U.S. Department of Transportation
Federal Highway Administration

Memorandum

Subject: **INFORMATION:** Issuance Major Project Guidance
//original signed by//

Date: January 19, 2007

From: J. Richard Capka
Administrator

Reply to
Attn. of: HIPA-40

To: Division Administrators

Background

On August 10, 2005, the President signed into law the new surface transportation act, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU) (Pub.L. 109-59, 119 Stat. 1144). The requirement for the Project Management Plan and an Annual Financial Plan are contained in Section 1904(a) of SAFETEA-LU. This provision amends 23 U.S.C. 106(h), as follows:

''(h) MAJOR PROJECTS.-

''(1) IN GENERAL.-Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $500,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project-

''(A) a project management plan; and

''(B) an annual financial plan.

''(2) PROJECT MANAGEMENT PLAN.-A project management plan shall document-

''(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

''(B) the role of the agency leadership and management team in the delivery of the project.

''(3) FINANCIAL PLAN.-A financial plan shall-

''(A) be based on detailed estimates of the cost to complete the project; and

''(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(i) OTHER PROJECTS.- A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the request of the Secretary."

Issuance of Final Guidance

The FHWA issued Interim Major Project Guidance on January 27, 2006. In response to feedback received on the interim guidance, we have revised and reformatted the guidance to address the issues and concerns that were expressed. This final guidance was developed in close consultation with several FHWA Division Offices and States to ensure it was informed by the knowledge and experience of those who are most familiar with these day-to-day responsibilities. This material is intended to be a tool to assist FHWA field offices in fulfilling current law.

We appreciate the feedback that many of you provided. It has assisted FHWA to expand our role beyond the traditional oversight to ensure that the organization is well positioned to make certain Major Projects are delivered in a manner that captures the public's trust and confidence in the State and Federal transportation agencies' ability to effectively and efficiently deliver a quality product. The public must perceive that the finished product was a wise investment of the very substantial amount of public resources.

One significant change that is made with this final guidance is moving the requirement for submission of a project management plan from the beginning of the NEPA phase to the end of the NEPA phase. This was done to allow time for the project to be better defined through the NEPA decisionmaking process before a formal document was prepared. However, this change does not suggest that there is a decreased emphasis on good management of the project during the planning and environmental phases. In order to ensure proper attention to project management during these early phases, the FHWA Division Offices are asked to utilize the attached document, *Risk Management Tool for Managing the Planning/Environmental Phases of Prospective Major Projects,* to engage the State Transportation Agencies in project management discussions. The divisions should prepare an analysis similar to the example prior to the beginning of the NEPA phase of each anticipated Major Project.

This guidance references several other documents that are posted on the Major Projects Web site. These are Project Management Plan Guidance, Finance Plan Guidance and Cost Estimating Guidance. We encourage you to review this guidance, as well as these other documents carefully, and then meet with your States to discuss it.

Again, we hope this information is helpful. Should you have any questions, please feel free to contact Dwight Horne (202-366-5530), Rodney Barry (202-366-1561), or Gloria Shepherd (202-366-0106).

Attachments

cc: Associate Administrators
Directors of Field Services

FHWA Major Project Guidance

Section 1904 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) amended 23 U.S.C. 106 and made several significant changes to the requirements for Major Projects. The monetary threshold for classification as a Major Project was lowered from an estimated total cost of $1 billion to $500 million or greater. A Project Management Plan (PMP) and a Finance Plan are required for all Major Projects. In addition, projects with a total cost between $100 million and $500 million, while not classified as Major Projects, require the preparation of Finance Plans that must be made available to FHWA upon request. The following series of questions and answers provide guidance for complying with the Major Projects requirements.

1. What criteria designate a project a Major Project?

A project with a total estimated cost of $500 million or more that is receiving Federal financial assistance is designated as a Major Project. While the Project Owner is generally the State Transportation Agency (STA), projects can be developed by other State Agencies (Toll Agencies), Local Public Agencies, and/or Private Ventures (Public Private Partnership's (PPP) for example).

2. Can a project with a total cost of less than $500 million be designated a Major Project?

Yes, FHWA has the discretion to designate a project receiving Federal financial assistance with a total cost of less than $500 million as a Major Project. The FHWA may choose to exercise this discretion in situations that include, but are not limited to, where FHWA determines that the project requires either a substantial portion of a State Transportation Agency's (STA) program resources, has a high level of public or congressional interest, is an unusually complex project, or is likely to exceed $500 million in total cost during the life of the project.

3. Do the Major Project requirements apply when the federal financial assistance is very small compared to the total cost of the project?

Yes, any amount of Federal financial assistance can trigger the Major Project requirements.

4. Does Major Project status apply when TIFIA loans are executed with a private entity (e.g. PPP) and represent the only federal financial assistance?

Yes, any recipient of Federal financial assistance for a project exceeding $500 million must comply with Major Project requirements.

5. **What costs must be included in the estimated cost of the project?**

   All costs associated with the project from the NEPA phase through final construction must be included regardless of the source of funding. The cost of the project must include adequate contingencies and reserves for all cost elements. These costs must be expressed in year of expenditure dollars and estimated using a risk based approach, which is consistent with current FHWA Cost Estimating Guidance located at http://www.fhwa.dot.gov/programadmin/mega/index.htm. The FHWA will conduct cost estimate reviews as appropriate at critical stages throughout the project to reveiw the cost estimate.

6. **What is the STA's role in FHWA independent cost estimate reviews?**

   The STA provides all cost estimates and documentation for the project. In addition, the FHWA will schedule the review at a mutually agreeable time with the STA. At the review, the STA will provide project personnel that can answer questions concerning all parts of the estimate.

7. **How is "project" defined with respect to the application of the Major Project requirements?**

   The scope of the project is defined in the Record of Decision (ROD), Finding Of No Significant Impact (FONSI), or Categorical Exclusion document (CE) and includes all work associated with implementing the project.

8. **Can the scope of work described by the ROD, FONSI or CE be divided into multiple projects for the purpose of applying Major Project requirements?**

   Yes, on a case-by-case basis, the scope of work described by the ROD, FONSI or CE can be divided into multiple projects that correspond to operationally independent phases of work (as described in question number 9) which will be built non-concurrently. The FHWA Division Office will consult with the FHWA Major Projects Team prior to making this determination. In cases where the scope of the work is divided into multiple projects, Major Project requirements will apply only to the individual projects meeting the Major Project designation requirements, as described above.

9. **What is an operationally independent phase of work?**

   An operationally independent phase of work is a portion of the work described in the environmental document that can be built and function as a viable transportation facility even if the rest of the work described in the environmental document is never built. Environmental commitments associated with the phase of work to be built must be implemented as part of the project. Multiple contracts developed for bidding by the Owner for contract administration purposes or due to funding shortfalls are generally not considered to be operationally independent.

10. What plans are required for Major Projects?

Section 106(h) of title 23, as enacted by SAFETEA-LU, requires the recipient of Federal financial assistance for Major Projects to prepare and submit to FHWA a Project Management Plan and Finance Plan with annual updates.

11. What is a Project Management Plan?

Section 106(h)(2) of Title 23, as amended by SAFETEA-LU, states that a Project Management Plan shall document the procedures and processes that are in effect to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project. A Project Management Plan shall also document the role of the agency leadership and management team in the delivery of the project. It is essential that the Project Management Plan establishes the metrics by which success of the project is defined. The FHWA has developed Project Management Plan guidance that describes topics that form the basic contents of a Project Management Plan that meet the SAFETEA-LU requirements. This guidance is intended to be a general framework for the Project Management Plan, but not a prescriptive format. This guidance is located at www.fhwa.dot.gov/programadmin/mega/index.htm.

12. When is a Project Management Plan Required?

A draft Project Management Plan should be submitted to FHWA by the recipient of federal financial assistance prior to the ROD, FONSI or CE determination. A final Project Management Plan should be submitted to FHWA within 90 days after the ROD, FONSI or CE determination.

13. Who prepares a Project Management Plan when the only financial recipient is a private entity and not a STA?

The financial recipient must prepare the Project Management Plan. However, the Project Management Plan should document State DOT roles and responsibilities and management controls in place. The STA should provide the private entity with all necessary information.

14. Who approves the Project Management Plan?

The FHWA Division Office approves the Project Management Plan in consultation with the FHWA Headquarters Major Projects Team. Once the ROD, FONSI or CE determination has been made for a project, FHWA may withhold any further project approvals until the Project Management Plan is approved.

15. Must Project Management Plans be updated throughout the life of the Project?

Yes, the Project Management Plan is to be a living document in which revisions will be issued as the project progresses in order to add, modify, or delete provisions that will result in the most effectively managed project. The Project Management Plan will be updated prior to authorizing Federal-aid funds for construction and updated throughout the life of the project.

16. What is a Finance Plan?

Section 106(h)(3) of Title 23 states that a Finance Plan shall be based on detailed estimates of the cost to complete the project and provide for the annual submission of updates that are based on reasonable assumptions, as determined by the Secretary, of future increases in cost to complete the project. The FHWA has developed Finance Plan guidance that describes the contents of a Finance Plan necessary to meet the requirements of 23 U.S.C. 106. This guidance is intended to be a general framework for the Finance Plan, but not a prescriptive format. This guidance is located at www.fhwa.dot.gov/programadmin/mega/index.htm.

17. When is a Finance Plan Required?

SAFETEA-LU did not change the requirement that recipients of Federal financial assistance for Major Projects must submit a Finance Plan. The recipient of Federal financial assistance should submit the Finance Plan to FHWA when all elements of the Plan are fully completed, but no later than prior to requesting authorization of Federal-aid funds for construction. For design build projects, the Finance Plan must be approved prior to award of the design build contract. Finance plan updates shall be submitted annually once the initial Finance Plan is approved until construction is substantially complete.

As was the case prior to the enactment of SAFETEA-LU, if a project ceases to receive Federal financial assistance at any point prior to the construction phase, the project sponsor may be released from the requirement to submit a Finance Plan. The STA must notify the Division Office in writing that it will not request Federal funding for future phases of the project. The Division Office, in consultation with the Major Projects Team, will determine whether future activities are subject to the requirements set forth herein. If the STA is released from the requirement to submit a Finance Plan prior to the authorization of Federal-aid funds for construction, no Federal funding may be authorized for any subsequent phases of the Project. The STA must continue to comply with all other Federal requirements that flow from the use of Federal-aid funds for any pre-construction phase of the Project. It should be noted that the requirement to keep the Project Management Plan current continues even if the recipient has been released from the requirement to submit a Finance Plan.

18. Who approves the Finance Plan?

The FHWA Division Office will approve the initial Finance Plan with prior concurrence from the FHWA Headquarters Major Projects Team. The FHWA Division Office will approve annual updates to the Finance Plan with prior concurrence for the Major Projects Team on an as requested basis by either office. The FHWA will not approve the award of a Federal-aid construction contract without an approved initial Finance Plan, and may withhold future Federal-aid contract awards subject to the approval of required annual updates.

19. Is the TIFIA Finance Plan different from the Major Projects Finance Plan?

No, the TIFIA Finance Plan can be used to satisfy the Major Project requirements. However, TIFIA requires the preparation of a Finance Plan earlier than Major Project requirements do. Also, Finance Plans for TIFIA loans have additional requirements. Consult the TIFIA Project Oversight and Credit Monitoring Guidance located at http://tifia.fhwa.dot.gov/ for more information.

20. Who prepares the TIFIA Finance Plan when the only financial recipient is a private entity and not a State DOT?

According to TIFIA requirements, the private entity will prepare the Finance Plan. As stated above, this Finance Plan can be used to satisfy the Major Project requirements.

21. What plans are required for projects other than Major Projects?

The SAFETEA-LU requires the recipients of Federal financial assistance for projects with a total cost of $100 million to $500 million that are not designated as Major Projects to prepare a Finance Plan. Project Management Plans are not required for these projects.

22. How is the scope of a project defined for projects with a total cost of $100 million to $500 million?

The scope of the project is defined in the same way as for Major Projects described above.

23. Who makes the determination of operationally independent phases of work for projects with a total cost of $100 million to $500 million?

The FHWA Division Office and the STA will formally agree on the process for making these determinations. If the STA assumes the responsibility of making these determinations, the FHWA Division Office will monitor conformance to this guidance through periodic program reviews.

24. Do Finance Plans for projects other than Major Projects require FHWA approval?

No, however, these Finance Plans should be consistent with the FHWA Finance Plan Guidance and shall be made available to FHWA upon request. The FHWA Division Office may monitor compliance with this requirement on a project basis or through periodic program reviews.

Risk Management Tool for Managing the Planning/Environmental Phases of Prospective Major Projects

During the planning and environmental phases of projects, the project sponsor and FHWA incrementally begin to shape a project, narrowing down the range of alternatives, costs, timeframe, and other features of the project. The project sponsor and FHWA also interact and communicate with resource agencies, other stakeholders, and the public, building expectations and making commitments.

Thus, FHWA and project sponsors need to begin managing a prospective Major Project upstream, in planning/environmental phases, even though the specific alternative and many of its features will not be nailed down until the ROD and subsequent project design.

The FHWA Divisions should use a risk management approach during the planning/environmental phases, in close partnership with project sponsors, using the following list of Major Project questions for planning/environmental phases. This list is an updated and refined version of the "Checklist of Major Project Questions for DAs to Use during Planning/Environment Stages," which FHWA issued in January 2006 with its Major Project Guidance. Below is the updated list, with answers inserted, in italics, for a hypothetical project, the "Big Bridge Project."

For each prospective Major Project, Divisions should prepare an analysis similar to the following. It should be prepared close to the date of publication of a Notice of Intent for NEPA, in close consultation with the State DOT. The Division should update it, in consultation with the State DOT, at major points in the planning/environmental process (DEIS, FEIS, and MPO Plan updates or amendments).

MAJOR PROJECT OVERVIEW:

What is the overall problem the prospective Major Project would address?

The existing 4-lane "Big Bridge" over the Big River in Cavalier City is near the end of its design life, has safety deficiencies, and suffers from significant congestion during peak hours. Several alternatives have been identified, including a replacement of the existing bridge with a 6-lane bridge with new safety features.

PROJECT STATUS:

What is the status of the prospective project viz a viz the planning and environmental process?

The project is in the Cavalier City long range plan with an estimated cost range of $1.1 to $1.5 billion. The State has sent the Division a project initiation notice and expects to initiate an EIS by publishing a NOI in the Federal Register in July 2007. The Governor publicly announced that the Big Bridge is her top transportation priority and has committed to breaking ground within 4 years.

PROJECT SCOPING ISSUES:

What planning and environmental issues could significantly affect the scope of the project?

Environmental baseline information from the planning process indicates that there are major environmental variables, which could significantly affect the ultimate scope, cost, and timeframe for the project. The following will be important environmental issues: wetlands permitting, 2 ESA species in the vicinity of the project, local officials interest in a "signature bridge," effects on the Cavalier City Historic District; environmental equity considerations relating to the declining viability of the historically black East Village; wetland impacts on the Perpetual Swamp; and concerns that expanded bridge capacity could contribute to growth in the Cavalier City exurbia area, with potential indirect impacts on both exurbia and the central city.

Multimodal needs, especially for transit and bicycling, are likely to affect project scope. If well designed, the Big Bridge Project could benefit bus transit, enabling more timely operations over the bridge. The Division will request that the State DOT meet with the transit operator to provide information and elicit suggestions for project features that would further benefit transit. A well-designed bridge could also improve bicycle access and safety, potentially affecting the scope of the project.

PROJECT SCHEDULE ISSUES:

What planning and environmental issues could significantly affect the schedule?

The State plans to begin the EIS process with a NOI in July 2007. The median time for completion of FHWA EISs nationally is 5 years; however, the State DOT is committed to a 3-1/2 year environmental review process to meet the Governor public commitment to a groundbreaking in 4 years. This is ambitious and will require significant schedule discipline and expedited work on the part of FHWA, the State, and participating agencies. To meet this ambitious schedule, The Division Administrator and State DOT Secretary will need to provide significant management oversight, in addition to the concentrated efforts of senior staff in the Division and State DOT. Significant time commitments of professional staff will also be required, potentially to the detriment of other state projects in the environmental pipeline.

Even with this level of management attention, the environmental variables cited above could add 1-3 years to the States goal of a 3-1/2 year environmental review process.

The Division will work with the State in creating the coordination plan and schedule for the environmental review process as called for in 23 U.S.C. 139. The plan and schedule will be coordinated with participating agencies and made available for public comment. The DA will personally meet with EPA, COE, and F&WS field executives to seek their support and prioritized attention of EPA and F&WS staff.

PROJECT COST ISSUES:

What FHWA reviews have been and will be completed on the cost estimate? What planning and environmental issues could significantly affect the cost?

At this early stage, the Division has not evaluated the Big Bridge project cost estimate. Environmental avoidance, minimization and mitigation for ESA and wetlands could significantly increase costs, as could local officials demands for a "signature bridge" design.

Just prior to publication of the DEIS, the Division will conduct a cost reasonableness review of the alternatives identified in the DEIS.

Prior to the FEIS, when FHWA requires a reliable cost estimate in the FEIS for the project, FHWA will ensure that a careful independent analysis will be completed for the cost of the preferred alternative.

At the DEIS and FEIS stage, FHWA will ensure that the cost estimates are in year-of-expenditure dollars and that the cost estimates include realistic right-of-way and utility costs. FHWA will also evaluate the states cost estimating methodology, and consider who has developed and reviewed the estimates.

In addition, the Division will do a preliminary review of the predicted cost range as part of the next fiscal constraint determination for an amendment to the Cavalier City LRP in January 2007.

Meanwhile, the Division notes that cost estimation for large projects is often difficult and there are pressures to keep the estimate low, which may affect the reliability of the estimate.

PROJECT FINANCE ISSUES:

For the STIP, TIP, and Metro Plan that contain the project, have the State and MPO met FHWA/FTA fiscal constraint requirements for Planning? (To meet Planning fiscal constraint requirements, the Division must review STIPs, TIPs, and Metro Plans carefully to ensure that costs and revenues are adequately documented not only for the Major Project, but also for all other Federal and regionally significant capital projects and for operating and maintaining the existing highway and transit system.)

The Big Bridge Project is in the 2003-2028 LRP for the Cavalier MPO, at an estimated cost of $1.1 to $1.5 billion, with an open-to-traffic year of 2016. EIS work for the Big Bridge Project is in the TIP and STIP at an estimated $1 million in FY07, $8 million in FY08, and $6 million in FY09. The Division previously determined the LRTP, TIP, and STIP to be fiscally constrained - - but this was based on a very limited review by the Division. The Division will conduct a more complete fiscal constraint analysis for the next TIP, STIP, and LRTP, to ensure that cost and revenue estimates are reasonable and realistic.

In addition to the Big Bridge Project, the 2003-2028 LRP contains 2 other Major Projects (highway) plus a $1.8 billion transit New Start project. Also, the transit operator has publicly identified a $55 million gap in transit funding for transit operating costs in FY07 and beyond. Considering all these costs, the State will be hard-pressed to have sufficient revenues to break ground on the Big Bridge Project in 2011, as the Governor intends.

The Cavalier LRP assumes the Big Bridge will be priced, with variable tolls. Toll pricing has mixed support in the legislature and among the public. The LRP also assumes the State gas tax will increase from 20 to 25 cents per gallon in FY2010, but there is significant opposition in the state legislature. The Division has put the State and MPO on notice that the Division will conduct a close review of the fiscal reasonableness of the Cavalier LRP in conjunction with a major LRP amendment expected in January 2007.

PUBLIC INVOLVEMENT AND AWARENESS (PROJECT COMMUNICATION APPROACH):

Has the State developed a well-thought-out, effective strategy to educate and involve the public during planning and the environmental process? Has the State developed a media strategy? How will context sensitive solutions principles of public engagement been incorporated into this project?

The State is in the early stages of developing, with the assistance of a consultant, a media strategy and communications campaign, which will include an intensive public involvement plan. The Division will provide the State with contact information in state XYZ, which conducted an extremely successful media/public outreach effort for a comparable project last year.

The State will work with the EIS consultant to ensure that the same message on the project is being provided.

Consistent with the States policy on context sensitive solutions, the public involvement plan focuses on soliciting extensive public input on identifying resources to be protected, understanding citizen perspectives on the nature of the transportation problem, and creating solutions that address the problem in a reasonable way.

The Cavalier City Mayor and State DOT CEO have differences over the "signature bridge" issue, including contentious public statements reported in the news media. The DA will advise the DOT CEO that this is counterproductive and will encourage the CEO to tone down public statements and use the environmental process to evaluate the pros and cons of a signature bridge and get public input. To address the key issue of affordability of a signature bridge, the DA will offer to convene a meeting of the CEO, Mayor, and MPO Director to present the Division analysis of costs and fiscal concerns.

STAFF CAPABILITY:

Do the Division and the State have the staff capability to manage the Planning and Environmental phases of the Major Project? If not, what steps do the State and Division need to take to provide adequate staff capability? What measures will be taken to ensure that the appropriate inter-disciplinary team will be used on this project?

The State has not had a FHWA major project this complicated before, so it will be a learning experience. The leadership of the Division and the State have expressed a significant interest in the project and will be involved in closely monitoring the project and providing the executive leadership needed.

The State has a small and relatively inexperienced NEPA staff that has managed very few large EIS documents, and has historically relied on consultants to manage NEPA at the State level. Consultant support has been supported by significant review and oversight by the FHWA Division environmental staff. The Division Administrator will encourage the State to increase its capability to manage the Big Bridge Project NEPA process, along with the other Major Project that will be in the NEPA pipeline during the same timeframe. The DA will also emphasize the importance of selecting a highly qualified NEPA consultant, with expertise in ESA in particular. The DA will raise issues about the availability of training and offer the support of FHWA.

The Division has adequate experience in NEPA, but will probably not be able to manage all the NEPA project work, including the Big Bridge Project, on the timetable identified by the State. The DA will need to designate a Major Project Oversight Manager (MPOM) whose responsibilities will be focused solely on the Big Bridge Project and also the other Major Project that will be starting NEPA shortly. The DA or other senior leadership at the Division level will need to provide the leadership required to raise and resolve issues regarding the Major Projects with the State, resource agencies, and MPO. The DA and MPOM will meet with the State and strongly encourage the DOT to set priorities and adjust its timetable to reflect available resources in the State, the participating agencies and the Division. This will be reflected in the project coordination plan and schedule.

The State will need to rely heavily on consultant assistance to field the right interdisciplinary team. Areas of expertise that will need special attention include expertise in land development effects of transportation improvements and environmental justice/community impact assessment. It would be helpful to have someone on the team who has an established working relationship with community leaders in Old Town and East Village.

RELATIONSHIPS AND COORDINATION:

Do the Division and State have good, trusting relationships with other key players, both at the personal and the organizational level? If not, how can relationships and communication procedures be put in place as early as possible with other key players?

As part of developing the coordination plan, the Division and the State will identify and invite the appropriate agencies to be participating agencies for the project. The State and Division need to improve their relationships with F&WS, which has deteriorated due to several Biological Assessments by the State/FHWA that were not acceptable to FWS. This has led to delays associated with ensuing F&WS requests for additional information. In this district, the F&WS workload far exceeds staffing levels, creating backlogs and delays.

The EPA and COE have a track record of insisting on high levels of cumulative impacts analysis for wetlands permitting, plus high levels of mitigation.

The DA and the MPOM will meet individually with their counterparts at F&WS, EPA, and COE immediately after the publication of the NOI for the project EIS to discuss the importance of the project, FHWA's commitment to providing high quality environmental review, the information they will require, the schedule, and an elevation process for any disputes that arise during the course of the project. The Division will ask all three agencies to agree early on as to the parameters for cumulative impacts analysis â€" and to adhere to that agreement. The DA will also meet with the state DOT CEO and encourage the CEO to establish and communicate with the Division and the resource agencies clear priorities among the projects which require NEPA work by the Division, F&WS, EPA, and COE.

Also, as noted earlier, the State DOT CEO and Cavalier City Mayor have publicly sparred over the issue of a signature bridge, undermining their relationship. This will require some fence-mending and agreement on a process and criteria for resolving the issue, which the Division will facilitate as a third-party**.**

MULTIMODAL ISSUES:

How will other modes be affected? What opportunities are there to incorporate multimodal benefits into the Major Project? Does the state have a plan to coordinate and consult with other modal players early and frequently in the planning and environment stages?

The Big Bridge Project could benefit bus transit, enabling more timely operations over the bridge. The Division will request that the state DOT meet with the transit operator to provide information and elicit suggestions for project features that would further benefit transit. A significant number of bicyclists use the existing Big Bridge, and a well designed project could improve bicycling access and safety. Also, during construction, bicycle trails adjacent to the bridge will be impacted; the Division will ensure that the State meets with the Cavalier City Bicycle Association early and periodically, to provide information and elicit suggestions.

DOCUMENTATION PROCEDURES:

Do the State and Division have adequate procedures to document each step in the project and build a project file, so as to withstand future litigation?

It is the responsibility of the State and FHWA to maintain the project file. A designated email address will be established for the project. All electronic correspondence will need to include the project email address so that it will serve as a repository where all project related emails and other project related information will be kept.

National conservation and environmental organizations have criticized any highway capacity expansion in Cavalier City, and there are also local organizations which oppose capacity expansion. As a result, the Division Office, along with HCC staff, will be providing training to the State DOT and consultants in procedures for compiling a comprehensive project file and creating the administrative record. The MPOM will be monitoring the development of the project file for this Major Project. The administrative record must support the conclusions and decisions made in the NEPA process.

FEIS:

Does the Major Project FEIS meet all NEPA requirements? Does the FEIS contain a credible cost estimate, vetted by FHWA? Are the preferred alternative and the cost estimate in the FEIS consistent with the Project shown in any contemporaneous TIP, STIP, and plan?

The Division will consult HCC at many points prior to the development of the FEIS. Prior to the DA signing the FEIS, the Division will submit it to HCC attorneys for legal sufficiency review. This review requires a minimum of 30 days. Legal sufficiency review will determine that all applicable requirements and legal standards have been satisfied. Additionally, the Division agrees that this project has significant controversial issues that warrant it being a "prior concurrence project" for NEPA purposes, and the Division will therefore request prior concurrence by HEPE prior to the DA signing the FEIS.

Lessons Learned from Recent Major Projects:

What lessons learned either from within the State or from other geographic areas should be factored into the management of this project?

On several major projects, substantial delays resulted from the need to amend consultant contracts because the original scope of work did not adequately contemplate services that later became apparent. These included public involvement, 3-D and 4-D visualization, and analysis of indirect effects and cumulative effects.

Environmental agencies have expressed concern about environmental commitment compliance, especially on the States Flatwater Freeway. These concerns are likely to influence their reviews of the Big Bridge Project.

Cost escalation on the Flatwater Freeway received major negative press coverage. It also resulted in the construction schedule being stretched out 5 years longer than originally anticipated. The late public discussion of tolls did not go anywhere and gave the appearance of disorganization within the State DOT.

SUMMARY TABLE:

Based on lessons learned and other assessments of risk, what are the greatest areas of risk on the Big Bridge Project and what strategies are contemplated to avoid, minimize, or accept these risks?

The following table lists known risks and possible risk management actions:

Risk	**Risk Management Actions**
Schedule slippage	• Build enough money into the budget to quickly handle unforeseen tasks • Have a flexible consultant scope of work • Establish a realistic schedule and provide high visibility to tracking progress
Cost Escalation	• Use cost ranges rather than point estimates • Use a risk based cost estimating method • Build cost cushion into estimates to deal with market place and scope changes • Manage expectation by carefully caveating cost estimates
Upcoming State and local election	• Brainstorm ways to de-politicize the project
Probable River Guardian NGO opposition to the Big Bridge	• Early, intensive engagement to understand River Guardian interests and views • Possible inclusion of river enhancements into the project objectives
History of late-in-the-process interagency disagreements	• Use 3rd party neutral • Enhance the scoping process, especially with respect to issues of methodology • Meet with agency leaders to build awareness and support
Uncertainty about mitigation costs	• Identify likely mitigation measures early • Create partnership so that agencies feel ownership of the cost reasonableness