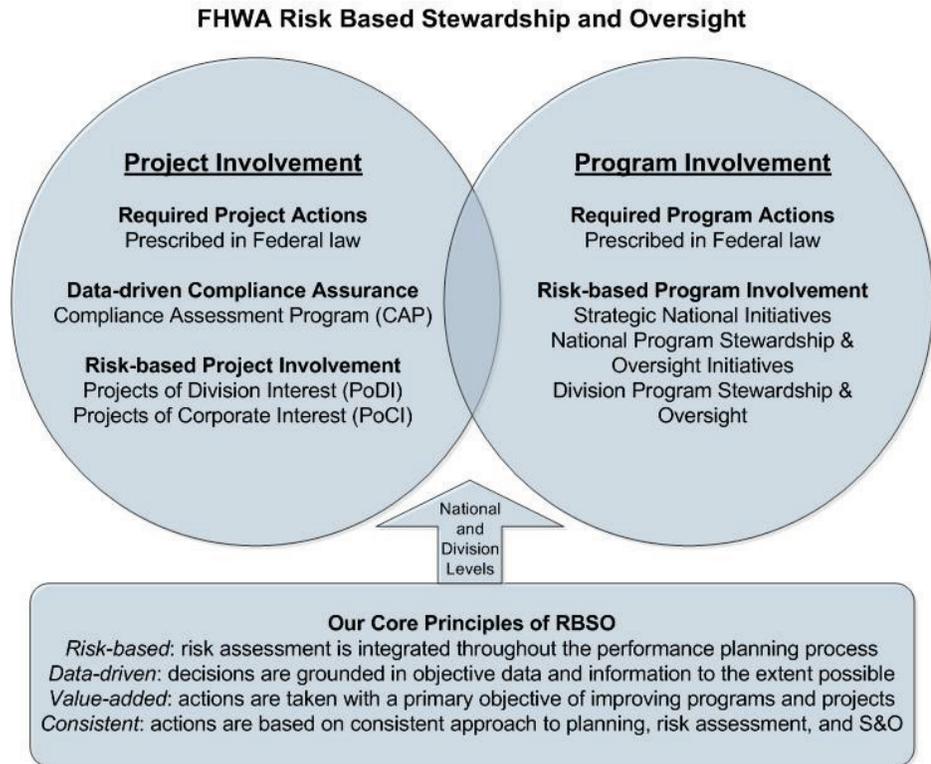# FHWA Risk-based Approach to Stewardship and Oversight (RBSO) Frequently Asked Questions (FAQs)

RBSO FRAMEWORK

1. What is our risk-based approach to S&O?

   This is the FHWA's approach to integrating risk management into our performance planning process to identify S&O initiatives. It includes S&O initiatives at both the national and unit (Division) level. It includes S&O initiatives for both programs and projects.

FHWA Risk Based Stewardship and Oversight

Project Involvement

Required Project Actions
Prescribed in Federal law

Data-driven Compliance Assurance
Compliance Assessment Program (CAP)

Risk-based Project Involvement
Projects of Division Interest (PoDI)
Projects of Corporate Interest (PoCI)

Program Involvement

Required Program Actions
Prescribed in Federal law

Risk-based Program Involvement
Strategic National Initiatives
National Program Stewardship & Oversight Initiatives
Division Program Stewardship & Oversight

National and Division Levels

Our Core Principles of RBSO
Risk-based: risk assessment is integrated throughout the performance planning process
Data-driven: decisions are grounded in objective data and information to the extent possible
Value-added: actions are taken with a primary objective of improving programs and projects
Consistent: actions are based on consistent approach to planning, risk assessment, and S&O

2. Why is FHWA advancing this approach?

   Several factors have influenced, and will continue to influence, the need to advance our risk-based approach to S&O. MAP-21 gave FHWA increased flexibility in carrying out its S&O responsibilities. We recognize that to effectively deliver a large and increasingly complex Federal-aid highway program requires us to use our limited resources more efficiently and effectively. Recent evaluations of our current approach to S&O, like those conducted by the PMI Team, our DFSs, and the Office of the Inspector General and the General Accounting Office have identified concerns with current S&O practices. They have raised valid suggestions on ways to improve our approach to S&O. This makes good business sense as a better way to bolster the public's trust in our delivery of the FAHP.

3. How was the risk-based S&O approach developed?

   In keeping with our tradition of shaping our own future, FHWA created an approach to S&O that is more risk-based, data-driven, value-added and consistent. We developed a more systematic process for managing our S&O responsibilities, one that is better integrated with our performance planning process. This integration of risk management into our strategic performance planning process allows us to develop S&O initiatives that focus on the threats to our programs and projects as well as to take advantage of opportunities to add value to our programs and projects.

4. What are the core principles guiding our risk-based S&O approach?

   - *Risk-based*: risk assessment is integrated throughout the performance planning process.
   - *Data-driven*: decisions are grounded in objective data and information to the extent practicable
   - *Value-added*: actions are taken with a primary objective of improving programs and projects
   - *Consistent*: actions are based on consistent approach to planning, risk assessment, and S&O

5. What are the three project-specific elements of risk-based project S&O?

   - Project Approval Actions (see Stewardship & Oversight Agreement guidance)
   - Data-driven Compliance Assurance (i.e., the Compliance Assessment Program)
   - Risk-based Involvement (i.e., Projects of Division Interest and Projects of Corporate Interest)

6. What are the three program-specific pieces/elements of risk-based program S&O?

   - Program Approval Actions (see Stewardship & Oversight Agreement guidance)
   - Risk-based National Stewardship and Oversight Initiatives (SIP and NPSO Plan)
   - Risk-based Unit (Division) Program Initiatives

7. How does this approach affect required project and program actions?

   FHWA will continue to take required project and program actions as outlined in the Stewardship & Oversight Agreement guidance.

8. What are the required Project approval actions that cannot be delegated?

   Section 23 USC Section 106 provides certain statutory requirements for project approval and oversight of the Federal-aid highway program. The FHWA's *Stewardship & Oversight Agreement Guidance: Documenting State Assumption of Federal-aid Project Oversight and FHWA Program Oversight Measures* includes a listing of project actions the State may assume.

PROJECTS OF DIVISION INTEREST (PoDI)

1. What is a PoDI? Can State/local administered projects be PoDIs?

   The *Projects of Division Interest (PoDI)/Projects of Corporate Interest (PoCI) Guidance* defines a PoDIs as those projects that have an elevated risk, contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting program or project objectives. Identification of these projects allows Divisions to concentrate resources on project phases or areas that add the most value on important projects to the Division. PoDI projects could include projects either on or off the NHS. PoDIs may also be either State DOT administered projects or LPA-administered projects.

2. How are PoDIs identified?

   The PoDI/PoCI Guidance identifies six types of PoDIs and outlines a risk-based process to identify them. This is a two-step process including a "pre-screening" to identify a short-list of potential PoDI projects and a risk-based assessment to identify projects risks and make the selection of final PoDIs. The final selection of PoDIs is made from the short-list, taking into consideration the results of a risk-based assessment, available resources, State-specific considerations, and how each project fits into the Division's overall stewardship and oversight objective.

3. How do we ensure consistency across Divisions for selection of PoDIs?

   Ten standard risk areas have been identified and will be used by all Divisions to conduct a risk-based assessment of PoDI projects. The results of this assessment will be used to help select the final PoDI projects. There is still significant flexibility for the Divisions to establish their own criteria to pre-screen the potential PoDI population, to add additional risk areas to the required ten risk areas, and to interpret the results of the risk-based assessments to select final PoDIs.

4. What are PoDI stewardship and oversight plans?

   The PoDI S&O Plan is meant to be a concise document that identifies the areas of risk for the project and outlines the FHWA involvement that will help assure project compliance and/or add value to the elements of the project. The plans briefly describe the reason we are providing risk-based oversight and what we plan to do to oversee the project.

5. Is there a standard format for PoDI plans?

   Yes, all Divisions will use a standard template for PoDI projects or groups of projects and the plan will be entered into a SharePoint site. This will ensure consistency throughout the agency in how Divisions document the PoDI risks, response initiatives, and the results of their efforts.

6. How many PoDIs should we have?

   There is no firm number or percentage of projects that should be designated as a PoDI by each Division; however, the number of projects will reflect the level of stewardship and oversight needed to mitigate the elevated risks (threats or opportunities) identified on each PoDI.

7. What if a Division does not have adequate resources to conduct reviews on all of its PoDI projects?

   Divisions have the flexibility to prioritize and determine their final list of PoDI projects based on their risks and their available resources. However, in cases where the DA believes that they do not have enough resources to do what is needed to maintain appropriate S&O in their state (program and project), the DA should consult with their DFS to help identify an agency solution.

8. How will my SDOT know what project information to submit to FHWA?

   Each Division will develop an overall PoDI screening and selection process that should be shared and discussed with the SDOT. The Division will identify the projects and stewardship and oversight activities in a PoDI S&O plan that it can share with the SDOT and that will be the vehicle for communicating required submissions.

9. How do I code a PoDI in FMIS?

   Work is currently underway to modify the FMIS fields to accommodate the new PoDI/PoCI approach.

PROJECTS OF CORPORATE INTEREST (PoCI)

1. What is a PoCI?

   Projects of Corporate Interest (PoCIs) are a subset of PoDIs. These are projects that FHWA deemed to be so significant that it is willing to commit additional resources beyond those available at the individual Division level to help ensure successful delivery of the project. They will receive focused, strategic, agency-wide attention, and an increased level of S&O. The list of PoCIs will be updated annually as part of the SIP development process.

2. How are PoCIs identified?

It is anticipated that a short-list of projects that have the potential to be a PoCI will be identified early in the PoDI pre-screening process. Major Projects have a high potential to be a PoCI project. All Major Projects and all other pre-screened projects that have the potential to be a PoCI will be entered into the SharePoint-based Resource Deployment Tool (RDT). This tool must be used to conduct a risk-based assessment to identify areas of elevated risk for each project, identify the Division capacity to manage the risk, and determine if the project is recommended by the Division for selection as a final PoCI.

3. Where do I find the current list of PoCIs?

All projects currently identified as PoCIs can be found in Attachment 2 of Strategic Implementation Plan (SIP).

4. Are PoDI S&O Plans required for all PoCIs?

Yes, since PoCIs are a subset of PoDIs, the standard template will also be used for PoCIs and will be entered into the SharePoint site. Divisions will be required to indicate within the plan the additional corporate resources that have been committed to the PoCI project.

COMPLIANCE ASSESSMENT PROGRAM (CAP)

1. What is the FHWA Compliance Assessment Program (CAP)?

The *Compliance Assessment Program (CAP) guidance* outlines the approach that is used to implement the program. The CAP uses a statistical approach to establish minimum compliance review requirements for Federal-aid highway projects.

2. What is the purpose of the CAP?

The purpose of the Compliance Assessment Program (CAP) is to help provide reasonable assurance that Federal-aid highway projects comply with key federal requirements. The CAP helps provide this assurance by assessing a statistically valid sample of projects such that the results inform the FHWA, with an acceptable level of certainty, of the degree of compliance.

3. Why is the PMI Team responsible for the identification of the project population, calculation of sample size, and development of random-sample project list?

Centralizing the responsibility for handling the project information ensures corporate consistency and increases efficiency for the program. The PMI Team will ensure transparency in the process and will provide Division their corresponding project population, calculated sample size, and the random-sample project list along with the release of the Final SIP.

4. Why are we using FMIS as our data source?

The FMIS system will be used to ensure consistency in the establishment of project populations across all Divisions. While the FMIS system does have limitations as a project tracking system, the project population has been defined in such a way that the information is readily obtainable.

5. What about unique issues with FMIS such as when one fiscal project represents multiple construction contracts or when one construction contract is identified to multiple fiscal projects?

It is true that States group work into FMIS projects differently. Where a single FMIS project may include multiple construction contracts, the Division should use its discretion to select the contract most appropriate for the CAP review.

6. What if the project that is randomly selected is low risk?

Using a random approach to select projects could result in the Division reviewing projects that it may perceive as low risk and might not otherwise review. However, this approach will allow FHWA to check basic compliance and draw conclusions across the entire population.

7. What if a Division does not have adequate resources to conduct all of its required CAP reviews?

The program criteria were selected in consideration of the tradeoff between statistical accuracy and available resources. Distributing the random-sample project lists concurrently with the release of the Final SIP will allow Division to coordinate CAP reviews to account for project status, project location, and work load. However, in situations where a Division determines that the calculated sample size and corresponding random-sample project list places an inordinate demand on office resources, the Division Administrator should consult with the Director of Field Services.

8. What if we aren't finding anything "wrong"?

That would be a good thing. The purpose of the CAP is to check compliance with key federal requirements. In the first year, the CAP Core Questions were focused on very basic requirements. We expect to see a high level of compliance in our projects since we believe that our state partners should have processes and internal controls to ensure these basic requirements are met. A consistently high level of compliance will give FHWA a level of certainly that the risk is low in these area, and we will change our Core Questions to focus on other key requirements.

9. Will there be a quality assurance process for the CAP?

Yes. The PMI Team will perform independent quality assurance reviews of the implementation of the CAP program and the CAP reviews. It is expected that the quality assurance reviews could include examination of completed CAP Core Question Guides and Technical Review Guides, review of actions taken in response to CAP reviews, and selected site visits.

STRATEGIC NATIONAL INITIATIVES

What are "Strategic National Initiatives"?

Strategic National Initiatives are program initiatives found in the Strategic Implementation Plan. These are initiatives that we are all familiar with from the way we historically have developed the SIP. These are those "push items" that are aligned with our strategic goals and objectives. They're those initiatives that help us succeed in achieving our Strategic Plan. We developed a formal process incorporating risk into this process. The goal teams that develop these Strategic National Initiatives annually start that process by assessing our National Performance Objectives against our corporate risks. Strategic National Initiatives are high level mitigation strategies to help us achieve our Strategic Plan

NATIONAL PROGRAM STEWARDSHIP & OVERSIGHT

What are Risk-based National Program S&O Initiatives?

National Program S&O Initiatives are not new but are now included in the SIP. These are within the "National Program Stewardship & Oversight (NPSO) Plan", which is Attachment 1 to the SIP. These are based on Strategic goals, objectives, and national program priorities, and include National Program Reviews, National Program Assessments, and Special Emphasis Initiatives by HQ, RC and PMI Team. One significant benefit of this Plan is that these initiatives were identified upfront, so offices can anticipate them up front and include them in our unit plans. The unit risk assessment process was moved to a point earlier in the year so it could inform the development of this NPSO Plan. This should help reduce redundancy by understanding Divisions' needs in aggregate, and how potentially these needs can be satisfied at the corporate level. The reviews in the NPSO Plan are considered HQ/RC/PMI Team initiatives with Division support, and are coordinated for effective management of existing programs and use of agency resources.

DIVISION PROGRAM STEWARDSHIP & OVERSIGHT

What are Risk-based Division Program S&O activities?

Division Program S&O activities play an important role in completing the overall risk-based S&O approach. Division Program S&O initiatives usually take the form of program or process reviews, or a focused involvement in program implementation. The Division's level of involvement is determined through the annual performance planning process based on the unit's objectives and in consideration of program priorities and corporate, program, unit, and project risks as identified in the risk assessment process.

STEWARDSHIP & OVERSIGHT AGREEMENTS

1. Is the template required or optional?

    To the greatest extent possible the template should be followed. The template has been reviewed by the Chief Counsel's office. Any deviations from the template's list of approval actions and related responsibilities that States may assume will, at the very least, result in the need for additional time for legal sufficiency review. The FHWA will update the list from time to time, as described in the S & O Agreement Guidance.

2. In several places in the guidance, the term "should" is used. Is this a recommended best practice, a requirement, or something else?

    The point is to provide the documentation supporting how that issue is being addressed in the State. Whether a State uses performance indicators, or has a particular manual, will vary. The Agreement will refer to the appropriate documentation within your State. If your State uses/has that particular element, include it. The intent is not to create performance indicators, if they are not currently used, but to document their use if that is applicable to your State.

3. Is the Program Action Responsibility Matrix current?

    Yes, the Disciplines and Program Offices have updated the Program Requirements matrix and this will also be updated in the future and maintained on the website provided in the guidance. The latest version will be maintained at the referenced website.

4. Why does HCC have to review the agreements and will HQ process all the documents?

The legal sufficiency review process is discussed in Section V of the S&O Agreement Guidance. The FHWA made a commitment to the OIG that the Office of Chief Counsel would review all S&O agreements. Divisions must submit their S&O Agreements to the HIPA Official Mailbox (FHWA), HIPAOffcialMailbox.fhwa@dot.gov. HIPA-10 staff will then coordinate with HCC on the legal sufficiency review. HCC is expecting to utilize their field offices for the review.

5. What are some examples of FHWA retaining responsibility for (1) one or more of the Section 106(c) responsibilities (as an exception to the S&O agreement Project Action Responsibility Matrix)?

EXAMPLE: A SDOT has allowed a local agency to administer a substantial project on the Interstate and FHWA does not have confidence that adequate controls are in place. The Division conducts a risk-based assessment of the project and selects it as a PoDI. Based on the risk, the Division might decide to retain project approval actions. Since the project is on the NHS, FHWA notifies the SDOT that FWHA will be retaining all Section 106(c) responsibilities (if that is what the Division decides), and then documents that in the project files. The Division prepares a PoDI S&O Plan showing all the Division's stewardship and oversight activities, including retaining project approval actions.

EXAMPLE: The SDOT is employing Design-Build contracting for the first time on a project off the NHS. The SDOT wants to ensure the process is consistent with Federal requirements so the SDOT wants FHWA involved in the approval of the Design-Build Request-for-Proposals and Addenda. The Division conducts a risk-based assessment of the project and selects it as a PoDI. Since the project is off the NHS and FHWA will be retaining some or all Section 106(c) responsibilities (if that is what the SDOT and Division decides), this request from the SDOT should be documented in the project file because it is an exception to the SDOT/FHWA S&O Agreement. The Division prepares a PoDI S&O Plan showing all the Division's stewardship and oversight activities, including retaining project approval actions.

6. In our present agreement we cover more than "design; plans, specifications, and estimates (PS&E); contract awards; and inspections." For example we discuss how programs such as bridge, ROW, Safety, Materials, Research, Planning, Emergency Relief, Emergency Response, ITS, will be administered. Has all this been dropped, other than what shows up in the project and program matrices?

These pieces are not dropped. The Division and the State DOT should continue to develop and document their understanding of how they will carry out various programs from both the project approval and program oversight perspectives. With regard to State assumptions of project approvals and related responsibilities, Divisions should ensure the S&O Agreement provisions are consistent with the list of assumable project approvals and related responsibilities in the Project Action Responsibility Matrix in Appendix A of the S & O Agreement Guidance. Many of the actions listed in the Appendix A matrix relate to ROW, bridge, and other areas specified in the question. As discussed in Section I of the S & O Agreement Guidance, there are many types of activities in which the State DOT may perform the work on behalf of FHWA even though FHWA must make the approval or other determination.

Finally, the Program Responsibility matrix should include those other programs, as well as the "Oversight" piece (S & O Agreement Guidance Appendix A, Template Section X). The Oversight program, which encompasses everything, including the items mentioned, is contained in 23 U.S.C. Section 106(g), and is documented in Section X of the template.

7. What type of Federal oversight will be required for TIGER projects?

TIGER Grant Projects (located both on and off the NHS) are allocated out of the Office of the Secretary of Transportation (OST) and as such are high visibility projects. Therefore, all TIGER Projects are considered Projects of Division Interest regardless of whether they are State or LPA Administered. All TIGER projects will be PoDIs and should receive the appropriate stewardship and oversight based on risk assessment of the project and the agency administering the project. Divisions should document this level of oversight with the recipient through a project specific PoDI plan.

8. If the Division decides to approve all change orders on the Interstate projects, are these projects then considered PoDIs?

Yes. If the division enters "FHWA" on the Project Action Responsibility Matrix for the action item "Approve changes and extra work", then those are PoDI's and will require a PoDI plan. These projects may be grouped under a single PoDI plan. Rather than entering "FHWA" in the Project Action Responsibility Matrix, the division may decide to utilize some other risk response strategy, like a process review, on change orders on the Interstate.