issued/Revised: (Revised agreement expected in 2010)

Title/Topic: Alternate Procedures for Consultant Selection
Description: This agreement allows the use of MDOT procedures in selecting consultants, with FHWA program-level oversight. The latest amendment of this agreement specifies that MDOT maintain copies of agreements for FHWA review, instead of forwarding a copy of each agreement.
Parties Involved: MDOT and FHWA
Date Issued/Revised: The agreement originally was enacted on July 26, 1994. However, a minor revision (see above) was made in 2001.

Title/Topic: Programmatic Agreement for Utility Agreements
Description: This agreement streamlines the overall process by allowing MDOT to act on behalf of the FHWA for actions such as utility relocation plans, estimates, reimbursement eligibility, and billings, with compliance assurance resting with the Central Office Utilities Section.
Parties Involved: MDOT and FHWA
Date Enacted: January 9, 2004

Informal Agreements

Title/Topic: Tribal Coordination
Description: Letter of authorization from FHWA allowing MDOT to carry out day-to-day and project-specific consultation with tribal governments on Federal aid projects.
Parties Involved: MDOT, and FHWA
Date Issued/Revised: December 13, 2001

Title/Topic: Section 7, Endangered Species Act Informal Consultation
Description: MDOT acts on behalf of FHWA in initiating and performing informal consultation with U.S. Fish and Wildlife Service for potential Federal aid project impacts on threatened and endangered species.
Parties Involved: MDOT, and FHWA

Title/Topic: Materials Certificates
Description: Under this informal agreement, material certificates are maintained in MDOT project files and are not routinely submitted to FHWA. However, these certificates can be obtained by FHWA, upon request.
Parties Involved: MDOT and FHWA
Date Enacted: This informal agreement was established in late 2001 and supplemented through a March 27, 2002 letter from FHWA to MDOT.

Title/Topic: Right-of-way Certificates
Description: Under this informal agreement, MDOT no longer submits copies of right-of-way certificates to the FHWA. For federal oversight projects, MDOT provides an electronic version of the right-of-way certificate with the PS&E package. MDOT's Office of Contracts retains the original copies of these certificates for all projects.
Parties Involved: FHWA and MDOT
Date Enacted: This informal agreement was enacted in January 2002. This agreement will be reflected in a set of process documentation that is being prepared by MDOT and FHWA.

APPENDIX D

KEY MDOT POLICIES ON THE FEDERAL AID HIGHWAY PROGRAM

- Analysis and Abatement of Highway Traffic Noise (21 -001 (P))
- Related Standard Procedure (41 7-001 (SP))

- State Scenic Byway Program Policy (31 0-002(P))

- Transportation Enhancement Policy (31 0-001 (P))

- Development Process Policy for Locally Administered Transportation Projects (25- 001 (P))

- Construction and Materials Specification Development Policy (27-005(P)) Related Standard Procedure -Construction and Materials Specification Development Standard Procedures (51 0-005(SP))

- Value Engineering Policy (51 0-001 (P))

- Warranty Policy (51 0-002(P))

- Completion Dates/Liquidated Damage Policy (51 2-001 (P))

- Change Orders Policy (51 2-004(P))

- Acceptance of Non-Specification Materials Policy (51 2-005(P))

- Enforcement of Prevailing Wage Laws Policy (51 5-001 (P))

- Material Documentation Process Policy (51 5-001 (P))

- Pavement Design and Selection Process Policy (51 5-002(P))

- Quality Assurance Review Policy (220-001 (P))
- Related Standard Procedure (223-001 9(SP))

- Context Sensitive Solutions, MDOT 3903 (3/98)

APPENDIX E

JOINT ISSUES RESOLUTION TEAM

Structure

The Joint Issues Resolution Team will be a standing team with the FHWA Assistant Division Administrator and either the MDOT Chief Operations Officer (COO) or Chief Administrative Officer (CAO) serving as co-chairs or sponsors. The team will be comprised of a cross-section of leadership from both agencies (six members, three from each agency) as chosen by the FHWA Assistant Division Administrator and the MDOT Chief Operations Officer/Chief Administrative Officer. Ideally, an existing monthly or quarterly meeting between senior members of both FHWA and MDOT will be the foundation for determining the standing members of the team. While the intent is for members to remain constant, the co-chairs may substitute members as necessary due to personnel availability and other requirements or constraints.
Additionally, when the co-chairs choose to utilize a Strategic Management and Resolution Team (SMART) team approach to address critical, time-bound, or high risk issues, that team will be fluid with members chosen by the co-chairs based upon the issue at hand and/or the required expertise needed to resolve the issue.

Scope of Authority

The Joint Issues Resolution Team and all SMART Teams are bound by all applicable legal and regulatory guidance, FHWA/MDOT policies, and guidance issued by the co-chairs. The team members shall issue no official policy nor direct the activities of any member of either agency outside of their normal duties and/or positions within the agencies.

Responsibilities

Co-chairs will:

- Choose to resolve issues that carry a significant amount of risk or that may result in the significant loss of Federal-aid funds themselves; select specific individuals who are deemed to have specific expertise/knowledge (known as a “SMART”) Team to resolve the issue or provide recommendations; or utilize the Joint Issues Resolution Team to make recommendations or resolve issues.
- Issue guidance to the team members regarding deadlines, rules of engagement, reporting requirements, and other pertinent information.
- Determine frequency of meetings.

- Choose team members.
    - Decide upon a course of action and direct the implementation of a solution, direct further team actions, or advance the issue to the FHWA Division Administrator and to the MDOT Director.
    - Appoint a gatekeeper from each organization to maintain a record of past team actions or resolved issues.

Joint Issues Resolution Team members will:

- Follow all guidance issued by the co-chairs.
- Investigate the issue, research applicable policies, regulatory guidance and past issues addressed by the team, gather all required background information, report as directed, document the process, and make recommendations to the co-chairs.

SMART Team members will:

- Typically work under a shorter deadline due to the nature of the issue.
- Follow all guidance issued by the co-chairs.
- Investigate the issue, research applicable policies, regulatory guidance and past issues addressed by the team. Gather all required background information, report as directed, document the process, and make recommendations to the co-chairs.

Communications

If an issue is presented to the co-chairs and they decide to utilize either the Joint Issues Resolution Team or a SMART Team, the co-chairs will task a team member to document the issue using the standardized form developed for this purpose. A repository or tracking system will need to be established to track issues as they are resolved to document and keep track of past decisions and as a reference tool as future issues arise. It also may identify trends that keep surfacing for unresolved issues and could also be used if performance measures are implemented in the future. Management of the repository or tracking system will be a joint effort between FHWA and MDOT as determined by the co-chairs.

MDOT-FHWA ISSUE RESOLUTION ADVANCEMENT PROCESS

MDOT Project/Program/System Manager/Transportation Service Center Manager/Division Administrator	FHWA Area Engineer Program Manager Program Specialist
MDOT Division Administrators/Bureau Directors/Region Engineer	FHWA Engineering & Operations Manager/Planning & Programming Development Manager/Executive Coordination Unit Manager
Joint Issues Resolution Team	**Joint Issues Resolution Team**
****High Risk Issues: Advance to SMART Team*** MDOT Chief Operations Officer/Chief Administrative Officer	****High Risk Issues: Advance to SMART Team*** FHWA Assistant Division Administrator
MDOT Director	FHWA Division Administrator

APPENDIX F

PROGRAM PERFORMANCE INDICATORS

FHWA and MDOT have identified stewardship and oversight indicators that represent all program areas and will be used to track the effective administration of the FAHP. Each agency will gather measures and related input from existing sources to the extent possible, such as the FHWA quarterly data reports and MDOT Dashboard (COMET and Transportation Systems Performance Measures), to evaluate current performance of their respective program areas. This analysis will become part of the annual program and risk assessment process, and will feed into both agencies strategic planning process. The measures are listed below. Please refer to Section IV of this Agreement for more information.

FEDERAL AID HIGHWAY PROGRAM PERFORMANCE INDICATORS

* Listed in Introduction

Supports Steward-ship Goals *	Report	Measures	Goals
1, 2	S & L	Number of structurally deficient bridges, based on NBI rating	Reduce the number of structurally deficient bridges
2, 3	S	Percent of annual DBE participation	Maintain the percentage of annual DBE participation
1, 2, 3, 4, 5	S & L	Annual cost of construction project increases, based on the final total as-constructed cost compared to the award amount	Final total as-constructed project cost not to exceed 5% over award amount
1, 2, 3, 4, 5	S	Annual percent of construction projects completed early or on-time, considering those without liquidated damages	Increase the percent of construction projects completed early or on-time
1, 2, 3, 4, 5	S	Annual percent of construction projects meeting benchmarked yearly letting schedule	Achieve a minimum of 90 percent construction projects meeting benchmarked yearly letting schedule
1, 2, 3, 5	S	Annual percent of projects classified environmentally by the base-plan milestone	Increase the percentage of projects classified environmentally by the base-plan milestone
2, 3	S & L	Percent of statewide pavement in fair or good condition, based on PASER ratings	Improve the percentage of statewide pavement in fair or good condition, based on PASER ratings
1, 2, 3, 4	S	Percent of trunkline pavement in fair or good condition, based on RSL ratings	Improve the percentage of trunkline pavement in fair or good condition, based on RSL ratings

1, 2, 3, 4	S	Percent of trunkline pavement in fair or good condition, based on IRI ratings	Improve the percentage of trunkline pavement in fair or good condition, based on IRI ratings
1, 2, 3, 4	S	Percent of trunkline pavement in fair or good condition, based on sufficiency	Improve the percentage of trunkline pavement in fair or good condition, based on sufficiency
1, 2, 3	S & L	Percentage of construction phases authorized for the current FY of the STIP as it stood on the date of approval or the first day of the fiscal year	Increase the percentage of construction phases authorized for the current FY of the STIP
1, 2, 3	S	Average annual (FY or CY?) travel speed on the freeway system, where data exists	Strive for speeds greater than 35 mph, 90 percent of the time
1, 2, 3, 4, 5	S & L	Number of fatalities	Reduce the total number of fatalities by 5 percent over five years
1, 2, 3, 4, 5	S & L	Number of serious injuries	Reduce the number of serious injuries by 5 percent over five years
1, 2, 3, 4, 5	S & L	Number of in-active Federal aid projects	Reduce the number of in-active Federal aid projects by 5 percent each FY year
1,2,3,4,5	S & L	Percent of current year Federal aid program that is inactive	Reduce to less than 4 percent
1,2,3,4,5	S	Percent of consultants performing design work compared to the design program cost	Maintain at least 35 percent in-house design capacity
1,2,3,4,5	S	Annual average number of bids per project compared to the annual average number of prequalified contractors	TBD

S – State
L – Local

FEDERAL AID HIGHWAY PROGRAM AREA PERFORMANCE EXPECTATIONS

SOA Goals	Program Areas	Performance Expectations
1,2,4,5	Air Quality	Reduce the amount of non-attainment and maintenance areas in conformity lapse every five years.
1,2,4,5	Bridges	1. Complete all NBI required bridge inspections within a month of the NBIS required date. 2. Mitigate or reduce the number of interstate scour critical bridges, using risked-based selection procedures, by 5 percent each year. 3. Increase the number of trunkline bridges with current load ratings annually in accordance to MDOT's Action Plan, established to meet the objectives set in the FHWA 2010 NBI review.
1,4	Civil Rights	Improve the rate of voluntary compliance by 5 percent each year.
1,2,3,4	Construction Administration	Reduce the rate of HMA and Concrete quality disincentives, each year, based on the results for finaled projects.
1,5	Design	1. Improve the difference in project costs based on the scope and the engineer's estimate, each year. 2. Reduce the number of project addendums that involve non-routine changes, each year.
1,2,3	Emergency Relief	Ensure that FHWA approved projects are completed and reimbursement is requested timely.

1,3	Environment	Shorten the time needed to classify projects when FHWA allows design to proceed past the base plan date.
1,2,3,4	ITS	Operate and disseminate traveler information on the statewide ITS system at least 90 percent of the time.
1,2,4	Research, Development, and Technology Transfer	Improve the number of projects containing some amount of new research, development or technology transfer each year.
1,2,3,5	Right of Way	Improve the number of projects with ROW clearance at the time of construction authorization, each year.
1,2,3,4, 5	Specifications	Improve the number of special provisions reviewed by two or more construction engineers, each year.
1,2,4,5	Traffic Operations	Improve Work Zone Safety and Mobility by reducing the number of work zone crashes each year.
1,2,5	Traffic Safety	Reduce non-trunkline fatalities and serious injuries by 5 percent per year over five years, benchmarked from 2007 (SHSP goal).
1,2,3,5	Vendor Procurement	Improve the rate of completed vendor evaluations, each year.