



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

Memorandum

Subject: **INFORMATION:** Implementing Guidance - Project
Review, Oversight and Administration

Date: March 11, 1992

From: Executive Director

Reply to
Attn. of: HNG-12

To: Regional Federal Highway Administrators
Federal Lands Highway Program Administrator

As a supplement to my January 28 memorandum, I am sending you a copy of an outline covering operating procedures for various options the State may elect under Section 1016 of the ISTEA.

The outline deals with issues such as accountability and monitoring projects and has been accepted as policy regarding FHWA responsibilities under exemptions adopted by the States.

E. Dean Carlson

Attachment

PROJECT REVIEW, OVERSIGHT AND ADMINISTRATION

BASIS: SECTION 1016 PROGRAM EFFICIENCIES

+ SECTION 1016(b) MODIFIES 23 USC 106, PS&E

- (b) SPECIAL RULES.--

(1) 3R PROJECTS ON NHS.--Notwithstanding any other provision of this title, a State highway department may approve, on a project by project basis, plans, specifications, and estimates for projects to resurface, restore, and rehabilitate highways on the National Highway System if the State certifies that all work will meet or exceed the standards approved by the Secretary under section 109(c).

(2) NON-NHS PROJECTS AND LOW-COST NHS PROJECTS.--Any State may request that the Secretary no longer review and approve plans, specifications, and estimates for any project (including any highway project on the National Highway System with an estimated construction cost of less than \$1,000,000 but excluding any other highway project on the National Highway System). After receiving any such notification, the Secretary shall undertake project review only as requested by the State.

+ SECTION 1016(d) MODIFIES 23 USC 109, STANDARDS

- (p) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.--

Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

**FHWA OVERSIGHT, DESIGN STANDARDS, AND OBLIGATION OF FUNDS
91 ISTEA**

FHWA OVERSIGHT									
Oversight Options	Interstate Completion Funds	I System (Any Funding Source Other Than Interstate Completion)			MIS Off I System (Any Funding Source)			Non-MIS (Any Funding Source)	
		3R			3R				
		New/Reconstruction >\$1 Million	<\$1 Million	>\$1 Million	New/Reconstruction >\$1 Million	<\$1 Million	>\$1 Million		
Full FHWA Oversight	Required	Required	Optional	Optional	Optional	Optional	Optional	Optional	Optional
Exempt on Proj. by Proj. 23 USC 106(b)(1)	N/A	N/A	Optional	Optional	N/A	Optional	Optional	N/A	N/A
Exempt on All or nothing basis 23 USC 106(b)(2)	N/A	N/A	Optional	N/A	Optional	N/A	Optional	Optional	Optional
Certification Acceptance 23 USC 117	N/A	N/A	N/A	N/A	Optional	Optional	Optional	Optional	Optional
DESIGN STANDARDS									
Design Standards	FHWA Approved AASHTO Standards	FHWA Approved AASHTO Standards	FHWA Approved AASHTO Standards	FHWA Approved AASHTO Standards	FHWA Approved AASHTO Standards	FHWA Approved AASHTO Standards	FHWA Approved AASHTO Standards Except Non-freeway can be FHWA Approved State Standards	State Standards	
OBLIGATION OF FUNDS									
Obligation of Funds	Project By Project	Project By Project	Project By Project	Project By Project	Project By Project	Project By Project	Project By Project	Project By Project	Project By Project

N/A = Not Applicable

FHWA, HNG-12
February 3, 1992

WHAT DOES EXEMPTION FROM FHWA OVERSIGHT MEAN?

- + NO EXEMPTION FROM NON-TITLE 23 REQUIREMENTS (NEPA, UNIFORM ACT). FHWA INVOLVED ON ALL PROJECTS.
- + GENERAL TITLE 23 REQUIREMENTS APPLY TO ALL PROJECTS (METRO & STATEWIDE PLANNING ETC.)
- + CA EXEMPTION
 - No change from current process.
 - Applies to non-Interstate NHS projects and non-NHS projects.
 - State option for full CA or partial CA
 - Requires finding that State has laws and procedures that accomplish policies and objectives of Title 23
 - State exempt from all FHWA involvement except final acceptance
 - All activities fully meet FHWA requirements.
- + SECTION 106(b) EXEMPTIONS
 - Applies to NHS 3R projects, NHS projects <\$1M and non-NHS projects.
 - Title 23 requirements pertaining to contracts (bid proposal content including Davis Bacon, DBE) and procurement procedures (competitive bidding, Brooks Act) apply regardless of whether the project is on or off the NHS
 - Exemption removes FHWA from oversight of design activities, PS&E approval, concurrence in award, and construction activities
 - NHS Projects
 - FHWA requirements that apply to these activities must be followed as if FHWA were involved (documentation of design exceptions, materials testing, approvals of change orders)
 - Non-NHS Projects
 - State follows State laws & procedures for these activities as it would for State funded projects
- + EXEMPTION DOES NOT PRECLUDE A REQUEST FOR TECHNICAL ASSISTANCE ON AN INDIVIDUAL PROJECT BASIS.

ACCOUNTABILITY FOR PROJECTS EXEMPT FROM OVERSIGHT

+ NHS 3R & <\$1M PROJECTS

- FHWA responsibilities are the same as for projects constructed under normal CA procedures
- FHWA must assure State procedures result in meeting all Title 23 requirements

+ NON NHS PROJECTS

- FHWA has no responsibility for insuring compliance with any Federal or State requirements regarding design or construction of projects
- State certifies they will comply with all provisions of Section 133 Surface Transportation Program

+ FHWA RESPONSIBLE FOR TRACKING PROGRAM ACCOMPLISHMENTS AND FEDERAL-AID FUNDS FOR ALL PROJECTS

MONITORING EXEMPTED PROJECTS

- + CA EXEMPTION (NHS OR NON-NHS PROJECTS)
 - Process reviews covering all areas at least once each 4 years.
- + SECTION 106(b) EXEMPTION
 - NHS JR and <\$1M Projects
 - Process reviews as under CA
 - Non-NHS projects
 - No review unless needed
 - Need determined by problems identified as a result of casual drive through, inquires, complaints
 - review specific project situations
 - determine if deficiency occurs on other projects
 - seek correction of deficiency by working with the State
- + WITHDRAWAL OF FEDERAL FUNDS ON SPECIFIC PROJECT NOT DONE UNLESS DEFICIENCY VIOLATES FEDERAL LAW.

TRACKING PROGRAM ACCOMPLISHMENTS & FEDERAL-AID FUNDS FOR EXEMPTED PROJECTS

- + **NHS PROJECTS (REGARDLESS OF FUNDS USED)**
 - Project data and obligations of funds reported for individual projects
 - Reported on modified FHIS
- + **NON-NHS PROJECTS (FUNDED WITH OTHER THAN STP FUNDS)**
 - Project data and obligations of funds reported for individual projects
 - Reported on modified FHIS
- + **NON-NHS PROJECTS (FUNDED WITH STP FUNDS)**
 - Quarterly obligation on a "Mother Project"
 - Reported on modified FHIS
 - "Mother Project" remains active and records increases and decreases of funds until work included is completed.
 - State is required to annually furnish data indicating how "Mother Project" obligations were used.
Example:

10 rehabilitated Bridges	-----	\$15M
280 lane miles new construction	---	\$20M
20 Buses	-----	\$12M
- + **MODIFICATION TO FHIS AND ESTABLISHING ANNUAL REPORTING DETAILS STILL BEING WORKED OUT.**