



U.S. DEPARTMENT OF  
TRANSPORTATION

# Order

**Subject: Stewardship and Oversight of Federal-Aid  
Projects Administered by Local Public Agencies (LPA)**

**Federal Highway  
Administration**

Classification Code	Date:	Office of Primary Interest
5020.2	August 14, 2014	HIPA-40

Par.

1. What is the purpose of this FHWA Order?
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11. What are the responsibilities of FHWA Headquarters?
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**1. What is the purpose of this FHWA Order?**

The purpose of this Order is to:

- a. Define the STAs' roles and responsibilities for stewardship and oversight of LPA-administered Federal-aid projects (see paragraph 6. Definitions).
- b. Establish a uniform methodology for assessing risk in the STAs' stewardship and oversight of LPA-administered Federal-aid projects.

- c. Establish a uniform methodology for ensuring compliance with Federal requirements of LPA-administered Federal-aid projects.

**2. What is the scope of this Order?**

This Order applies to FHWA's stewardship and oversight of the STAs' LPA stewardship and oversight program (see paragraph 6. Definitions).

**3. What is the intended outcome of this Order?**

The intended outcome of this Order is improved program integrity and compliance, and effective oversight by the STAs of LPA-administered Federal-aid projects. The FHWA can accomplish this outcome by implementing consistent procedures and criteria to help identify and mitigate risks (e.g., financial integrity and project delivery) associated with these projects.

**4. What is the background of this Order?**

Section 106(g) of Title 23, United States Code (U.S.C.), makes STAs responsible for determining that subrecipients of Federal-aid highway funds have adequate project delivery systems for Federal-aid projects and have sufficient accounting controls for proper management of such Federal funds. It also requires FHWA to periodically review STA monitoring of subrecipients (see paragraph 6. Definitions)

As the recipient of Federal-aid funds for the State, the STA is responsible for ensuring that Federal-aid funds are expended in accordance with applicable Federal laws and regulations. The STA is not relieved of this responsibility when it designates a city, county, township, municipality, or other political subdivision (e.g., State agency, LPA, metropolitan planning organization, university, or eligible non-profit entity) to administer Federal-aid funds for projects or a phase of a project.

**5. What is the relationship between this Order and the Risk-Based Stewardship and Oversight (RBSO) and the Stewardship and Oversight (S&O) Agreement Implementation Guidance?**

Stewardship and oversight of LPA-administered projects are part of FHWA's RBSO approach. An LPA-administered project is simply an alternate means of project delivery when the State makes a subaward to the LPA. This Order is compatible with and builds on the guidance and direction provided in the "[Risk Based Stewardship and Oversight Guidance](#)" issued March 28, 2014. The RBSO guidance identifies the role of the STA in communicating, educating, and validating Federal requirements to LPAs in terms of programmatic requirements of the STAs' stewardship and oversight of LPA-administered Federal-aid projects.

**6. Definitions:**

**What is an LPA?**

Local public agency means any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the STA in highway matters.  
[23 CFR 635.102]

**What is a subrecipient?**

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. [2 CFR 200.93]

**What is an LPA-administered project?**

An LPA-administered project is a Federal-aid project that the STA has formally agreed to allow an LPA to administer in whole or part, including but not limited to project phases such as design, right-of-way, and construction.

**What is the LPA S&O program?**

The LPA S&O program is the collective stewardship and oversight efforts of the FHWA, the STAs, and LPAs to ensure that LPA-administered projects comply with all applicable Federal-aid program requirements. These S&O efforts are described in S&O agreements between the FHWA division offices and the STAs.

**7. What authorities govern this Order?**

Authority: 23 U.S.C. 106(g) – Oversight Program. Section 106(g) provides that the Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized under Title 23, U.S.C., which shall be responsive to all areas relating to financial integrity and project delivery. The oversight program includes annual reviews that address elements of each STA's project delivery system and periodic reviews of how the STA is monitoring subrecipients [23 U.S.C. 106(g)(3) and (4)(B)]. Section 106(g)(4) provides that States are responsible for determining that subrecipients of funds made available under Title 23, U.S.C., have adequate project delivery systems for projects approved under 23 U.S.C. 106 and have sufficient accounting controls to manage such Federal funds properly.

**8. Who is responsible for assuring that Federal-aid projects administered by LPAs comply with applicable Federal requirements?**

Under 23 U.S.C. 106(g), STAs are responsible for the delivery of Federal-aid projects for which they are the direct recipients, including any project for which

the STA has made an agreement for an LPA-administered project. The STA is responsible for assuring that such projects receive adequate supervision and inspection to certify that the projects are completed in conformance with approved plans and specifications. [23 CFR 635.105(a)]

The STAs have broad flexibility in the kinds of stewardship and oversight strategies they select to ensure that LPAs comply with all applicable Federal statutory and regulatory requirements. The FHWA will encourage the use of practices that have proven to produce successful results.

The FHWA is responsible for stewardship and oversight of the Federal-aid highway program. The FHWA division offices ensure the STA is adequately monitoring LPA project administration activities, and that LPA-administered projects are in compliance with applicable Federal statutory and regulatory requirements.

**9. What will be the approach to conducting the LPA S&O program assessments and how often will they be conducted?**

This Order implements a two-phased approach to assessing an STA's stewardship and oversight of LPA-administered Federal-aid projects. Phase 1 (Program Assessment) is to be conducted in Performance Year (PY) 2015, and Phase 2 (Project Compliance Determination) in PY 2016. (A PY is June 1 to May 31.) Thereafter, Program Assessment and Compliance Determination will be on a 3-year cycle. The third year will give division offices with Plans of Corrective Action (PCAs) additional time to address identified compliance concerns from Phase 1 and/or Phase 2 before the next round of the assessment cycle. The Phases are defined as follows:

Phase 1 – In this phase, FHWA will assess programs by using Attachment B, Parts 1, 2, and 3 to establish what project aspects LPAs are managing, the overall size of the STA's LPA program, the S&O process in the STA, the "state-of-the-practice" in terms of context and attributes of the STA's S&O effort, a compliance determination at the program level, and a collective assessment of overall potential risk in the STA's S&O process.

Phase 2 – Once the program assessment phase is complete, the next effort will be to determine the overall level of compliance at the project level. This phase will include completing Compliance Assessment Program (CAP) reviews based on a corporate review guide for LPA-administered Federal-aid projects. The corporate review guide will be available at the beginning of PY 2016.

Development and implementation of PCAs and/or mitigation efforts resulting from compliance determinations at the program and/or project level will follow division office oversight procedures.

10. **How will FHWA establish a consistent framework of procedures and criteria to assess the effectiveness of STAs in overseeing LPAs and ensuring they comply with applicable Federal requirements?**

As noted in the prior paragraph (see paragraph 9), this Order implements a two-phased approach to assessing an STA's stewardship and oversight of LPA-administered Federal-aid projects. To make this happen:

- a. Each division office will conduct a program assessment in PY 2015 using the process outlined in Attachment A, "Overview of Toolkit for Conducting a Program Assessment on the Oversight of Local Public Agency (LPA) Administered Federal-Aid Projects." Division offices will assess the effectiveness of the STAs' stewardship and oversight of LPA-administered projects and document their state-of-the-practice and degree of compliance at the program level.
- b. In conducting these program assessments, the division offices are to use Attachment B, Part 1: "Overview Assessment of STA Oversight Framework for LPA-Administered Federal-Aid Projects (Context and Attributes);" Part 2: "Oversight Assessment of LPA-Administered Federal-Aid Projects – Program Compliance Overview;" and Part 3: "Division's Conclusions." Each division office will determine if the STA's established LPA policy and procedural guidance are adequate and are being followed, as well as the overall risk of the STA's S&O LPA program.
- c. The program assessment of STA organizational structure, processes, and procedures (Attachment B, Part 1) will enable the division office to:
  - 1) Determine if the STA has an acceptable review and oversight plan that details required STA oversight activities that will be performed on LPA-administered projects;
  - 2) Determine if the STA has suitable written agreements with LPAs, regarding roles and responsibilities;
  - 3) Confirm that the STA has established an overall stewardship and oversight framework capable of fulfilling its responsibility to ensure LPAs have adequate project delivery systems and accounting controls.
- d. The program assessment of the STA's commitment to deliver a sufficient level of stewardship and oversight of LPA-administered Federal-aid highway projects (Attachment B, Part 2) will enable each division office to determine the adequacy of STA program operations in the context of project delivery and compliance with Federal requirements. Additionally, division offices will be able to:

- 1) Confirm that the STA has dedicated resources for appropriate oversight of LPA-administered projects;
  - 2) Determine if the STA dedicates and maintains qualified staff, knowledgeable in Federal program requirements, to provide adequate oversight of LPA-administered projects;
  - 3) Determine how the STA assesses the capability and knowledge of the LPA staff with regard to Federal program requirements and whether the STA provides training for LPA staff; and
  - 4) Verify and document that the STA's oversight efforts are providing the needed level of assurance that the LPA-administered projects are being implemented in compliance with all applicable Federal laws, regulations, and policies.
- e. The conclusion to the program assessment (Attachment B, Part 3) will require division offices to determine the adequacy of project delivery and funds management along with the corresponding risk level of the STA's LPA S&O Program.
- f. Based on the program assessment results, division offices will work with STAs to develop and implement necessary PCAs.
- g. The division offices will submit program assessment results to the Office of Program Administration's Stewardship and Oversight Team (HIPA-40). The Stewardship and Oversight Team will assess the state-of-the-practice of the STAs' stewardship and oversight of LPA-administered Federal-aid projects and the resulting potential risk at the corporate level based on the collective information provided in the division offices' program assessments. Additional information to be submitted upon request includes:
- 1) PCAs and periodic progress reports;
  - 2) Information on lessons learned and good practices; and
  - 3) Reassessments of the LPA program after implementation of corrective action plans.
- h. To measure the effectiveness of STA stewardship and oversight activities for LPA-administered projects, division offices will conduct project-level compliance assessments beginning in PY 2016 through the use of a Corporate Review Guide for the LPA S&O Program under the CAP. This effort will supplement other division office LPA oversight activities that are conducted through CAP core and technical reviews, Projects of Division Interest (PoDI) reviews, and conventional program/process reviews. Collectively, these reviews will enable the division office to:

- 1) Provide reasonable, statistically based assurance that Federal-aid requirements are being met, and
  - 2) Determine the strengths, weaknesses, opportunities, and threats in LPA program administration and oversight.
- i. Division offices will require STAs to develop and complete PCAs to address any noncompliance issues at the program or collective project level (i.e., systemic project noncompliance issues). Divisions may develop additional action plans to address other issues identified during the program assessment, division risk assessment and/or corporate risk assessment. The PCAs activities are to be developed and tracked through each division's unit performance planning process as established by the Integrated National Planning and Updating Tool (INPUT), including the use of the Review Response Tracker feature (see Attachment A).

**11. What are the responsibilities of FHWA Headquarters?**

- a. Identify minimum expectations and requirements for STA oversight of LPA-administered Federal-aid projects;
- b. Develop and maintain a program assessment tool that will identify the "state-of-the-practice" program level compliance at the national and State levels, as well as to serve as input to a consistently administered risk assessment process. It is noted that the parameters for conducting future assessments will be modified after the analysis of the baseline assessment results. The baseline data will identify areas of risk and their respective risk levels as well as potential for greater flexibility in conducting future assessments;
- c. Provide guidance on division office reporting of LPA program assessment (i.e., timelines, reporting formats, etc.);
- d. Compile, analyze, and provide nationwide assessment data to determine national trends and potential risks to the Federal-aid highway program;
- e. Analyze the findings from the CAP-Corporate LPA program review to help determine if the STAs' collective stewardship and oversight practices result in a nationally compliant program and use the information as input to the National Risk Assessment;
- f. Develop and update LPA S&O program guidance as part of RBSO;
- g. Promote improved and enhanced stewardship and oversight of the LPA program; and
- h. Establish and maintain a Web site that will provide the most current information on the LPA program in each State.

**12. Is other assistance and guidance available to carry out this Order?**

Yes. The Order will be implemented within FHWA by using the additional guidance in the LPA Program Assessment Toolkit (or equivalent if superseded). The Toolkit (attached) clearly defines how FHWA division offices will complete the LPA S&O Program Assessment requirements in this Order. The Office of Program Administration is also available for assistance.

In addition, division offices will find guidance on the oversight of LPA-administered projects on the FHWA StaffNet at [Infrastructure – Program Administration - Local Project Oversight](#).



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**Attachments:**

Attachment A -“Overview of Toolkit for Conducting a Program Assessment on the Oversight of Local Public Agency (LPA) Administered Federal-Aid Projects”

Attachment B -“Program Assessment of State Transportation Agency (STA) Stewardship and Oversight of Local Public Agency (LPA) Administered Projects”

Attachment C -“Background Guidance on State Transportation Agency (STA) Oversight Roles and Responsibilities Relating to Local Public Agency (LPA) Administered Federal-Aid Projects”



## **Overview of Toolkit for Conducting a Program Assessment on the Oversight of Local Public Agency (LPA) Administered Federal-Aid Projects**

### **Introduction**

A program assessment can serve as valuable input and support for the division office's stewardship and oversight responsibilities for the Federal-aid highway program. A program assessment also provides information to the Federal Highway Administration (FHWA) on program status and risk from a local and national perspective. In addition, it is a tool that is used to identify strategies to improve program delivery, mitigate future risks, and/or achieve the program's future vision.

A program assessment tool can identify and provide information on the:

- Critical Program Area Elements;
- Status and Condition of a Program Area;
- Financial and Internal Controls in Place;
- Areas of Significant Risk; and
- Potential Program Initiatives, Activities, and Outcomes.

To be effective, the program assessment tool requires candid determinations on:

- What we know or do not know about the program areas;
- What program area elements need further investigation and review to better determine their status;
- The overall strengths and weaknesses of the program areas; and
- The potential of each program area element for significant concern and/or risk.

This program assessment toolkit facilitates the review, evaluation, and documentation of the efficiency and effectiveness of each program area and whether it operates in compliance with Federal laws, regulations, and policies. The toolkit is also an important link to the program risk assessment process and the strategic planning process.

Once program assessments are completed, specific activities/actions can be identified to address immediate and short-term concerns along with intermediate and longer term steps for potential program/process improvement. Thus, a program assessment becomes a living process providing the basis for assessing risk, compliance, identifying improvement opportunities, and recognizing state-of-the-art-practices.

### **Components of the LPA Stewardship and Oversight (S&O) Program Assessment Toolkit**

Below is a list of the component attachments to the LPA S&O Program Assessment Toolkit and a brief explanation of their purpose:

- **Attachment B – Program Assessment of State Transportation Agency (STA) Stewardship and Oversight of Local Public Agency (LPA) Administered Projects**

- **Part 1 - Overview Assessment of STA Oversight Framework for LPA-Administered Federal-Aid Projects (Context and Attributes)**

The purpose of this portion of the attachment is to collect basic LPA S&O Program information within each STA. The basic information pertains to funding levels, number of LPA recipients, the stratification of project designations as established in the Fiscal Management Information System (FMIS), as well as answering a series of program-level questions to determine the context and attributes of an STA's overall LPA S&O administration capabilities. The results will be used to assess the relative risk level of the STA's operation. While it is noted that many of the questions that pertain to the context and attributes of a STA's LPA S&O Program are not associated with any specific prescriptive requirements; they do represent identified practices, when implemented that have demonstrated a reduction in risk and an increase in the level of compliance with Federal requirements.

- **Part 2 – Oversight Assessment of LPA-Administered Federal-Aid Projects – Program Compliance Overview**

This portion of the attachment answers a series of program-level questions to determine the level of committed effort being made to assure compliance with Federal requirements. The results will be used to determine compliance levels that focus on the program-level requirements the STAs are to have in place to provide adequate oversight of LPA-administered Federal-aid projects. These requirements are stipulated in the [March 28, 2014 FHWA Stewardship and Oversight Agreement Implementation Guidance](#).

- **Part 3 – Division's Conclusions**

The final portion of the attachment is a focus on the division's conclusions as to the general status and condition of their respective STA's S&O program for LPA-administered projects after completing Parts 1 and 2.

- **Attachment C – Background Guidance on State Transportation Agency (STA) Oversight Roles and Responsibilities Relating to Local Public Agency (LPA) Administered Federal-aid Projects**

This document provides background guidance on policies defining the roles and responsibilities of the STA in its stewardship and oversight of LPAs administering Federal-aid projects consistent with current statutory and regulatory authority. This guidance also references the specific program-level requirements of the STA's oversight responsibilities as delineated in the [March 28, 2014 FHWA Stewardship and Oversight Agreement Implementation Guidance](#).

## **LPA S&O Program Assessment Toolkit Purpose and Methodology**

The purpose of the LPA S&O Program Assessment Toolkit is to establish a consistent process/framework and format to evaluate the STA's oversight of LPA-administered Federal-aid projects as well as to assess the performance of the STA's population of LPAs that are allowed to administer Federal-aid projects.

The LPA-administered Federal-aid projects crosscut the entire program and support disciplines within the Federal-aid highway program as characterized by the project development and implementation process (i.e., planning, environment, right-of-way, design, construction, etc.). To facilitate compiling a national picture, the assessment framework is formatted as questionnaires with short responses (e.g., yes-no, multiple choice).

The LPA S&O Program Assessment Toolkit includes three primary aspects:

- The first aspect involves the assessment of each STA's overall LPA S&O framework in terms of demographic, organizational attributes, and context information. This information determines the state-of-the-practice of an STA's LPA S&O and will serve as input into the division office's established [risk management process](#). In addition, Headquarters (HIPA-40) will compile and analyze the information to determine program S&O trends and the potential risk exposure. The exposure to potential risk for LPA-administered Federal-aid projects varies widely because of the various institutional and inter-agency arrangements that exist in the States. This information is requested in Attachment B, Part 1.
- The second aspect of the LPA S&O Program Assessment Toolkit is an assessment of the level of committed effort being made to assure compliance with each STA's LPA S&O. The questions are based on the identified oversight roles and responsibilities STA's have for LPA-administered Federal-aid projects. This compliance assessment is at the program level and is requested in Attachment B, Part 2.
- The third aspect of the Toolkit is drawing conclusions based on the answers provided in the prior two aspects of the Toolkit. The conclusion section focuses on a determination of the STA's overall performance in terms of project delivery systems and funds management. The division will be required to assess the STA's general level of risk with respect to its LPA S&O Program.

The responses to many of the questions (see Attachment B) are structured to ask respondents to indicate their answer on a five-step scale that varies by degrees using "firmly yes" and "firmly no" as extremes to a continuum. This stratification is designed to reflect the question element's true status and complexity, thus more accurately capturing the state-of-the-practice in a STA's LPA S&O Program (see Table 1).

## **Project Level Compliance Assessments**

Project-level compliance assessments will be conducted through the use of the Compliance

Assessment Program (CAP) ([see CAP Guidance](#)) and supplemented with a Corporate Review Guide for the LPA S&O Program. More detailed guidance on conducting the LPA corporate CAP review and how data will be compiled and reported will be provided separately. This guidance will include establishment of trigger mechanisms for plans of corrective action.

### **Plans of Corrective Action (PCAs)**

The program assessment results that will trigger the need for PCAs are:

- Questions in Attachment B, Parts 1, 2, and 3 identified as needing more in-depth planned reviews that cannot be completed in Performance Year 2015 (June 1, 2014, to May 30, 2015) due to other resource commitments. This need is generated for all questions in the assessments that are marked “NR” – Needs Reviewing.
- Program-level compliance questions in Attachment B, Part 2 and 3 that failed to meet minimal compliance thresholds. This need is generated for all program-level compliance questions that are marked “Borderline” or below.
- Results of project-level compliance assessments that indicate non-compliance on a systemic/statewide level as part of the LPA corporate CAP reviews. As noted above, more detailed guidance will be provided separately on the criteria that will trigger the need for PCAs.

Division offices whose assessments determine the need to develop and implement PCAs will use the current unit performance planning process ([Integrated National Planning and Updating Tool \(INPUT\)](#)). These corrective action plan elements need to be developed with input from STA and LPA partners.

All PCA tracking will be conducted through INPUT. Review activities are to use the review templates and tracking features of the [Review Response Tracker](#) feature under INPUT.

Table 1 - Answer Choice “Key”

Description of Responses to Questions in Questionnaire Set
<b>Firmly Yes</b> – Element in question is considered fully compliant and operating effectively by the STA/LPAs. The LPA S&O program is considered exceptional at the “state-of-the-art” level.
<b>Mostly Yes</b> – Element in question is determined to be in good shape but may be found in need of some minor improvements or show opportunities for program enhancements. Non-compliance issues are not systemic but more project specific. The LPA S&O program is generally considered state-of-the-practice.
<b>Borderline</b> – Element in question needs attention but has not been found to be programmatically fatal. Non-compliance issues reoccur in multiple projects but are not statewide. Corrective action is required and may warrant its inclusion in a formal action plan.
<b>Mostly No</b> – Significant issues need to be addressed. Problems may be systemic. Initiatives/action steps will need strong consideration to be included as part of an overall formal corrective action plan.
<b>Firmly “No”</b> – Major systemic issues of compliance and effectiveness need to be addressed. Further authorization of federally funded LPA projects may be under consideration for suspension. Initiative/action steps are to be included as part of an overall formal corrective action plan.
<b>Needs Reviewing (NR)</b> – Do not have sufficient information or knowledge to answer question confidently. This requires action steps to be included as part of an overall action plan.
<b>Not Applicable (NA)</b> – Element in question is not a part of an LPAs designated administrative responsibilities as established by the STA.

**Program Assessment of State Transportation Agency (STA) Stewardship and Oversight of Local Public Agency (LPA) Administered Projects**

**Part 1: Overview Assessment of STA Oversight Framework for LPA-Administered Federal-Aid Projects (Context and Attributes)**

**I. STA’s LPA Program Demographics:**

Question	Answer	Comments/Clarifications
A. Does the STA provide Federal-aid funds for projects administered at least in part by an LPA?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<i>If your answer is no, you do not need to proceed any further with this questionnaire.</i>
1. If the answer to A is yes, approximately what dollar amount does this represent?	\$	
2. If the answer to A is yes, what percentage of the STA’s overall Federal-aid program funds does this represent?	%	
3. What is the approximate number of different LPAs receiving sub-allocations of Federal funds on LPA-administered projects (i.e., projects administered at least in part by an LPA during any given year)?	<i>Numeric or NA</i>	
4. What is the current number of LPA projects for the fiscal year (FY) under review? (See below for the LPA projects administered in your State as determined by the 5 following established Fiscal Management Information System (FMIS) project oversight designations)		
<ul style="list-style-type: none"> <li>• <u>Local Projects: Fully State Administered, with FHWA retaining authority for some project approval actions</u> --Federal-aid projects for the FY under review, administered by the STA on behalf of the LPA for which FHWA has retained project approval decisionmaking authority to review and approve actions, in identified high risk areas, pertaining to environment, design, plans, specifications, estimates, right-of-way</li> </ul>	<i>Numeric or NA</i>	<i>Need to conduct information search in FMIS with using both the project oversight and functional system parameters.</i>

<p>(including utility and railroad) certification statements, contract awards, contract changes, inspections and final acceptance on a project-by-project basis. (State Administered Projects of Division Interest (PoDI))</p>		
<ul style="list-style-type: none"> <li>• <u>Local Projects: Fully State Administered; with FHWA taking only required (non-assumable) project approval actions</u> -- Federal-aid projects for the FY under review, administered by the STA on behalf of the LPA for which the STA has assumed FHWA's authority to review and approve actions pertaining to environment, design, plans, specifications, estimates, right-of-way (including utility and railroad) certification statements, contract awards, contract changes, inspections and final acceptance on a project-by-project basis. (State Administered non-PoDI)</li> </ul>	<p><i>Numeric or NA</i></p>	<p><i>Need to conduct information search in FMIS with using both the project oversight and functional system parameters.</i></p>
<ul style="list-style-type: none"> <li>• <u>Locally Administered Projects with FHWA retaining authority for some project approval actions</u> -- Federal-aid projects for the FY under review, administered, at least in part, by an LPA for which FHWA has retained project approval decisionmaking authority to review and approve actions, in identified high risk areas, pertaining to environment, design, plans, specifications, estimates, right-of-way (including utility and railroad) certification statements, contract awards, contract changes, inspections and final acceptance on a project-by-project basis. (Locally Administered PoDI)</li> </ul>	<p><i>Numeric of NA</i></p>	
<ul style="list-style-type: none"> <li>• <u>Locally Administered Projects with FHWA taking only required (non-assumable) project approval actions</u> -- Federal-aid</li> </ul>	<p><i>Numeric or NA</i></p>	

<p>projects for the FY under review, administered, at least in part, by an LPA for which the STA has assumed FHWA's authority to review and approve actions pertaining to environment, design, plans, specifications, estimates, right-of-way (including utility and railroad) certification statements, contract awards, contract changes, inspections and final acceptance on a project-by-project basis. (Locally Administered non-PoDI)</p>		
<ul style="list-style-type: none"> <li>• <u>Other</u> -- There may be situations that do not fit the previous four categories. Examples could include non-STA direct recipients.</li> </ul>	<p><i>Numeric or NA</i></p>	

**II. General Operational Questions:**

(See Page 23 for Answer Choice “Key.”)

Question	Answer Choices	Comments/Clarifications
<p>A. Does the STA allow LPAs to administer different phases of a Federal-aid project?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>B. If yes, what phases of the project development/implementation process are LPAs allowed to administer? (Select all that are appropriate for Environment, PE (Design), ROW, Utilities, Lettings, or Construction.)</p>	<p><input type="checkbox"/> Environment <input type="checkbox"/> PE (Design) <input type="checkbox"/> ROW <input type="checkbox"/> Utilities <input type="checkbox"/> Lettings <input type="checkbox"/> Construction</p>	
<p>C. Has the STA established internal detailed direction and expectations (i.e., holding staff accountable for performance, setting timeframes, requesting certain reporting mechanisms on a regular basis, etc.) from the leadership level regarding program commitment and accountability as it relates to its LPA project administration?</p>	<p><input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA</p>	
<p>D. Has the STA established internal written business measures (i.e., timely delivery of projects, compliance with Federal requirements, timely billing and reimbursement, timely project closeouts, etc.) for its</p>	<p><input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No</p>	



LPA-administered projects?	<input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
E. Does the STA have a documented certification process that identifies qualified LPAs to administer Federal-aid projects?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	<i>Certification is not required, but is considered a creditable practice.</i>
1. If the answer to E is yes, does this certification process address the LPA's capacity (i.e., staffing knowledge and experience with Federal-aid program requirements, project management knowledge and experience, financial controls, etc.)?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
F. Is there a "Program Agreement" (similar to the Stewardship and Oversight Agreement between the STA and FHWA) between the STA and the LPAs prior to receipt of Federal-aid funds?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
1. If the answer to F is yes, does the "Program Agreement" delineate STA and LPA responsibilities (i.e., program management, project development, project implementation, etc.) during key project delivery phases (environment, right-of-way, design, construction, etc.)?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
G. Does the STA require a "Project Agreement" between the State and LPA that identifies commitments (i.e., designation of "responsible charge," STA's oversight role, project scope, financial information, project	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No	

schedule, etc.) between each agency before an LPA can proceed with a Federal-aid project?	<input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
H. Does the STA have written processes that allow for program improvements resulting from feedback from LPAs?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	

### III. STA Organizational Structure and Staffing for Overseeing LPA-Administered Projects:

Questions	Answer Choices	Comments/Clarifications
A. Does the STA's organizational structure identify all units responsible for the administration and oversight of locally administered projects?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
B. Where is the STA staff administering the LPA program located?	<input type="checkbox"/> Central Office <input type="checkbox"/> District/Resident Office <input type="checkbox"/> Both <input type="checkbox"/> Other ( <i>Please Explain</i> )	
C. Has the STA established an LPA Program Manager Position?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NR <input type="checkbox"/> NA	
D. Are the STA's organizational responsibilities documented and assigned?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No	

	<input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
E. Is the “Delegation of Authority” documented?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
1. If the answer to E is yes, does the document clearly designate STA individuals responsible for key program and project decisions?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
F. Is there established, documented collaboration within divisions of the STA (i.e., “points of contact”) and LPA organizations?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
G. Does the STA LPA program staff have knowledge and experience with Federal-aid requirements?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	

<p>H. Does the STA provide training to STA staff for the administration of the LPA program?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>1. If the answer to H is yes, does the STA track its staff's training in a learning management system or by other means? (i.e., who needs training? is it time for refresher training? etc.)</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

**IV. Consultant Procurement Process Used on LPA-Administered Projects:**

Questions	Answer Choices	Comments/Clarifications
<p>A. Can LPAs contract with consultant firms to provide services on Federal-aid projects?</p>	<p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	<p><i>If your answer is no, you do not need to proceed any further in this section.</i></p> <p><i>If your answer is yes, the following questions assume that Federal-aid funds are being used to cover the cost of services.</i></p>
<p>B. Do LPAs use the STA's consultant procurement procedures, their own consultant procurement procedures, or a combination of both?</p>	<p><input type="checkbox"/> STA Procedures  <input type="checkbox"/> LPA Procedures  <input type="checkbox"/> Both  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>C. If the LPAs use their own consultant procurement procedures, have they been approved by the STA to comply with Federal requirements? [Brooks Act, 49 CFR 18.36, 23 USC 112(b)(2), 23 CFR Part 172]</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

D. Do both the STA's and the LPA's policies and procedures address conflict of interest?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
E. Does the STA prequalify consultants for LPAs?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
F. Does the STA maintain oversight of the LPA's consultant procurement process?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
G. Does the STA require and document the verification of the LPA's review and approval of the consultant's work performance?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
H. Are invoiced fees for consultant services reviewed by the STA per the Federal cost principles, terms of the contract, and status/progress of the work completed?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	

**V. STA's LPA Policy, Procedures, Program Guidance, and Training:**

<b>Questions</b>	<b>Answer Choices</b>	<b>Comments/Clarifications</b>
A. Does the STA have documented guidance for LPAs to develop, implement, and administer Federal-aid projects in accordance with all appropriate Federal requirements?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
B. Is the documented guidance readily available to all stakeholders (LPAs, STA employees, consultants, and FHWA)?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
C. Is this documented guidance regularly updated?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
D. Are changes/revisions to the documented guidance communicated to all appropriate stakeholders and/or users?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
E. Does the STA's documented guidance provide a distinction between State and Federal requirements?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	

F. Does the STA have a training program to educate LPAs on the policies and procedures, including State and Federal requirements? If yes,	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
1. Is the training an ongoing STA commitment (i.e., meets the needs of new LPA staff, refresher training, etc.)?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
2. Does the FHWA division office have a role in the training program?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
3. Are LTAP resources utilized in the training efforts?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
4. Is there a clearinghouse for training information and materials that is accessible to LPAs and consultants?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	

**VI. STA's Stewardship and Oversight of LPA-Administered Projects:**

Questions	Answer Choices	Comments/Clarifications
A. Are the oversight roles and responsibilities for LPA-administered projects addressed and documented per the STA/FHWA Division Stewardship Agreement?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
B. What level of oversight does the STA maintain over its LPA program? (Select all that are appropriate.)	<input type="checkbox"/> Periodic Evaluations <input type="checkbox"/> Monitor with reviews and approval actions, <input type="checkbox"/> Process Reviews <input type="checkbox"/> Other ( <i>Please Explain</i> )	
C. Does the STA have a documented plan for oversight of LPA-administered projects?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
D. Does the STA conduct a "risk assessment" of its LPA-administered projects?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
E. Does the STA evaluate the capabilities and qualifications of the staff of each LPA that administers Federal-aid projects?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	



<p>F. Does the STA conduct oversight reviews and project inspections on LPA-administered projects for compliance with Federal requirements? If yes,</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>1. Does the STA periodically review the LPA-administered projects for effectiveness and efficiency?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>2. Does the STA have a process to address deficiencies disclosed by these reviews?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>3. Are there documented procedures that address the frequency and level of project inspection?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>4. Does the STA have a checklist for compliance with Federal, State, and local requirements on LPA projects?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

<p>5. Are the results of the STA's project oversight reviews and inspections of the LPA documented?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>6. Does the FHWA division participate in STA's LPA program reviews?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

**VII. Financial Management – Accounting Systems, Procurement, Billing Controls, and Auditing:**

Questions	Answer Choices	Comments/Clarifications
Accounting Systems:		
<p>A. Does the STA assure LPAs have accounting systems that meet Federal requirements?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>B. Are the accounting systems between the STA and LPAs interfaced?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

C. Is there separation of responsibilities in the accounting process?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
D. Is there an STA process or system for coordinating and reconciling records?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
E. Are STA accounting system reports prepared for management review?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
F. Are financial reports and statements reconciled with FHWA's accounting records?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
G. Is the accuracy of these reports verified or pre-audited before release?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	

<p>H. Do the source and workflow of documents provide evidence for accountability of Federal funds?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>I. Are project records maintained for 3 years after FHWA final acceptance/voucher – closeout? [49 CFR 18.42]</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p><b>General Procurement:</b></p>	<p><b>Answer Choices</b></p>	<p><b>Comments/Clarifications</b></p>
<p>A. Is the STA reviewing LPA procurement practices for compliance with Federal procurement regulations?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>B. Are there documented compliance processes and practices for conducting routine evaluations of the procurement process?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p><b>Billing Controls:</b></p>	<p><b>Answer Choices</b></p>	<p><b>Comments/Clarifications</b></p>
<p>A. Do progress payments for LPA projects go through the STA’s financial system?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

<p>B. Is there documented guidance for the LPAs regarding the progress payment process?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>C. Are progress payments reviewed by the STA for completeness, sufficiency, and accuracy?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>D. Is there documentation to support progress payments for completed work?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>E. Do agreements between the STA and LPA include terms about the frequency of progress payments?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p><b>Reimbursements to LPAs:</b></p>	<p><b>Answer Choices</b></p>	<p><b>Comments/Clarifications</b></p>
<p>A. Is there a documented process identifying time required to process reimbursements to LPAs?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

<p>B. Does the STA review LPA invoices or progress payments?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>C. Does the STA have documented procedures for project close out?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>D. Are projects closed out within an established period of time?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p><b>Audit Operations:</b></p>	<p><b>Answer Choices</b></p>	<p><b>Comments/Clarifications</b></p>
<p>A. Do the STA and/or LPAs have a process for audits to review final invoices for LPA-administered Federal-aid projects?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>B. Are the final project invoices supported by these audit results?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

<p>C. Are the delegations of authority in place for the STA staff to take action when they receive the audit results?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>D. Does the STA have a documented process to address the STA’s and/or LPA’s significant findings that impact the expenditure of Federal funds?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>E. Is there a quality assurance program for the LPA audits?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

**Part 2: Oversight Assessment of LPA-Administered Federal-aid Projects – Program Compliance Overview:**

**I. FHWA Division Office LPA Program Oversight:**

(See Page 23 for Answer Choice “Key.”)

Questions	Answer Choices	Comments/Clarifications
<p>A. Does the Division Risk Assessment address LPA-administered Federal-aid projects?</p>	<p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> NA</p>	
<p>B. Does the Division Unit Plan include LPA-related activities/initiatives?</p>	<p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> NA</p>	
<p>C. Does the division office delegation of authority address oversight of the STA’s LPA program?</p>	<p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> NA</p>	

**II. STA Stewardship and Oversight of LPA-Administered LPA Projects:**

Questions	Answer Choices	Comments/Clarifications
A. Is the STA providing oversight of subrecipients, including oversight of LPAs with delegated responsibilities? [49 CFR §18.40 – superseded by 2 CFR 200.331(d) ]	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
B. Is the STA assuming its LPA oversight responsibilities in accordance with 23 U.S.C. 106(g)(4)?	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
C. Does the STA acknowledge its responsibility for LPA compliance with Federal requirements (i.e., through communication, documentation, training, etc.)? [23 CFR §635.105(a)]	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
D. Does the STA have a determination process that assesses whether an LPA has adequate project delivery systems and sufficient accounting controls to properly manage projects? [2 CFR § 225.5; 2 CFR § 225.20; 23 U.S.C. 106(g)(4)(A)]	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
E. Does the STA have a determination process that assesses whether an LPA: <ul style="list-style-type: none"> <li>- Has staff that is knowledgeable about Federal requirements;</li> <li>- Is equipped to perform work effectively; and</li> <li>- Can manage Federal-aid projects?</li> </ul> [23 CFR §635.105(c)(3)]	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	



<p>F. Does the STA have a determination process that can assess:</p> <ul style="list-style-type: none"> <li>- Whether LPA projects are receiving adequate project inspection;</li> <li>- Assurances that a contractor’s work is properly completed in conformance with approved plans and specifications: and</li> <li>- That materials used are sampled and tested per STA-approved processes?</li> </ul> <p>[23 CFR §653.120]</p>	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
<p>G. Does the STA ensure each LPA designates a representative to be in responsible charge of Federal-aid projects it administers, as defined by 23 CFR §635.105(c)(4)? [also see <a href="#">FHWA Office of Program Administration memorandum dated August 4, 2011</a>]</p>	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
<p>H. Is the STA in compliance with LPA reporting requirements in accordance with the <a href="#">Federal Funding Accountability and Transparency Act of 2006</a>?</p>	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	
<p>I. Has the STA established how project actions, including approval and oversight actions, will be administered in accordance with Federal laws and regulations? Project actions include:</p> <ul style="list-style-type: none"> <li>- Consultant selection and management,</li> <li>- Civil rights,</li> <li>- Financial management, and</li> <li>- Project development and implementation process phases – [environment, right-of-way (including utilities and railroads), design, construction, etc.]</li> </ul> <p>[23 CFR §635.172.9(d); 23 CFR §635.118; 23 CFR §635.122; 23 CFR §635.123]</p>	<input type="checkbox"/> Firmly Yes <input type="checkbox"/> Mostly Yes <input type="checkbox"/> Borderline <input type="checkbox"/> Mostly No <input type="checkbox"/> Firmly No <input type="checkbox"/> NR <input type="checkbox"/> NA	

<p>J. Does the STA document its oversight activities for LPA-administered Federal-aid projects? [49 CFR §18.42]</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>K. Is the STA's documentation, when requested, shared with the FHWA division office?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

**Part 3: Division's Conclusions**

**III. Concluding Questions (Based on the above responses as supporting documentation):**

Questions	Answer Choices	Comments/Clarifications
<p>A. Do you believe LPAs have an adequate delivery system for Federal-aid projects?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>B. Do you believe LPAs have sufficient accounting controls to properly manage Federal funds?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	

<p>C. Does your STA perform monitoring and periodic review of LPA-administered projects?</p>	<p><input type="checkbox"/> Firmly Yes  <input type="checkbox"/> Mostly Yes  <input type="checkbox"/> Borderline  <input type="checkbox"/> Mostly No  <input type="checkbox"/> Firmly No  <input type="checkbox"/> NR  <input type="checkbox"/> NA</p>	
<p>D. How would you rate the level of risk for the LPA program in your State?</p>	<p><input type="checkbox"/> High  <input type="checkbox"/> Moderate-high  <input type="checkbox"/> Borderline  <input type="checkbox"/> Moderate-low  <input type="checkbox"/> Low</p>	<p><i>High: major systemic issues of compliance and effectiveness.</i></p> <p><i>Moderate-high: systemic issues of compliance and effectiveness.</i></p> <p><i>Borderline: programmatically not fatal. Non-compliance issues reoccur in isolated program areas but are not systemic.</i></p> <p><i>Moderate-low: in good shape but may need minor improvements. Non-compliance issues are not systemic but more incidental.</i></p> <p><i>Low: fully compliant and operating effectively by the STA/LPAs</i></p>

## Answer Choice “Key”

Description of Responses to Questions in Questionnaire Set
<p><b>Firmly Yes</b> – Element in question is considered fully compliant and operating effectively by the STA/LPAs. The LPA S&amp;O program is considered exceptional at the “state-of-the-art” level.</p>
<p><b>Mostly Yes</b> – Element in question is determined to be in good shape but may be found in need of some minor improvements or show opportunities for program enhancements. Non-compliance issues are not systemic but more project specific. The LPA S&amp;O program is generally considered state-of-the-practice.</p>
<p><b>Borderline</b> – Element in question needs attention but has not been found to be programmatically fatal. Non-compliance issues reoccur in multiple projects but are not statewide. Corrective action is required and may warrant its inclusion in a formal action plan.</p>
<p><b>Mostly No</b> – Significant issues need to be addressed. Problems may be systemic. Initiatives/action steps will need strong consideration to be included as part of an overall formal corrective action plan.</p>
<p><b>Firmly “No”</b> – Major systemic issues of compliance and effectiveness need to be addressed. Further authorization of federally funded LPA projects may be under consideration for suspension. Initiative/action steps are to be included as part of an overall formal corrective action plan.</p>
<p><b>Needs Reviewing (NR)</b> – Do not have sufficient information or knowledge to answer question confidently. This requires action steps to be included as part of an overall action plan.</p>
<p><b>Not Applicable (NA)</b> – Element in question is not a part of an LPAs designated administrative responsibilities as established by the STA.</p>

## **Background Guidance on State Transportation Agency (STA) Oversight Roles and Responsibilities Relating to Local Public Agency (LPA) Administered Federal-Aid Projects**

### Background

As the recipient (grantee) of Federal-aid funds for the State, the STA is responsible for ensuring that Federal-aid funds are expended in accordance with applicable laws and regulations. The STA is not relieved of this responsibility when the project development and implementation authority are passed to another State agency, LPA, metropolitan planning organization (MPO), university, or non-profit entity (where such entity is an eligible subrecipient under State law). The following information provides guidance in defining the roles and responsibilities of the STA in its stewardship and oversight of the LPA in administering Federal-aid projects consistent with current statutory and regulatory authority.

### Statutory and Regulatory Authority\*

As specified in 23 CFR 630.112(a), when an STA signs a project agreement, the STA “agrees to comply with the applicable terms and conditions set forth in Title 23, U.S.C., the regulations issued pursuant thereto, the policies and procedures promulgated by the FHWA relative to the designated project covered by the agreement, and all other applicable Federal laws and regulations.” These laws and regulations affirm that the STAs are responsible for ensuring that LPAs are aware of all the applicable Federal-aid program requirements. These requirements are generally the same as those imposed on the STAs for their STA-administered Federal-aid projects. Further, STAs are responsible for monitoring and oversight to ensure LPA compliance with Federal requirements.

The FHWA is responsible for ensuring that the STAs meet their responsibilities by making certain that:

- LPAs know and understand Federal requirements applicable to Federal-aid projects;
- LPAs have adequate project delivery systems;
- LPAs have sufficient accounting controls to manage Federal funds properly; and
- STAs provide adequate monitoring of LPA project administrative actions to assure compliance with Federal requirements.

The laws and regulations related to oversight of LPA-administered projects include but are not limited to:

- **23 U.S.C. 106, Project Approval and Oversight**

23 U.S.C. 106(g), Oversight Program

(4) RESPONSIBILITY OF THE STATES.—

(A) IN GENERAL.—

The States shall be responsible for determining that subrecipients of Federal funds under this title have—

(i) adequate project delivery systems for projects approved under this section;

and

(ii) sufficient accounting controls to properly manage such Federal funds.

(B) PERIODIC REVIEW.—

The Secretary shall periodically review the monitoring of subrecipients by the States.

- **OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, Subpart D--Federal Agencies and Pass-Through Entities -- § .400(d)(2) and (3), Responsibilities\*\***

(d) Pass-through entity responsibilities. A pass-through entity shall perform the following for the Federal awards it makes:

.....

(2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provision of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of the subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

- **2 CFR §225.5, Purpose**

This part establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments and federally-recognized Indian tribal governments (governmental units).

- **2 CFR §225.20, Policy**

This part establishes principles and standards to provide a uniform approach for determining costs and to promote effective program delivery, efficiency, and better relationships between governmental units and the Federal Government. The principles are for determining allowable costs only. They are not intended to identify the circumstances or to dictate the extent of Federal and governmental unit participation in

the financing of a particular Federal award. Provision for profit or other increment above cost is outside the scope of this part.

- **23 CFR PART 172, Administration of Engineering and Design Related Service Contracts**

Specifically:

- **23 CFR 172.9 , Approvals**

(a) Written procedures. 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. These procedures shall, as appropriate to the particular method of procurement, cover the following steps:

- (1) In preparing a scope of work, evaluation factors and cost estimate for selecting a consultant;
- (2) In soliciting proposals from prospective consultants;
- (3) In the evaluation of proposals and the ranking/selection of a consultant;
- (4) In negotiation of the reimbursement to be paid to the selected consultant;
- (5) In monitoring the consultant's work and in preparing a consultant's performance evaluation when completed; and
- (6) In determining the extent to which the consultant, who is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors or deficiencies in design furnished under its contract.

(b) Contracts. 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.

(c) Major projects. 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.

(d) Consultant services in management roles. 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.

- **23 CFR Part 635, Construction and Maintenance**

Specifically:

- [23 CFR §635.105\(a\) and \(c\)\(3\) and \(4\), Supervising Agency](#)

(a) The STA has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by a local public agency or other Federal agency. The STA shall be responsible for insuring that such projects receive adequate supervision and inspection to insure that projects are completed in conformance with approved plans and specifications.

(c) When a project is located on a street or highway over which the STA does not have legal jurisdiction, or when special conditions warrant, the STA, 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.

(3) The local public agency is adequately staffed and suitably equipped to undertake and satisfactorily complete the work; and

(4) In those instances where a local public agency elects to use consultants for construction engineering services, the local public agency shall provide a full-time employee of the agency to be in responsible charge of the project.

- [23 CFR §635.118, Payroll and weekly statements](#)

For all projects, copies of payrolls and statements of wages paid, filed with the State as set forth in the required contract provisions for the project, are to be retained by the STA for the time period pursuant to 49 CFR part 18 for review as needed by the Federal Highway Administration, the Department of Labor, the General Accounting Office, or other agencies.

- [23 CFR §635.120, Changes and extra work](#)

(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.

(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 STA 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.

(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.

(d) In establishing the method of payment for contract changes or extra work orders, force account procedures shall only be used when strictly necessary, such as when agreement cannot be reached with the contractor on the price of a new work item, or when the extent of work is unknown or is of such character that a price cannot be determined to a reasonable degree of accuracy. The reason or reasons for using force account procedures shall be documented.

(e) The STA 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.

(f) Proposed changes and extra work involved in nonparticipating operations that may affect the design or participating construction features of a project, shall be subject to review and concurrence by the Division Administrator.

- [23 CFR §635.122, Participation in progress payments](#)

(a) Federal funds will participate in the costs to the STA of construction accomplished as the work progresses, based on a request for reimbursement submitted by State transportation departments. When the contract provisions provide for payment for stockpiled materials, the amount of the reimbursement request upon which participation is based may include the appropriate value of approved specification materials delivered by the contractor at the project site or at another designated location in the vicinity of such construction, provided that:

(1) The material conforms with the requirements of the plans and specifications.

(2) The material is supported by a paid invoice or a receipt for delivery of materials. If supported by a receipt of delivery of materials, the contractor must furnish the paid invoice within a reasonable time after receiving payment from the STD; and

(3) The quantity of a stockpiled material eligible for Federal participation in any case shall not exceed the total estimated quantity required to complete the project. The value of the stockpiled material shall not exceed the appropriate portion of the value of the contract item or items in which such materials are to be incorporated.

- (b) The materials may be stockpiled by the contractor at a location not in the vicinity of the project, if the STA determines that because of required fabrication at an off-site location, it is not feasible or practicable to stockpile the materials in the vicinity of the project.
- (c) In the case of a design-build project, the STA must define its procedures for making progress payments on lump sum contracts in the Request for Proposal document.
- [23 CFR §635.123, Determination and documentation of pay quantities](#)
    - (a) The STA shall have procedures in effect which will provide adequate assurance that the quantities of completed work are determined accurately and on a uniform basis throughout the State. All such determinations and all related source documents upon which payment is based shall be made a matter of record.
    - (b) Initial source documents pertaining to the determination of pay quantities are among those records and documents which must be retained pursuant to 49 CFR part 18.
  - [49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments](#)

Specifically:

- [49 CFR §18.26\(b\)\(1\) and \(2\), Non-Federal audits\\*\\*\\*](#)
  - (b) Subgrantees. State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends \$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:
    - (1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;
    - (2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular

A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

- [49 CFR §18.3 - Definitions\\*\\*\\*\\*](#)

- Grantee means the government to which a grant is awarded and which is accountable for the use of the funds provided.
- Sub grantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

- [49 CFR §18.37\(a\)\(1\) and \(2\), Subgrants\\*\\*\\*\\*\\*](#)

(a) States. States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:

(1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;

(2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;

- [49 CFR §18.40\(a\), Monitoring and Reporting Program Performance\\*\\*\\*\\*\\*](#)

(a) Monitoring by grantees. Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

- [49 CFR §18.42, Retention and access requirements for records](#)

(a) Applicability.

(1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

- (i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or
- (ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see §18.36(i)(10).

(b) Length of retention period.

(1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) Starting date of retention period

(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) Records for income transactions after grant or subgrant support. In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.

(4) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) Substitution of microfilm. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) Access to records

(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) Expiration of right of access. The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) Restrictions on public access. The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

#### Stewardship and Oversight (S&O) Agreement

Federal law requires that the STA be responsible for the oversight of LPA-administered Federal-aid projects. Further, STA's are required to provide adequate oversight of subrecipients, including oversight of any STA responsibilities the STA permits to be carried out by an LPA. [See the March 28, 2014 FHWA Stewardship and Oversight Agreement Implementation](#)

[Guidance](#), particularly item IV. Program Oversight (23 U.S.C. 106(g)): Section 3. Projects for Which Responsibilities Are Assumed by the State DOT for Projects Locally Administered (State Assumed/Locally Administered). This portion of the S&O guidance addresses the role of the STA in communicating, educating, and validating the Federal requirements with LPAs in terms of various programmatic level requirements.

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\* The cost principles and requirements in 49 CFR Part 18 will be superseded by the implementation of 2 CFR 200 Subpart E by USDOT on or before December 26, 2014. The regulation 2 CFR 200–Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards took effect for all Federal agencies in December 2013. These new regulations have not significantly changed the regulations cited above, but note should be taken of any applicable revisions.

Specifically, 2 CFR 200.331–Requirements for pass-through entities, aims to create more transparency by requiring the direct recipient of the Federal funds (in FHWA’s case, the STA) to identify elements in order to properly award a project and analyze the inherent risks in letting the LPA carry out Federal requirements. Essentially, agreements between the State and subrecipient need the same detail as agreements between FHWA and the State.

\*\* Being superseded by 2 CFR 200.331, 2 CFR Subpart F – especially 2 CFR 503(b) and 521(c) (OMB Circular A-133 has been incorporated into 2 CFR 200 Subpart F, Audit requirements (referred to as the “Supercircular”), which will apply to audits of fiscal years beginning after December 26, 2014 (see 2 CFR 200.110(b)).

\*\*\* Being superseded by 2 CFR 200.501. (In 2 CFR 200, “auditee” is defined as any non-Federal entity that expends Federal awards that must be audited under Subpart F. 2 CFR 200 supersedes, consolidates and streamlines OMB Circular A-110 (see 78 FR 78590 (December 26, 2013)).

\*\*\*\* Being superseded by 2 CFR 200.86, 200.93 and 200.330 (Grantee and Subgrantee removed as definitions and replaced with recipient and subrecipient:

- Recipient is the non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program.
- Subrecipient means the non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program.)

\*\*\*\*\* Being superseded by 2 CFR 200.331 and 200.92 (Term subgrant has been replaced with subaward.)

\*\*\*\*\* Being superseded by 2 CFR 200.331(d) (Parallel responsibility language for recipient in 23 U.S.C. 106(g).)