

Federal-aid
Highway Program
STEWARDSHIP and
OVERSIGHT
AGREEMENT

June, 2015

Between

The Federal Highway Administration
and the

Massachusetts Department of
Transportation - Highway Division

TABLE OF CONTENTS

Stewardship and Oversight Agreement	1
I. Background and Introduction	1
II. Intent and Purpose	2
III. Assumption of Responsibilities for Projects on the National Highway System	2
IV. Assumption of Responsibilities for Projects off the National Highway System.....	3
V. Assumption of Responsibilities for Locally Administered Projects	3
VI. Permissible Areas of Assumption Under 23 USC 106©	3
VII. Federal Approvals and Related Responsibilities that May Not Be Assumed	4
VIII. Project Action Responsibility Matrix	5
IX. High Risk Categories	5
X. FHWA Oversight of Program Under 23 USC 106(g).....	5
XI. State DOT Oversight and Reporting Requirements.....	8
XII. Implementation and Amendments	10
Attachment A: Project Responsibility Matrix	13
Attachment B: Project Oversight	19
Projects of Corporate Interest	19
Projects of Division Interest	19
MassDOT Administered Projects	21
Project Reviews	22
Approved Manuals and Standards (Control Documents).....	23
Major Projects.....	24
Design-Build Projects.....	25
Local Public Agency Projects.....	26
Intelligent Transportation Systems Projects	26
Central Artery Trust Fund Projects	26
Dispute Resolution	26
Audits.....	26
Appendix C: Project Activities and Actions	27
Environmental Review	28
Initial Project Authorization	32
Preliminary Design	34
Final Design	35
Plans, Specifications, and Estimates.....	39
Advertisement and Award.....	42
Construction.....	44
Post-construction	47
Appendix D: Program Management	49
Appendix E: Program Management Activities	51
Statewide and Metropolitan Planning.....	51
Research and Technology.....	58
Highway Information	60
Civil Rights.....	62
Financial Management	66
Environmental	68
Right-of-Way.....	71
Safety, Operations, and Intelligent Transportation Systems	73
Structures	78
Design.....	80
Construction and Materials.....	81
Other Programs.....	83

STEWARDSHIP AND OVERSIGHT AGREEMENT
ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT
BY AND BETWEEN
FEDERAL HIGHWAY ADMINISTRATION, MASSACHUSETTS DIVISION
AND THE
MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

SECTION I. BACKGROUND AND INTRODUCTION

The Federal-aid Highway Program (FAHP) is a federally-assisted program of State-selected projects. The Federal Highway Administration (FHWA) and the State Departments of Transportation have long worked as partners to deliver the FAHP in accordance with Federal requirements. In enacting 23 U.S.C. 106(c), as amended, Congress recognized the need to give the States more authority to carry out project responsibilities traditionally handled by FHWA. Congress also recognized the importance of a risk-based approach to FHWA oversight of the FAHP, establishing requirements in 23 U.S.C. 106(g). This Stewardship and Oversight (S&O) Agreement sets forth the agreement between the FHWA and the Massachusetts Department of Transportation (State DOT) on the roles and responsibilities of the FHWA and the State DOT with respect to Title 23 project approvals and related responsibilities, and FAHP oversight activities.

The scope of FHWA responsibilities, and the legal authority for State DOT assumption of FHWA responsibilities, developed over time. The U.S. Secretary of Transportation delegated responsibility to the Administrator of the FHWA for the FAHP under Title 23 of the United States Code, and associated laws. (49 CFR 1.84 and 1.85) The following legislation further outlines FHWA's responsibilities:

- Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991;
- Transportation Equity Act for the 21st Century (TEA-21) of 1998;
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005; and
- Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012 (P.L. 112-141).

FHWA may not assign or delegate its decision-making authority to a State Department of Transportation unless authorized by law. Section 106 of Title 23, United States Code (Section 106), authorizes the State to assume specific project approvals. For projects that receive funding under Title 23, U.S.C., and are on the National Highway System (NHS) including projects on the Interstate System, the State may assume the responsibilities of the Secretary of the U.S. Department of Transportation under Title 23 for design, plans, specifications, estimates, contract awards, and inspections with respect to the projects unless the Secretary determines that the assumption is not appropriate. (23 U.S.C. 106(c)(1)) For projects under Title 23, U.S.C. that are not on the NHS, the State shall assume the responsibilities for design, plans, specifications, estimates, contract awards, and inspections unless the State determines that such assumption is not appropriate. (23 U.S.C. 106(c)(2))

For all other project activities which do not fall within the specific project approvals listed in Section 106 or are not otherwise authorized by law, the FHWA may authorize a State DOT to perform work needed to reach the FHWA decision point, or to implement FHWA's decision.

However such decisions themselves are reserved to FHWA.

The authority given to the State DOT under Section 106(c)(1) and (2) is limited to specific project approvals listed herein. Nothing listed herein is intended to include assumption of FHWA's decision-making authority regarding Title 23, U.S.C. eligibility or Federal-aid participation determinations. The FHWA always must make the final eligibility and participation decisions for the Federal-aid Highway Program.

Section 106(c)(3) requires FHWA and the State DOT to enter into an agreement relating to the extent to which the State DOT assumes project responsibilities. This Stewardship and Oversight Agreement (S&O Agreement), includes information on specific project approvals and related responsibilities, and provides the requirements for FHWA oversight of the FAHP (Oversight Program), as required by 23 U.S.C. 106(g).

SECTION II. INTENT AND PURPOSE OF S&O AGREEMENT

The intent and purpose of this S&O Agreement is to document the roles and responsibilities of the FHWA's Massachusetts Division Office (FHWA or Division) and the Massachusetts Department of Transportation (MassDOT) with respect to project approvals and related responsibilities, and to document the methods of oversight which will be used to efficiently and effectively deliver the FAHP.

The Project Action Responsibility Matrix, Attachment A to this S&O Agreement and as further described in Section VIII of this S&O Agreement, identifies FHWA FAHP project approvals and related responsibilities State DOT assumes from FHWA on a program-wide basis pursuant to 23 U.S.C. 106(c) and other legal authorities. Upon execution of this agreement, Attachment A shall be controlling and except as specifically noted in Attachment A, no other agreements, attachments, or other documents shall have the effect of delegating or assigning FHWA approvals to State DOT on a program-wide basis under 23 U.S.C 106 or have the effect of altering Attachment A.

SECTION III. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS ON THE NATIONAL HIGHWAY SYSTEM

- A. The State DOT *may assume* the FHWA's Title 23 responsibilities for design; plans, specifications, and estimates (PS&E); contract awards; and inspections, with respect to *Federal-aid projects on the National Highway System (NHS)* if both the *State DOT* and *FHWA* determine that assumption of responsibilities is appropriate.
- B. Approvals and related activities for which the State DOT has assumed responsibilities as shown in Attachment A will apply program-wide unless project specific actions for which the Division will carry out the approval or related responsibilities are documented in accordance with the FHWA Project of Division Interest/Project of Corporate Interest Guide (FHWA PoDI/PoCI Guide) located at: <http://www.fhwa.dot.gov/federalaid/stewardship/>
- C. The State DOT may not assume responsibilities for Interstate projects that are in high risk categories. (23 U.S.C. 106(c)(1))
- D. The State DOT is to exercise any and all assumptions of the Secretary responsibilities for Federal-aid projects on the NHS in accordance with Federal laws, regulations and policies.

SECTION IV. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS OFF THE NATIONAL HIGHWAY SYSTEM

- A. The State DOT *shall assume* the FHWA's Title 23 responsibilities for design, PS&Es, contract awards, and inspections, with respect to *Federal-aid projects off the NHS (non-NHS)* unless the *State DOT* determines that assumption of responsibilities is not appropriate. (23 U.S.C. 106(c)(2))
- B. Except as provided in 23 U.S.C.109(o), the State DOT is to exercise the Secretary's approvals and related responsibilities on these projects in accordance with Federal laws.
- C. The State DOT, in its discretion, may request FHWA carry out one or more non-NHS approvals or related responsibilities listed as "State" in Attachment A on a program-wide basis. For a project specific request, the State may request FHWA carry out any approval or related responsibility listed in Attachment A off the NHS. Such project-specific requests shall be documented in accordance with the FHWA PoDI/PoCI Guide.
- D. Pursuant to 23 U.S.C. 109(o), non-NHS projects shall be designed and constructed in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

SECTION V. ASSUMPTION OF RESPONSIBILITIES FOR LOCALLY ADMINISTERED PROJECTS

The State DOT may permit local public agencies (LPAs) to carry out the State DOT's assumed responsibilities on locally administered projects. The State DOT is responsible and accountable for LPA compliance with all applicable Federal laws and requirements.

SECTION VI. PERMISSIBLE AREAS OF ASSUMPTION UNDER 23 U.S.C. 106(c)

An assumption of responsibilities under 23 U.S.C. 106(c) may cover only activities in the following areas:

- A. Design, which includes preliminary engineering, engineering, and design-related services directly relating to the construction of a FAHP-funded project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services.
- B. PS&E, which represents the actions and approvals required before authorization of construction. The PS&E package includes geometric standards, drawings, specifications, project estimates, certifications relating to completion of right-of-way acquisition and relocation, utility work, and railroad work.

- C. Contract awards, which include procurement of professional and other consultant services and construction-related services to include advertising, evaluating, and awarding contracts.
- D. Inspections, which include general contract administration, material testing and quality assurance, review, and inspections of Federal-aid contracts as well as final inspection/acceptance.
- E. Approvals and related responsibilities affecting real property as provided in 23 CFR 710.201(i) and any successor regulation in 23 CFR Part 710.

SECTION VII. FEDERAL APPROVALS AND RELATED RESPONSIBILITIES THAT MAY NOT BE ASSUMED BY THE STATE DOT

- A. Any approval or related responsibility not listed in Attachment A cannot be assumed by the State without prior concurrence by FHWA Headquarters. The following is a list of the most frequently-occurring approvals and related responsibilities that may not be assumed by the State DOT:
- Civil Rights Program approvals
 - Environmental approvals, except those specifically assumed under other agreements. (23 U.S.C. 326 and 327; programmatic categorical exclusion agreements)
 - Federal air quality conformity determinations required by the Clean Air Act;
 - Approval of current bill and final vouchers
 - Approval of federally-funded hardship acquisition, protective buying, and 23 U.S.C. 108(d) early acquisition
 - Project agreements and modifications to project agreements and obligation of funds (including advance construction)
 - Planning and programming pursuant to 23 U.S.C. 134 and 135;
 - Special Experimental Projects (SEP-14 and SEP-15)
 - Use of Interstate airspace for non-highway-related purposes;
 - Any Federal agency approval or determination under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended, and implementing regulations in 49 CFR Part 24
 - Waivers to Buy America requirements
 - Approval of Federal participation under 23 CFR 1.9(b);
 - Provide pre-approval for preventive maintenance project (until FHWA concurs with State DOT procedures)
 - Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations, or other contributions applied to a project;
 - Functional replacement of property
 - Approval of a time extension for preliminary engineering projects beyond the 10-year limit, in the event that actual construction or acquisition of right-of-way for a highway project has not commenced
 - Approval of a time extension beyond the 20-year limit for right of way projects, in the event that actual construction of a road on the right-of-way is not undertaken
 - Determine need for Coast Guard Permit
 - Approval of new project training programs

- Any other approval or activity not specifically identified in Attachment A unless otherwise approved by the FHWA, including the Office of Chief Counsel
- B. For all projects and programs, the State DOT will comply with Title 23 and all applicable non-Title 23, U.S.C. Federal-aid program requirements, such as metropolitan and statewide planning; environment; procurement of engineering and design related service contracts (except as provided in 23 U.S.C. 109(o)); Civil Rights including Title VI of the *Civil Rights Act*, and participation by Disadvantaged Business Enterprises; prevailing wage rates; and acquisition of right-of-way, etc.
- C. This Agreement does not modify the FHWA’s non-Title 23 program approval and related responsibilities, such as approvals required under the Clean Air Act; National Environmental Policy Act, Executive Order on Environmental Justice (E.O. 12898), and other related environmental laws and statutes; the Uniform Act; and the Civil Rights Act of 1964 and related statutes.

SECTION VIII. PROJECT ACTION RESPONSIBILITY MATRIX

Attachment A - Project Action Responsibility Matrix, of this S&O Agreement identifies FAHP project approvals and related responsibilities. The Matrix specifies which approvals and related responsibilities are assumed by the State under 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as approvals and related responsibilities reserved to FHWA.

Attachment B – Project Oversight describes the Division’s approach to risk-based project oversight. *Attachment C – Project Activities and Actions*, summarizes the possible activities and interactions that may be conducted by FHWA and MassDOT related to project oversight.

SECTION IX. HIGH RISK CATEGORIES

- A. In 23 U.S.C. 106(c), Congress directs that the Secretary shall not assign any approvals or related responsibilities for projects on the Interstate System if the Secretary determines the project to be in a high risk category. Under 23 U.S.C. 106(c)(4)(B), the Secretary may define high risk categories on a national basis, State-by-State basis, or national and State-by-State basis.
- B. The Division has determined there are no high risk categories.

SECTION X. FHWA OVERSIGHT PROGRAM UNDER 23 U.S.C. 106(g)

- A. In 23 U.S.C. 106(g), Congress directs that the Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out the FAHP. This program includes FHWA oversight of the State’s processes and management practices, including those involved in carrying out the approvals and related responsibilities assumed by the State under 23 U.S.C. 106(c). Congress defines that, at a minimum, the oversight program shall be responsive to all areas relating to financial integrity and project delivery.
- B. FHWA shall perform annual reviews that address elements of the State DOT’s financial

management system in accordance with 23 U.S.C. 106(g)(2)(A). FHWA will periodically review the State DOT's monitoring of sub-recipients pursuant to 23 U.S.C. 106(g)(4)(B).

- C. FHWA shall perform annual reviews that address elements of the project delivery systems of the State DOT, which elements include one or more activities that are involved in the life cycle of project from conception to completion of the project. The FHWA will also evaluate the practices of the State DOT for estimating project costs, awarding contracts, and reducing costs. 23 U.S.C. 106(g)(2) and (3).
- D. To carry out the requirements of 23 U.S.C. 106(g), FHWA will employ a risk management framework to evaluate financial integrity and project delivery, and balance risk with staffing resources, available funding, and the State's transportation needs. FHWA may work collaboratively with the State DOT to assess the risks inherent with the FAHP and funds management, and how that assessment will be used to align resources to develop appropriate risk response strategies. Techniques the Division and the State DOT may use to identify and analyze risks and develop response strategies include the following:
- Program Assessments
 - FIRE Reviews
 - Program Reviews
 - Certification Reviews
 - Recurring or periodic reviews such as the Compliance Assessment Program (CAP)
 - Inspections of project elements or phases

These techniques will be carried out in a manner consistent with applicable Division Standard Operating Procedures or other control documents relating to program assessments, FIRE, program reviews, CAP, etc. The techniques and processes will be used to carry out the requirements of 23 U.S.C. 106(g) are listed in *Attachment D – Program Management*.

- E. *Attachment D - Program Management Activities* and *Attachment E – Program Management Activities* of this S&O identifies all relevant FHWA program actions, and Division and MassDOT program contact offices.
- F. **Manuals and Operating Agreements:** MassDOT manuals, agreements and other control documents that have been approved for use on Federal-aid projects are listed in *Attachment B – Project Oversight*.
- G. **Stewardship and Oversight Indicators:** FHWA and MassDOT will use the performance indicators shown in the following table (developed cooperatively between FHWA and MassDOT) to gauge how well each agency is performing the activities described in this Agreement. At the end of each quarter, FHWA and MassDOT will exchange performance data and meet to assess progress. Each year the indicators will be reviewed and evaluated.
-

Agreement Performance Indicators

ID	Program	Indicator	Reporting Frequency	Reporting Entity	Target	Description
1	Planning	Percentage of Original STIP Construction Projects Obligated	Quarterly	MassDOT Design	80%	Includes road and bridge program
2	Planning	Percentage of Original STIP Non-construction Projects Obligated	Quarterly	FHWA	80%	
3	Highway Information	Percentage of Fiscal Statistics Reports Submitted on Time	Annually	MassDOT Planning	100%	
4	Civil Rights	DBE Percentage	Semi-annually	MassDOT ODCR	Annual DBE Goal	Data from Semi-annual DBE Report
5	Civil Rights	Percentage of Committed DBE Funds Disbursed	Semi-annually	MassDOT ODCR	100%	
6	Financial Management	Number of Inactive Projects	Monthly	MassDOT FAPO	n/a	
7	Financial Management	Percentage of Inactive Obligations	Monthly	MassDOT FAPO	2%	
8	Financial Management	Percentage of Annual Federal Obligations by Quarter	Quarterly	FHWA Finance	n/a	
9	Financial Management	Percentage of Billings with Supporting Documents	Quarterly	FHWA Finance	100%	
10	Financial Management	Percentage of Projects Meeting Target Closeout Time	Quarterly	MassDOT Construction	90 days	
11	Environment	EIS Completion Time	Quarterly	MassDOT Environmental	48 months	Time calculated as interval from NOI to ROD, reported at time of ROD
12	Right-of-Way	Number of Conditional PS&E Approvals	Annually	FHWA Proj. Delivery	0	
13	Safety, Operations, and ITS	Percentage of Annual HSIP Obligations	Quarterly	FHWA Finance	100%	Calculated as percentage of obligated HSIP funding vs. programmed HSIP funding
14	Safety, Operations, and ITS	Percentage of ITS Projects with Systems Engineering	Quarterly	FHWA Proj Delivery	100%	
15	Structures	Percentage of Submitted 25% Bridge Packages Complete	Quarterly	FHWA Proj. Delivery	100%	Completeness based on 25% design checklist
16	Structures	Percentage of 25% Bridge Reviews Completed on Time	Quarterly	FHWA Bridge	100%	Target review time is 30 days
17	Design	Percentage of Submitted PS&E Packages Complete	Quarterly	FHWA Proj. Delivery	100%	Completeness based on 14-point checklist
18	Design	Percentage of PS&E Reviews Completed on Time	Quarterly	FHWA Proj Delivery	100%	Target review time is 30 days
19	Construction and Materials	Percentage of Projects Completed by Original Schedule Date	Quarterly	MassDOT Construction	80%	

SECTION XI. STATE DOT OVERSIGHT AND REPORTING REQUIREMENTS**A. State DOT Oversight and Reporting Requirements**

The State DOT is responsible for demonstrating to the FHWA how it is carrying out its responsibilities in accordance with this S&O Agreement. In order to fulfill this responsibility, MassDOT will provide the following information, reports and documentation to FHWA:

- A.1. The primary vehicle for accomplishing program management is the development, review, and approval of required program products such as work programs, budgets, policies, procedures, reports, work scopes, plans, manuals, data reports, etc. MassDOT will provide FHWA with various documents for FHWA review and approval as requested and as necessary. Such documents will include all Title 23 required quarterly and annual reporting documents, all documents referenced Control Documents in *Attachment B – Project Oversight* of this Agreement including modifications as necessary, Monthly Priority of Projects Status Information, Monthly Project Advertisement Information, Monthly Project Bid Opening and Project Award Reports, Monthly Construction Project Open Claims Reports, Quarterly MassDOT Construction Staffing Reports, Monthly Bridge Condition Reports, Quarterly Central Artery (CA/T) Trust Fund Reports including CA/T Trust Fund Request status reports and CA/T Trust Fund draw down reports, Monthly Financial reporting including Inactive Obligations Reporting, State Implementation Plan/Transit Commitments Monthly Status Report, STIP updates and amendments, end of year STIP statistics reports, Annual Highway Capital Investment and Maintenance Plans/Program, and all other documents requested. Provision of these documents will provide documented assurance to FHWA that MassDOT is properly carrying out its responsibilities in accordance with this S&O Agreement.
- A.2. FHWA and MassDOT agree to participate on joint task forces, committees, and quality improvement teams. FHWA also may participate as a non-voting member of various MassDOT committees (for example, Specification Committee, Claims Committee, etc.). FHWA and MassDOT conduct bi-weekly management meeting to discuss and coordinate highway program issues and activities. MassDOT and FHWA will develop mutually agreeable meeting agenda and meeting notes as necessary to document any critical decision resulting from these meetings.
- A.3. Each year, FHWA and MassDOT will work together to jointly develop mutually agreeable risk management/risk mitigation strategies on identified high risk areas, as well as the establishment of various performance/compliance measures or performance/compliance indicators, objectives, targets and goals to be monitored, tracked and reported in each agencies respective performance management system/plans throughout the Federal fiscal year. MassDOT will also provide FHWA with copies of MassDOT's Monthly, Quarterly and Annual Performance Management Reports including any MassDOT Program or Project Risk Assessments conducted.
- A.4. FHWA and MassDOT have agreed to evaluate how well the highway program is being conducted by monitoring agreed-upon performance measures, as shown in the Table entitled Agreement Performance Indicators as contained in this Agreement. In addition, FHWA and MassDOT will coordinate activities related to MAP-21 performance reporting requirements and MassDOT agrees to provide the data

necessary for any FHWA to ensure that MassDOT is in compliance the MAP-21 requirements. MassDOT will respond to any comments, revisions or findings in writing along with any required corrective actions when necessary.

- A.5 A program review is an overall evaluation of one of the highway program functional areas (e.g., civil rights, structures, construction, etc.) in order to enhance program effectiveness identifying strengths, weaknesses and opportunities and the identification and sharing of “best” practices to continually improve the program. A process review is an evaluation of a particular program component or business process. The reviews may encompass program organizational structure, staffing, procedures, training, and performance. MassDOT and FHWA agree to conduct joint program reviews whenever possible, and MassDOT will respond to any findings in writing along with any required corrective actions when necessary.
- A.6. FHWA responds to audits conducted by the U.S. Office of the Inspector General, other Federal agencies such as the General Accounting Office, and state agencies such as the Inspector General. Additionally, FHWA reviews and responds to Single Audit Reports conducted in accordance with OMB Circular A-133. MassDOT will provide FHWA with copies of any internal or external audits of MassDOT operations upon request. MassDOT will respond to any comments, revisions or findings in writing along with any required corrective actions when necessary.
- B. State DOT Oversight of Locally Administered Projects

At this time, MassDOT does not typically allow Locally Administered Projects. MassDOT may not enter into an agreement with a local public agency to administer phases or portions of MassDOT Administered Projects or FHWA Oversight Projects without the approval of FHWA. In each case, should approval be granted, the agreement shall require the Local Public Agency to perform work under the appropriate federal requirements. MassDOT is responsible for compliance with federal requirements by the local public agency as follows:

- B.1. State DOT’s are required to provide adequate oversight of sub-recipients including oversight of any assumed responsibilities the State DOT delegates to an LPA.
- B.2. Pursuant to 23 U.S.C. 106(g)(4), the State DOT shall be responsible for determining that sub-recipients of Federal funds have adequate project delivery systems for locally administered projects and sufficient accounting controls to properly manage such Federal-aid funds. The State DOT is also responsible for ensuring compliance with reporting and other requirements applicable to grantees making sub-awards, such as monthly reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, PL 109-282 (as amended by PL 110-252).
- B.3. The State DOT acknowledges that it is responsible for sub-recipient awareness of Federal grant requirements management of grant awards and sub-awards, and is familiar with and comprehends pass through entity responsibilities (2 C.F.R 200.331 Requirements for Pass-thru Entities). The State DOT shall carry out these responsibilities using the following actions, programs, and processes: MassDOT will follow routine Federal aid procedures and SOPs as described in the referenced Control Documents in *Attachment B – Project Oversight*.

- B.4. The State DOT shall assess whether a sub-recipient has adequate project delivery systems and sufficient accounting controls. MassDOT will follow routine Federal aid procedures and SOPs as described in the referenced Control Documents in *Attachment B – Project Oversight*.
- B.5. The State DOT shall assess whether a sub-recipient is staffed and equipped to perform work satisfactorily and cost effectively, and that adequate staffing and supervision exists to manage the Federal project(s). MassDOT will follow routine Federal-aid procedures and SOPs as described in the referenced Control Documents in *Attachment B – Project Oversight*.
- B.6. The State DOT shall assess whether sub-recipient projects receive adequate inspection to ensure they are completed in conformance with approved plans and specifications, by using the following actions, programs, and processes: MassDOT will follow routine Federal aid procedures and SOPs as described in the referenced Control Documents in *Attachment B – Project Oversight*.
- B.7. The State DOT shall ensure that when LPAs elect to use consultants for engineering services, the LPA, as provided under 23 CFR 635.105(b), shall provide a full-time employee of the agency to be in responsible charge of the project. The State DOT's process to ensure compliance with this requirement is documented by the following actions, programs, and processes: MassDOT will follow routine Federal aid procedures and SOPs as described in the referenced Control Documents in *Attachment B – Project Oversight*.
- B.8. The State DOT shall ensure that project actions will be administered in accordance with all applicable Federal laws and regulations. The State DOT will use the following process on required approvals on sub-recipient projects MassDOT will follow routine Federal aid procedures and SOPs as described in the referenced Control Documents in *Attachment B – Project Oversight*, and approved on sub-recipient administered projects.
- B.9. The State DOT shall document its oversight activities for LPA-administered projects and findings, and how it will share this information with FHWA.

SECTION XII. IMPLEMENTATION AND AMENDMENTS

- A. This S&O Agreement will take effect as of the effective date of the signature of the FHWA Massachusetts Division Administrator, who shall sign this S&O Agreement last.
- B. The Division and MassDOT agree that updates to this Agreement will be considered periodically on a case-by-case basis or when:
- Significant new legislation, Executive orders, or other initiatives affecting the relationship or responsibilities of one or both parties to the S&O Agreement occurs;
 - Leadership, or leadership direction, changes at the MassDOT or FHWA; or
 - Priorities shift as a result of audits, public perception, or changes in staffing at either the MassDOT or Division Office.
- C. FHWA and MassDOT agree that changes may occur to the contents of the Attachments to

this S&O Agreement and documents incorporated by reference into the S&O Agreement. Except as provided in paragraph XII.D and E, changes to the Attachments and documents incorporated by reference will not require the Division and MassDOT to amend this S&O Agreement. The effective date of any revisions to one of these documents shall be clearly visible in the header of the revised document. This Agreement and any revised document shall be posted on the Division's S&O Agreement internet site within five business days of the effective date.

- D. Any changes to the high risk categories must be documented by an amendment to this S&O Agreement.
- E. Any changes to the Project Action Responsibility Matrix must be approved by the FHWA Office of Infrastructure in writing and documented by an amendment to this S&O Agreement.

REMAINDER OF PAGE LEFT BLACK INTENTIONALLY

EXECUTION BY THE FHWA MASSACHUSETTS DIVISION OFFICE

Executed this Third day of May, 2015



Pamela S. Stephenson
Division Administrator
Massachusetts Division Office
Federal Highway Administration

**EXECUTION BY THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
HIGHWAY DIVISION**

Executed this Third day of May, 2015



Thomas Tinlin
Acting Highway Administrator
Massachusetts Department of Transportation

ATTACHMENT A PROJECT ACTION RESPONSIBILITY MATRIX

The following matrix identifies Federal-aid highway program (FAHP) project approvals and related responsibilities on a program-wide basis. The matrix specifies which actions are assumed by the State under the provisions of 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as those which are reserved to FHWA. Projects classified as PoDI projects are not covered by the matrix, as those projects will be governed by a separate PoDI plan that specifies FHWA and State responsibilities for the project.

The State DOT is responsible for ensuring all individual elements of the project are eligible for FAHP funding, but all final eligibility and participation determinations are retained by FHWA.

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
Ensure project in Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP)	STATE	STATE
Identify proposed funding category	STATE(1)	STATE(1)
Obligate funds/approve Federal-aid project agreement, modifications, and project closures (project authorizations) (Note: this action cannot be assumed by State)	FHWA	FHWA
Authorize current bill (Note: this action cannot be assumed by State)	FHWA	FHWA
Review and Accept Financial Plan and Annual Updates for Federal Major Projects over \$500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Review Cost Estimates for Federal Major Projects over \$500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Develop Financial Plan for Federal Projects between \$100 million and \$500 million. [23 U.S.C. 106(i)]	STATE	STATE
All EA/FONSI, EIS/ROD, 4(f), 106, 6(f) and other approval actions required by Federal environmental laws and regulations. (Note: this action cannot be assumed by STATE except under 23 U.S.C. 327)	FHWA(2)	FHWA(2)
Categorical Exclusion approval actions (Note this action cannot be assumed by the State except through an assignment under 23 U.S.C. 326 or 327, or through a programmatic agreement pursuant to Section 1318(d) of MAP-21 and 23 CFR 771.117(g))	FHWA(2)	FHWA(2)
Consultant Contract Selection	FHWA	STATE (3)

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
Sole source Consultant Contract Selection	FHWA	STATE (3)
Approve hiring of consultant to serve in a “management” role (Note: this action cannot be assumed by State) [23 CFR 172.9]	FHWA	FHWA
Approve consultant agreements and agreement revisions (Federal non-Major Projects) [23 CFR 172.9]	FHWA	STATE
Approve consultant agreements and agreement revisions on Federal Major Projects [23 CFR 172.9] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve exceptions to design standards [23 CFR 625.3(f)]	FHWA for Interstate STATE for non-Interstate	STATE
Interstate System Access Change [23 USC 111] (Note: this action cannot be assumed by State)	FHWA	N/A
Interstate System Access Justification Report [23 USC 111] (Note: action may be assumed by State pursuant to 23 USC 111(e))	FHWA	N/A
Airport highway clearance coordination and respective public interest finding (if required) [23 CFR 620.104]	FHWA	STATE
Approve Project Management Plan for Federal Major Projects over \$500 million [23 USC 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve innovative and Public-Private Partnership projects in accordance with SEP-14 and SEP-15 (Note: this action cannot be assumed by State)	FHWA	FHWA
Provide pre-approval for preventive maintenance project (until FHWA concurs with STATE procedures) (Note: this action cannot be assumed by State)	FHWA	FHWA
Provide approval of preliminary plans for unusual/complex bridges or structures on the Interstate. [23 USC 109(a) and FHWA Policy]	FHWA (4)	N/A
Provide approval of preliminary plans for unusual/complex bridges or structures (non-Interstate). [23 USC 109(a) and FHWA Policy]	State (4)	STATE
Approve retaining right-of-way encroachments [23 CFR 1.23 (b) & (c)]	STATE	STATE
Approve use of local force account agreements [23 CFR 635.104 & 204]	STATE	STATE
Approve use of publicly owned equipment [23 CFR 635.106]	STATE	STATE
Approve the use of proprietary products, processes [23 CFR 635.411]	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
Concur in use of publicly furnished materials [23 CFR 635.407]	STATE	STATE
Make feasibility/practicability determination for allowing authorization of construction prior to completion of ROW clearance, utility and railroad work [23 CFR 35.309(b)]	FHWA	STATE
Make public interest finding on whether State may proceed with bid advertisement even though ROW acquisition/relocation activities are not complete for some parcels [23 CFR 635.309(c)(3)]	FHWA	STATE
Ensure compliant ROW certificate is in place [23 CFR 635.309(c)]	FHWA for Interstate STATE for Non-Interstate	STATE
Approve Hardship and Protective Buying [23 CFR 710.503] (If a Federal-aid project) (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve Interstate Real Property Interest Use Agreements [23 CFR 710.405] (Note: this action cannot be assumed by State)	FHWA	N/A
Approve non-highway use and occupancy [23 CFR 1.23(c)]	FHWA for Interstate STATE for Non-Interstate (3)	STATE (3)
Approve disposal at less than fair market value of federally funded right-of-way, including disposals of access control [23 U.S.C. 156] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve disposal at fair market value of federally funded right-of-way, including disposals of access control [23 CFR 710.409] (Note: 23 CFR 710.201 authorizes FHWA and STATE to agree to scope of property-related oversight and approvals for all actions except those on the Interstate System)	FHWA for Interstate STATE for Non-Interstate (3)	STATE (3)
Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations or other contributions applied to a project (note: this action cannot be assumed by State)	FHWA	FHWA
Federal land transfers [23 CFR 710, Subpart F] (Note: this action cannot be assumed by State)	FHWA	FHWA
Functional replacement of property [23 CFR 710.509] (Note: this action cannot be assumed by State)	FHWA	FHWA
Accept Transportation Management Plans [23 CFR 630.1012(b)]	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
Approval of System Engineering Analysis (for ITS) [23 CFR 940.11]	STATE	STATE
Approve PS&E [23 CFR 630.201]	STATE	STATE
Authorize advance construction and conversions [23 CFR 630.703 & 709] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve utility or railroad force account work [23 CFR 645.113 & 646.216]	STATE	STATE
Approve utility and railroad agreements [23 CFR 645.113 & 646.216]	STATE	STATE
Approve use of consultants by utility companies [23 CFR 645.109(b)]	STATE	STATE
Approve exceptions to maximum railroad protective insurance limits [23 CFR 646.111]	STATE	STATE
Authorize (approve) advertising for bids [23 CFR 635.112, 309]	STATE	STATE
Approve cost-effectiveness determinations for construction work performed by force account or by contract awarded by other than competitive bidding [23 CFR 635.104 &.204]	FHWA	STATE
Approve emergency determinations for contracts awarded by other than competitive bidding [23 CFR 635.104 &.204]	FHWA	STATE
Approve construction engineering by local agency [23 CFR 635.105]	FHWA	STATE
Approve advertising period less than 3 weeks [23 CFR 635.112]	FHWA	STATE
Approve addenda during advertising period [23 CFR 635.112]	STATE,	STATE
Concur in award of contract [23 CFR 635.114]	STATE	STATE
Concur in rejection of all bids [23 CFR 635.114]	FHWA	STATE
Approval of Design-Build Requests-for-Proposals and Addenda [23 CFR 635.112]	STATE	STATE
Approve changes and extra work [23 CFR 635.120]	STATE	STATE
Approve contract time extensions [23 CFR 635.120]	STATE	STATE
Concur in use of mandatory borrow/disposal sites [23 CFR 635.407]	FHWA	STATE
Accept materials certification [23 CFR 637.207]	STATE	STATE
Concur in settlement of contract claims [23 CFR 635.124]	FHWA	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of February 6, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
Concur in termination of construction contracts [23 CFR 635.125]	FHWA	STATE
Waive Buy America provisions [23 CFR 635.410] (Note: this action cannot be assumed by State)	FHWA	FHWA
Final inspection/acceptance of completed work [23 USC 114(a)]	STATE	STATE
Approval of Disadvantaged Business Enterprise (DBE) Project Contract Goal set by the State DOT under 49 CFR 26.51(d). [49 CFR 26.51(e)(3)]	STATE	STATE
Acceptance of Bidder's Good Faith Efforts to Meet Contract Goal [49 CFR 26.53] or of Prime Contractor's Good Faith Efforts to Find Another DBE Subcontractor When a DBE Subcontractor is Terminated or Fails to Complete Its Work [49 CFR 26.53(g)] (Note: this action cannot be performed by the FHWA)	STATE	STATE
Equal Employment Opportunity (EEO) Contract Compliance Review [23 CFR Part 230, Subpart D]).	STATE	STATE
Training Special Provision – Approval of Project Goal for training slots or hours [23 CFR Part 230, Subpart A]	STATE	STATE
Training Special Provision – Approval of New Project Training Programs (Note: this action cannot be assumed by State) [23 CFR 230.111(d), (e)]	FHWA	FHWA

FOOTNOTES:

- (1) State is responsible for ensuring that all individual elements of the project are eligible. FHWA will check that the scope of the project as described in submitted project agreement is eligible for the category of funding sought. All final eligibility and participation determinations are retained by FHWA.
- (2) If there is a 23 U.S.C. 326 or 325 assignment or PCE agreement, decisions are handled in accordance with those assignments or agreements.
- (3) State's process and modifications to, or variation in process, require FHWA approval.
- (4) Unusual/Complex bridges and structures are those that the Division determines to have unique foundation problems, new or complex designs, exceptionally long spans, exceptionally large foundations, complex hydrologic (including climate change and extreme weather events) aspects, complex hydraulic elements or scour related elements, or that are designed with procedures that depart from currently recognized acceptable practices (i.e., cable-stay, suspension, arch, segmental concrete, moveable, truss, tunnels, or complex geotechnical walls or ground improvement systems)

ATTACHMENT B: PROJECT OVERSIGHT

Under Title 23 and non-Title 23, FHWA is ultimately accountable for the oversight of all projects and programs under the Federal-aid Highway Program. The goal of risk-based project oversight is to optimize the successful delivery of projects and assure compliance with federal requirements. The risk-based approach is comprised of risk-based project involvement, required project actions, and data-driven compliance assurance.

In order to implement risk-based project involvement, projects are allocated into one of three project categories:

- Projects of Corporate Interest (PoCI)
- Projects of Division Interest (PoDI)
- MassDOT Administered Projects

Projects of Corporate Interest and Projects of Division Interest taken together comprise what were formerly considered to be *FHWA Oversight Projects* – now known as PoCIs and PoDIs – in that FHWA retains some level of involvement in project scoping; preliminary engineering; design, plans, specifications, and estimates (PS&E) approval; concurrence in award; project inspections; contract modification approvals; design exception approvals; claim settlement approvals; project acceptance; and, all other mandated project activities.

PROJECTS OF CORPORATE INTEREST

Projects selected for an increased level of oversight because their success requires corporate investment or they are of special importance to FHWA's strategic success, are designated as Projects of Corporate Interest. FHWA Division's identify PoCIs in collaboration with FHWA program offices based on an assessment of risks, project impact, and priorities. PoCIs may include National Highway System projects that have significant national or regional network effects, or those that include significant elements, protocols, or features that could potentially influence a national FHWA goal, objective, or policy. Most PoCIs will have gone through the NEPA process to assure that there is a substantial and sustainable amount support for the project. The list of PoCIs will be updated annually. FHWA will develop an oversight plan for each PoCI that includes two main elements: a definition of project success; and, stewardship strategies that outline how project success will be achieved.

PROJECTS OF DIVISION INTEREST

Projects identified through the FHWA division's risk assessment process as having an elevated level of risk (threat or opportunity) are designated as Projects of Division Interest. Each year, FHWA will use a project screening and selection process to identify PoDIs, in cooperation with MassDOT. FHWA will develop an oversight plan for each PoDI that briefly describes the reason for providing risk-based oversight, and the activities that will be used to oversee the project to assure compliance and/or add value to the project. FHWA may focus its resources on project phases or areas of these projects that add the most value. It is expected PoDIs will constitute 10% to 30% of the state annual obligations limit.

On FHWA Oversight Projects (PoCIs and PoDIs), the FHWA Massachusetts Division office will have early project involvement. MassDOT will ensure all early project coordination with FHWA, and will notify FHWA of all scoping meetings, preliminary plan reviews, field inspections, and pre-advertisement reviews

Criteria for Selection of Projects of Division Interest

Consistent with the systematic risk-based approach to project stewardship and oversight, MassDOT and FHWA agree that FHWA will designate Projects of Division Interest and retain appropriate oversight responsibilities for federal-aid projects that meet the following criteria:

1. Projects on any Federal-aid eligible roadway with an Estimated Total Federal Participating Cost of \$25 million or more, as identified in the current, approved STIP/TIP.
2. Projects on any Federal-aid eligible roadway that have generated, or have the potential to generate, significant political or community interest during project development or construction, regardless of project value.
3. Projects on any Federal-aid eligible roadway that utilize innovative financing (TIFIA, TIGER, Public/Private Partnerships, etc.), and/or contracting methods (CMGC, ID/IQ, Warranty, Lane Rental, etc.) for which FHWA/ MassDOT may have limited experience. FHWA may identify the project as a Project of Division Interest if the innovative financing or contracting technique involved is one where the State has no clearly developed/established policies or procedures, regardless of project value. (As Design-Build is no longer considered an innovative contracting technique by FHWA, and MassDOT has successfully accomplished a number of projects utilizing the Design-Build contracting method, Design-Build Projects will be selected as Projects of Division Interest if they meet Criteria 1 or one of the other criteria identified herein.)
4. Projects on any Federal-aid eligible roadway that involve multi-state or cross-border coordination, projects involving conversions to toll roads and/or HOT lanes, or projects that have the potential to significantly affect regional travel or traffic congestion, regardless of project value.
5. Projects on any other Federal-aid eligible roadway necessary to ensure that each respective MassDOT District has sufficient and continued Federal-aid interaction. A minimum of three-to-five Federal-aid projects per District will be designated as Projects of Division Interest each federal fiscal year. This minimum number includes projects previously designated as a result of application of Criteria 1-4.

FHWA and MassDOT will utilize the criteria to allocate project oversight responsibilities when the project is initially programmed in the Statewide Transportation Improvement Program (STIP). All other projects not meeting these criteria shall be considered MassDOT Administered projects unless FHWA and MassDOT agree that FHWA shall retain oversight.

During the transition period to the risk-based stewardship and oversight program, all Federal-aid projects currently identified by FHWA and MassDOT as “Full Oversight” Projects will be considered Projects of Division Interest and will continue to have Federal oversight during project development and project construction activities until project final acceptance.

It should be noted that all projects resulting from Congressional earmarks (contained in enabling legislation or annual appropriations) and from federal discretionary program awards will be subject to the oversight determination process.

FHWA and MassDOT will reconfirm the project status (FHWA Oversight or MassDOT Administered) at the time of project scoping. After project scoping, oversight responsibility will remain unchanged unless there is a significant change in the project scope that would significantly alter the estimated construction cost of the project, or, if there is a reason to change oversight.

MASSDOT ADMINISTERED PROJECTS

Federal-aid projects not designated as either PoCIs or PoDIs are considered to be MassDOT Administered Projects, those projects for which certain FHWA oversight responsibilities are delegated to MassDOT, as allowed by law. Delegation removes FHWA from direct involvement in certain design, PS&E approval, concurrence in award, and construction activities. For those activities, MassDOT will act on behalf of FHWA in ensuring that all Title 23 requirements are met.

Not all project activities on MassDOT Administered Projects are delegated. FHWA retains responsibility for required federal actions to assure compliance with the following non-Title 23 programs:

- Section 102(2) (c) of the National Environmental Policy Act (NEPA) and 23 CFR 771
- Section 4 (f) of the Department of Transportation Act of 1966
- Civil Right Act of 1964, 42 USC 2000 (d) and 23 CFR 200 (Title VI), and 23 CFR 230 (EEO)
- Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, 42 USC 4601, 49 DFR part 24, and 23 CFR Parts 710-740

For MassDOT Administered Projects, FHWA delegates and MassDOT agrees to assume FHWA's responsibility for the oversight of compliance with Title 23 USC for the preliminary engineering, design, plans, specifications, estimates, contract awards, and construction inspection, as follows:

- MassDOT shall comply with Title 23 and/or certain non-Title 23, USC Federal-aid program requirements, such as metropolitan and statewide planning, environment, procurement of engineering and design related services contracts, participation by Disadvantaged Business Enterprises (DBE), Title VI, prevailing wage rates, acquisition of right-of-way, relocation, and accommodation of utilities, and railroad work.
- To provide appropriate oversight information to all FHWA and MassDOT employees involved in the development of a project, the federal-aid project number will be followed by an "X" to indicate MassDOT Administered Projects. MassDOT will identify an acceptable method to identify projects as FHWA Oversight or MassDOT Administered in its database system (Project Info). This designation should also be included in the STIP entry for each project.

- The staff of the FHWA Massachusetts Division office is available for consultation on all aspects of any MassDOT project. This could entail consultation about fiscal matters, design issues, contract administration, material and geotechnical issues, new technologies, research application, etc. The FHWA Massachusetts Division Office will coordinate assistance of technical specialists from the FHWA Resource Center and Headquarters Offices as appropriate.
- Work associated with the modification or addition of interchanges or access points on the Interstate system, regardless of funding source or responsible agency regardless of project funding, must be submitted to the FHWA office for review and appropriate action. FHWA through its oversight and stewardship responsibilities will also work with MassDOT to encourage any other state agencies/authorities that own/operate roadways to develop the necessary policies and procedures and make decisions in a manner that ensures that the appropriate national or MassDOT design standards are being met.

FHWA reserves the right to conduct reviews, as appropriate, to confirm that MassDOT Administered projects and the federal-aid program is being administered in accordance with the applicable laws and regulations.

PROJECT REVIEWS

FHWA project oversight of PoCIs and PoDIs, and of the MassDOT Administered Projects program, includes the following components:

Design Review Program

The overall purpose of the design review program is to establish procedures for assuring that projects are implemented in accordance with applicable regulations and standards and that full consideration is given to appropriate cost-effectiveness strategies. FHWA will conduct design reviews of PoCIs and PoDIs projects at various stages of project development, as described in the individual project oversight plans.

Construction Inspection Program

FHWA will inspect PoCIs and PoDIs in accordance with the individual oversight plans. Inspections will consist of an office review and/or field inspection of construction activities. The office review is intended for MassDOT staff to inform FHWA representatives of any ongoing activities on the project such as extra work orders, claims, and the overall progress of work. The field inspection is intended for FHWA representatives to observe MassDOT's oversight of the contractor's ongoing activities, as well as completed products. In addition, field inspection gives FHWA representatives an opportunity to meet with MassDOT's inspectors in the field to discuss the project and any other relevant topics.

Compliance Assessment Program

Monitoring of MassDOT Administered projects includes the data-drive review of a sufficient number of project designs to assure consistency with the terms of this Agreement. Therefore, in addition to oversight of PoDIs and PoCIs, each year FHWA will conduct reviews of a randomly selected set of federal-aid construction projects. The purpose of this Compliance Assessment Program (CAP) is to provide reasonable assurance, at both the national and local level, and that federal-aid construction projects comply with key federal requirements. The CAP replaces the previous requirement to conduct reviews on 10% of "delegated" active construction projects.

The projects for each State will be selected by FHWA Headquarters from the FMIS system on April 1st of each year and will include a random sample of all projects authorized for construction or advance construction within the previous 12 months. It is expected that approximately 40 projects in Massachusetts will be selected each year. The CAP review will require the completion of the CAP Core Question Form and at least one additional CAP Review Guide, selected from among the following:

- Civil Rights
- Contract Administration
- Emergency Relief
- Environment
- Finance
- Material Quality
- Planning
- Realty (Right-of-Way)
- Work Zone Safety

APPROVED MANUALS AND STANDARDS (CONTROL DOCUMENTS)

This Agreement contains the specific project oversight activities and actions that FHWA and MassDOT perform; the procedures MassDOT uses to develop projects and conduct operations are found in a number of manuals, guidebooks, and approved directives. FHWA reviews and approves the following MassDOT (recognizing the MassDOT Highway Division was formerly known as MassHighway) control documents including all updates and amendments:

Design

1. Project Development and Design Guide (2006)
2. LRFD Bridge Manual (2009)
3. Bridge Manual, Revised (2007)
4. Computer-aided Design Standards
5. Manual on Uniform Traffic Control Devices
6. Massachusetts Amendments to the MUTCD (2012)
7. Massachusetts Right-of-Way Manual (2012)
8. Survey Manual (1996)
9. Historic Parkway Preservation Treatment Guidelines (DCR) (2007)
10. Design of Bridges and Culverts for Wildlife Passage at Freshwater Streams (2010)
11. Storm Water Handbook for Highways and Bridges (2004)

Construction Specifications

12. Standard Specifications for Highways and Bridges – English Units (1988)
13. Standard Specifications for Highways and Bridges – Metric Units (1995)
14. Supplemental Specifications (2012)
15. Interim Supplemental Specification
16. English Bid Item Nomenclature List
17. Metric Bid Item Nomenclature List

Construction Details

18. Construction Standard Details (2010)
19. Construction Standard Details: Drawing History Index (2012)

20. Notes on Walks and Wheelchair Ramps for Designers and Construction Engineers (2012)
21. Road Flagger and Police Detail Drawings (2011)
22. Standard Drawings for Sign and Supports (1990)
23. Standard Drawings for Traffic Signals and Highway Lighting (1968)
24. Mast Arm and Foundation Details and Standard Drawings (2011)
25. Guide Sign Policy for Secondary State Highways (2008)

Other Documents

26. Architects and Engineers Consultant Selection and Procurement Policies
27. Design Build Procurement Guide (2006)
28. Standard Details and Drawings for the Development of Temporary Traffic Control Plans
29. Work Zone Safety Guidelines for Massachusetts Municipalities and Contractors
30. Policy and Engineering Directives (as appropriate regarding Federal-aid projects)
31. Standard Operating Procedures (as appropriate regarding Federal-aid projects)
32. Noise Policy

MAJOR PROJECTS

FHWA and MassDOT place special emphasis on major projects. SAFETEA-LU defines a major project as one with an estimated total cost in the year of expenditure of over \$500,000,000 involving any amount of Federal financial assistance, although FHWA has the discretion to designate a project with a total cost less than \$500 million as a major project in certain situations. Detailed guidance on FHWA's requirements can be found on FHWA's major project website, as well as in two FHWA memoranda: *Major Project Guidance*, dated January 19, 2007; and, *Major Projects Guidance and the Division Right-of-Way Function*, dated May 23, 2007. Major Projects require the development of Project Management Plans, Financial Plans, and Cost Estimate Reviews.

Project Management Plans

Although FHWA's decision on whether or not a project is a major project triggering FHWA's formal reporting is made around the end of the NEPA stage, FHWA will initiate more detailed monitoring when the potential for a major project is identified during the planning stage. In the early development of a potential major project, MassDOT and FHWA should prepare a risk analysis of project management challenges or major areas of risk.

MassDOT is expected to submit a draft Project Management Plan (PMP) to FHWA within 60 days prior to the submission of the final NEPA document. This document and its later revisions as the project is further developed, should clearly define the roles, responsibilities, processes, and activities, which will result in the major project being completed on time, within budget, with highest degree of quality and safety. The Final PMP must be submitted for approval within 90 days of signing the final NEPA document. Updated PMPs are recommended 90 days prior to the start of a new project phase (including significant construction phases) or if a significant change has occurred. Note that a PMP must be approved prior to any federal action including authorization of federal funds for ROW or construction.

Finance Plans

MassDOT must submit initial finance plans for major projects to FHWA for review and approval prior to the authorization of federal-aid funds for ROW acquisition. Prior to the authorization of federal-aid funds for construction, MassDOT will develop, request, and receive FHWA

approvals of updated finance plans. MassDOT will update the finance plan annually for FHWA approval each year on a designated date until construction completion (even if all federal funds have been authorized) and until submission of the final annual update.

For projects with costs in the \$100 to \$500 million range, SAFETEA-LU requires finance plans and annual updates. Finance plans for these projects do not require FHWA approval, but are subject to FHWA review. FHWA also reviews and approves all TIFIA-funded initial finance plans and annual updates.

Cost Estimate Reviews

FHWA will examine the cost estimate of a potential major project the first time the potential major project appears in the STIP and TIP, and each time the STIP/TIPs are updated. Cost estimates for major projects shall be re-evaluated and updated if necessary at the draft EA or EIS stage. At the final EA or EIS stage, MassDOT will develop and perform an independent validation of the cost estimate for the preferred alternative prior to submitting the Final EA or Final EIS to FHWA. FHWA will review MassDOT's preferred alternative cost estimate and accept the cost estimate based on an independent review of the estimate and the State's independent validation. Note that the U. S. Secretary of Transportation may require one or more Value Engineering analysis for major projects.

DESIGN-BUILD PROJECTS

For PoDIs, PoCIs, and MassDOT Administered design-build projects, MassDOT is required to involve FHWA early in the process. For FHWA Oversight design-build projects, MassDOT will submit the request for qualification (RFQ) documents for FHWA approval prior to release. MassDOT will also obtain FHWA approval prior to releasing the RFP. FHWA approval of the RFP document carries the same significance as PS&E approval with authorization of federal-aid funds, and MassDOT must submit a formal request for RFP approval/authorization for both FHWA Oversight and MassDOT Administered design-build projects.

As stated in Section 1503 of the SAFETEA-LU, a State transportation department or local transportation agency can issue an RFP, proceed with awards of design-build contracts, or issue notices to proceed prior to the completion of a NEPA process. However, a State or local agency shall receive concurrence from FHWA before carrying out any of these activities.

Design exceptions on FHWA Oversight design-build projects must be identified, documented, and recommended by MassDOT before submitting design exception approval requests to FHWA, and approved prior to the release of documents for construction. MassDOT is responsible for documenting and approving design exceptions on MassDOT Administered design-build projects as if they were documenting the design exception for FHWA approval. For FHWA Oversight design-build projects, any design exceptions proposed by the design-build entity must be reviewed and approved by FHWA and MassDOT in accordance with the Request for Proposal.

Note that for major projects advanced as FHWA Oversight design-build projects, an initial finance plan, a project management plan, and a cost estimate must be provided to FHWA prior to the approval of the RFP and authorization of funds.

LOCAL PUBLIC AGENCY PROJECTS

MassDOT may not enter into an agreement with a local public agency to administer phases or portions of MassDOT Administered Projects or FHWA Oversight Projects without the approval of FHWA. In each case, should approval be granted, the agreement shall require the third party to perform work under the appropriate federal requirements (23 CFR 635.102).

MassDOT is responsible for compliance with federal requirements by the local public agency. In accordance with SAFETEA-LU Section 1904, MassDOT shall be responsible for determining that sub-recipients of federal funds have adequate project delivery systems for projects approved under this section; and sufficient accounting controls to properly manage such Federal funds. FHWA shall periodically review the monitoring of sub-recipients by MassDOT.

INTELLIGENT TRANSPORTATION SYSTEMS PROJECTS

For all ITS projects, MassDOT shall provide adequate documentation to FHWA that the ITS project is consistent with the Regional ITS Architecture and the project has been or will be developed based on a systems engineering analysis in accordance with the provisions of 23 USC 940.11. Oversight of ITS Construction contracts (projects providing for the installation of ITS field devices) shall be determined in accordance with the criteria listed under selection of PoDIs.

CENTRAL ARTERY TRUST FUND PROJECTS

Applications for accessing funds from the Central Artery/Tunnel Project Repair and Maintenance Fund shall be made in accordance with Memorandum of Understanding regarding the Fund dated May 9, 2013. Applications shall be forwarded to FHWA for review and approval by the Division Administrator.

DISPUTE RESOLUTION

The FHWA Massachusetts Division Office and MassDOT work as partners in delivering the Federal-aid Transportation Program in Massachusetts. It is recognized, however, that there may be times when initial agreement cannot be reached between the two agencies. When these situations arise, the FHWA Massachusetts Division Office and MassDOT agree to work together to resolve disputes in a timely manner. In those cases where a solution cannot be identified, MassDOT and the FHWA Massachusetts Division office may elevate the issue to the next level in each respective organizational hierarchy. It has been agreed that only the MassDOT Highway Division Administrator or Chief Engineer will make MassDOT appeals to FHWA Headquarters' offices, with prior notice to the FHWA Massachusetts Division Office.

AUDITS

FHWA and MassDOT will review and respond to audits conducted by the U.S. Office of the Inspector General and other agencies such as the General Accounting Office and the Massachusetts Inspector General. Additionally, FHWA and MassDOT will review and respond to Single Audit Reports conducted in compliance with OMB Circular A-133.

ATTACHMENT C: PROJECT ACTIVITIES AND ACTIONS

This section lists the project activities and actions conducted by FHWA and MassDOT. The activities included are only those that require FHWA action or approval, or for which federal actions are delegated to MassDOT, and are categorized by the following eight project phases:

1. Environmental Review
2. Initial Project Authorization
3. Preliminary Design
4. Final Design
5. Plans, Specifications, and Estimates
6. Advertising and Award
7. Construction
8. Post-construction

Each of the eight parts of this section includes introductory information as well as a table listing project activities for that phase. For each activity listed, the table shows FHWA and MassDOT actions for both FHWA Oversight and MassDOT Administered projects, including the regulatory authorization citation and description, usually based on the regulatory language.

The tables show the possible activities that may occur, but not every activity is required for every project. For example, activities related to performing an Environmental Assessment will not be necessary for a project that qualifies for a Categorical Exclusion. The order of the phases only loosely implies chronological order so that activities can be grouped by phase: for example, some environmental assessment activities occur after Initial Project Authorization or concurrent with Preliminary Design, but are only shown in the Environmental Assessment table. In addition, some activities may be performed in a different order than shown or may be performed more than once.

1. ENVIRONMENTAL REVIEW

FHWA is the lead federal agency responsible for compliance with a wide range of environmental requirements under a single, unified process for transportation decision-making. Pertinent laws and regulations include the following:

- National Environmental Policy Act (NEPA)
- Regulations of the Council on Environmental Quality (CEQ), 40 CFR 1500, et seq. and FHWA 23 CFR 771
- Section 4(f) [49 USC 303] and implementing regulations 23 CFR 774
- Section 106 of the National Historic Preservation Act (NHPA) and implementing regulations 36 CFR 800
- Section 404 of the Clean Water Act
- Section 7 of the Endangered Species Act (ESA)

The FHWA retains approval authority for all Environmental Impact Statements, all Environmental Assessments, and all Section 4(f) evaluations as required by the above laws and regulations, for both Federal Oversight and MassDOT Administered projects.

A *Programmatic Agreement for the Approval of Categorical Exclusions* was adopted FHWA and MassDOT in 2005. The Programmatic Agreement summarizes responsibilities that are delegated to MassDOT, in compliance with NEPA, for Automatic and Programmatic Categorical Exclusions. FHWA retains approval authority for Individual Categorical Exclusions.

The most recent *Section 106 Programmatic Agreement* related to delegation of some of FHWA's National Historic Preservation Act Section 106 consultation responsibilities was adopted in 2004 by FHWA, MassDOT, the Massachusetts State Historic Preservation Officer, and Advisory Council on Historic Preservation. The Programmatic Agreement only applies to minor highway projects classified as Categorical Exclusions under NEPA. For projects requiring an Environmental Assessment or an Environmental Impact Statement as class of action under NEPA, FHWA conducts the consultation according to Title 36 CFR 800.

FHWA does not delegate formal consultation with federally recognized Native American tribes; tribal consultation is required by the regulations to be sovereign nation to sovereign nation consultation. However, FHWA can delegate to MassDOT the responsibility of notifying and coordination with federally recognized Native American tribes early in the project development phase.

For all projects that require an action or approval by the FHWA, MassDOT and FHWA will work cooperatively to ensure compliance with NEPA and all other applicable laws and regulations, including the requirement that projects are consistent with Metropolitan Transportation Plans. In addition, the FHWA and MassDOT will work cooperatively to determine the type of environmental document that is appropriate (such determination shall be made before an alternative is selected). For Categorical Exclusions, MassDOT shall use an agreed-upon checklist to reach the appropriate determination, in accordance with the Programmatic Agreement. MassDOT will be responsible for the preparation of all necessary environmental studies and documentation, with guidance provided by the FHWA.

Table 1 lists the activities that may occur during the Environmental Review phase of the project implementation process. Activities in Table 1 are generally grouped by class of action (CE, EA,

EIS, 4(f), 106, etc.), and by a typical order of actions within each group. Consequently, Table 1 may not represent activities in any strict chronological order.

Table 1 - Environmental Review Project Activities

Project Activity	PoDI/PoCI		State Administered		Author-ization	Description
	State Action	FHWA Action	State Action	FHWA Action		
1 Class of Action Determination and/or Determination of Unusual Circumstances	Notification Letter	Advice Letter	N/A	N/A	23 CFR 771.111	"Applicants intending to apply for funds should notify the Administration at the time that a project concept is identified. When requested, the Administration will advise the applicant, insofar as possible, of the probable class of action and related environmental laws and requirements and of the need for specific studies and findings which would normally be developed concurrently with the environmental review documents...Any action which normally would be classified as a CE but could involve unusual circumstances will require the Administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper."
2 Need for Coast Guard Permit	Request Letter	Concurrence Letter	Request Letter	Concurrence Letter	23 CFR 650.805 (d)	"For bridge crossings of waterways with navigational traffic where the HA believes that a USCG permit may not be required, the HA shall provide supporting information early in the environmental analysis stage of project development to enable the FHWA to make a determination that a USCG permit is not required and that proposed navigational clearances are reasonable."
3 Automatic Categorical Exclusion	Retain CE Checklist	None	Retain CE Checklist	None	CE Prog. Agr.	"All Automatic CE determinations made by MassHighway must be documented. The Categorical Exclusion Checklist will serve as this documentation."
4 Programmatic Categorical Exclusion	Retain CE Checklist (w/ supporting documents)	None	Retain CE Checklist (w/ supporting documents)	None	CE Prog. Agr.	"All programmatic CE determinations made by MassHighway under this classification must be supported by documentation that indicates the required conditions are satisfied. The Categorical Exclusion Checklist with supporting documentation will serve as this documentation."
5 Individual Categorical Exclusion	Request Letter (with CE Checklist)	Approval Letter	Request Letter (with CE Checklist)	Approval Letter	23 CFR 771.111 (d)	"Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result."
6 Draft Environmental Assessment	Transmittal Letter	Comment letter	Transmittal Letter	Comment letter	23 CFR 771.119 (c)	"The EA is subject to Administration approval before it is made available to the public as an Administration document."
7 Final Draft Environmental Assessment (with documentation)	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 771.119 (c)	"The EA is subject to Administration approval before it is made available to the public as an Administration document."
8 Preliminary Finding of No Significant Impact	Email Draft FONSI	Email Comments	Email Draft FONSI	Email Comments	23 CFR 771.119 (g)	"If no significant impacts are identified, the applicant shall furnish the Administration a copy of the revised EA, as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a FONSI."
9 Finding of No Significant Impact	Transmittal Letter	Signed FONSI	Transmittal Letter	Signed FONSI	23 CFR 771.121	"If the Administration agrees with the applicant's recommendations pursuant to §771.119(g), it will make a separate written FONSI incorporating by reference the EA and any other appropriate environmental documents."
10 Project Initiation for EIS	Notification Letter	Receipt Confirmation Letter	Notification Letter	Receipt Confirmation Letter	23 USC §139	Section 139 of SAFETEA-LU requires the project sponsor to notify the U.S. DOT of a proposed project and request that the environmental review process be initiated. This document is referred to in the FHWA/FTA Guidance as an "initiation notice" or "notification letter." It is distinct from the Notice of Intent (NOI), which is a separate document published by the Federal agency in the <i>Federal Register</i> . The FHWA/FTA Guidance notes that requirement for an initiation notice can be satisfied programmatically or by "batching" notification for multiple projects into a single notice.
11 Notice of Intent for EIS	Email Draft NOI	Transmit Final NOI to Federal Register	Email Draft NOI	Transmit Final NOI to Federal Register	23 CFR 771.123 (a)	

Table 1 - Environmental Assessment Project Activities (continued)

Project Activity		PoDI/PoCI		State Administered		Author-ization	Description
		State Action	FHWA Action	State Action	FHWA Action		
12	Invitation Letter to Participating and Cooperating Agencies	Email Draft Invitation Letter	Final Invitation Letter	Email Draft Invitation Letter	Final Invitation Letter	23 USC §139	"The lead agencies must invite and designate participating agencies. This should be done "as early as practicable" in the process. Federal agencies that are invited to participate are automatically designated as participating agencies, unless they decline in writing and make findings required by the statute. Non-Federal agencies can accept or decline; a failure to respond is treated as declining."
13	Draft EIS Project Coordination Plan	Email Draft Coordination Plan	Email Comments/ Approval to Transmit	Email Draft Coordination Plan	Email Comments/ Approval to Transmit	23 USC §139	"The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects."
14	Preliminary Draft EIS	Transmittal Letter	Email Comments	Transmittal Letter	Email Comments	23 CFR 771.123 (e)	"The Administration, when satisfied that the draft EIS complies with NEPA requirements, will approve the draft EIS for circulation by signing and dating the cover sheet."
15	Draft EIS Cost Estimate Review (Major Projects)					Major Project Cost. Est. Guidance (2007)	
16	Draft EIS	Approval Request Letter	Approval Letter	Approval Request Letter	Approval Letter	23 CFR 771.123 (e)	"The Administration, when satisfied that the draft EIS complies with NEPA requirements, will approve the draft EIS for circulation by signing and dating the cover sheet."
17	Final EIS Project Coordination Plan	Transmittal Letter	Approval Letter	Transmittal Letter	Approval Letter	23 USC §139	"The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects."
18	Preliminary Final EIS	Transmittal Letter	Email Comments	Transmittal Letter	Email Comments	23 CFR 771.125 (b)(c)	"The final EIS will be reviewed for legal sufficiency prior to Administration approval...The Administration will indicate approval of the EIS for an action by signing and dating the cover page. "
19	Final EIS Cost Estimate Review (Major Projects)					Major Project Cost. Est. Guidance (2007)	
20	Final EIS	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 771.125 (b)(c)	"The final EIS will be reviewed for legal sufficiency prior to Administration approval...The Administration will indicate approval of the EIS for an action by signing and dating the cover page. "
21	Preliminary Record of Decision	Email Preliminary ROD	Email Comments	Email Preliminary ROD	Email Comments	23 CFR 771.127 (a)	"The Administration will complete and sign a ROD no sooner than 30 days after publication of the final EIS notice in the Federal Register or 90 days after publication of a notice for the draft EIS, whichever is later."
22	Record of Decision	Transmittal Letter	Final Signed ROD	Transmittal Letter	Final Signed ROD	23 CFR 771.127 (a)	"The Administration will complete and sign a ROD no sooner than 30 days after publication of the final EIS notice in the Federal Register or 90 days after publication of a notice for the draft EIS, whichever is later."
23	Draft EIS Re-evaluation	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 771.129 (a)	"A written evaluation of the draft EIS shall be prepared by the applicant in cooperation with the Administration if an acceptable final EIS is not submitted to the Administration within three years from the date of the draft EIS circulation."
24	Final EIS Re-evaluation	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 771.129 (b)	"A written evaluation of the final EIS will be required before further approvals may be granted if major steps to advance the have not occurred within three years after the approval of the final EIS, final EIS supplement, or the last major Administration approval or grant."
25	Supplemental EIS	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 771.129 (d)	"A supplement is to be developed using the same process and format (i.e., draft EIS, final EIS, and ROD) as an original EIS, except that scoping is not required."
26	DeMinimis Section 4(f) Impact Finding	Request for Concurrence Letter	Approval/ Determination Letter	Request for Concurrence Letter	Approval/ Determination Letter	Section 4(f) Policy Paper	"The FHWA Division Office or the Federal Lands Highway Division approves all Section 4(f) evaluations. Prior to Division Office approval, all final Section 4(f) evaluations must undergo legal sufficiency review in accordance with 23 CFR 771.135(k)."
27	Preliminary Programmatic Section 4(f) Evaluation	Transmittal Letter	Email Comments	Transmittal Letter	Email Comments	Section 4(f) Policy Paper	"The FHWA Division Office or the Federal Lands Highway Division approves all Section 4(f) evaluations. Prior to Division Office approval, all final Section 4(f) evaluations must undergo legal sufficiency review in accordance with 23 CFR 771.135(k)."

Table 1 - Environmental Assessment Project Activities (continued)

Environmental Assessment Project Activity		PoDI/PoCI		State Administered		Author-ization	Description
		State Action	FHWA Action	State Action	FHWA Action		
28	Programmatic Section 4(f) Evaluation	Transmittal Letter	Approval Letter with Signed 4(f)	Transmittal Letter	Approval Letter with Signed 4(f)	Section 4(f) Policy Paper	"The FHWA Division Office or the Federal Lands Highway Division approves all Section 4(f) evaluations. Prior to Division Office approval, all final Section 4(f) evaluations must undergo legal sufficiency review in accordance with 23 CFR 771.135(k)."
29	Preliminary Draft Section 4(f) Evaluation	Transmittal letter	Email Comments	Transmittal Letter	Email Comments	Section 4(f) Policy Paper	"The FHWA Division Office or the Federal Lands Highway Division approves all Section 4(f) evaluations. Prior to Division Office approval, all final Section 4(f) evaluations must undergo legal sufficiency review in accordance with 23 CFR 771.135(k)."
30	Draft Section 4(f) Evaluation	Transmittal Letter	Letter for distribution to agencies	Transmittal Letter	Letter for distribution to agencies	Section 4(f) Policy Paper	"The FHWA Division Office or the Federal Lands Highway Division approves all Section 4(f) evaluations. Prior to Division Office approval, all final Section 4(f) evaluations must undergo legal sufficiency review in accordance with 23 CFR 771.135(k)."
31	Final Section 4(f) Evaluation	Transmittal Letter	Approval Letter	Transmittal Letter	Approval Letter	Section 4(f) Policy Paper	"The FHWA Division Office or the Federal Lands Highway Division approves all Section 4(f) evaluations. Prior to Division Office approval, all final Section 4(f) evaluations must undergo legal sufficiency review in accordance with 23 CFR 771.135(k)."
32	Section 106 No Adverse Effect Finding (for CE)	Letter with No Effect Finding	None	Letter with No Effect Finding	None	Section 106 Prog. Agr.	"MassHighway will forward copies of adequate documentation to support a No Adverse Effect finding to the Massachusetts SHPO, FHWA, and other consulting parties as appropriate."
33	Section 106 No Adverse Effect Finding (for EA/EIS)	Letter with No Effect Finding	Concurrence and Transmit to SHPO	Letter with No Effect Finding	Concurrence and Transmit to SHPO	Section 106 Prog. Agr.	"MassHighway will forward copies of adequate documentation to support a No Adverse Effect finding to the Massachusetts SHPO, FHWA, and other consulting parties as appropriate."
34	Section 106 Adverse Effect Determination	Letter with Effect Finding	Concurrence and Transmit to SHPO	Letter with Effect Finding	Concurrence and Transmit to SHPO	36 CFR 800.5 S106 PA	"MassHighway shall forward copies of its documentation to support an Adverse Effect finding to the FHWA. The FHWA, in turn, shall make a determination and forward the appropriate project documentation to the Massachusetts SHPO for comment."
35	Section 106 Dispute Resolution	Notification Letter	None	Notification Letter	None	Section 106 Prog. Agr.	"MassHighway will submit any disputes concerning the No Adverse Effect finding to FHWA for resolution in accordance with Stipulation XII...MassHighway will prepare documentation in accordance with 36 CFR 800.11(e) for transmittal by FHWA to the Council for comment, including FHWA's proposed response."
36	Section 106 Memorandum of Agreement	Transmittal Letter	Signature and circulation to MHC, and ACHP (if applicable)	Transmittal Letter	Signature and circulation to MHC, and ACHP (if applicable)	36 CFR 800.6(c)	"A memorandum of agreement executed and implemented pursuant to this section evidences the agency official's compliance with section 106 and this part and shall govern the undertaking and all of its parts. The agency official shall ensure that the undertaking is carried out in accordance with the memorandum of agreement."
37	Airport Highway Clearance Coordination and Respective Public Interest Finding	Notification Letter	None	Notification Letter	None	FAPG; 23 CFR 620.104	"Any proposed Federal-aid highway project to which this directive applies where there may be potential for substandard airway-highway clearances shall be coordinated with the concerned FAA Airports District Office." FHWA will participate as needed

2. INITIAL PROJECT AUTHORIZATION

The activities in this project implementation phase encompass actions and approvals related to the following:

- federally funded consultant contracts
- initial project authorizations for preliminary engineering, environmental assessment, and preliminary right-of-way activities
- railroad and utility consultant and force account agreements

Note that some of these actions may occur again at the final design phase if additional federal funding is used for design activities at that time.

FHWA has the sole authority to authorize Federal-aid projects since authorization of a Federal-aid project is a contractual obligation of the Federal government under Title 23 USC 106. On all Federal-aid projects (FHWA Oversight or MassDOT Administered), FHWA will authorize the project by execution of the Project Agreement contained in FHWA's Fiscal Management Information System (FMIS 4). For any authorization, the following applies:

- Funds for all projects will be obligated on a project-by-project basis for all types and sizes of projects and for all classes of funds.
- MassDOT will enter all necessary information into the FHWA's Fiscal Management Information System (FMIS 4).
- The requested amount for authorization must be within the agreed upon limits of the STIP estimated cost for the specific phase being authorized.
- MassDOT must include appropriate justification for any additional funds being requested as part of any request for the modification to existing project agreements. No additional federal funds will be authorized without proper justification.

For preliminary engineering and environmental review activity authorizations, the following also applies:

- The project must be on the appropriate Federal-aid system (or functional classification)
- The project must be the type of work for the type of funds (appropriation code) being used.
- The preliminary engineering or environmental review activity funding must be included in the approved STIP.
- The requested amount for authorization must be within the agreed upon limits of the STIP estimated cost for the specific phase being authorized.
- The project must be consistent with the appropriate long-range metropolitan transportation plan.

Table 2 below lists the activities and actions that may occur during the initial project authorization phase.

Table 2 - Initial Authorization Project Activities

Initial Authorization Project Activity	PoDI/PoCI		State Administered		Author-ization	Description
	State Action	FHWA Action	State Action	FHWA Action		
1 Design Consultant Preliminary Scope and Budget (FA-funded design)	Transmittal Letter	Comment Letter or Email	N/A	N/A		
2 Design Consultant Contract (FA-funded design)	Request Letter	Approval Letter	N/A	N/A		
3 Consultant Agreement Scope and Budget (Federal non-major project)	Request Letter	Approval Letter	N/A	N/A	23 CFR 172.9 (b)	"Contracts and contract settlements involving design services for projects that have not been delegated to the State under 23 U.S.C. 106(c), that do not fall under the small purchase procedures in §172.5(a)(2), shall be subject to the prior approval by FHWA, unless an alternate approval procedure has been approved by FHWA."
4 Consultant Agreements (Federal non-Major project)	Request Letter	Approval Letter	N/A	N/A	23 CFR 172.9 (b)	"Contracts and contract settlements involving design services for projects that have not been delegated to the State under 23 U.S.C. 106(c), that do not fall under the small purchase procedures in §172.5(a)(2), shall be subject to the prior approval by FHWA, unless an alternate approval procedure has been approved by FHWA."
5 Consultant Agreement Scope and Budget (Major Projects)	Request Letter	Approval Letter	N/A	N/A	23 CFR 172.9 (c)	"Any contract, revision of a contract or settlement of a contract for design services for a project that is expected to fall under 23 U.S.C. 106(h) shall be submitted to the FHWA for approval."
6 Final Consultant Agreement (Major Projects)	Request Letter	Approval Letter	N/A	N/A	23 CFR 172.9 (c)	"Any contract, revision of a contract or settlement of a contract for design services for a project that is expected to fall under 23 U.S.C. 106(h) shall be submitted to the FHWA for approval."
7 Sole Source Consultant Contract Selection	Request Letter	Approval Letter	Retain Records	None		
8 Consultant to Serve in a "Management" Role	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 172.9 (b)	"When Federal-aid highway funds participate in the contract, the contracting agency shall receive approval from the FHWA before hiring a consultant to act in a management role for the contracting agency."
9 Preliminary Engineering and ROW Activities Authorization / Project Agreement	FMIS Request	FMIS Approval	FMIS Request	FMIS Approval	CFR 630.106 630.108	"The State transportation department (STD) must obtain an authorization to proceed from the FHWA before beginning work on any Federal-aid project. The STD may request an authorization to proceed in writing or by electronic mail for a project or a group of projects." "The STD shall prepare a project agreement for each Federal-aid project."
10 Consultant Agreement Modifications	Request Letter	Approval Letter	N/A	N/A		
11 Consultant Agreement Funding Modifications	FMIS Request	FMIS Approval	FMIS Request	FMIS Approval		

3. PRELIMINARY DESIGN

The Preliminary Design phase of project implementation encompasses activities related to development and approval of initial bridge studies, 25% design documents, and utility and railroad force account agreements, as shown in Table 3.

Table 3 – Preliminary Design

Preliminary Design Project Activity	PoDI/PoCI		State Administered		Author-ization	Description
	State Action	FHWA Action	State Action	FHWA Action		
1 Draft Bridge Type Study	Transmittal Email	Comment Email	Retain Records	None	FHWA Memo 11/13/98	"The Headquarters Bridge Division shall be responsible for the approval of preliminary plans for unusual bridges and structures on the Interstate System." (For full oversight projects, approval of type study is conditional. For unusual structures, MassDOT will provide two copies so that one copy can be transmitted to FHWA Office of Bridge Technology for approval)
2 Bridge Type Study	Transmittal Letter	Approval Letter	Retain Records	None	FHWA Memo 11/13/98	"The Headquarters Bridge Division shall be responsible for the approval of preliminary plans for unusual bridges and structures on the Interstate System." (For full oversight projects, approval of type study is conditional. For unusual structures, MassDOT will provide two copies so that one copy can be transmitted to FHWA Office of Bridge Technology for approval)
3 25% Highway Plans and Functional Design Report	Transmittal Letter	Design Review Form	Retain Records	None		(Not required for Interstate Maintenance "Book" projects)
4 25% Bridge Plans (Sketch Plans, Geotechnical Report, and Hydraulic Report)	Transmittal Letter	Approval Letter	Retain Records	None		
5 Use of Consultants by Utility					23 CFR 645.109	When Federal participation is requested by the STD in the cost of such services, the utility and its consultant shall agree in writing as to the services to be provided and the fees and arrangements for the services. Federal funds may participate in the cost of such services performed under existing written continuing contracts when it is demonstrated that such work is performed regularly for the utility in its own work and that the costs are reasonable...The procedures in 23 CFR part 172, Administration of Engineering and Design Related Service Contracts, may be used as a guide for reviewing proposed consultant contracts."
6 Draft Utility or Railroad Force Account Work Agreement	Transmittal Letter	Comment Letter	Retain Records	None	23 CFR 645.113 646.216	"On Federal-aid and direct Federal projects involving utility relocations, the utility and the TD shall agree in writing on their separate responsibilities for financing and accomplishing the relocation work. When Federal participation is requested, the agreement shall incorporate this regulation by reference and designate the method to be used for performing the work (by contract or force account) and for developing relocation costs. The method proposed by the utility for developing relocation costs must be acceptable to both the TD and the FHWA."
7 Final Utility or Railroad Force Account Work Agreement	Request Letter	Approval Letter	Retain Records	None	23 CFR 645.113 646.216	Prior to issuance of authorization by FHWA either to advertise the physical construction for bids or to proceed with force account construction for railroad work or for other construction affected by railroad work, the following must be accomplished...The plans, specifications and estimates must be approved by FHWA...A proposed agreement between the State and railroad must be found satisfactory by FHWA. Before Federal funds may be used to reimburse the State for railroad costs the executed agreement must be approved by FHWA."

4. FINAL DESIGN

The Final Design phase of project implementation encompasses activities related to development and approval of 75% and 100% plans, as well as approvals related to the following:

- design exceptions
- interstate system modifications
- value engineering
- design-build work scopes
- ITS systems engineering
- major projects
- traffic management plans
- authorization for additional design and right-of-way and utility relocations

Design Exceptions – Design Exceptions shall be considered by FHWA only after approval by the Chief Engineer. Design Exceptions may be considered prior to the Final Design phase if necessary.

Interstate Modifications - Work associated with the modification or addition of interchanges or access points on the Interstate system, regardless of funding source or responsible agency (i.e., MassDOT or Massachusetts Port Authority) regardless of project funding, must be submitted to the FHWA office for review and appropriate action.

Value Engineering - For each project on the Federal-aid system with an estimated total cost of \$50 million or more (\$40 million or more for a bridge project), the MassDOT shall conduct at least one Value Engineering analysis to satisfy federal requirements (see 23 CFR 627).

Design-Build – The Final Design phase of project implementation includes approvals of design-build RFQs and RFPs.

ITS Systems Engineering - Title 23 CFR 940.11 requires that all ITS projects funded with highway trust funds shall be based on a systems engineering analysis that is on a scale commensurate with the project scope, and that includes, at a minimum:

- (1) Identification of portions of the regional ITS architecture being implemented;
- (2) Identification of participating agencies roles and responsibilities;
- (3) Requirements definitions;
- (4) Analysis of alternative system configurations and technology options to meet requirements;
- (5) Procurement options;
- (6) Identification of applicable ITS standards and testing procedures; and
- (7) Procedures and resources necessary for operations and management of the system.

Any major ITS project funded with highway trust funds that advances to final design shall have a project level ITS architecture that is coordinated with the development of the regional ITS architecture. Prior to authorization of highway trust funds for construction or implementation of ITS projects, compliance with the above requirements shall be demonstrated.

Major Project Management and Financial Plans – The Final Design phase of project implementation includes the cost estimate review, and approval of draft project management plan and initial finance plan.

Traffic Management Plans - For significant projects, MassDOT shall develop a Traffic Management Plan (as defined by 23 CFR 630.1010) that consists of a Temporary Traffic Control (TTC) plan and addresses both Transportation Operations (TO) and Public Information (PI) components. A TMP consists of strategies to manage the work zone impacts of a project. Its scope, content, and degree of detail may vary based upon MassDOT's work zone policy, and MassDOT's understanding of the expected work zone impacts of the project. For individual projects or classes of projects that the State determines to have less than significant work zone impacts, the TMP may consist only of a TTC plan.

Authorization for additional design, and utility and right-of way relocations - The final design phase may also include actions related to authorization of additional funds for design activities, for right-of-way and utility relocations.

For additional final design authorizations, the following applies:

- The requirements shown under Environmental Assessment and Preliminary Engineering must be satisfied
- The requested amount for authorization must be within the agreed upon limits of the STIP estimated cost for the specific phase being authorized.
- The project must have an approved environmental document

For the authorization of right-of-way and utility relocations, FHWA requires that MassDOT submit a modified project agreement, through Fiscal Management Information System (FMIS 4), at such point that the ROW and utility plans are complete in order to request authorization for full ROW and utility relocation work. The following items must be completed prior to any ROW or utility authorizations being executed:

- The requirements shown under Environmental Assessment and Preliminary Engineering must be satisfied
- The requested amount for authorization must be within the agreed upon limits of the STIP estimated cost for the specific phase being authorized.
- The project must have an approved environmental document.

Table 4 lists the activities that may occur during the Final Design phase of project implementation.

Table 4 – Final Design Project Activities

Final Design Project Activity		PoDI/PoCI		State Administered		Author-ization	Description
		State Action	FHWA Action	State Action	FHWA Action		
1	Design Exceptions	Request Letter w/ Approved Design Exception Report	Approval Letter	Retain Records	None	23 CFR 625.3 (f)	"Approval within the delegated authority provided by FHWA Order M1100.1A may be given on a project basis to designs which do not conform to the minimum criteria as set forth in the standards, policies, and standard specifications..."
2	Preliminary Interstate Access Modifications	Transmittal Letter w/ Project Framework Document	Project Framework Approval Letter	N/A	N/A	FHWA Interstate Access Policy	"State DOTs are required to submit requests for proposed changes in access to their FHWA Division Office for review and action under 23 U.S.C. 106 and 111, and 23 CFR 625.2(a)."
3	Interstate System Access Modifications	Request Letter with IMR/IJR	Determination Letter (HQ approval) or Response Letter	N/A	N/A	23 USC 111 Division SOP	"State DOTs are required to submit requests for proposed changes in access to their FHWA Division Office for review and action..."
4	Value Engineering (NHS Projects > \$50m; Bridges > \$40m)	Transmittal Letter w/ Report and Disposition		N/A	N/A	23 CFR 627.1	"In accordance with the Federal-State relationship established under the Federal-aid highway program, State transportation departments (STDs) shall assure that a VE analysis has been performed on all applicable projects and that all resulting, approved recommendations are incorporated into the plans, specifications and estimate."
5	Request for Qualifications (Design-Build Projects)	Transmittal Letter	Comment Letter	Retain Records	None		
6	Request for Proposal (Design-Build Projects)	Request Letter	Approval Letter	Retain Records	None	23 CFR 636.109 (c)	"The contracting agency must receive prior FHWA concurrence before issuing the RFP, awarding a design-build contract and proceeding with preliminary design work under the design-build contract."
7	System Engineering Analysis (ITS Projects)	Request Letter	Approval Letter	Retain Records	None	23 CFR 940.11	"Prior to authorization of highway trust funds for construction or implementation of ITS projects, compliance with §940.11 shall be demonstrated... Compliance with this part will be monitored under Federal-aid oversight procedures as provided under 23 U.S.C. 106 and 133."
8	Independent Cost Review (Major Projects)	Participate in Review	Conduct Review	N/A	N/A	Major Project Cost Est. Guidance (2007)	
9	Draft Project Management Plan (Major Projects)			N/A	N/A	23 USC 106 (h) FHWA Major Project Guidance (2009)	"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 project management plan; and "an annual financial plan." "A draft Project Management Plan must be submitted to the FHWA for review prior to approval of the NEPA decision document. The FHWA will provide comments and the STA must submit a Project Management Plan for approval within 90 days of the date of the signed NEPA decision document. For the first Project Management Plan, the FHWA Major Projects Team must provide concurrence prior to the FHWA Division Office approval."
10	Initial Financial Plan (Major Projects and Projects between \$100m and \$500m)	Request Letter	Approval Letter (Comment Letter for \$100m to \$500m)	N/A	N/A	23 USC 106 (h) FHWA Fin. Plan Guidance 5(2007)	"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 project management plan; and "an annual financial plan." "The Initial Financial Plan and each Annual Update will be submitted to the FHWA Division Office for review and acceptance."

Final Design Project Activity	PoDI/PoCI		State Administered		Author-ization	Description
	State Action	FHWA Action	State Action	FHWA Action		
11 Identification of Significant Projects (for Transportation Management Plans)	Notification Letter	None	Retain Records	None	23 CFR 630.1010 (b)	"The State shall identify upcoming projects that are expected to be significant. This identification of significant projects should be done as early as possible in the project delivery and development process, and in cooperation with the FHWA"
12 Exception to Designation of Significant Projects	Request Letter	Approval Letter	N/A	N/A	23 CFR 630.1010 (c)	"For an Interstate system project or categories of Interstate system projects that are classified as significant through the application of the provisions in §630.1010(c), but in the judgment of the State they do not cause sustained work zone impacts, the State may request from the FHWA, an exception to §§630.1012(b)(2) and 630.1012(b)(3)."
13 Transportation Management Plan	Request Letter	Approval Letter	Retain Records	None		
14 Preliminary Authorization for Right-of-Way Federal-aid Acquisition and/or Relocation	Notification Letter	Comment Letter	Notification Letter	Comment Letter	23 CFR 710.307	"As a condition of Federal-aid, the STD shall obtain FHWA authorization in writing or electronically before proceeding with any real property acquisitions...The STD must prepare a project agreement in accordance with 23 CFR 630, subpart C."
15 Authorization for Right-of-Way Federal-aid Acquisition and/or Relocation	FMIS Request	FMIS Approval	FMIS Request	FMIS Approval	23 CFR 710.307	"As a condition of Federal-aid, the STD shall obtain FHWA authorization in writing or electronically before proceeding with any real property acquisitions...The STD must prepare a project agreement in accordance with 23 CFR 630, subpart C."
16 Reimbursement for Protective Buying or Hardship Acquisition	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 710.503	"Prior to the STD obtaining final environmental approval, the STD may request FHWA agreement to provide reimbursement for advance acquisition of a particular parcel or a limited number of parcels, to prevent imminent development and increased costs on the preferred location (Protective Buying), or to alleviate hardship to a property owner or owners on the preferred location (Hardship Acquisition)... This activity should occur prior to acquisition."
17 Functional Replacement of Property	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 710.509 (a)(b)	"When publicly owned real property, including land and/or facilities, is to be acquired for a Federal-aid highway project, in lieu of paying the fair market value for the real property, the State may provide compensation by functionally replacing the publicly owned real property with another facility which will provide equivalent utility...Federal-aid funds may participate in functional replacement costs only if...The FHWA concurs in the STD determination that functional replacement is in the public interest."
18 75% Highway Plans	Request Letter	Design Review Form	Retain Records	None		
19 75% Bridge Plans	Request Letter	Approval Letter	Retain Records	None		
20 Preliminary ROW Plans	Request Letter	Design Review Form	Retain Records	None		
21 100% Highway Plans	Request Letter	Design Review Form	Retain Records	None		
22 100% Bridge Plans	Request Letter	Approval Letter	Retain Records	None		
23 Draft Federal-aid Non-construction Project Scope	Transmittal Letter	Comment Letter	N/A	N/A		

5. PLANS, SPECIFICATIONS, AND ESTIMATES

The Plans, Specifications, and Estimates phase encompasses activities and actions related to the development and approval of final PS&E and ROW certification for construction projects, or works scopes for non-construction projects, including approvals related to the following related items:

- use of publicly owned equipment and materials
- Buy America waivers
- use of proprietary products and processes
- warranty provisions
- emergency contracting
- non-traditional contracting
- local public agency contracting
- DBE project goals
- waivers of relocation requirements
- federal land transfers
- major project final project management plans

Table 5 lists the activities that may occur during the Plans, Specifications, and Estimates phase of project implementation.

Table 5 – Plans, Specifications, and Estimates Project Activities

PS&E Project Activity		PoDI/PoCI		State Administered		Author-ization	Description
		State Action	FHWA Action	State Action	FHWA Action		
1	Use of Publicly Owned Equipment	Request Letter	Approval Letter	Retain Records	None	23 CFR 635.106	"A proposal by any STD for the use of publicly owned equipment on such a project must be supported by a showing that it would clearly be cost effective to do so under the conditions peculiar to the individual project or locality... The proposed use of such equipment is clearly set forth in the Plans, Specifications and Estimate (PS&E) submitted to the Division Administrator for approval."
2	Use of Publicly Furnished Materials	Request Letter	Approval Letter	Retain Records	None	23 CFR 635.407	"Contracts for highway projects shall require the contractor to furnish all materials to be incorporated in the work and shall permit the contractor to select the sources from which the materials are to be obtained. Exception to this requirement may be made when there is a definite finding by the State transportation department and concurred in by the FHWA Division Administrator, that it is in the public interest to require the contractor to use material furnished by the State transportation department or from sources designated by the State transportation department."
3	Use of Mandatory Borrow/disposal Sites	Request Letter	Approval Letter	Retain Records	None	23 CFR 635.407	"The contract provisions for one or a combination of Federal-aid projects shall not specify a mandatory site for the disposal of surplus excavated materials unless there is a finding by the State transportation department with the concurrence of the FHWA Division Administrator that such placement is the most economical except that the designation of a mandatory site may be permitted based on environmental considerations, provided the environment would be substantially enhanced without excessive cost."
4	Buy America Waiver	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 635.410 (c)	"A request for waiver, accompanied by supporting information, must be submitted in writing to the...the FHWA Division Administrator."
5	Use of Proprietary Products, Processes	Request Letter	Approval Letter	Retain Records	None	23 CFR 635.411	"A State transportation department may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the Division Administrator as being in the public interest."

PS&E Project Activity		PoDI/PoCI		State Administered		Authorization	Description
		State Action	FHWA Action	State Action	FHWA Action		
6	Warranty Provisions in NHS Contracts	Request Letter	Approval Letter	Retain Records	None	23 CFR 635.417	"The STD may include warranty provisions in National Highway System (NHS) construction contracts in accordance with the following: (a) Warranty provisions shall be for a specific construction product or feature. Items of maintenance not eligible for Federal participation shall not be covered. (b) All warranty requirements and subsequent revisions shall be submitted to the Division Administrator for advance approval"
7	Exceptions to maximum railroad protective insurance limits	Request Letter	Approval Letter	Retain Records	None	23 CFR 646.111	"In cases involving real and demonstrable danger of appreciably higher risks, higher dollar amounts of coverage for which premiums will be reimbursable from Federal funds shall be allowed. These larger amounts will depend on circumstances and shall be written for the individual project in accordance with standard underwriting practices upon approval of the FHWA."
8	Non-competitive Cost-Effective or Emergency Contracting	Request Letter	Approval Letter	Retain Records	None	23 CFR 635.104 635.204	"Actual construction work shall be performed by contract awarded by competitive bidding; unless...the STD demonstrates to the satisfaction of the Division Administrator that some other method is more cost effective or that an emergency exists.. Approval by the Division Administrator for construction by a method other than competitive bidding shall be requested by the State...The Division Administrator shall notify the State transportation department in writing of his/her determination."
9	Non-traditional Construction Contracting Techniques	Request Letter	Approval Letter	Request Letter	Approval Letter		"FHWA Headquarters' SEP-14 approval is necessary for any non- traditional construction contracting technique...State DOTs or local public agencies may submit a SEP-14 workplan through the local FHWA Division Office. The Division Office reviews the request and if appropriate, forwards it to FHWA Headquarters (HIPA-30) for review and approval. Electronic copies of workplans and SEP-14 requests for approval are encouraged."
10	Construction by Local Public Agencies	Request Letter	Approval Letter	N/A	N/A	23 CFR 635.105 (c)	"When a project is located on a street or highway over which the STD does not have legal jurisdiction, or when special conditions warrant, the STD, while not relieved of overall project responsibility, may arrange for the local public agency having jurisdiction over such street or highway to perform the work with its own forces or by contract; provided the following conditions are met and the Division Administrator approves the arrangements in advance."
11	Disadvantaged Business Enterprise Project Goal	Request Letter	Approval Letter	Retain Records	None	49 CFR 26.51(e) Approved DBE Program	You may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities.(2) You are not required to set a contract goal on every DOT-assisted contract. You are not required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by your overall goal, you must set contract goals so that they will cumulatively result in meeting any portion of your overall goal you do not project being able to meet through the use of race-neutral means. (3) Operating administration approval of each contract goal is not necessarily required. However, operating administrations may review and approve or disapprove any contract goal you establish. (4) Your contract goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.
12	Waiver from Relocation Requirements	Request Letter	Approval Letter	Request Letter	Approval Letter	49 CFR 24.204 (b)	"The Federal Agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move..."
13	Federal Land Transfers	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 710.601	"The STD may file an application with the FHWA, or can make application directly to the land-owning agency if the land-owning agency has its own authority for granting interests in land... If the FHWA concurs in the need for the transfer, the land-owning agency will be notified and a right-of-entry requested...Following execution, the STD shall

14	Completion of ROW Activities	Transmit ROW Certificate	Approve ROW Certificate	Request Letter (for Interstate)	Approval Letter (for Interstate)	23 CFR 635.309 (b)(c)(g)	<p>"A statement is received from the State...that either all right-of-way clearance, utility, and railroad work has been completed or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedules... A statement has been received that right-of- way has been acquired or will be acquired in accordance with the current FHWA directive(s) covering the acquisition of real property or that acquisition of right-of-way is not required."</p>
----	------------------------------	--------------------------	-------------------------	---------------------------------	----------------------------------	--------------------------	--

PS&E Project Activity		PoDI/PoCI		State Administered		Authorization	Description
		State Action	FHWA Action	State Action	FHWA Action		
15	Final Project Management Plan (Major Projects)			N/A	N/A	23 USC 106 (h) FHWA Major Project Guidance (2009)	<p>"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 project management plan; and "an annual financial plan."</p> <p>"A draft Project Management Plan must be submitted to the FHWA for review prior to approval of the NEPA decision document. The FHWA will provide comments and the STA must submit a Project Management Plan for approval within 90 days of the date of the signed NEPA decision document.</p> <p>For the first Project Management Plan, the FHWA Major Projects Team must provide concurrence prior to the FHWA Division Office approval"</p>
16	Plans, Specifications, and Estimates	Request Letter	Approval Letter	Retain Records	None	23 CFR 630.205	<p>"PS&E assemblies for Federal-aid highway projects shall be submitted to the FHWA for approval...The State highway agency (SHA) shall be advised of approval of the PS&E by the FHWA."</p>
17	Final Federal-aid Non-construction Project Scope	Request Letter	Approval Letter	N/A	N/A		

6. ADVERTISEMENT AND AWARD

The Advertisement and Award phase of project implementation encompasses activities and approvals related to

- advance construction
- reduced advertising period
- authorization to advertise
- advertisement addenda
- DBE good faith efforts
- contract award

FHWA has the sole authority to authorize federal-aid projects since authorization of a federal-aid project is a contractual obligation of the Federal government under Title 23 USC 106. On all federal-aid projects (FHWA Oversight or MassDOT Administered), FHWA will authorize the project by execution of the Project Agreement contained in FHWA's Fiscal Management Information System (FMIS 4). For any authorization to advertise, the following applies:

- The requirements shown in the Initial Authorizations and Final Design phases must be satisfied.
- The PS&E package must be complete, in accordance with 23 CFR.
- All design exceptions must be identified and approved prior to PS&E package submittal.
- All access point modifications must be approved for projects on the Interstate System.
- A written certification must be made that all right-of-way has been acquired in accordance with the current FHWA directive(s) covering the acquisition of real property or that acquisition of right-of-way is not required.
- A written certification must be made that all utility and railroad work has been completed or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedules. Where it is determined that the completion of such work in advance of the highway construction is not feasible or practical due to economy, special operational problems and the like, there shall be appropriate notification provided in the bid proposals identifying the utility and railroad work which is to be underway concurrently with the highway construction.
- Where utility facilities are to use and occupy the right-of-way, MassDOT must demonstrate that the provisions of 23 CFR 645.119(b) have been fulfilled.
- There must have been a willingness to hold a public hearing or a hearing was held for the project, as appropriate.
- All necessary permits must have been obtained for the project.
- All hazardous waste or contaminated materials must be identified (to the extent practicable) and removed or appropriate bid items included in the contract.
- Ten full working days are required to process the PS&E package which consist of plans, specifications, and a current engineers estimate and project authorization data in FMIS 4 to ensure all Federal requirements are being met prior to project advertisement.
- Responses to the FHWA's previous written comments are required prior to PS&E submittal.

MassDOT must contact the FHWA to assure that the project has been authorized prior to it being advertised. No authorizations will be given after the project has been advertised. Exceptions to

the above listed requirements will only be considered in special cases. The MassDOT Deputy Chief Engineer for Construction or the MassDOT Chief Engineer must make all requests for exceptions. Approval of such requests is reserved for the FHWA Massachusetts Division Administrator or the Assistant Division Administrator. Any revisions to FHWA-approved PS&E's (contract addenda and/or updated project costs) must be submitted to FHWA and approved prior to opening of bids.

Table 6 lists the activities that may occur during the Advertisement and Award phase of project implementation.

Table 6 – Advertisement and Award Project Activities

Advertisement and Award Project Activity		PoDI/PoCI		State Administered		Author-ization	Description
		State Action	FHWA Action	State Action	FHWA Action		
1	Advance Construction	Notification Letter with Conversion Schedule	Comment Letter	Notification Letter with Conversion Schedule	Comment Letter	CFR 630.703 (b)	"The FHWA, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of a project authorized to proceed under this section from any category of funds for which the project is eligible."
2	Advertising period Less than Three Weeks	Request Letter or Email	Approval Letter	Retain Records	None	23 CFR 635.112 (b)	"The advertisement and approved plans and specifications shall be available to bidders a minimum of 3 weeks prior to opening of bids except that shorter periods may be approved by the Division Administrator in special cases when justified."
3	Authorization to Advertise	FMIS Request	FMIS Approval	FMIS Request	FMIS Approval	23 CFR 635.112 (a)	"No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for bids, prior to authorization by the Division Administrator."
4	Advertisement Addenda	Request Letter	Approval Letter	Retain Records	None	23 CFR 635.112 (c)	"The STD shall obtain the approval of the Division Administrator prior to issuing any addenda which contain a major change to the approved plans or specifications during the advertising period. Minor addenda need not receive prior approval but should be identified by the STD at the time of or prior to requesting FHWA concurrence in award."
5	DBE Good Faith Effort Determination for Contracts With Insufficient Commitments	Transmit Basis for Determination within two weeks of Bid	Review and Comment	Retain Records	None	49 CFR 26.53(a)	"When you have established a DBE contract goal, you must award the contract only to a bidder/offeror who makes good faith efforts to meet it. You must determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things: (1) Documents that it has obtained enough DBE participation to meet the goal; or (2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeror's good faith efforts."
6	Award to Next Lowest Bidder	Request Letter	Approval Letter	Notify FHWA; Retain Records	None	23 CFR 635.114 (f)	"If the STD determines that the lowest bid is not responsive or the bidder is not responsive, it shall so notify and obtain the Division Administrator's concurrence before making an award to the next lowest bidder."
7	Rejection of All Bids	Request Letter	Approval Letter	Notify FHWA; Retain Records	None	23 CFR 635.114 (h)	"Any proposal by the STD to reject all bids received for a Federal-aid contract shall be submitted to the Division Administrator for concurrence, accompanied by adequate justification."
8	Concurrence with Contract Award	Request Letter	Concurrence Letter	Retain Records	None	23 CFR 635.114 (b)	"The STD shall formally request concurrence by the Division Administrator in the award of all Federal-aid contracts. Concurrence in award by the Division...Concurrence in award shall be formally approved and shall only be given after receipt and review of the tabulation of bids."
9	Agreement Estimate	FMIS Request	FMIS Approval	FMIS Request	FMIS Approval	23 CFR 635.115 (a)	"Following the award of contract, an agreement estimate based on the contract unit prices and estimated quantities shall be prepared by the STD and submitted to the Division Administrator as soon as practicable for use in the preparation of the project agreement."

7. CONSTRUCTION

The Construction phase of project implementation encompasses activities and approvals related to

- federal-aid reimbursement
- change orders and extra work
- contract extensions and terminations
- contract budget modifications
- contract claims
- final inspection and acceptance
- major project financial plan annual updates
- treatment of human remains
- final vouchers

Inspections: FHWA will perform a final inspection as part of the inspection activities for all FHWA Oversight projects. This activity is most efficiently accomplished when done at the time of MassDOT final inspection. Therefore, MassDOT should notify the FHWA as soon as a final inspection is scheduled.

Final Acceptance: Final Acceptance of FHWA Oversight Projects is made at the time the FHWA office makes final payment after MassDOT submits a final voucher for reimbursement. Prior to final acceptance, the FHWA office must have the following documents:

- Any Pending Extra Work Orders or Claims, Extensions of Contract Time and Liquidated Damages
- MassDOT Formal Acceptance Letter and Certificate of Completion of Work
- MassDOT Materials Certification

Claims: On FHWA Oversight Projects, FHWA shall be made aware by MassDOT of the details of any claim at an early stage so that coordination of efforts can be satisfactorily accomplished. It is expected that MassDOT will diligently pursue the satisfactory resolution of claims within a reasonable time-period. MassDOT not allowing FHWA the opportunity for input could be the basis of not participating in the claim settlement. FHWA participation in the settlement of a claim will be in accordance with 23 CFR 635.124. For MassDOT Administered Projects, MassDOT may approve Federal participation in claims for MassDOT Administered Projects, but must evaluate and document the claim as if they were doing it for the FHWA. Federal participation in claims approved by MassDOT is still subject to FHWA oversight through periodic process reviews. Any claims in excess of \$100,000, or that affect the construction completion date, should be brought to the attention of FHWA regardless of oversight responsibility. FHWA will maintain a representative as a non-voting member of the MassDOT Claims Committee to monitor the claims resolution process.

Table 7 lists the activities that may occur during the Construction phase of project implementation.

Table 7 – Construction Project Activities

Construction Project Activity		PoDI/PoCI		State Administered		Author-ization	Description
		State Action	FHWA Action	State Action	FHWA Action		
1	Construction Federal Aid Reimbursement	RASPS Request	RASPS Approval	RASPS Request	RASPS Approval		
2	Preliminary Major Changes and Extra Work	Draft Form CSD-683	Signed Form CSD-683	Retain Records	None	23 CFR 635.120 (a)	"Following authorization to proceed with a project, all major changes in the plans and contract provisions and all major extra work shall have formal approval by the Division Administrator in advance of their effective dates. However, when emergency or unusual conditions justify, the Division Administrator may give tentative advance approval orally to such changes or extra work and ratify such approval with formal approval as soon thereafter as practicable."
3	Major Changes and Extra Work	Extra Work Order	Approval Letter	Retain Records	None	23 CFR 635.120 (a)	"Following authorization to proceed with a project, all major changes in the plans and contract provisions and all major extra work shall have formal approval by the Division Administrator in advance of their effective dates. However, when emergency or unusual conditions justify, the Division Administrator may give tentative advance approval orally to such changes or extra work and ratify such approval with formal approval as soon thereafter as practicable."
4	Non-major Changes and Non-major Extra Work	Extra Work Order	Approval Letter	Retain Records	None	23 CFR 635.120 (b)	"For non-major changes and non-major extra work, formal approval is necessary but such approval may be given retroactively at the discretion of the Division Administrator. The STD should establish and document with the Division Administrator's concurrence specific parameters as to what constitutes a non-major change and non-major extra work."
5	Contract Time Extensions as Related to Changes and Extra Work	Form CSD-683 / Extra Work Order	Signed Form CSD-683	Retain Records	None	23 CFR 635.120 (c)	"Changes in contract time, as related to contract changes or extra work, should be submitted at the same time as the respective work change for approval by the Division Administrator."
6	Contract Time Extensions	Form CSD-683 / Extension of Time	Approval Letter	Retain Records	None	23 CFR 635.121 (b)	"Contract time extensions granted by a STD shall be subject to the concurrence of the Division Administrator and will be considered in determining the amount of Federal participation. Contract time extensions submitted for approval to the Division Administrator shall be fully justified and adequately documented."
7	Modified Project Agreement	FMIS Request	FMIS Approval	FMIS Request	FMIS Approval		
8	Financial Plan Annual Updates (Major Projects and Projects between \$100m and \$500m)	Request Letter	Approval Letter	N/A	N/A	23 USC 106 (h) FHWA Fin. Plan Guidance 5(2007)	"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 project management plan; and "an annual financial plan." "The Initial Financial Plan and each Annual Update will be submitted to the FHWA Division Office for review and acceptance."
9	Conversion of Advance Construction	FMIS Request	FMIS Approval	FMIS Request	FMIS Approval	CFR 630.709	"The State Department of Transportation may submit a written request to the FHWA that a project be converted to a regular Federal-aid project at any time provided that sufficient Federal-aid funds and obligation authority are available."
10	Termination of Construction Contracts	Request Letter	Approval Letter	Notify FHWA; Retain Records	None	23 CFR 635.125 (b)	"The STD prior to termination of a Federal-aid contract shall consult with and receive the concurrence of the Division Administrator."
11	Project Materials Certification	Transmit Materials Certification	Review	Retain Records	None	23 CFR 637.207 (a)	"The preparation of a materials certification, conforming in substance to appendix A of this subpart, shall be submitted to the FHWA Division Administrator for each construction project which is subject to FHWA construction oversight activities."
12	Contract Claims	Request Letter	Approval Letter	Retain Records	None	23 CFR 635.124 (b)	"The FHWA shall be made aware by the STD of the details of the claim at an early stage so that coordination of efforts can be satisfactorily accomplished. It is expected that STDs will diligently pursue the satisfactory resolution of claims within a reasonable period of time. Claims arising on exempt non-NHS projects should be processed in accordance with the State's approved Stewardship Plan."
13	Treatment of Human Remains	Notification/consultation with Area	Consultation with RE	Notification/consultation with Area	Consultation with RE	Section 106 PA	"If previously unidentified human remains are discovered during construction, that portion of the project will stop completely. The area will be protected and the MassHighway Resident Engineer will immediately consult with FHWA..."

Construction Project Activity		PoDI/PoCI		State Administered		Authorization	Description
		State Action	FHWA Action	State Action	FHWA Action		
		Engineer		Engineer			
14	Final Inspection / Acceptance of Completed Work	Notification of Final Inspection	Final Acceptance Report / FMIS	Retain Records	None	23 USC 114(a)	"The construction of any highways or portions of highways located on a Federal-aid system shall be undertaken by the respective State transportation departments or under their direct supervision...such construction shall be subject to the inspection and approval of the Secretary."
15	Final Voucher	Letter	FMIS Closeout	Letter	FMIS Closeout		

8. POST CONSTRUCTION

The Post-construction phase of project implementation encompasses activities and approvals related to

- Air-space agreements
- Leasing, disposal, and use of real property
- Interstate access control or occupancy
- Sign removal projects
- Relinquishment of interstate mileage

Table 8 lists the activities that may occur during the Post-construction phase of project implementation.

Table 8 – Post-construction Project Activities

Post-construction Project Activity	PoDI/PoCI		State Administered		Author-ization	Description
	State Action	FHWA Action	State Action	FHWA Action		
1 Air Space Agreements	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 710.405 (b)	"A STD may grant rights for temporary or permanent occupancy or use of Interstate system airspace if the STD has acquired sufficient legal right, title, and interest in the right-of-way of a federally assisted highway to permit the use of certain airspace for non-highway purposes; and where such airspace is not required presently or in the foreseeable future for the safe and proper operation and maintenance of the highway facility. The STD must obtain prior FHWA approval, except for paragraph (c) of this section."
2 Leasing of Real Property	Request Letter (Interstates) Notification (other FA)	Approval Letter (Interstates)	Request Letter (Interstates) Notification (other FA)	Approval Letter (Interstates)	23 CFR 710.407	"Leasing of real property acquired with title 23 of the United States Code, funds shall be covered by an agreement between the STD and lessee which contains provisions to insure the safety and integrity of the federally funded facility...Where a proposed use requires changes in the existing transportation facility, such changes shall be provided without cost to Federal funds unless otherwise specifically agreed to by the STD and the FHWA."
3 Disposal of Federally funded Right-of-Way for Continued Public Use	Request Letter (Interstates)	Approval Letter (Interstates)	Request Letter (Interstates)	Approval Letter (Interstates)	23 CFR 710.409	"Federal, State, and local agencies shall be afforded the opportunity to acquire real property interests considered for disposal when such real property interests have potential use for parks, conservation, recreation, or related purposes, and when such a transfer is allowed by State law. When this potential exists, the STD shall notify the appropriate resource agencies of its intentions to dispose of the real property interests...Disposal actions described in 23 CFR 710.403(d)(1) for less than fair market value require a public interest determination and FHWA approval, consistent with that section."
4 Exception for Non-market Rate Value or Rent	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 710.403 (d)(1)	"With FHWA approval, when the STD clearly shows that an exception is in the overall public interest for social, environmental, or economic purposes; nonproprietary governmental use; or uses under 23 USC 142(f), Public Transportation. The STD manual may include criteria for evaluating disposals at less than fair market value. Disposal for public purposes may also be at fair market value. The STD shall submit requests for such exceptions to the FHWA in writing"
5 Use of Right-of-Way for Non-highway Purposes	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 1.23 (b)(c)	"The State highway department shall be responsible for preserving such right-of-way free of all public and private installations, facilities or encroachments, except...those which the Administrator approves as constituting a part of a highway or as necessary for its operation...[or] the temporary or permanent occupancy or use of right-of-way, including air space, for non-highway purposes and the reservation of subsurface mineral rights within the boundaries of the rights-of-way of Federal-aid highways, may be approved by the Administrator..."
6 Interstate Change in Access Control of Occupancy	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 710.401	"Prior to allowing any change in access control or other use or occupancy of acquired property along the Interstate, the STD shall secure an approval from the FHWA for such change or use."
7 Sign Removal Projects	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 750.307	"Authorization to proceed with acquisitions on a sign removal project shall not be issued until such time as the State has submitted to FHWA the following: (a) A general description of the project. (b) The total number of signs to be acquired. (c) The total estimated cost of the sign

Post-construction Project Activity		PoDI/PoCI		State Administered		Author-ization	Description
		State Action	FHWA Action	State Action	FHWA Action		
							removal project, including a breakdown of incidental, acquisition, and removal costs."
8	Relinquishment of Highway Facilities	Request Letter	Approval Letter	Request Letter	Approval Letter	23 CFR 620.203	"The relinquishment of any Interstate mileage shall be submitted to the Federal Highway Administrator as a special case for prior approval...The following facilities may be relinquished only with the approval of the Federal Highway Administrator in accordance with paragraph 203(g)..."

ATTACHMENT D: PROGRAM MANAGEMENT

Program management encompasses activities undertaken to manage each of the functional program areas that together comprise the federal-aid highway program, such as planning, financial management, safety, civil rights, structures, etc. Program management encompasses *oversight*, ensuring that programs are delivered consistently with applicable laws, regulations, and policies, as well as *stewardship*, ensuring that programs are delivered efficiently and effectively.

Many program management activities are required by regulation; for example, MassDOT must develop an annual SPR Work Program, submit an annual HPMS report, and develop a Highway Safety Improvement Program. Other program management activities are based on mutual agreement between MassDOT and FHWA: for example, a review of a particular MassDOT division or business process, or participation in a partnering effort, such as the Every Day Counts initiative. Program management ensures that federal program requirements are met while proactively seeking opportunities to improve.

FHWA and MassDOT may utilize the following methods for program management:

Document Review and Approval

The primary vehicle for accomplishing program management is the development, review, and approval of required program products such as work programs, budgets, policies, procedures, reports, work scopes, plans, manuals, data reports, etc.

Partnering

FHWA and MassDOT participate on joint task forces, committees, and quality improvement teams. FHWA also may participate as a non-voting member of various MassDOT committees.

Risk Assessment

Each year, FHWA and MassDOT will work together to jointly develop mutually agreeable risk management/risk mitigation strategies on identified high risk areas, as well as the establishment of various performance/compliance measures or performance/compliance indicators, objectives, targets and goals to be monitored, tracked and reported in each agencies respective performance management system/plans throughout the Federal fiscal year.

Performance Measurement

FHWA and MassDOT have agreed to evaluate how well the highway program is being conducted by monitoring agreed-upon performance measures, as shown in the Table entitled Agreement Performance Indicators on Page 3 of this Agreement. In addition, FHWA and MassDOT will coordinate activities related to MAP-21 performance reporting requirements.

Program Reviews

A program review is an overall evaluation of one of the highway program functional areas (e.g., civil rights, structures, construction, etc.) in order to enhance program effectiveness identifying strengths, weaknesses and opportunities and the identification and sharing of “best” practices to continually improve the program. The review may encompass program organizational structure, staffing, procedures, training, and performance.

Process Reviews

A process review is an evaluation of a particular program component or business process. Process reviews are conducted to ensure compliance with Federal requirements, to identify opportunities for greater efficiencies and improvements, and to identify exemplary practices that may be useful to others. Process reviews to be conducted may be identified as the result of a prior program review or of the annual risk assessment. FHWA and MassDOT will annually determine focus areas for reviews, with the main emphasis on higher-risk areas and overall quality improvement.

Process Reviews are typically conducted by a Review Team comprised of Division staff, with possible participation by FHWA headquarters staff, FHWA Resource Center staff, or other state DOT peers. A Division staff person associated with the particular review area will be assigned as the team leader. MassDOT will be involved in developing review objectives, scope, and guidelines, and will participate in interviews and review meetings, and provide information to the Review Team.

A report will be prepared for each review outlining findings and recommendations. The report may also identify best practices both nationwide and as implemented in Massachusetts. The Review Team will present the findings and recommendations of each process review with the appropriate management personnel from each agency and present all recommendations for review and concurrence to MassDOT. The Review Team Leaders will follow-up to ensure that the recommendations are satisfactorily resolved. When necessary, the status of resolution of findings and recommendations will be discussed in periodic meetings held with MassDOT management.

MPO Certification Reviews

The metropolitan planning regulations require that FHWA and the Federal Transit Administration (FTA) jointly review and evaluate the transportation planning process conducted in each urbanized area or Transportation Management Area (TMA) with a population over 200,000 no less than once every four years. This review assesses the extent to which each Metropolitan Planning Organization meets the requirements of the metropolitan planning regulations and, in air quality non-attainment or maintenance areas, evaluates the process to ensure compliance with the plans and programs of the EPA's Air Quality Conformity regulations. Upon completion of this review, FHWA and FTA may jointly certify with recommendations, certify with corrective actions, or decertify the metropolitan planning process.

Audits

FHWA responds to audits conducted by the U.S. Office of the Inspector General, other Federal agencies such as the General Accounting Office, and state agencies such as the Inspector General. Additionally, FHWA reviews and responds to Single Audit Reports conducted in accordance with OMB Circular A-133.

ATTACHMENT E: PROGRAM MANAGEMENT ACTIVITIES

STATEWIDE AND METROPOLITAN TRANSPORTATION PLANNING

The Statewide Transportation Planning program encompasses activities and approvals related to the following:

- State Transportation Plan
- State Transportation Improvement Program
- State Planning and Research Work Program (Part I)
- Planning Studies
- Public Involvement
- Congestion Management and Air Quality Program

The Metropolitan Transportation Planning program encompasses activities and approvals related to the following:

- Metropolitan Transportation Plan
- Transportation Improvement Program
- Unified Planning Work Program
- Public Involvement
- MPO designation

Oversight of the statewide and metropolitan planning programs is generally a joint FHWA and Federal Transit Administration (FTA) responsibility, although air quality conformity determinations are the responsibility of the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection.

Within MassDOT, the Office of Transportation Planning is responsible for conducting statewide planning activities and for overseeing and participating in the metropolitan planning process. MassDOT makes PL funds available to the MPOs in accordance with the PL formula developed in consultation with the MPOs, and approved by the FHWA Division Administrator.

FHWA serves as an ex-officio member of all MPOs, reviews SPR and MPO progress reports, transmits guidance, conducts certification and process reviews, and participates in the CMAQ consultation process.

Statewide Transportation Plan

MassDOT typically creates a steering committee to guide the plan update process, which includes logical transportation specific and non-transportation specific partners and stakeholders. Federal transportation partners including FHWA are invited to participate in the development of updates to the Statewide Long Range Transportation Plan. Update efforts should be made at reasonable intervals or when major changes to statewide transportation planning occurs. The Draft Statewide Long Range Transportation Plan should be provided to FHWA for input and comment early in the process prior to finalization.

STIP Development

FHWA provides financial guidance to MassDOT regarding the obligation authority funding used for TIP/STIP development. MassDOT in consultation with the Massachusetts Association of Regional Planning Agencies (MARPA) develops regional targets that are used in TIP programming. MassDOT submits the Draft STIP and the Air Quality Conformity as well as all projects from each planning region that are to be programmed in the STIP to FHWA. FHWA provides an annual STIP guidance letter to MassDOT. MassDOT develops a schedule for MPOs to follow throughout the TIP development process, which will be submitted to the FHWA for review and/or comment.

STIP Amendments

When an amendment to the STIP is necessary, MassDOT works with the appropriate MPO(s) in accordance with the MPO's Public Participation Plan procedures. FHWA should remain aware of such amendments through active participation in the process, and MassDOT should send to FHWA formal amendment actions approved by the MPO. These include the MPO actions sheet, showing particular details for each amendment action, and MassDOT's highway actions sheet, that includes the table of cumulative amendment actions taken to date, identifying the highway action number (assigned by MassDOT), the identification number assigned to each project, and the original conditions of the programmed project as well as the amended conditions of the programmed project. The amendments should be bundled prior to submittal to FHWA.

STIP Adjustments

MassDOT should notify FHWA when the STIP is adjusted through an Administrative Adjustment by the MPO and or MassDOT. Notification should be made in writing with the understanding that this notification is for informational purposes and will allow FHWA staff to update its records and make the necessary changes to the electronic STIP to reflect the most current programming.

Statewide Planning and Research Program (Part I)

FHWA will provide a list of national priorities for MassDOT's consideration to be used in the development of the calendar year SPR. MassDOT will prepare the draft SPR Part I and submit to FHWA by November 15. FHWA will review the SPR and provide comment and feedback, and approve the SPR prior to December 31. MassDOT will provide quarterly progress reports on the SPR, including quarterly financial reports and the status of accomplishments.

Earmarked Funds

MassDOT should coordinate with FHWA and MPOs, as appropriate, when earmark funds are to be programmed in the TIP and the STIP. Legislation including earmarked funds includes the particular descriptions of work that are intended with the funding. MassDOT should ensure that an earmark's description is consistent with the work to be performed and should coordinate with FHWA.

CMAQ Consultation Process and the Interagency Consultation Conformity Process

MassDOT schedules CMAQ Consultation meetings when needed to review the eligibility of CMAQ projects for programming in the TIP/STIP. If there are projects where the eligibility is questionable, MassDOT should consult with FHWA for an eligibility determination prior to programming on the TIP/STIP. The Interagency Consultation Conformity Process meeting with EPA, FHWA, and FTA is typically held in coordination with the CMAQ Consultation meeting.

This meeting should be held prior to the selection of regional significant projects that are modeled for air quality conformity.

Metropolitan Transportation Plan (MTP)

MassDOT will develop a schedule for MPOs to follow, throughout the metropolitan transportation plan process, from the beginning of the update to the date draft Plans are to be submitted to FHWA for review and comment. MassDOT will share this schedule with FHWA at the beginning of the update period and will keep FHWA apprised of any necessary changes to the schedule. FHWA will provide MassDOT with funding information in a timely manner and MassDOT will in turn provide the funding information to each MPO so that each MPO's Plan can show estimated funding for a minimum 20-year horizon of the Plan.

MassDOT will ensure that each MTP includes an easily understood discussion of all revenues that the MPO considers to be reasonably expected to be available throughout the life of the MTP. Similarly, the MTP should include a discussion of project cost estimates over the life of the MTP that include operations and maintenance costs. MassDOT will ensure that each MPO makes the explicit comparison between revenues and project costs, for each timeframe, and over the life of the document in the financial plan chapter. MassDOT should work with each MPO to show that the MTP is financially constrained.

MassDOT will ensure that each Draft MTP includes a complete listing of all regionally significant projects included in the air quality model for non-attainment areas; i.e., the Eastern or Western Ozone Non-Attainment Area. MassDOT will provide copies of each Draft MTP to FHWA at the beginning of the public comment period, and FHWA will review and provide comments to be addressed prior to the endorsement of the Final MTP.

MassDOT will provide copies of each final, endorsed MTP to FHWA and FTA for final review and joint air quality conformity determination. FHWA will again review each MTP's financial constraint chapter, to ensure that the projects are financially viable. MassDOT will provide copies of the MTPs to DEP for review, and will follow-up with DEP on the State's conformity determination. FHWA will submit copies of the MTPs to EPA for review and advice to be used by FHWA and FTA to make an air quality conformity determination.

Metropolitan Transportation Plan Amendments

MassDOT will work with MPOs when amendments to the MTPs are necessary. MassDOT will coordinate with FHWA to discuss the effect that the amendment is expected to have on air quality conformity. When amendments include non-exempt projects, MassDOT will work with MPOs in the non-attainment area who will make an air quality conformity determination. MassDOT will provide this information to DEP, EPA, and FHWA upon receiving DEP and EPA's advice on the air quality conformity, FHWA and FTA will jointly issue a joint letter on the conformity.

Unified Planning Work Programs

MassDOT will provide the schedule to FHWA for the annual development of the MPO's Draft UPWP and Final UPWP. FHWA will provide the MPOs a list of national priorities and emphasis areas for incorporation into the UPWP.

Table 9A lists the activities that occur as part of the Statewide Planning Program; Table 9B lists the activities that occur as part of the metropolitan planning program.

Table 9A – Statewide Planning Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
STIP Development and Funding Guidance	Annually	3/15	None	Guidance Letter	n/a	
Draft Statewide Transportation Improvement Program	Annually	7/31 (Prior to Public Review)	Request letter	Comment letter	23 CFR 450.218(a) 450.218(b)	"At least every four years, the State shall submit an updated STIP concurrently to the FHWA and the FTA for joint approval." "The FHWA and the FTA shall review the STIP or the amended STIP, and make a joint finding on the extent to which the STIP is based on a statewide transportation planning process that meets or substantially meets the requirements..."
Final Statewide Transportation Improvement Program including State Self-certification of the Planning Process	Annually	9/15	Request Letter and FMIS Request	Joint FHWA/FTA Finding and FMIS Approval	23 CFR 450.218(a) 450.218(b)	"At least every four years, the State shall submit an updated STIP concurrently to the FHWA and the FTA for joint approval." "At the time the entire proposed STIP or STIP amendments are submitted to the FHWA and the FTA for joint approval, the State shall certify that the transportation planning process is being carried out in accordance with all applicable requirements..." "The FHWA and the FTA shall review the STIP or the amended STIP, and make a joint finding on the extent to which the STIP is based on a statewide transportation planning process that meets or substantially meets the requirements..."
STIP Amendment including State Self-certification of the Planning Process	As needed	n/a	Request Letter and FMIS Request	Joint FHWA/FTA Finding and FMIS Approval	23 CFR 450.218(a) 450.218(b)	"STIP amendments shall also be submitted to the FHWA and the FTA for joint approval."
STIP Adjustment	As needed	n/a	Notification Letter	Comment Letter	n/a	Include TIP adjustment letters in notification.
SPR Guidance and Emphasis Areas	Annually	10/1	None	Guidance Letter	n/a	
SPR Draft Work Program (Part I)	Annually	11/15	Transmittal Letter	Comment Letter	23 CFR 420.111(a)	"Proposed use of FHWA planning and research funds must be documented by the State DOTs and sub-recipients in a work program, or other document that describes the work to be accomplished, that is acceptable to the FHWA Division Administrator."
SPR Final Work Program (Part I)	Annually	12/15	Request Letter and FMIS Request	Approval Letter and FMIS Approval	23 CFR 420.111(a)	"Proposed use of FHWA planning and research funds must be documented by the State DOTs and sub-recipients in a work program, or other document that describes the work to be accomplished, that is acceptable to the FHWA Division Administrator."
SPR Work Program Amendments	As needed	n/a	Request Letter and FMIS Request	Approval Letter and FMIS Approval	23 CFR 420.111(a)	"Proposed use of FHWA planning and research funds must be documented by the State DOTs and sub-recipients in a work program, or other document that describes the work to be accomplished, that is acceptable to the FHWA Division Administrator."
SPR Work Program Performance and Expenditure Report	Quarterly	4/30 7/31 10/31	Transmittal Letter	Comment Letter	23 CFR 420.117(b)	"The State DOT must submit performance and expenditure reports, including a report from each sub-recipient."
Planning Study Draft Work Scope	As needed	n/a	Transmittal Letter	Comment Letter	23 CFR 420.115	"Proposed use of FHWA planning and research funds must be documented by the State DOTs and sub-recipients in a work program, or other document that describes the work to be accomplished, that is acceptable to the FHWA Division Administrator."
Planning Study Final Work Scope	As needed	n/a	Request Letter	Approval Letter	23 CFR 420.115	"Proposed use of FHWA planning and research funds must be documented by the State DOTs and sub-recipients in a work program, or other document that describes the work to be accomplished, that is acceptable to the FHWA Division Administrator."
Planning Study or Program Project Agreement	As needed	n/a	Request Letter and FMIS Request	Approval Letter and FMIS Approval	23 CFR 420.115 (c)	If requiring a separate Federal-aid Agreement. "A project agreement must be executed by the State DOT and the FHWA Division Office for each statewide transportation planning, metropolitan planning area, or RD&T work program, individual activity or study, or any combination administered as a single Federal-aid project."

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Draft Statewide Transportation Plan	n/a	Prior to public review	Transmittal Letter	Comment Letter	23 CFR 450.214 (a)(p)	"The State shall develop a long-range statewide transportation plan....Copies of any new or amended long-range statewide transportation plan documents shall be provided to the FHWA and the FTA for informational purposes."
Final Statewide Transportation Plan	n/a	n/a	Transmittal Letter	None	23 CFR 450.214 (a)(p)	"The State shall develop a long-range statewide transportation plan....Copies of any new or amended long-range statewide transportation plan documents shall be provided to the FHWA and the FTA for informational purposes."
Statewide Transportation Plan Amendments	As needed	n/a	Transmittal Letter	None	23 CFR 450.214 (a)(p)	"The State shall develop a long-range statewide transportation plan.... Copies of any new or amended long-range statewide transportation plan documents shall be provided to the FHWA and the FTA for informational purposes."
Non-metropolitan Consultation Process	Every five years	?	none	Letter to HQ	23 CFR 450.210(b)	"At least once every five years (as of February 24, 2006), the State shall review and solicit comments from non-metropolitan local officials and other interested parties...regarding the effectiveness of the consultation process and any proposed changes."
Tribal Government Consultation Process	Revised as needed	n/a	Transmittal Letter	Comment Letter Forward to HQ	23 CFR 450.210(c)	"States shall, to the extent practicable, develop a documented process(es) that outlines roles, responsibilities, and key decision points for consulting with Indian Tribal governments and FLMAs in the development of the long-range statewide transportation plan and the STIP."
State Public Involvement Plan	Revised as needed	n/a	Transmittal Letter	Comment Letter Forward to HQ	23 CFR 450.210(a)	"The State shall develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points. The State shall provide copies of the approved public involvement process documents to the FHWA and the FTA for informational purposes."
CMAQ Consultation and Eligibility Determination	As needed	n/a	Request Letter	Approval Letter		
CMAQ Funds Report	Annually	2/1	Submit UPACS and Notify Division Office	Review		
Status of Earmark Projects	Quarterly	1/1 4/1 7/1 10/1	Transmittal Letter	Review	n/a	

Table 9B – Metropolitan Planning Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Draft Metropolitan Transportation Plan	Every four years	6/15	Transmittal Letter	Comment Letter		
Final Metropolitan Transportation Plan and Conformity Determination	Every four years	9/15	Request Letter	Joint FHWA/FTA Approval Letter	23 CFR 450.322(c) 450.322.(l)	<p>"The MPO shall review and update the transportation plan at least every four years in air quality nonattainment and maintenance areas and at least every five years in attainment areas...Copies of any updated or revised transportation plans must be provided to the FHWA and the FTA."</p> <p>"In nonattainment and maintenance areas for transportation-related pollutants, the MPO, as well as the FHWA and the FTA, must make a conformity determination on any updated or amended transportation plan in accordance with the Clean Air Act and the EPA transportation conformity regulations (40 CFR Part 93)."</p>
Metropolitan Transportation Plan Amendments	As needed	n/a	Request Letter	Joint FHWA/FTA Approval Letter	23 CFR 450.322(c) 450.322.(l)	<p>"The MPO shall review and update the transportation plan at least every four years in air quality nonattainment and maintenance areas and at least every five years in attainment areas...Copies of any updated or revised transportation plans must be provided to the FHWA and the FTA."</p> <p>"In nonattainment and maintenance areas for transportation-related pollutants, the MPO, as well as the FHWA and the FTA, must make a conformity determination on any updated or amended transportation plan in accordance with the Clean Air Act and the EPA transportation conformity regulations (40 CFR Part 93)."</p>
Draft Regional Funding Targets	Annually	Prior to MARPA meeting	Transmittal Letter	Comment Letter	n/a	
Draft Transportation Improvement Programs	Annually	8/15	Request letter	Comment letter		
Final Transportation Improvement Program, MPO Self-certification of Planning Process, and TIP Conformity Determination	Annually	9/15	Transmittal Letter and MPO TIPs	Joint FHWA/FTA Finding	23 CFR 450.324(a) 450.328(a) 450.328(b) 450.334(a)	<p>"The MPO, in cooperation with the State(s) and any affected public transportation operator(s), shall develop a TIP for the metropolitan planning area. The TIP shall cover a period of no less than four years, be updated at least every four years, and be approved by the MPO and the Governor... Copies of any updated or revised TIPs must be provided to the FHWA and the FTA."</p> <p>"The FHWA and the FTA shall jointly find that each metropolitan TIP is consistent with the metropolitan transportation plan produced by the continuing and comprehensive transportation process carried on cooperatively by the MPO(s), the State(s), and the public transportation operator(s) in accordance with 23 U.S.C. 134 and 49 U.S.C. 5303."</p> <p>"In nonattainment and maintenance areas, the MPO, as well as the FHWA and the FTA, shall determine conformity of any updated or amended TIP, in accordance with 40 CFR Part 93."</p> <p>"For all MPAs, concurrent with the submittal of the entire proposed TIP to the FHWA and the FTA as part of the STIP approval, the State and the MPO shall certify at least every four years that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements..."</p>
TIP Amendment and TIP Conformity Determination	As needed	n/a	Transmittal Letter and MPO TIPs	Joint FHWA/FTA Finding	23 CFR 450.326(a)	"In nonattainment or maintenance areas for transportation-related pollutants, if a TIP amendment involves non-exempt projects (per 40 CFR part 93), or is replaced with an updated TIP, the MPO and the FHWA and the FTA must make a new conformity determination. In all areas, changes that affect fiscal constraint must take place by amendment of the TIP."
TIP Administrative Modification	As needed	n/a	Notification Letter	None	23 CFR 450.326(a)	"Public participation procedures consistent with §450.316(a) shall be utilized in revising the TIP, except that these procedures are not required for administrative modifications."
Listing of Obligated Projects	Annually	12/31	Notification of Availability	None	23 CFR 450.332(a)	"In metropolitan planning areas, on an annual basis, no later than 90 calendar days following the end of the program year, the State, public transportation operator(s), and the MPO shall cooperatively develop a listing of projects...for which funds under 23 U.S.C. or 49 U.S.C. Chapter 53 were obligated in the preceding program year."
PL Formula	Revised as needed	n/a	Request Letter	Approval Letter	23 CFR 420.109(a)	"The State DOTs shall make all PL funds authorized by 23 U.S.C. 104(f) available to the MPOs in accordance with a formula developed by the State DOT, in consultation with the MPOs, and approved by the FHWA Division Administrator."

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
UPWP Guidance and Emphasis Areas	Annually	4/1	None	Guidance Letter		
Draft Unified Planning Work Program	Annually	7/15	Transmittal Letter	Comment letter		
Final Unified Planning Work Program	Annually	9/15	Request letter to Division Office	Approval letter	23 CFR 450.308 (b)(c)	"Metropolitan transportation planning activities performed with funds provided under title 23 U.S.C. and title 49 U.S.C. Chapter 53 shall be documented in a unified planning work program (UPWP)..."
UPWP Amendments	As needed	n/a	Request letter	Approval letter		
UPWP Performance and Expenditure Report	Monthly	n/a	Transmittal Letter	Comment Letter	23 CFR 420.117(b)	"The State DOT must submit performance and expenditure reports, including a report from each subrecipient."
Certification of Planning Process in TMAs	Every four years	n/a	Participate in Review	Certification Report	CFR 450.334(b)	"In TMAs, the FHWA and the FTA jointly shall review and evaluate the transportation planning process for each TMA no less than once every four years to determine if the process meets the requirements of applicable provisions of Federal law and this subpart."
MPO Re-designation	Revised as needed	n/a	Notification Letter	Comment Letter	23 CFR 450.310(h)	"An existing MPO may be redesignated only by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city, based on population, as named by the Bureau of the Census)."
MPO Planning Area Boundaries	Revised as needed	n/a	Notification Letter	Comment Letter	23 CFR 450.312 (i)(j)	"The MPA boundaries shall be reviewed after each Census by the MPO (in cooperation with the State and public transportation operator(s)) to determine if existing MPA boundaries meet the minimum statutory requirements for new and updated urbanized area(s), and shall be adjusted as necessary... Following MPA boundary approval by the MPO and the Governor, the MPA boundary descriptions shall be provided for informational purposes to the FHWA and the FTA."
MPO Urbanized Area Agreements	Revised as needed	n/a	Notification Letter	Comment Letter	23 CFR 450.314(d) 450.314(e)	"If more than one MPO has been designated to serve an urbanized area, there shall be a written agreement among the MPOs, the State(s), and the public transportation operator(s) describing how the metropolitan transportation planning processes will be coordinated to assure the development of consistent metropolitan transportation plans and TIPs across the MPA boundaries..."
MPO Public Involvement Plan	Revised as needed	n/a	Transmittal Letter	Comment Letter	23 CFR 450.316(a)	"The MPO shall develop and use a documented participation plan... Copies of the approved participation plan shall be provided to the FHWA and the FTA for informational purposes and shall be posted on the World Wide Web, to the maximum extent practicable."

RESEARCH AND TECHNOLOGY PROGRAM

The Research and Technology Program encompasses transportation research activities accomplished as part of the State Planning and Research Work Program (Part II), and technology transfer activities accomplished through the Massachusetts Technology Assistance Program (MTAP) and the Local Technical Assistance Program (LTAP). MassDOT is responsible for implementing these programs in accordance with the provisions of 23 CFR 420 Planning and Research Program Administration.

SPR Work Program Part II

Regulations require that 25% of the annual SPR apportionment be used for research and technology transfer activities. The MassDOT Office of Transportation Planning Research Section is responsible developing the research SPR Part II Work Program and managing transportation research and technology transfer activities. MassDOT develops and implements the work program on a calendar year basis, and submits performance and expenditure reports.

The primary method of conducting research is through contracts with universities, consultants, and other government agencies. The Research Section handles administrative and management details for procuring and administering contracts and agreements with researchers. Activities can range from support services for technology transfer to relatively large-scale multi-year research projects on complex problems that require technical assistance from outside resources.

MassDOT identifies transportation research needs through its Transportation Research and Technology Committee, comprised of representatives from MassDOT Divisions and other transportation agencies such as MassPort. FHWA serves as an ex-officio non-voting member of the TRTC.

Technology Transfer

Technology transfer to MassDOT employees is accomplished through the Massachusetts Technical Assistance Program, which provides technical training and skill development opportunities.

Technology transfer to rural, small urban, tribal governments, and contractors that do work for local agencies on roads, bridges, and public transportation, is accomplished through the Local Technical Assistance Program (LTAP). An LTAP Advisory Committee, comprised of representatives of MassDOT and Massachusetts municipalities, guides LTAP. FHWA serves as an ex-officio non-voting member of the LTAP Advisory Committee.

MassDOT provides MTAP and LTAP services through agreements with the University of Massachusetts at Amherst. LTAP services are provided by UMass through the Bay State Roads Program (BSR), a conduit for information transfer on technologies, best practices, and methodologies for operating, maintaining, and managing municipal Departments of Public Works and Highway Departments. The BSR also serves as an efficient communications network, by which MassDOT transfers policy information, engineering directives and other updates to the 351 municipalities in the Commonwealth.

Table 10 lists the activities that occur as part of the Research and Technology Program.

Table 10 – Research and Technology Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
SPR Draft Work Program (Part II)	Annually	11/15	Transmittal Letter	Comment Letter	23 CFR 420.111(a)	"Proposed use of FHWA planning and research funds must be documented by the State DOTs and sub-recipients in a work program, or other document that describes the work to be accomplished, that is acceptable to the FHWA Division Administrator."
SPR Final Work Program (Part II)	Annually	12/15	Request Letter and FMIS Request	Approval Letter and FMIS Approval	23 CFR 420.111(a)	"Proposed use of FHWA planning and research funds must be documented by the State DOTs and sub-recipients in a work program, or other document that describes the work to be accomplished, that is acceptable to the FHWA Division Administrator."
SPR Work Program (Part II) Amendments	As needed	n/a	Request Letter and FMIS Request	Approval Letter and FMIS Approval	23 CFR 420.111(a)	"Proposed use of FHWA planning and research funds must be documented by the State DOTs and sub-recipients in a work program, or other document that describes the work to be accomplished, that is acceptable to the FHWA Division Administrator."
SPR Progress Reports	Quarterly	3/31 6/30 9/30 12/31	Transmittal Letter	Comment Letter	n/a	
Research and Technology Project Agreement	As needed	n/a	Request Letter and FMIS Request	Approval Letter and FMIS Approval	23 CFR 420.115(c)	"A project agreement must be executed by the State DOT and the FHWA Division Office for each statewide transportation planning, metropolitan planning area, or RD&T work program, individual activity or study, or any combination administered as a single Federal-aid project."
Research Program Income	As needed	n/a	Request Letter	Approval Letter	23 CFR 420.121 (k)	"Program income, as defined in 49 CFR 18.25(b) or 49 CFR 19.24, must be shown and deducted from total expenditures to determine the Federal share to be reimbursed, unless the FHWA Division Administrator has given prior approval to use the program income to perform additional eligible work or as the non-Federal match."
Technology Transfer Work Program	Annually	n/a	n/a	n/a	23 CFR 420.207	Satisfied by LTAP Work Plan and Budget. "Approval and authorization procedures in §420.115 are applicable to the State DOT's RD&T work program."
Technology Transfer Program Certification	As needed	n/a	n/a	n/a	23 CFR 420.209	Satisfied as part of LTAP Work Plan and Budget. "The State DOT must include a certification that it is in full compliance with the requirements of this subpart in each RD&T work program...The FHWA Division Administrator shall periodically review the State DOT's management process to determine if the State is in compliance with the requirements of this subpart."
LTAP Annual Reporting	Annually	11/15	Transmittal Letter	Comment Letter	LTAP Field Manual	"In order to evaluate the effectiveness of the program and assist with national record keeping requirements, centers must submit the T2 Center Profile to the T2 Clearinghouse (appendix G) annually. As part of this task, State centers are also required to submit the following information to the FHWA division offices for use in Washington:..."
LTAP Draft Work Plan and Budget	Annually	11/15	Transmittal Letter	Comment Letter	LTAP Field Manual	"Each center submits an annual work plan and budget that outlines planned efforts for each of at least the six required tasks, including a breakdown of the costs associated with these tasks."
LTAP Work Plan and Budget	Annually	12/15	Request Letter and FMIS Request	Approval Letter and FMIS Approval	LTAP Field Manual	"Each center submits an annual work plan and budget that outlines planned efforts for each of at least the six required tasks, including a breakdown of the costs associated with these tasks."

HIGHWAY INFORMATION PROGRAM

The Highway Information Program encompasses activities and approvals related to the following:

- Highway finance reporting
- Toll facility reporting
- Heavy Vehicle Use Tax reporting and compliance
- Highway Performance Monitoring System (HPMS)
- Truck weight and classification
- Vehicle size and weight reporting
- Functional Classification
- Interstate and National Highway System modifications

Vehicle Size and Weight Program

FHWA, MassDOT, and the Massachusetts State Police (MSP) agree to meet two times each year to discuss items of mutual interest, including progress made by the MSP toward meeting goals specified in the Vehicle Size and Weight Enforcement Plan and goals that may be adjusted or added to the plan for the next program year.

Table 11 lists the activities that occur as part of the Highway Information Program.

Table 11 – Highway Information Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Highway Finance Reports 531, 532, 541, 542, 543	Annually	4/1	Submit to HQ, Notify Division	None	Guide to Reporting	
Highway Finance Report 534 - State Capital Outlay	Annually	5/15	Submit to HQ, Notify Division	None	Guide to Reporting	
Vehicle and Drivers Reports 561, 562, 566, 571	Annually	4/1	Submit to HQ, Notify Division	None	Guide to Reporting	
Motor Fuel Report 556	Annually	4/1	Submit to HQ, Notify Division	None	Guide to Reporting	
Local Highway Finance Report -536	Bi-annually (odd years)	10/1	Submit to HQ, Notify Division	None	Guide to Reporting	
Toll Facilities in the U.S. Report	Bi-annually (odd years)	6/15	?	?	?	Memo?
Heavy Vehicle Use Tax Proof of Payment	Annually	1/1			23 CFR 669.7 669.11	"The Governor of each State, or his or her designee, shall certify to the FHWA before January 1 of each year that it is obtaining proof-of-payment of the heavy vehicle use tax as a condition of registration in accordance with 23 U.S.C. 141(c). The certification shall cover the 12-month period ending September 30, except for the certification due on January 1, 2011, which shall cover the 4-month period from June 1, 2010 to September 30, 2010...The Governor or an official designated by the Governor, shall each year submit the certification, including the supporting material specified in §669.9 to the FHWA Division Administrator prior to January 1."

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Heavy Vehicle Use Tax Compliance Review	Tri-annually	n/a			23 CFR 669.21 FHWA Order 4340.2A	"The FHWA shall periodically review the State's procedures for complying with 23 U.S.C. 141(c), including an inspection of supporting documentation and records." "FHWA will conduct compliance reviews at least once every three years or less, if needed."
HPMS Data Submittal	Annually	6/15	Submit to HQ, Notify Division	None	HPMS Field Manual	"Each State is required to prepare an annual submittal of HPMS data in accordance with the procedures, formats, and codes specified in this manual."
HPMS Field Review	Annually	9/1	Participate in Review	Prepare and Submit to HQ	HPMS Field Manual	
Public Road Mileage Certification	Annually	6/15	Transmit Letter Signed By Governor/ Designee	Review and Transmit to HQ	23 CFR 460.3 (a)(b)	"Each State must annually submit a certification of public road mileage... determined as of the end of the calendar year...to the Federal Highway Administration Division...certified by the Governor or his designee."
Truck Weight and Vehicle Classification Data	Annually	6/15	?	?	HVTIS Field Manual	"To support the HVTIS data needs, the FHWA is requesting that the various State Highway Agencies provide...annual reporting of weight data they collect as part of their existing traffic data collection programs."
Vehicle Size and Weight Enforcement Certification	Annually	1/1	Transmit Letter Signed By Governor/ Designee	Review and Transmit to HQ	23 CFR 657.13 657.17	"Each State shall certify to the Federal Highway Administrator, before January 1 of each year, that it is enforcing all State laws respecting maximum vehicle size and weight..." "The Governor, or an official designated by the Governor, shall submit the certification to the FHWA division office prior to January 1 of each year."
Vehicle Size and Weight Enforcement Plan	Annually	Submitted 7/1 Approved 10/1	Submit in UPACS-VSW Notify Division	Evaluation Report	23 CFR 657.11	"The State shall submit its enforcement plan or annual update to the FHWA Division Office by July 1 of each year. However, if a State's legislative or budgetary cycle is not consonant with that date, the FHWA and the State may jointly select an alternate date. In any event, a State must have an approved plan in effect by October 1 of each year."
Permanent ATR Station and Vehicle Classification Counts	Monthly (within 20 days)	n/a	Transmit to HQ, Copy Division	Review	HVTIS Field Manual	"To support the HVTIS data needs, the FHWA is requesting that the various State Highway Agencies provide monthly reporting of vehicle classification and/or total vehicle volume...they collect as part of their existing traffic data collection programs."
Traffic Monitoring System Documentation of Field Monitoring	Revised as needed	n/a	Transmittal Letter	Comment Letter	23 CFR 500.204 (f)	Documentation of field operations shall include the number of counts, the period of monitoring, the cycle of monitoring, and the spatial and temporal distribution of count sites. Copies of the State's documentation shall be provided to the FHWA Division Administrator when it is initially developed and after each revision.
TMS Adjustment Factors	Reviewed Annually; Updated Every 3 Years	n/a	Transmittal Letter	Comment Letter	23 CFR 500.204 (h)	Factors to adjust data from short term monitoring sessions to estimates of average daily conditions shall be used to adjust for month, day of week, axle correction, and growth or other comparable factors approved by the FHWA. These factors will be reviewed annually and updated at least every three years...Copies of the State's documentation shall be provided to the FHWA Division Administrator when it is initially developed and after each revision.
Interstate or NHS System Modifications	As needed	n/a	Request Letter	Review and Recommend Action to HQ	23 CFR 470.115(a)	"The Federal Highway Administrator will approve Federal-aid highway system actions involving the designation, or revision, of routes on the Interstate System, including route numbers, future Interstate routes, and routes on the National Highway System."
Functional Classification Modifications	As needed	n/a	Request Letter	Review and Recommend Action to HQ	23 CFR 470.105 470.115(b)	"The State transportation agency shall have the primary responsibility for developing and updating a statewide highway functional classification...to determine functional usage of the existing roads and streets..The results of the functional classification shall be mapped and submitted to the Federal Highway Administration (FHWA) for approval." "The Federal Highway Administrator will approve functional classification actions."

CIVIL RIGHTS PROGRAM

The Civil Rights Program encompasses activities and approvals related to the following:

- Title VI/Nondiscrimination
- On-the-Job Training
- DBE Program
- DBE Supportive Services
- OJT Supportive Services
- Contractor Compliance Program
- Internal Equal Employment Opportunity Program/ Affirmative Action Plan Americans with Disabilities Act/ Section 504

To ensure regulatory compliance, nondiscrimination, and the proper use of public funds, FHWA is committed to effectively monitor compliance and foster the development of MassDOT's civil rights programs. Through the submission of its Standard Title VI/Nondiscrimination Assurances, MassDOT is obligated to ensure nondiscrimination in all programs and activities, and in the provisions of all services and benefits, as a basis for continued receipt of FHWA funds according to Titles VI. MassDOT is further obligated to comply with Title VII of the Civil Rights Act and other statutory requirements codified in Federal regulations. To this end, MassDOT will comply with these requirements through the implementation of specific procedures under the above programs.

Operating and Oversight Procedures

The Division Civil Rights Specialist provides technical expertise and oversight to the MassDOT Office of Diversity and Civil Rights (ODCR) to ensure proper performance and compliance of the civil rights programs. To achieve this end, the Division Civil Rights Specialist will regularly engage ODCR staff to ensure operational awareness and to review ongoing work. The Civil Rights Specialist's activities shall include, but are not limited to, participation in meetings, committees, teams, field audits, and conducting process and program area reviews. The Division Civil Rights Specialist will also serve as a liaison between the ODCR staff and the FHWA Civil Rights Resource Center and FHWA Headquarters Civil Rights (HCR) to coordinate training and obtain policy guidance. The Division Civil Rights Specialist will also provide supplemental and follow-up training to ODCR staff and facilitate communications with HCR, as appropriate. ODCR staff will work collaboratively with the Division Civil Rights Specialist to ensure the continued development and approval of all program elements.

ODCR staff will submit for FHWA review and comment drafts of all program updates, proposals, statements of work, and similar documents in advance of their specified due dates. In addition, ODCR shall submit all reports on or before the due dates specified in Table 12 below and the HCR Schedule of Standard Reports. The Division Office Civil Rights Specialist shall review all reports for content and accuracy, and provide ODCR staff with analysis and comment concerning any trends affecting program performance. The Division Office Civil Rights Specialist reports directly to the Division Administrator.

Table 12 lists the activities that occur as part of the Civil Rights Program.

Table 12 – Civil Rights Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Joint Civil Rights Program Assessment	Tri-Annually	12/1	Collaborate per FHWA request	Collaborate w/ MassDOT	FHWA Standard Reports	Division Offices work with State Transportation Agencies (STAs) to assess the implementation of the STA's core civil rights programs. The assessment is to determine the status based on the pertinent requirements and progress made during the previous year to address any deficiencies. An electronic survey tool will be used for this submission to HCR.
Dashboard Report	Annual	12/1	Transmit report	Review and Forward to HCR	FHWA Standard Reports	Using the dashboard report and instructions provided in the FHWA Civil Rights Program Recurring Actions/Standard Reports spreadsheet, STAs will submit the required data in the Excel format provided.
Title VI Reviews	Annually	n/a	Transmit report	Comment letter	23 CFR 200.9 (a)(4) Approved Title VI Plan	"The State program area officials and Title VI Specialist shall conduct annual reviews of all pertinent program areas to determine the effectiveness of program area activities at all levels." Specific program areas to be reviewed set forth in a schedule of activities in the Title VI Annual Update Report. Specifically, MassDOT will set a work plan for each upcoming year to delineate the focus of the program implementation for that year. This will contain an updated listing of process reviews scheduled to be conducted during the upcoming federal fiscal year.
Title VI/Non-discrimination Accomplishments & Work Plan Report	Annually	10/1	Transmit report	Comment letter	23 CFR 200.9 (b)(10) Supp. Program Guidance	"Prepare a yearly report of Title VI accomplishments for the past year and goals for the next year." The <i>Title VI/Nondiscrimination Annual Update Report</i> shall at a minimum address the following: Describe the results of STA Federal Program Area Process Reviews; Describe any trends/patterns identified through data collection/analysis; Identify any issues discovered through monitoring of Sub-recipients; Identify any special focus areas for the next Federal fiscal year; Provide a Schedule Of Reviews for the next Federal fiscal year.
Title VI/Nondiscrimination Plan	Annually	10/1	Request letter w/Plan	Approval letter	23 CFR 200.9 (b)(11) Supp. Program	The STA shall submit the <i>Title VI/Nondiscrimination Plan</i> to the FHWA Division Office for review, comments, and approval. Every three years, the STA shall update the <i>Title VI/Nondiscrimination Plan</i> and shall submit the Plan to the FHWA Division Office for review, comments, and approval.
Title VI Complaints	Per complaint	Upon receipt	Transmit complaint for FHWA Review	Evaluate and notify MassDOT	23 CFR 200.9 (b)(3) Approved Title VI Plan	"Develop procedures for prompt processing and disposition of Title VI complaints received directly by the State and not by FHWA..." Process complaints in accordance with the procedures and flowchart set forth in the approved Title VI Plan.
On-the-Job Training Supportive Services Quarterly Reports	Quarterly	Quarter per contract start within 15 days	Transmittal letter	Comment letter	23 CFR 230.121 (e)	The State highway agency is to furnish copies of the reports received from supportive services contractors to the FHWA division office which will furnish a copy to HCR.
On-the-Job Training Goals and Accomplishments	Annually	1/30	Request letter w/training goals and accomplishments report	Approval letter	23 CFR 230.111 (b)	According to 23 CFR 230.111(a), the STA determines which Federal-aid highway construction contracts will include the TSP (Appendix B) and the minimum number of trainees to be specified after giving appropriate consideration to the guidelines set forth in 23 CFR 230.111(c). The STA is required to submit, to its FHWA Division Office, the number of trainees it intends to assign to Federal-aid highway projects for the calendar year. The FHWA Division Office approves the goal, and at the end of the calendar year, the STA provide the FHWA Division Office a year-end report on accomplishments.
On-the-Job Training Work Program and Funds Request	Annually	varies Per FHWA Request	Request letter with statement of work	Approval letter	23 CFR 230.111 (e) 230.113 (a) 230.113 (c)	A statement of work (SOW) describing the training program considered by a State highway agency to meet the standards under this directive shall be submitted to the FHWA division Administrator with a recommendation for approval. The State highway agency shall establish procedures, subject to the availability of funds under 23 U.S.C. 140(b), for the provision of supportive services in support of training programs approved under this directive.

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Return of Unexpended Discretionary Grant Program Funding (DBE/OJT-SS)	Annually	within 90 days of contract completion	Transmit Expenditure Report	Report Amount to HCR & Initiate FMIS action	23 CFR 230.117 (2)	STA will report expenditures based any annual award to operate an OJT or DBE Supportive Services program that has reached completion. Action to deobligate the remaining amount will be taken by FHWA within 30 days.
Return of Unexpended funds for the National Summer Transportation institute (NSTI)	Annually	within 90 days of program completion	Transmit Expenditure Report	Report Amount to HCR & initiate FMIS	23 CFR 230.117(2)	STA will report expenditures based any annual award to operate an NSTI Program that has reached completion. Action to deobligate the remaining amount will be taken by FHWA within 30 days.
NSTI Funding Requests/Proposals	Annually	Varies per FHWA request	Transmit Proposals	Review and Forward/ Upload to SharePoint	23 USC 140(b)	Based on the annual solicitation for proposals under the NSTI program, Division Offices will notify STAs to submit host proposals. Upon receipt, Division Offices will review and nominate submissions for HCR approval and funding.
NSTI Report	Annually	Within 30 days of program completion	Notify Host Sites	Monitor Submission	23 USC 140(b)	HCR will send notification and a link for electronic submission will be provided.
DBE Uniform Awards/Commitments and Payments Report	Semi-annually	6/1 12/1	Transmit report	Review and forward to HQ	49 CFR 26.11 Appendix B	You must transmit the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to Part 26, at the intervals stated on the form.
DBE Program Revisions	Revised as needed	n/a	Request letter w/document	Approval letter	49 CFR 26.21 (b)(2)	You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.
DBE Program Goals (Highway Program)	Tri-annually	8/1	Transmit methodology	Legal sufficiency determination; Approval Letter	49 CFR 26.45 (a) Memo 3/16/10	Except as provided in paragraph (a)(2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts. The annual overall DBE goal based on approved submissions will be in place for three years.
Goal Shortfall Analysis	Annually (as needed)	12/1	Transmit Analysis and Corrective Action Plan	Approval Letter	49 CFR 26.47 (c)	If your awards and commitments shown on your Uniform Report of Awards or Commitments and Payments at the end of any fiscal year is less than the overall goal applicable to that fiscal year, you must: (1) Analyze in detail the reasons for the difference between the overall goal and your awards or commitments in that fiscal year; and (2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year. MassDOT through its DBE Program, has committed to submit this document on 12/1 for any year in which this requirement applies.
DBE Supportive Services Work Program and Funds Request	Annually	Varies per FHWA request	Request letter with scope of work	Approval letter	23 CFR 230.204 (c)	A detailed work statement of the supportive services which the State highway agency considers to meet the guidance under this regulation and a program plan for meeting the requirements of paragraph (b) of this section and accomplishing other objectives shall be submitted to the FHWA for approval.
DBE Supportive Services Contract Reports	Quarterly	Quarter per contract start within 15 days	Transmittal letter	Comment letter	23 CFR 230.204 (g)(6) (h)	As a minimum, State highway agency contracts to obtain supportive services shall include the following provisions:..Monthly or quarterly reports to the State highway agency containing sufficient data and narrative content to enable evaluation of both progress and problems;.. the State highway agency is to furnish copies of the reports received under paragraph (g)(6) of this section to the FHWA division office.
State Employment Data Report (EEO-4)	Annually	12/1 (odd years)	Transmit electronic report	Review and forward to HQ	23 CFR 309 Subpart C Appendix A	State highway agencies shall use the EEO-4 Form in providing current work force data. This data shall reflect only State department of transportation/State highway department employment. The form should be submitted electronically in the format provided by FHWA.
Form PR 1392	Annually	12/1	Transmit report	Review and forward to HQ	23 CFR 230.121 (a)(3)	Form PR 1392 is to be completed by the State highway agencies, summarizing the reports on PR 1391 for the month of July received from all active contractors and subcontractors. Three (3) copies of completed Forms PR 1392 are to be forwarded to the division office.

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
EEO Internal Program including AA Action Plan	Tri-Annually	Per previous program approval date	Request letter w/ document	Joint approval letter	23 CFR 230.311 (a) 230.313 FTA Circular C4704.1	Each State highway agency shall prepare and submit an updated equal employment opportunity program, three years from the date of approval of the preceding program by the Federal Highway Administrator, over the signature of the head of the State highway agency, to the Federal Highway Administrator through the FHWA Division Administrator. FHWA will coordinate review and approval with FTA.
EEO Internal Program/AA Action Plan Update	Annually	Per program approval date	Request letter w/ document	Approval letter	23 CFR 230.311(a) 230.313 Appendix A to Subpart C of Part 230—Part II	Each State highway agency shall prepare and submit an updated equal employment opportunity program, one year from the date of approval of the preceding program by the Federal Highway Administrator, over the signature of the head of the State highway agency, to the Federal Highway Administrator through the FHWA Division Administrator. The program shall consist of the following elements: (1) The collection and analysis of internal employment data for its entire work force in the manner prescribed in part II, paragraph III of appendix A; and (2) The equal employment opportunity program, including the internal affirmative action plan, in the format and manner set forth in appendix A.
Contractor Compliance Program Update	Annually	11/30	Request letter w/ document	Approval Letter	23 CFR 230.311(a) 230.313 Appendix A to Subpart C of part 230—Part I	Each State highway agency shall prepare and submit an updated equal employment opportunity program, one year from the date of approval of the preceding program by the Federal Highway Administrator, over the signature of the head of the State highway agency, to the Federal Highway Administrator through the FHWA Division Administrator. The program shall consist of the following elements: (1) The collection and analysis of internal employment data for its entire work force in the manner prescribed in part II, paragraph III of appendix A; and (2) The equal employment opportunity program, including the internal affirmative action plan, in the format and manner set forth in appendix A.
EEO Contract Compliance Review Reports	As needed	Within 15 days of on-site review	Transmittal letter	concurrent letter	23 CFR 230.413 (b)(1)(i)(D)	Within 15 days from the completion of the onsite verification and exit conference, the State Compliance Specialist will... Forward three copies of the compliance review report, and the compliance notification or show cause notice to the FHWA division EEO Specialist.
Notification of Action Against Contractor for EEO Non-compliance	As needed	Within 15 days	Notification letter	Comment letter	23 CFR 230.405 (b)	The State shall inform FHWA of any actions taken against a contractor under normal State contract administration procedures, if that action is precipitated in whole or in part by noncompliance with equal opportunity contract requirements.
ADA/Section 504 Self-evaluation and Compliance Plan	As needed	n/a	Request letter w/ document	Approval letter	49 CFR 27.11(c)	The STA shall conduct a self-evaluation of its current services, policies, and practices, and the effects thereof, to determine necessary modifications to achieve program accessibility. (28 CFR 35.105 & 49 CFR 27.11(c)(2)(i-v))
ADA Complaint Investigations	Per complaint	In accordance with FHWA-approved process	Transmit Complaints lodged directly against MassDOT	Evaluate and Notify MassDOT	49 CFR 27.13(b) Title VI Plan	"A recipient that employs fifteen or more persons shall, within 180 days, adopt and file with the head of the operating administration procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part." These procedures only to complaints received directly by the State and not by FHWA. The flowchart that appears in MassDOT's approved Title VI/Nondiscrimination Plan should be followed.

FINANCIAL MANAGEMENT PROGRAM

FHWA maintains an effective oversight program in accordance with provisions in FHWA Order 4560.1, 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 the Agency's day-to-day operations. FHWA's Financial Management Team is responsible for completing the FIRE activities on an annual basis. FHWA is also responsible for ensuring actions have been completed in support of the Annual Certification as required in the FIRE Order.

MassDOT and FHWA personnel maintain a cooperative and professional working relationship in the programming, administration, and oversight of the financial aspects of the federally aided program. Regular, routine, and as needed interaction occurs between FHWA and MassDOT fiscal staffs to ensure the exchange of information, coordination of activities and resolution of issues are addressed in a timely and professional manner in accordance with Generally Accepted Accounting Principles.

Table 13 lists the activities that occur as part of the Financial Management Program.

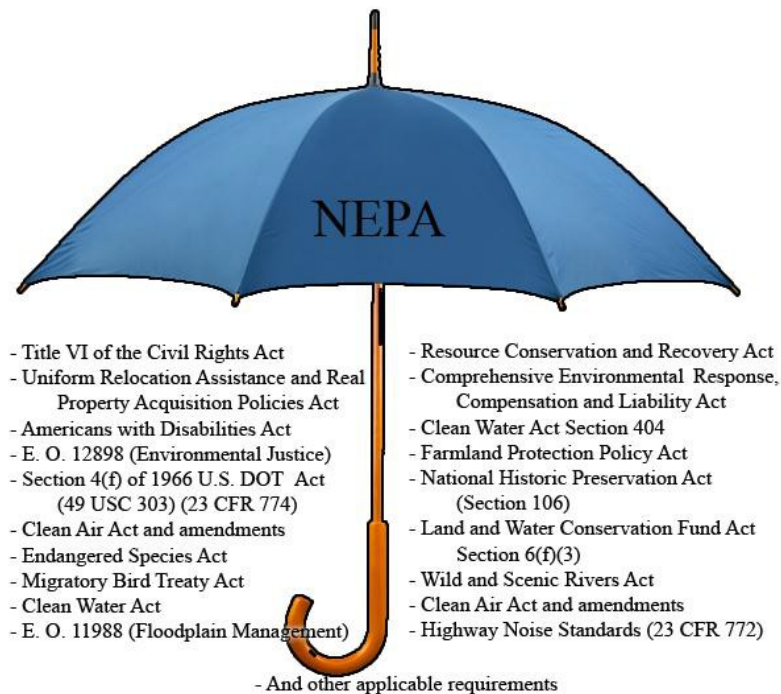
Table 13 – Financial Management Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Billing Transactions	Monthly		Provide Documents	Conduct Review	Division FIRE Work Plan	
Process to Adjust Cost Estimates	Revise as needed				CFR 630.106	"The State shall maintain a process to adjust project cost estimates. For example, the process would require a review of the project cost estimate when the bid is approved, a project phase is completed, a design change is approved, etc. Specifically, the State shall revise the Federal funds obligated within 90 days after it has determined that the estimated Federal share of project costs has decreased by \$250,000 or more."
Inactive Projects	Quarterly	1/7 4/7 7/7 10/7	Status Report	Transmit FMIS Inactive Report	CFR 630.106 (a)(5)	"The State shall review, on a quarterly basis, inactive projects (for the purposes of this subpart an "inactive project" means a project for which no expenditures have been charged against Federal funds for the past 12 months) with unexpended Federal obligations and shall revise the Federal funds obligated for a project within 90 days to reflect the current cost estimate, based on the following criteria:"
Improper Payments	Annually	8/31	Provide Documents	Complete FHWA Workbooks	FHWA Order 4560.1B	"Division Offices shall, at a minimum, conduct a review of randomly selected billing transactions provided by Headquarters program offices...verify that the state has sufficient supporting documentation to support the billing."
Single Audit Review	Annually	3/32 (State) 6/30 (Federal)	Transmit Audit Report and Action Plan	Issue Management Decision Letter	FHWA Order 4560.1B	"The Division Office shall take the following actions: obtain a copy of the State Dot corrective action plan...and issue a management decision...addressing each FHWA program-related finding."
Audit Reviews	Annually	Varies			FHWA Order 4560.1B	
Financial Management Reviews	Annually	Varies	Provide Documents and Report	Perform Review and Issue Report	FHWA Order 4560.1B	"A financial management review activity shall be conducted annually...The reviewer shall prepare a formal report..."

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
			Response			
Transfer of Funds Between Programs	As needed	n/a	Transmit FHWA Transfer Request Form	Approve and Transmit to HQ	FHWA 7/19/07 Memo	"To request a transfer ...the State should submit a completed FHWA transfer request form to the FHWA Division Office...The Division Office must determine if the requested transfer is within allowable limits... and submit the request to the Office of Budget for coordination of action."
Transfer of Funds Between Agencies	As needed	n/a	Transmit FHWA Transfer Request Form	Approve and Transmit to HQ	FHWA 7/19/07 Memo	"...the State should use the attached FHWA transfer request form to identify appropriate information about fund type and amount, the entity receiving funds, necessary project detail, and other appropriate certifications and requirements."
Funding Notices	As received	n/a	None	Transmit Advance Notice of Funding	n/a	
Redistribution						
Central Artery Repair and Maintenance Trust Fund Report	Monthly				MOA	

ENVIRONMENTAL PROGRAM

The Environmental Program ensures compliance with applicable federal requirements during the environmental review process conducted in the development of highway projects. FHWA is often the lead federal agency in integrating the full range of environmental requirements under a single, unified process that results in effective and sound transportation decisions. These laws and regulations include the National Environmental Policy Act (NEPA) and implementing regulations of the Council of Environmental Quality contained in 40 CFR 1500-1508 and FHWA implementing regulations contained in 23 CFR 771. FHWA adopted the policy of managing the NEPA project development and decision-making process as an "umbrella," under which all applicable environmental laws, executive orders, and regulations are considered and addressed prior to the final project decision and document approval.



FHWA Division staff provides guidance and participate in the preparation of NEPA documents to ensure that full evaluation and avoidance of potential impacts to the social and natural environment takes place when considering the approval of proposed transportation projects. In addition to evaluating the potential environmental effects, FHWA must also take into account the transportation needs of the public in reaching a decision that is in the best overall public interest. Conclusion of the NEPA process results in a decision that addresses multiple concerns and requirements. The FHWA NEPA process allows transportation officials to make project decisions that balance engineering and transportation needs with social, economic, and natural environmental factors.

The environmental reviews involve an interdisciplinary and interagency process. During the process, FHWA and MassDOT work cooperatively with a wide range of partners included the public, businesses, interest groups, and agencies at all levels of government to seek input into project and environmental decisions. FHWA is responsible for conducting consultation with federal and state agencies, where applicable, to obtain permits, determinations, or simply to ensure compliance with environmental laws and regulations. In many instances and where

appropriate, FHWA will delegate certain consultation activities to MassDOT as a way to streamline the environmental process. Such instances are stipulated within existing Programmatic Agreements or are determined on a project-by-project basis when applicable regulations would allow it, in which case FHWA will notify the pertinent agency about this delegation. FHWA and MassDOT will conduct monthly Environmental Coordination meetings to facilitate discussions about projects, guidance, new policy, and other issues that may rise up during project development. Other meetings, including interagency meetings, are scheduled as needed throughout the environmental review process.

Project Oversight

For all projects that require a federal action by the FHWA, either through approval or funding, MassDOT and the Division Office will work together in the early project development phase to determine the appropriate NEPA Class of Action for the project. The level of involvement will depend on the degree of environmental impacts or project complexity, and directly dependent on the Class of Action.

All projects requiring the preparation of an Individual CE, an EA, or an EIS, will be reviewed by the FHWA MA Division office staff prior to final approval. All EAs and EISs will be reviewed by division office staff prior to approval for public disclosure. All necessary consultation, determinations, and documentation regarding compliance with applicable federal requirements under the NEPA “umbrella” must be made prior to the conclusion of the NEPA process. There are instances in which consultation with other federal agencies must be done through the NEPA process, however, permits may be granted after the FHWA has closed the NEPA process. In those cases, the Division will maintain communication with the associated agency until such permit has been obtained and prior to the obligation of federal funds.

Table 14 lists the activities that occur as part of the Environmental Program.

Table 14 – Environmental Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Cooperating Agency Status Report	Annually	1/1			CEQ Req - Memo	Division to HQ
Endangered Species Act Cost Report	Annually	3/14	Provide Data	Transmit to HQ	FHWA Email	“The ESA Amendments of 1988 (Public Law 100-478) included a provision requiring US Fish and Wildlife Service (USFWS) report to Congress an annual, species-by-species, accounting of all reasonably identifiable Federal expenditures made primarily for the conservation of endangered or threatened species pursuant to the Act...Please contact your State DOT to collect the relevant information and use the attached spreadsheet to list compliance cost estimate data to individual species. A sortable list of listed species is available on the second page of the spreadsheet. Please list both the common and scientific species names and an associated cost estimate.”
Section 106 Report	Annually	3/1	Transmittal Letter (w/ 2 copies)	Transmit to ACHP	Section 106 Prog. Agr.	“MassHighway shall provide the Massachusetts SHPO, the Council, and FHWA with a copy of this Annual Report by March 1 of the following year.”
FHWA Archeological Survey for NPS	Annually	4/30	Email Completed Questionnaire	Transmit to HQ	FHWA 4/8/11 Email	“The purpose of this email is to request your assistance in providing information that the National Park Service (NPS) requests of Federal agencies for use in a Congressionally mandated report on Federally sponsored archeology... Attached please find the questions with background information that explains the Annual Report on

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
						Federal Archeology Program Activities and its relation to FHWA...The completed questionnaire should be returned...by the end of April 2011. "
National Noise Barrier Inventory	Tri-annually	7/29	Email FHWA Form 1580	Transmit to HQ	FHWA 4/20/11 Email	"The purpose of this message is to request assistance...to update the triennial noise barrier listing for noise barriers that were constructed from January 1, 2008 to December 31, 2010...Attached is the FHWA 1580 form which should be used to enter all data..Please email...the completed FHWA 1580 form for this time...by July 29, 2011." Next update 2014.
Noise Abatement Priority System	At least every 5 years	6/30 (2016)	Request Letter	Approval Letter	23 CFR 772.7(e)	"If a highway agency chooses to participate in a Type II program, the highway agency shall develop a priority system to rank the projects in the program. This priority system shall be submitted to and approved by FHWA...The highway agency shall re-analyze the priority system on a regular interval, not to exceed 5 years."
Approved Public Involvement / Public Hearing Program	Revised as needed	n/a	Request Letter	Approval Letter	23 CFR 771.111 (h)(1)	"Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C. 128 and 40 CFR parts 1500 through 1508."
Section 106 Programmatic Agreement	Revised as needed	n/a			n/a	
Categorical Exclusion Programmatic Agreement	Revised as needed	n/a			n/a	
Programmatic CE Project Approvals	Monthly	15 th of month	Email Status Report	Review	n/a	

RIGHT OF WAY PROGRAM

The Right-of-Way program encompasses activities and approvals related to the following:

- State ROW manual
- ROW Oversight Agreement
- Sign Removal Program
- Outdoor advertising
- Utility Relocation and Accommodation

The applicable laws, regulations, and orders governing the ROW functional area include the following:

- 49 CFR 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs
- 49 CFR 18, Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments
- 23 CFR 1.23, Use of Right of Way
- 23 CFR 620, Subpart B, Relinquishment of Highway Facilities
- 23 CFR 635.309, Right-of-Way Certification
- 23 CFR 646.216, Railroad ROW
- 23 CFR 710, Right-of-Way and Real Estate
- 23 CFR 750, Highway Beautification
- 23 CFR 751, Junkyard Control and Acquisition

Table 15 lists the activities that occur as part of the Right-of-Way Program.

Table 15 – Right-of-Way Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
State ROW Manual	Every 5 years	1/1	Request Letter accompanied by submission of ROW Manual	Approval Letter; Transmit to HQ	23 CFR 710.201(c)	"The STD shall prepare and submit for approval by FHWA an up-to-date Right-of-Way Operations Manual by no later than January 1, 2001...Every five years thereafter, the chief administrative officer of the STD shall certify to the FHWA that the current ROW operations manual conforms to existing practices and contains necessary procedures to ensure compliance with Federal and State real estate law and regulation."
ROW Oversight Agreement	Revised as needed		Request Letter	Approval Letter	23 CFR 710.201(i)	"Except for the Interstate system, the STD and the FHWA will agree on the scope of property related oversight and approval actions that the FHWA will be responsible for under this part . The content of the most recent oversight agreement shall be reflected in the State right-of-way operations manual. The oversight agreement, and thus the manual, will indicate for which non-Interstate Federal-aid project submission of materials for review and approval are required."
Sign Removal Program Policies and Procedures	Revised as needed	n/a	Request Letter	Approval Letter	23 CFR 750.304	"The State's written policies and operating procedures for implementing its sign removal program under State law and complying with 23 U.S.C. 131 and its proposed time schedule for sign removal and procedure for reporting its accomplishments shall be submitted to the FHWA for approval within 90 days of the date of this regulation... Revisions to the State's policies and

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
						procedures shall be submitted to the FHWA for approval."
Lead Agency Uniform Act Monitoring Report	Biennially				49 CFR 24.603	"The Federal Lead Agency shall, in coordination with other Federal Agencies, monitor from time to time State Agency implementation of programs or projects conducted under the certification process and the State Agency shall make available any information required for this purpose... Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the Lead Agency report biennially to the Congress on State Agency implementation of section 103. To enable adequate preparation of the prescribed biennial report, the Lead Agency may require periodic information or data from affected Federal or State Agencies."
Uniform Relocation Assistance and Real Property Acquisition Statistical Report	Annually	11/15	Provide data	Transmit to HQ	FHWA Order 6540.1	"All right-of-way acquisitions that are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are to be included in the report...The report is to be prepared by division office personnel and submitted through the regional office to Washington HQ...The report is to be prepared annually and submitted within 6 weeks of the close of the reporting period..."
Alternate Federal-State Procedure for Railroad-Highway Work	Revised as needed				23 CFR 646.220	"On other than Interstate projects, an alternate procedure may be used, at the election of the State, for processing certain types of railroad-highway work...Any State wishing to adopt the alternate procedure may file a formal application for approval by FHWA..."
Alternate Federal-State Procedure for Utility Relocations or Adjustments	Revised as needed				23 CFR 645.119	"This alternate procedure is provided to simplify the processing of utility relocations or adjustments under the provisions of this regulation...To adopt the alternate procedure, the STD must file a formal application for approval by the FHWA..."
Utility Accommodation Policy	Revised as needed; reviewed periodically				23 CFR 645.215	"Upon determination by the FHWA that a State transportation department's policies satisfy the provisions of 23 U.S.C. 109, 111, and 116, and 23 CFR 1.23 and 1.27, and meet the requirements of this regulation, the FHWA will approve their use on Federal-aid highway projects in that State...(c) Any changes, additions or deletions the State transportation department proposes to the approved policies are subject to FHWA approval...The State transportation department's practices under the policies or agreements approved under §645.215(b) of this part shall be periodically reviewed by the FHWA."

SAFETY, OPERATIONS, AND INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM

The Safety, Operations, and Intelligent Transportation Systems Program encompasses activities and approvals related to the following:

- Strategic Highway Safety Plan
- Highway Safety Improvement Program
- Railroad-highway grade crossings
- Seat belt law compliance
- Drug offender's license suspension certification
- Fatality reporting
- MUTCD
- Work zones
- National truck network
- Sponsorship agreements
- Safe-Routes-to School
- ITS

Strategic Highway Safety Plan (SHSP)

The SHSP is a statewide-coordinated safety plan that provides a comprehensive framework for reducing highway fatalities and serious injuries on all public roads. The SHSP is developed by the State DOT in a cooperative process with local, state, Federal, and private sector safety stakeholders. The SHSP is a data-driven, four to five year comprehensive plan that establishes statewide goals, objectives, and key emphasis areas and integrates the four E's: engineering, education, enforcement, and emergency medical services. The SHSP allows all highway safety programs in the State to work together in an effort to align and leverage its resources. It also positions the State and its safety partners to address the State's safety challenges on all public roads. The initial state's SHSP was completed in September 2006. MAP-21 established a new requirement for periodic SHSP updates. FHWA participates as an active member of the SHSP steering committee.

Highway Safety Improvement Program (HSIP)

Specific provisions pertaining to the HSIP, are defined in Section 1401 of SAFETEA-LU. Highway safety improvement projects are defined as being consistent with a State's SHSP. The projects should logically flow from identified SHSP emphasis areas and strategies. The SHSP emphasis areas should guide HSIP problem identification, and SHSP strategies should influence countermeasure identification and HSIP project selection. MAP-21 continues the Highway Safety Improvement Program to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal lands. The HSIP requires a data-driven, strategic approach to improving highway safety on all public roads that focuses on performance. MassDOT is required to send HSIP Annual Report to the Division Office no later than August 31; the Division Office is required to review and submit the annual report to HQ no later than September 30. The FHWA will make project eligibility determinations for all proposed safety improvement projects as outlined in the HSIP Guidelines and as an active participant of the HSIP Task Force.

Railroad-highway Grade Crossing Improvement Report

As part of the HSIP under SAFETEA-LU, \$220 million is set aside each fiscal year for the Railway-Highway Crossings Program (23 USC 130). These funds provide for the elimination of

hazards and the installation of protective devices at public railway-highway crossings. The \$220 million set aside each fiscal year under SAFETEA-LU is retained under MAP-21. As part of HSIP Annual Report, the state is required to submit a Railway-highway Grade Crossing Improvement Report progress report.

Drug offender's License Suspension Certification

States must comply with 23 U.S.C. 159 Revocation or suspension of drivers' licenses of drug offenses in order to avoid the withholding of Federal-aid highway funds. This Section encourages States to enact and enforce drug offender driver's license suspensions. By January 1 of each year, the Governor shall submit written notification to FHWA Division Administrator whether the State has enacted and is enforcing a law or whether the State opposes such a law as per 23 U.S.C. 159. The certification is obtained from the Governor by MassDOT and submitted to the Division Office before January 1 for review submission to FHWA HQ.

Seat Belt Law Compliance

Section 2005 of SAFETEA-LU created performance grants for States that have a conforming primary safety belt use law in place. States can also receive performance grants if they achieve a safety belt use rate of 85 percent or more for each of the calendar years immediately preceding the fiscal year of the grant. Funds may be used for any safety purpose under Title 23, however a minimum of \$1 million must be spent on Title 23 Chapter 4 activities which are generally behavioral and administered by NHTSA.

Fatality Reporting

MassDOT provides estimates of fatalities to the Division Office each quarter.

Manual on Uniform Traffic Control Devices (MUTCD)

The Manual on Uniform Traffic Control Devices, or MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public traffic. The MUTCD is published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart F. On December 16, 2009 a final rule adopting the 2009 Edition of the MUTCD was published in the Federal Register with an effective date of January 15, 2010. States must adopt the 2009 National MUTCD as their legal State standard for traffic control devices within two years from the effective date. Massachusetts adopted the 2009 Edition of the MUTCD and state amendments on February 29, 2012. FHWA reviews and approves any amendments.

Work Zone Safety and Mobility

Work zone safety and mobility regulations require that each State implement a policy for the systematic consideration and management of work zone impacts on all Federal-aid highway projects. The policy shall address work zone impacts throughout the various stages of the project development and implementation process. The policy may take the form of processes, procedures, and/or guidance, and may vary based on the characteristics and expected work zone impacts of individual projects or classes of projects. In order to assess the effectiveness of work zone safety and mobility procedures, effective October 12, 2007, the States shall perform a process review at least every two years. This review may include the evaluation of work zone data at the State level, and/or review of randomly selected projects throughout their jurisdictions. Appropriate personnel who represent the project development stages and the different offices within the State, and the FHWA should participate in this review. Other non-State stakeholders may also be included in this review, as appropriate. The results of the review are intended to lead to improvements in work zone processes and procedures, data and information resources,

and training programs to enhance efforts to address safety and mobility on current and future projects. MassDOT completed the first of its biennial process review in September 2011, and is working on developing a formal assessment program that will be conducted on an annual basis. FHWA will participate in the review. The program will focus on various impact level projects across the state, and will be conducted during the June-August timeframe.

Safe Routes to School (SRTS) Program

The Safe Routes to Schools Program was created by Section 1404 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users Act (SAFETEA-LU). Under MAP-21, funding for the SRTS Program is part of the Transportation Alternatives Program. The SRTS Program provides funds to the States to improve the ability of primary and middle school students to walk and bicycle to school safely. The program establishes two distinct types of funding opportunities: infrastructure projects (engineering improvements) and non-infrastructure related activities (such as education, enforcement, and encouragement programs). MassDOT is responsible for developing and administering the program in accordance with Federal-aid requirements. The Office of Transportation Planning oversees the program, with assistance from MassRides, the statewide commuter operations contractor. FHWA works with MassDOT in development of the program, authorizes projects, and provides guidance when requested.

Intelligent Transportation System (ITS) Architecture

On January 8, 2001, the US Department of Transportation published the FHWA Final Rule and FTA Policy, which implemented section 5206(e) of the Transportation Equity Act for the 21st Century (TEA-21). The Final Rule/Policy, effective April 8, 2001, explains and defines how Section 5206(e) is to be implemented. TEA-21 required ITS projects funded through the highway trust fund to conform to the National ITS Architecture and applicable standards. The intention of the Rule/Policy is to foster the deployment of integrated regional ITS systems. Because it is highly unlikely that the entire National ITS Architecture would be fully implemented by any single metropolitan area or State, the Rule/Policy requires that the National ITS Architecture be used to develop a local implementation or "regional ITS architecture" that would be tailored to address the local situation and ITS investment needs. The region is defined by local participants and is based on the needs for information sharing and coordination. It can be a metropolitan area, a state, a multi-state area, or a corridor. The Rule/Policy requires that if a region is already deploying ITS projects, then a regional ITS architecture must be developed within four years of the effective date of the Rule/Policy (by April 8, 2005). If a region has not yet deployed an ITS project, then a regional ITS architecture must be developed within four years of the deployment of the initial ITS project in the region. The intention of the new Rule/Policy is to foster integration of the deployment of regional ITS systems.

Table 16 lists the activities that occur as part of the Safety, Operations, and ITS Program.

Table 16 – Safety, Operations, and ITS Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Strategic Highway Safety Plan					23 USC 148	
Highway Safety Improvement Program Progress Report	Annually	8/31	Transmittal letter	Review and forward to HQ by 9/30	23 CFR 924.15 (a)	"For the period of the previous year, each State shall submit to the FHWA Division Administrator no later than August 31 of each year the following reports related to the HSIP in accordance with 23 U.S.C. 148(g): (1) A report with a defined one year reporting period describing the progress being made to implement the State HSIP"
HSIP 10% Flexible Funding Eligibility	Annually, if requested	n/a	Request letter	Approval letter	23 CFR 924.11	"A State is eligible to use up to 10 percent of the amount apportioned under 23 U.S.C. 104(b)(5) for each fiscal year to carry out safety projects under any other section, consistent with the SHSP...State must submit a written request for approval to the FHWA Division Administrator for each year that a State certifies that the requirements have been met before a State may use these funds..."
Report on Top 5% of Locations with Highest Safety Need	Annually	8/31	Transmittal letter	Review and forward to HQ	23 CFR 924.15 (c)	"...submits to the Secretary an annual report that describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs..."
Railway-Highway Grade Crossing Improvement Report	Annually	8/31	Transmittal letter	Review and forward to HQ	23 CFR 924.15 (b)	"A report describing progress being made to implement railway-highway grade crossing improvements in accordance with 23 U.S.C. 130(g), and the effectiveness of these improvements."
Drug Offenders Driver's License Suspension Certification	Annually	1/1	Transmit Governor's Certification	Review and forward to HQ	23 CFR 192.5	"Each State shall certify to the Secretary of Transportation by April 1, 1993 and by January 1 of each subsequent year that it meets the requirements of 23 U.S.C. 159 and this regulation...The Governor each year shall submit the original and three copies of the certification to the local FHWA Division Administrator."
Compliance with Primary Seat Belt Law	Annually				23 CFR 1215.6	"NHTSA and FHWA will review appropriate State laws for compliance with 23 U.S.C. 153. States initially found to be in non-compliance will be notified of such finding and of funds expected to be transferred or reserved...A State notified of non-compliance under paragraph (a) of this section may, within 30 days after its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance."
Work Zone Safety and Mobility Self-Assessment	Annually	6/1	Participate in assessment	Submit assessment to HQ		
Work Zone Safety and Mobility Process Review	Bi-annually	9/30	Conduct review	Participate and Submit to HQ	23 CFR 630.1008 (e)	"In order to assess the effectiveness of work zone safety and mobility procedures, the States shall perform a process review at least every two years...and the FHWA should participate in this review."
Review and Conformance of Work Zone Safety and Mobility Policies and Procedures	Revised as needed; reviewed periodically	n/a	Request letter	Approval letter	23 CFR 630.1014	"Each State shall work in partnership with the FHWA in the implementation of its policies and procedures to improve work zone safety and mobility. At a minimum, this shall involve an FHWA review of conformance of the State's policies and procedures with this regulation and reassessment of the State's implementation of its procedures at appropriate intervals. Each State is encouraged to address implementation of this regulation in its stewardship agreement with the FHWA."
Policy for Management of Work Zone Impacts	Revised as needed	n/a	Request letter	Approval letter	23 CFR 630.1106 (a)	"Each agency's policy and processes, procedures, and/or guidance for the systematic consideration and management of work zone impacts, to be established in accordance with 23 CFR 630.1006, shall include the consideration and management of road user and worker safety on Federal-aid highway projects. These processes, procedures, and/or guidance, to be developed in partnership with the FHWA"
Policy for Use of Uniformed Law Enforcement	Revised as needed	n/a	Request letter	Approval letter	23 CFR 630.1106 (c)	"Each agency, in partnership with the FHWA, shall develop a policy addressing the use of uniformed law enforcement on Federal-aid highway projects. The policy may consist of processes, procedures, and/or guidance."
MUTCD Conformance and Exceptions	Revised as needed	n/a	Request letter	Approval letter	23 CFR 655.603 (b)	"The FHWA Division Administrators and Associate Administrator for the Federal Lands Highway Program may grant exceptions in cases where a State MUTCD or

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
						supplement cannot conform to standard statements...The FHWA Division Administrators shall approve the State MUTCDs and supplements that are in substantial conformance with the National MUTCD."
Reporting of Fatalities	Quarterly	3/31 6/30 9/30 12/31	Transmit data	n/a		
National Network Truck Deletions or Restrictions – Interstate	As needed	n/a	Request letter	Approval letter	23 CFR 658.11 (d)	"The deletion of, or imposition of use restrictions on, any specific segment of the Interstate Highway System on the National Network, except as otherwise provided in this part, must be approved by the FHWA. Such action will be initiated on the FHWA's own initiative or on the request of the Governor or the Governor's authorized representative of the State"
National Network Truck Deletions or Restrictions – Non-Interstate	As needed	n/a	Request letter	Approval letter	23 CFR 658.11 (g)	"All restrictions on the use of the National Network based on hours of use by vehicles authorized by the STAA require prior FHWA approval. Requests for such restrictions on the National Network shall be submitted in writing to the appropriate FHWA Division Office."
Sponsorship Agreement Policy	As needed	n/a	Request Letter	Approval Letter	FHWA Order 5160.1	"If a State or local public agency elects to have a sponsorship program, then the State department of transportation for that State should have a policy on sponsorship agreements that is applicable to all highways within that State. These policies are to:(a) be approved by the appropriate FHWA division office...FHWA review and approval are only for the purpose of determining consistency with this Order and the MUTCD."
Sponsorship Agreements on Interstates	As needed	n/a	Request Letter	Approval Letter	FHWA Order 5160.1	"All sponsorship agreements involving the Interstate highway system should be approved by the FHWA Division Administrator."
RCO Travel Time Regulations						

STRUCTURES PROGRAM

The Structures Program encompasses activities and approvals related to the following:

- Bridge inspection
- Bridge load rating
- National Bridge Inventory System
- Bridge construction
- Bridge management systems
- Tunnel inspection
- Tunnel management systems

Part 650, Subpart C of 23 CFR established the National Bridge Inspection Standards (NBIS) which has now been replaced with National Bridge Inspection Program (NBIP) that apply to all bridges carrying vehicular traffic that are greater than 20 feet in length and are located on a public road. Subpart D establishes the procedures for administering the Highway Bridge Replacement and Rehabilitation Program (HBRRP). The program was established to replace and rehabilitate deficient bridges. In MAP-21, HBRRP program no longer exists.

An NBIP compliance review will be conducted at least once each year to assess the new 23 Metrics that started in January 2011. The reviews include the all the parts of the 23 Metrics that covers NBIP elements such as inspection procedures, frequency of inspection, qualifications of personnel, quality of the reports, posting and closing, fracture critical bridges, and the inventory. The Division Bridge Engineer will also review the Department's underwater inspections, the scour program, and quality assurance and procedures established to review, prioritize, and track recommendations for repairs. The review includes a random sampling of bridge inspection reports and records and field reviews of selected bridges.

The MassDOT Bridge Section is responsible for managing its bridge inspector certification program and to make sure that it is in compliance with NBIP requirements. The Bridge section also maintains a statewide bridge management system (for state-maintained bridges only), and the statewide bridge inventory. The FHWA Division Bridge Engineer will annually review Bridge Section quality assurance processes and NBIP compliance reviews of MassDOT and selected other State Agencies each year. A report is prepared annually of the NBIP review by the Division Bridge Engineer. FHWA will furnish preliminary comments to MassDOT by December 31st of each year, and a final report by March 31st the following year. This final report will also be forwarded to FHWA HQ.

Eligibility for the Bridge program is based on bridge inspection and inventory data submitted annually to FHWA Office of Bridge Technology by MassDOT. A selection list of eligible structures is furnished by FHWA to MassDOT. MassDOT and the local governments may select any bridge on the selection list for replacement or rehabilitation under this program. Additionally, MassDOT may also use these apportioned funds for bridge preservation projects.

Tunnel Program

FHWA is making an effort to develop and implement a new National Tunnel Inspection Standards (NTIS) to mirror the NBIS, which will set rules and guidelines for tunnel inspection standards nationwide. Currently, MassDOT has policies and directives that address the inspection and maintenance of the tunnel structures. FHWA will work with MassDOT to review

the MassDOT tunnel inspection program annually. The review will evaluate tunnel program staffing, qualifications, inspection procedures, inspection reports, and quality control/quality assurance

Table 17 lists the activities that occur as part of the Structures Program.

Table 17 – Structures Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Bridge Inspection Interval Greater than 24 Months	As needed	n/a	Request Letter	Approval Letter	23 CFR 650.311 (c)	"Certain bridges may be inspected at greater than twenty-four month intervals, not to exceed forty-eight-months, with written FHWA approval. This may be appropriate when past inspection findings and analysis justifies the increased inspection interval."
Underwater Element Inspection Interval Greater than 60 Months	As needed	n/a	Request Letter	Approval Letter	23 CFR 650.311 (b)	"Certain underwater structural elements may be inspected at greater than sixty-month intervals, not to exceed seventy-two months, with written FHWA approval."
Scour Critical Bridge Status	Quarterly	3/31 6/30 9/30 12/31				?
Critical Findings Procedure	Revised as needed	n/a	Request Letter	Approval Letter	23 CFR 650.313 (h)	"Establish a statewide or Federal agency wide procedure to assure that critical findings are addressed in a timely manner. Periodically notify the FHWA of the actions taken to resolve or monitor critical findings."
Load Rating Program	Annually	9/1	Request Letter	Approval Letter		?
Load Rating Program Status	Monthly		Email Status Report	Review	23 CFR 650.313 (h)	"Establish a statewide or Federal agency wide procedure to assure that critical findings are addressed in a timely manner. Periodically notify the FHWA of the actions taken to resolve or monitor critical findings."
NBIS Submittal	Annually	4/1	Submit to HQ Notify Division	None	23 CFR 650.315	"Each State or Federal agency must prepare and maintain an inventory of all bridges subject to the NBIS...A tabulation of this data is contained in the SI&A sheet distributed by the FHWA as part of the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges," (December 1995) together with subsequent interim changes or the most recent version. Report the data using FHWA established procedures as outlined in the 'Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges.'"
HBP Eligibility	Annually	1/1	None	Transmit State Selection List	23 CFR 650.409	"Upon receipt and evaluation of the bridge inventory, a sufficiency rating will be assigned to each bridge by the Secretary in accordance with the approved AASHTO ¹ sufficiency rating formula. The sufficiency rating will be used as a basis for establishing eligibility and priority for replacement or rehabilitation of bridges...After evaluation of the inventory and assignment of sufficiency ratings, the Secretary will provide the State with a selection list of bridges within the State that are eligible for the bridge program. From that list or from previously furnished selection lists, the State may select bridge projects."
NBIS Compliance Review	Annually	12/31	Provide Documents	Complete Assessment Reporting Tool	23 CFR 650 C	"Management review of State bridge inspection and bridge maintenance programs, required in the Supplement to 23 CFR 635, Subpart E, shall include an annual review of State compliance with the National Bridge Inspection Standards as well as the overall quality of bridge inspection and follow-up action taken on the previous years' findings."
Bridge Construction Unit Costs	Annually	4/1	Submit Data in NBI Notify Division	Review	Memo 1/15/10	"The states are requested to report unit costs for new and replaced highway bridges constructed with Federal funds on Federal-aid highways...and on non Federal-aid highways. The preferred method for submitting the data is electronically through the web-based NBI system."
Bridge Coordination Meeting	Quarterly	3/31 6/30 9/30 12/31	Participate	Prepare Agenda	n/a	

DESIGN PROGRAM

The Design Program encompasses activities and approvals related to the following:

- Design Standards
- Procurement Procedures
- Value Engineering

FHWA serves as ex-officio non-voting members of the following design-related committees: Specifications, Design Exception, and Cost Recovery Committees, and participates in development and/or revision of design standards, design detail drawings, and design procurement procedures. Interim Supplemental Specification (ISS) quarterly updates are provided to FHWA for review and concurrence prior to posting/issuance to public.

Table 18 lists the activities that occur as part of the Design Program.

Table 18 – Design Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
3R NHS Design Standards	Revised as needed	n/a			23 CFR 625.4	"The geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects on NHS highways other than freeways shall be the procedures and the design or design criteria established for individual projects, groups of projects, or all nonfreeway RRR projects in a State, and as approved by the FHWA. The other geometric design standards in this section do not apply to RRR projects on NHS highways other than freeways, except as adopted on an individual State basis. The RRR design standards shall reflect the consideration of the traffic, safety, economic, physical, community, and environmental needs of the projects."
Standard Specifications	Revised as needed	n/a			23 CFR 625.3	
Interim Standard Specifications Updates	Quarterly	3/31 6/30 9/30 12/31	Email Update Report	Approval Letter		
Engineering and Design Procurement Procedures	Revised as needed	n/a			23 CFR 172.9 (a)	"The contracting agency shall prepare written procedures for each method of procurement it proposes to utilize. These written procedures and all revisions shall be approved by the FHWA for recipients of federal funds. Recipients shall approve the written procedures and all revisions for their subrecipients."
Year-end Value Engineering Report	Annually	11/1	Provide data	Transmit guidance memo; enter data into VE reporting system	FHWA Value Engring Policy 1311.1A	"The results of all of the VE analyses and VECP that are conducted on projects that use FAHP funding or are administered by the Federal Lands Highway Divisions shall be used to prepare an Annual VE Accomplishment Report. At the end of the fiscal year, the FHWA VE Program Manager will issue the call for information for the accomplishment report to each Federal-aid and Federal Lands Highway Division Office."

CONSTRUCTION AND MATERIALS PROGRAM

The Construction and Materials Program encompasses activities and approvals related to the following:

- Qualifying contractors
- Contract analysis
- Quality assurance

Construction Quality Assurance Program

Each State Transportation Agency is required to have in place a Construction Quality Assurance (QA) Program to assure that the materials and workmanship incorporated into each Federal-aid construction project on the NHS are in conformity with the approved plans and specifications, including approved changes. The QA Program must meet the criteria of 23 CFR 637B (*Quality Assurance Procedures for Construction*) and be approved by FHWA.

A QA Program is comprised of six distinct elements that contribute to the achievement of quality. As presented in the *National Quality Improvement Task Force Report on QA Procedures for Highway Construction* (NQI/FHWA Report, June 1994), the *AASHTO Implementation Manual for Quality Assurance* (AASHTO SOC, February 1996), and *23CFR637*, the core elements of a Construction Quality Assurance Program include:

1. Contractor Quality Control (QC)
2. Agency Acceptance
3. Agency Independent Assurance (IA)
4. Dispute Resolution
5. Laboratory Accreditation and Qualification
6. Personnel Qualification/Certification

All six elements are needed in order to have a complete and effective QA Program. A QA Program having only four or five out of the six program elements is not sufficient and should not be construed as being “substantially compliant” with the intent of the AASHTO guidelines or the federal regulation. MassDOT, in consultation with FHWA will prepare and maintain a written Construction QA Program document that addresses the above six core elements. Following approval by the FHWA of the QA Program document, MassDOT and the FHWA will periodically evaluate and update the QA Program as needed.

Table 19 lists the activities that occur as part of the Construction and Materials Program.

Table 19 – Construction and Materials Program Activities

Activity	Frequency	Due Date	MassDOT Action	FHWA Action	Authority	Description
Qualifying Contractors	Revised as needed	n/a	Request letter	Approval letter	23 CFR 635.110	"The procedures and requirements a STD proposes to use for qualifying and licensing contractors, who may bid for, be awarded, or perform Federal-aid highway contracts, shall be submitted to the Division Administrator for advance approval."
Methods of Contract Change Cost Analysis	Revised as needed	n/a	Request letter	Approval letter	23 CFR 635.120 (d)	"The STD shall perform and adequately document a cost analysis of each negotiated contract change or negotiated extra work order. The method and degree of the cost analysis shall be subject to the approval of the Division Administrator."
Procedures for Determination of Contract Time	Revised as needed	n/a	Request letter	Approval letter	23 CFR 635.121 (a)	"The STD should have adequate written procedures for the determination of contract time. These procedures should be submitted for approval to the Division Administrator within 6 months of the effective date of this Final Rule."
Liquidated Damage Rates	Revised as needed	n/a	Request letter	Approval letter	23 CFR 635.127	"Each State transportation department (STD) shall establish specific liquidated damages rates applicable to projects in that State...The rates established shall be subject to FHWA approval either on a project-by-project basis, in the case of project-specific rates, or on a periodic basis after initial approval where a rate table or schedule is used."
Quality Assurance Program	Revised as needed	n/a	Request letter with program documents	Approval letter	23 CFR 637.205	"Each SHA shall develop a quality assurance program which will assure that the 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, including approved changes. The program must meet the criteria in Sec. 637.207, and be approved by the FHWA."
Independent Assurance Report	Annually	12/31	Transmit report	Review and comment	23 CFR 637.207 (a)(2)	"If the STD uses the system approach to the IA program, the STD shall provide an annual report to the FHWA summarizing the results of the IA program."

OTHER PROGRAM ACTIVITIES

Other Program activities encompass activities and approvals related to the following:

Emergency Relief and Preparedness

Emergency Relief (ER) is a special program that uses non-formula funds for the repair and 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 resources of 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 nor interim emergency repair costs that will necessarily restore the facility to pre-disaster conditions. Disasters must be of such magnitude as to be considered extraordinary to be considered for ER funding. To be considered extraordinary, the estimated Federal portion of the damage must exceed a threshold of \$700,000. Individual sites must have estimated repairs in excess of \$5,000 in total cost to be eligible.

MassDOT must specifically request assistance under the ER program for each natural disaster or catastrophic event. The following actions are necessary for each ER event:

1. MassDOT transmits a letter of intent to seek ER funds as soon as there is eligible damage.
2. FHWA responds with a letter of acknowledgement establishing a date of eligibility for the event such that the emergency repairs and protective measures can be undertaken immediately. This type of work is normally categorically exempt in NEPA by definition. Contracts to do this type of emergency repair may be accomplished with abbreviated procedures; however, this permission will be indicated on emergency section of the completed Detailed Damage Inspection Report (DDIR) for each site.
3. Following a site inspection, FHWA and MassDOT will jointly prepare the DDIR to support the request to FHWA Headquarters for an ER funding allocation. Depending on the extent of damage, FHWA may elect to perform a sampling of site inspections rather than visit every site.
4. MassDOT submits a formal request to FHWA Division for funding. After review, FHWA submits a request to Headquarters for an ER allocation.
5. MassDOT compiles the program of projects and submits the projects to FHWA for approval.

Central Artery

FHWA and MassDOT are required to conduct a bi-annual review of the Central Artery/Tunnel Project Repair and Maintenance Trust Fund Memorandum of Understanding, in coordination with the U.S. Department of Justice and the DOT Office of the Inspector General, and initiate revisions and/or modifications as deemed necessary. FHWA and MassDOT also meet monthly to discuss any issues related to the project.

Every Day Counts

FHWA and MassDOT work together to implement FHWA's Every Day Counts Initiative. Implementation of the 11 EDC 1 initiatives is complete, and EDC 2, the second round of Every Day Counts initiatives is underway. FHWA and MassDOT personnel serve on the State Transportation Innovation Council, co-chaired by the Division Administrator and the Highway Administrator. FHWA and MassDOT also co-chair each initiative Implementation Team.