



Report to the Ranking Member,
Subcommittee on Oversight,
Committee on Environment and Public
Works, U.S. Senate

January 2014

FEDERAL-AID HIGHWAYS

Federal Highway Administration Could Further Mitigate Locally Administered Project Risks

GAO Highlights

Highlights of [GAO-14-113](#), a report to the Ranking Member, Subcommittee on Oversight, Committee on Environment and Public Works, U.S. Senate

Why GAO Did This Study

FHWA provides funding to states to build and maintain the nation's roadways and bridges. States may then make federal funding available to a local public agency, such as a city or a county, to administer projects. FHWA estimates that 7,000 local public agencies administer such projects. FHWA has identified locally administered projects as an agency-wide, high-risk oversight area. GAO was asked to review FHWA's oversight of locally administered projects. GAO examined: (1) what is known about federal-aid projects local agencies administer; (2) what risks are presented by local agencies administering federal-aid projects and what is being done to mitigate risks; and (3) what challenges local agencies report in administering federal-aid projects. GAO conducted site visits to three states based on federal obligations and other factors. GAO analyzed FHWA obligation data, reviewed relevant documentation, and interviewed FHWA, state, and local agency officials.

What GAO Recommends

GAO recommends that FHWA (1) collect data about which local public agencies are administering federal-aid projects, (2) collect information from state DOTs on local agencies' capabilities, (3) identify and disseminate minimum and uniform criteria for qualifying local agencies, and (4) explore administrative flexibilities and potential dollar thresholds under which it may not be cost effective for local agencies to administer federal-aid projects. The Department of Transportation did not take a position on GAO's recommendations.

View [GAO-14-113](#). For more information, contact Lori Rectanus at (202) 512-2834 or rectanusl@gao.gov.

January 2014

FEDERAL-AID HIGHWAYS

Federal Highway Administration Could Further Mitigate Locally Administered Project Risks

What GAO Found

Newly available data from the Federal Highway Administration (FHWA) show the extent and some characteristics of locally administered projects, but other key data are not being collected. From July 2012 to June 2013, local agencies administered about 12 percent or \$3.8 billion of the \$31 billion in federal-aid funding obligated during that period. The federal share was less than \$250,000 for over half of the projects. However, FHWA neither collects information on which local agencies are administering federal-aid projects nor the capabilities of those agencies—information that would allow FHWA to identify the extent and magnitude of its risks and more effectively target its oversight of the states.

Project administration by local agencies presents three risks:

- ***Noncompliance with federal requirements*** is a well-documented risk area and GAO's analysis, derived from multiple sources, revealed a range of concerns including quality of construction and inadequate contract administration. FHWA has made efforts to mitigate this risk by providing training and guidance, among other things. While state departments of transportation (state DOTs) are required to determine whether local agencies have adequate systems and controls to properly manage federal funds, FHWA has not provided clear direction on how to implement this requirement. FHWA promotes, but does not require, a mechanism such as a certification program. FHWA has not developed minimum and uniform qualification criteria for state DOTs to use to assure local agencies are qualified to administer federal projects. Without such criteria, the effectiveness of existing or developing mechanisms may be limited.
- ***The risk of ineffective oversight*** stems from a diffused oversight structure for locally administered projects. FHWA is accountable for ensuring federal funds are used efficiently and effectively. States are responsible for ensuring that projects are properly administered and local agencies have adequate systems to undertake federal-aid projects and sufficient controls to properly manage project funds. GAO's review identified deficiencies in some state DOTs' oversight practices, and FHWA is developing a tool to assess the quality of state DOT oversight. FHWA expects to finalize this tool by mid-2014.
- ***Inefficient use of federal funds*** can occur when the cost of complying with federal requirements is high relative to a project's cost. While FHWA has taken steps to improve the efficiency of federal-aid projects, it has not explored or issued guidance targeted to local agencies on how they can maximize administrative flexibilities, despite internal and external recommendations to do so. Some local agency officials GAO interviewed stated they do not pursue federal funding for projects under certain dollar thresholds because the cost involved outweighs the benefits; however, others choose to do so due to a lack of funding alternatives. FHWA has not examined potential thresholds at which federal funds may no longer be cost-effective, but it is well-positioned to undertake such an analysis.

Many of the local officials GAO interviewed reported a variety of challenges experienced when administering federal-aid projects. For example, they noted significant time, effort, and costs to administer federal-aid projects. However, local agency officials believe that the benefits of federal funding for local infrastructure outweigh the challenges of complying with federal requirements.

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Abbreviations

DOT	U.S. Department of Transportation
FHWA	Federal Highway Administration
FMIS	Fiscal Management Information System
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
KDOT	Kansas Department of Transportation
MAP-21	Moving Ahead for Progress in the 21 st Century Act
MPO	metropolitan planning organization
NACE	National Association of County Engineers
NHS	National Highway System
NRT	National Review Team
OIG	Office of Inspector General
Recovery Act	American Recovery and Reinvestment Act of 2009
State DOT	State Department of Transportation
TRB	Transportation Research Board

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January 16, 2014

The Honorable James M. Inhofe
Ranking Member
Subcommittee on Oversight
Committee on Environment and Public Works
United States Senate

Dear Mr. Inhofe:

According to the U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA), the vast majority of the nation's roadway network (75 percent, or roughly 2.9 of 3.9 million total miles) is owned and operated by local public agencies, such as counties, cities, and towns, across the United States. Local public agencies build and maintain roads within their jurisdictions using a variety of funding sources, including the federal-aid highway program, which provides federal funding to help construct, maintain, and operate the nation's roadway network. FHWA estimates that 7,000 local public agencies across the country administer billions of dollars annually for federal-aid projects.

FHWA is accountable for ensuring that the federal-aid highway program is delivered effectively, efficiently, and in compliance with established federal law. FHWA conducts oversight of state departments of transportation (state DOT)¹ to ensure that projects comply with federal statutes and regulations, including regulations governing property acquisition, contracting, and civil rights matters, among others. While states primarily administer the federal-aid highway program through their state DOTs, state DOTs may designate funding for projects to be administered by a "subrecipient," such as a local public agency. Locally administered projects are projects in which a state DOT has given approval to a local public agency to administer a federal-aid project in its entirety or to administer only a phase of a project, such as design, property acquisition, or construction. States' designation of funding for local projects does not relieve the state of its responsibility to assure that federal funds are spent properly. When local public agencies administer

¹For the purposes of this report, we will be referring to all transportation agencies in the 50 U.S. states and the District of Columbia and Puerto Rico as state DOTs. In total, there are 52 state DOTs.

projects, the state DOT is responsible for ensuring that those agencies have adequate systems and sufficient controls in place to manage funding and deliver projects in accordance with federal requirements. This includes the responsibility for ensuring that federal regulations are met.² FHWA relies on its division offices in each state to oversee state DOTs' management of projects funded through the federal-aid highway program, including locally administered projects.

FHWA and others have consistently identified locally administered projects as a high-risk oversight area. FHWA identified locally administered projects as an agency-wide risk area, and in 2012, 36 FHWA division offices identified risks related to locally administered projects as their most pressing risk areas. In 2011, the DOT Office of Inspector General (OIG) noted continued concerns with locally administered projects. While FHWA, states, and local agencies have identified benefits in having local agencies administer federal-aid projects, such as being able to focus on local needs, local agencies reported they also expend considerable time and resources complying with federal requirements. Further, as we have reported, FHWA and state DOTs expend considerable time and resources overseeing, educating, and building the capacity of local agencies.³

You asked us to review FHWA's oversight of locally administered projects. We examined: (1) What is known about federal-aid highway projects that local agencies administer; (2) What risks are presented by local agencies administering federal-aid highway projects and what is being done to mitigate those risks; and (3) What challenges local agencies report in administering federal-aid highway projects.

To answer these questions, we reviewed and analyzed relevant statutes pertaining to the federal-aid highway program. To obtain information on what is known about federal-aid highway projects that local agencies administer, we analyzed information in FHWA's Fiscal Management Information System (FMIS). To collect data on locally administered projects, FHWA made a change to a required *project oversight* data field in FMIS by adding options for locally administered projects. Because

²23 U.S.C. § 106(g)(4).

³GAO, *Highway Infrastructure: Federal-State Partnership Produces Benefits and Poses Oversight Risks*, [GAO-12-474](#) (Washington, D.C.: Apr. 26, 2012).

FHWA only began collecting data on locally administered projects in May 2012, we used a 1-year snapshot of federal obligations to states for all FHWA approved projects from July 1, 2012, to June 30, 2013. We assessed the reliability of data from FMIS by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of reporting federal obligations to the states for locally administered projects since May 2012.

To obtain information on the risks presented by local agencies administering federal-aid highway projects and what is being done to mitigate them, we reviewed, analyzed, and synthesized the results of our prior work and reports by FHWA and outside parties, such as the DOT OIG and the Transportation Research Board (TRB). We also conducted three site visits in California, Florida, and New Jersey. These states were selected based on a range of criteria, including FHWA risk assessment reports, federal funding designated for locally administered projects, geographic dispersion, and state size. During our site visits, we interviewed officials from FHWA, state DOTs, metropolitan planning organizations (MPO), and local public agencies. We selected local agencies based on geographic area; local agency size and type (e.g., county, city); and diversity of project improvement types (e.g., road improvements, sidewalks). Although information obtained from our site visits is not generalizable to all states and localities, the site visits provided context for understanding the risks associated with locally administered projects. Lastly, we analyzed available results from states' Single Audit⁴ findings from the last three fiscal years (2010 through 2012) to independently identify areas of risk posed by local agencies administering federal-aid projects. To determine what is being done to mitigate risks presented by local agencies administering federal-aid highway projects, we also reviewed relevant documentation, such as FHWA annual reports about locally administered projects and state DOT agreements with FHWA division offices.

⁴A Single Audit is a required audit of states, local governments, and nonprofit entities that expend at least \$500,000 per year in federal awards. Single Audits include determinations on whether the audited entity met the compliance requirements listed in the Office of Management and Budget's *Circular No. A-133 Compliance Supplement* for each major program. There are 14 types of compliance requirements which include allowable costs and cost principles, activities allowed or disallowed, and subrecipient monitoring. 31 U.S.C. ch. 75; OMB Cir. A-133; 49 C.F.R. § 18.26.

To obtain information on what challenges local agencies report in administering federal-aid highway projects, we interviewed officials from local public agencies in California, Florida, and New Jersey during our site visits, and also conducted three discussion groups that collectively included over 50 local agency officials from 19 states. See appendix I for more details on our scope and methodology.

We conducted this performance audit from December 2012 to January 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

FHWA provides about \$40 billion a year to states to build and maintain the nation's roadway and bridge infrastructure, distributed through multiple formula and grant programs collectively known as the federal-aid highway program. The program is financed through the Highway Trust Fund, a dedicated source of federal revenue principally derived from motor fuel and other truck-related taxes. Federal-aid highway funds are apportioned to the states,⁵ which along with their metropolitan planning organizations (MPO),⁶ are primarily responsible for selecting projects and administering federal-aid projects through their state DOTs. FHWA oversees the federal-aid program, primarily through its 52 division offices located in each state, the District of Columbia, and Puerto Rico. FHWA division offices have 10 to 61 staff each, depending on the size of the state's highway program and other factors. As of February 2012, FHWA had 2,960 staff—1,962 in the field and 998 at FHWA headquarters. FHWA advances the federal-aid highway program by engaging in a range of activities to encourage the effective and efficient use of federal-aid

⁵23 U.S.C. § 104(c).

⁶An MPO is designated for urbanized areas as provided in 23 U.S.C. § 134(d) for the purpose, among other things, of developing a transportation plan for its metropolitan planning area as well as, in cooperation with the state, a metropolitan transportation improvement program, including a priority list of projects proposed to be funded through the federal-aid program. States in turn develop statewide transportation plans and statewide transportation improvement programs in coordination with MPOs and regional planning organizations. 23 U.S.C. § 135.

highway funding. To accomplish this, FHWA works with states to identify issues, develop and advocate solutions, and provide technical assistance and training to state DOTs.

While FHWA oversees the federal-aid highway program, its role in overseeing and approving the design and construction of federal-aid projects varies. Historically, FHWA (1) prescribed design and construction standards, (2) approved design plans and estimates, (3) approved the selection of the contract awardee, (4) periodically inspected the progress of construction, and (5) rendered final acceptance on projects when they were completed. However, under current law, relatively few projects are subject to this level of FHWA oversight.⁷ Instead, states oversee the design and construction of most federal-aid projects; for example, states oversee all projects that are not on the National Highway System (NHS).⁸ Exceptions allow FHWA or the state to determine that state oversight is not appropriate,⁹ and FHWA retains authority to assume oversight of the design and construction of any project based on an assessment of risk. Regardless of which party has responsibility for project oversight, FHWA remains accountable for ensuring that federal funds are used efficiently and effectively. Specifically, FHWA is responsible for assuring that states' systems meet minimum requirements for financial integrity and effective project delivery.¹⁰ FHWA's current stewardship policy asserts that although states have assumed approval authority for the design and construction of federal projects, FHWA remains accountable for ensuring that the federal-aid highway program is both efficient and effective, and administered consistent with applicable statutes, regulations, and policies. FHWA accomplishes this through its division offices, by conducting

⁷Section 106(g)(4) of title 23, United States Code, provides that it is the responsibility of the states to determine whether their subrecipients have adequate project delivery systems and sufficient controls to manage federal funds. FHWA is to review and oversee the states' monitoring of subrecipients. Before 1991, FHWA had a more direct role in overseeing locally administered projects; however, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and subsequent legislation changed FHWA's role in overseeing these types of projects.

⁸The National Highway System (NHS) consists of approximately 220,000 miles of the nearly 1-million miles of roadways eligible for federal-aid. It includes the 47,000-mile Interstate Highway System as well as other roadways, arterials, and connectors important to U.S. strategic defense policy, and connects to major intermodal facilities, such as airports or transit hubs.

⁹23 U.S.C. § 106(c).

¹⁰23 U.S.C. § 106(g)(1)-(3).

oversight of federally funded projects and reviewing state DOTs' capacity and systems used to administer approved projects. FHWA headquarters and its division offices annually identify both agency-wide and state specific risk areas, and develop oversight plans designed to target its oversight to the areas of highest risk.

While state DOTs are the recipients of federal funds and administer and oversee many of the projects funded by the federal-aid highway program, states sometimes allow local public agencies, such as towns, cities, and counties, to administer federally funded projects. In these instances, states continue to be responsible for assuring that federal funds are spent properly and are required to assure that the local public agency (sometimes referred to as a subrecipient) has adequate project delivery systems to perform the project it is undertaking and sufficient accounting controls to properly manage project funding. States allow local public agencies to administer an entire federal-aid project, or a phase of a project such as design, property acquisition, or construction. While the extent of local involvement is determined between the state and the local public agency, allowing the local public agency to act on the state's behalf under the terms of an agreement between them, federal funds are obligated only when FHWA enters into a project agreement with the state DOT.¹¹ Based on the local public agency's agreement with the state, that agency may then enter into contracts to implement all or various phases of a project. As work is completed, state DOT personnel review and approve reimbursement requests submitted by the local agency for conformance with the state's requirements and payments to the local agency.

State DOTs are responsible for ensuring that federal-aid funds administered by local public agencies are expended according to applicable federal statutes and regulations. This requires, for example, that:

¹¹A locally administered project is submitted into FHWA's Fiscal Management Information System (FMIS) by state DOT personnel who are responsible for the detailed review of project documentation to ensure that it is: (a) consistent with the approved state transportation improvement plan, (b) supports the project cost estimate, (c) demonstrates compliance with FHWA regulations, and (d) meets the state's requirements. Once submitted into FMIS, the project is reviewed and may be authorized by FHWA.

-
- projects go through an environmental review process, established under the National Environmental Policy Act of 1969;¹²
 - highway contractors pay their employees at least the prevailing wage;¹³
 - small businesses owned and controlled by socially and economically disadvantaged individuals have the opportunity to compete for certain contracts for which DOT provides financial assistance;¹⁴
 - projects incorporate American-made iron and steel to comply with the Buy America Act;¹⁵
 - projects adhere to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;¹⁶
 - projects adhere to applicable federal design and construction standards for roadways on the NHS and state design and construction standards for roadways that are not on the NHS;¹⁷ and
 - projects adhere to applicable federal requirements regarding the advertisement of competitive bids, awarding of contracts, and construction administration.¹⁸

These federal requirements are intended, for example, to protect the environment, enable highway workers to earn a prevailing wage, assist members of disadvantaged populations to compete for federally funded contracts, and help the American iron and steel industry compete in the global economy. As we have reported, states have sometimes sought to use nonfederal funds for projects to avoid the costs or delays involved in

¹²Pub. L. No. 91-190, Jan. 1, 1970, 83 Stat. 852, codified as amended at 42 U.S.C. ch.55.

¹³23 U.S.C. § 113.

¹⁴23 U.S.C. § 140; 23 C.F.R. part 230; 49 C.F.R. part 26.

¹⁵23 U.S.C. § 313.

¹⁶Pub. L. No. 91-646, 84 Stat. 1894 (1971), codified as amended at 42 U.S.C. ch. 61.

¹⁷23 C.F.R. part 625.

¹⁸23 C.F.R. parts 633 and 635.

complying with federal requirements. We have also reported that these federal requirements have costs and provide benefits, but the costs and benefits have generally not been quantified.¹⁹

According to FHWA officials, state DOTs' use of local public agencies to administer federal-aid projects has grown over time, although precise data are not available. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) authorized a wide range of transportation enhancement activities, including highway beautification, historic preservation, and the establishment of bicycle and pedestrian trails.²⁰ These non-traditional transportation projects were generally administered by local public agencies. Other programs enacted in subsequent transportation acts—such as Safe Routes to Schools, a federally funded program to build sidewalks and other projects—were also often administered by local public agencies.²¹ Under the American Recovery and Reinvestment Act of 2009 (Recovery Act),²² 30 percent of highway infrastructure funding (approximately \$8 billion) was required to be suballocated, primarily based on population, for regional, metropolitan, or

¹⁹GAO, *Federal-Aid Highways: Federal Requirements for Highways May Influence Funding Decisions and Create Challenges, but Benefits and Costs Are Not Tracked*, [GAO-09-36](#) (Washington, D.C.: Dec. 12, 2008).

²⁰ISTEA, Pub. L. No. 102-240, § 1007(c), 105 Stat. 1914, listed these as making “provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.”

²¹Since enactment of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. No. 112-141, 126 Stat. 405 (2012), the current surface transportation authorization act, states have authority to use federal funding for such projects, if they choose, through the Transportation Alternatives Program, including on- and off-road pedestrian and bicycle facilities; recreational trail program projects; and Safe Routes to School projects; among others. 23 U.S.C. §§ 101(a)(29), 213, 133(b)(11). Projects funded under the Transportation Alternatives Program are also eligible under the Surface Transportation Program.

²²Pub. L. No. 111-5, 123 Stat. 115 (2009).

local use. As a result, the number of projects administered by local public agencies increased.²³

Funding the nation's surface transportation system has been on GAO's High-Risk List since 2007. As we most recently reported in 2013, the system is under growing strain as the cost to repair and upgrade it to meet current and future demands is estimated in the hundreds of billions of dollars at a time when traditional funding sources are eroding. Moreover, spending for surface transportation programs has not commensurately improved system performance because many programs do not effectively address key challenges (such as freight mobility), federal goals and roles are unclear, programs lack links to performance, and some programs do not use the best tools and approaches to ensure effective investment decisions. As we reported in 2013, there has been progress in clarifying federal goals and roles and linking federal programs to performance and establishing a framework to address key challenges in the area of freight mobility. However, successfully implementing a more goal-oriented, performance-based approach to highways may require a clearer definition of the federal role and FHWA's responsibilities. The responsibility for funding some programs or activities, including areas where national interests may be less evident or where FHWA expends considerable time and resources yet exercise little effective control, may better be devolved to state and local governments if they are better suited to perform them. In prior work, we identified locally administered projects as one such potential activity because it is an area where national interests may be less evident and where FHWA expends considerable time and resources yet exercises little effective control.²⁴ For this and other reasons, funding surface transportation remains on GAO's High Risk List.²⁵

²³DOT OIG, *Federal Highway Administration's Oversight of Federal-Aid and Recovery Act Projects Administered by Local Public Agencies Needs Strengthening* (Washington, D.C.: July 15, 2011).

²⁴[GAO-12-474](#).

²⁵GAO, *High-Risk Series: An Update*, [GAO-13-283](#) (Washington, D.C.: Feb. 14, 2013).

Newly Collected Data Show the Extent and Characteristics of Projects Administered by Local Agencies, but Information about Local Agencies Is Not Collected

FHWA Data Show the Extent and Characteristics of Projects Administered by Local Agencies

Newly available data show the extent to which local agencies administer federal-aid projects as well as some characteristics of those projects. FHWA started to collect data on locally administered projects using its Fiscal Management Information System (FMIS) in May 2012.²⁶ Prior to 2012, FHWA did not know the amount of federal funds states were designating for projects administered by local public agencies.²⁷

Our analysis of FMIS data from July 1, 2012, to June 30, 2013, shows that local public agencies administered about 12 percent or \$3.8 billion of \$31 billion federal-aid highway program obligations.²⁸ Local agencies

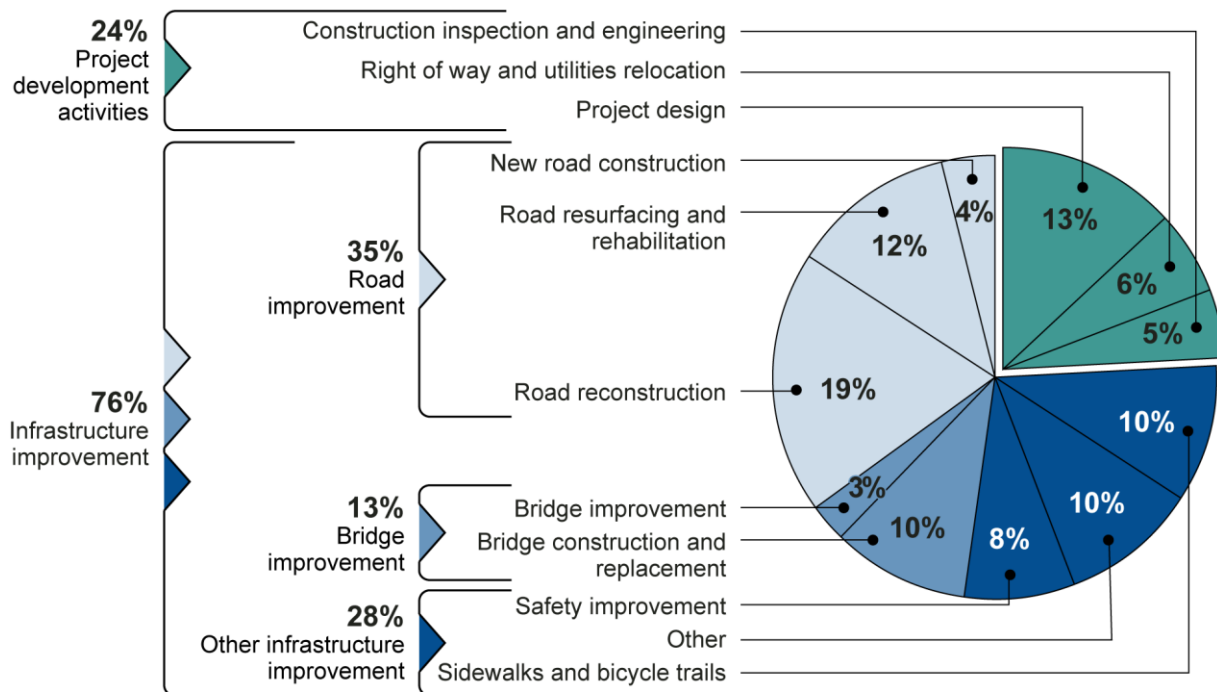
²⁶FMIS is FHWA's major financial information system for tracking federal-aid highway projects on a project-by-project basis. It contains data related to all projects financed with federal-aid highway funding. To collect data on locally administered projects, FHWA made a change to a required *project oversight* data field in FMIS by adding options for locally administered projects.

²⁷In the past, little was known about locally administered projects because FHWA did not collect national data and the only available data on locally administered projects came from internal FHWA data calls. FHWA headquarters staff previously estimated total annual obligations to states that were designated for locally administered projects by emailing data requests to each of the 52 division offices, which, in turn, requested data from state DOTs.

²⁸FHWA began collecting data on locally administered projects in May 2012; therefore, only a 1-year snapshot of data was available for analysis at the time of our review. As such, we are unable to project the 1-year data to previous or future years or determine trends based on available data. Our data snapshot is based on active projects authorized from July 1, 2012, to June 30, 2013, for which federal funds were obligated. Federal-aid funds are obligated when FHWA officials approve projects.

administered an even larger share, when measured as a percentage, of projects—about 26 percent of all projects during this time period. Our analysis also shows that local agencies' use of federal funds included project development activities (e.g., project design, right-of-way and utilities relocation, and construction inspection and engineering) and various types of infrastructure improvements (e.g., bridges, roads, safety, sidewalks, and bicycle trails). (See fig. 1.)

Figure 1: Distribution of Obligated Federal-Aid Highway Program Funds Administered by Local Public Agencies by Improvement Type, July 1, 2012, to June 30, 2013



Source: GAO analysis of Federal Highway Administration data.

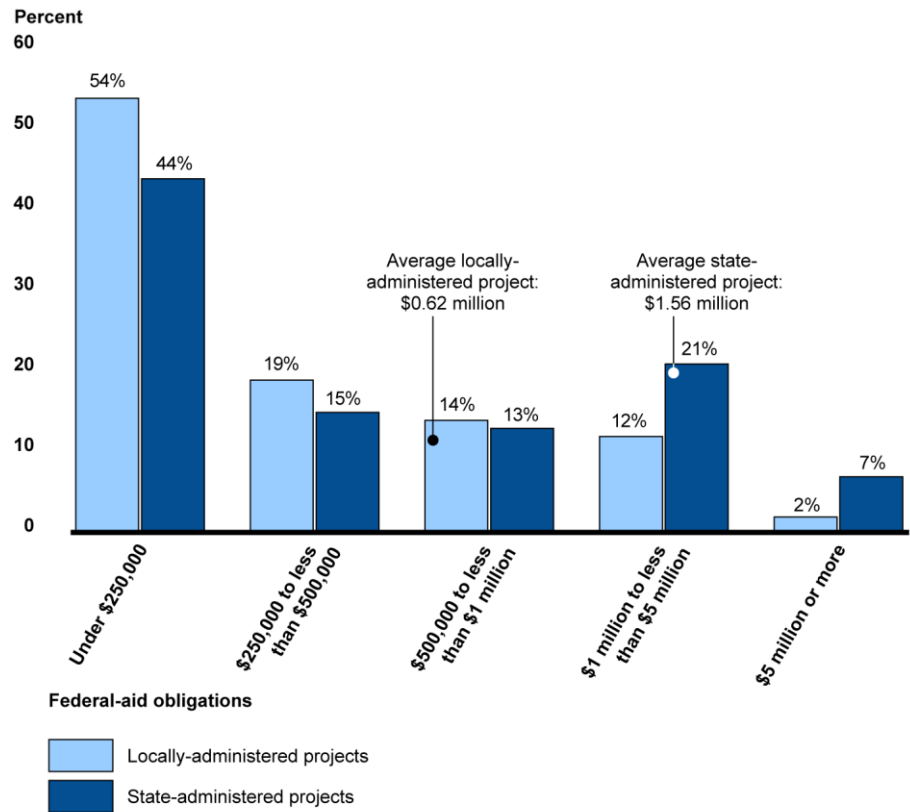
Additionally, our analysis of FMIS data shows that 91 percent of funding for federal-aid projects administered by local public agencies was designated for projects on roads off the NHS, while 9 percent of funding was designated for projects on the NHS, including the Interstate. This is notably different from the distribution of federal funds across all federal-

aid projects, where less than 50 percent of federal funding has gone to projects off the NHS.²⁹

According to our analysis, federal funding designated for locally administered projects ranged from under \$5,000 to \$57 million per project. However, federal funding designated for most locally administered projects (54 percent) was under \$250,000 per project, and only a small portion of projects (2 percent) received federal funding of \$5 million or more. (See fig. 2.) On average, federal funding designated for locally administered projects was less than the amount of federal-aid funding obligated for state-administered federal-aid projects. Specifically, the average federal funding designated for locally administered projects was \$622,402, while the average obligated for state-administered projects was \$1.56 million. (See fig. 2.)

²⁹According to FHWA's national highway statistics, in fiscal year 2011, about 47 percent of federal-aid funding went to projects off the NHS. The data are similar for fiscal years 2010 and 2009 where about 46 and 47 percent of federal-aid funding, respectively, went to projects off the NHS. As of October 2013, national highway statistics data for fiscal year 2012 were not publicly available.

Figure 2: Percentages of Federal-Aid Highway Projects That Are Locally and State Administered by Dollar Threshold, July 1, 2012, to June 30, 2013

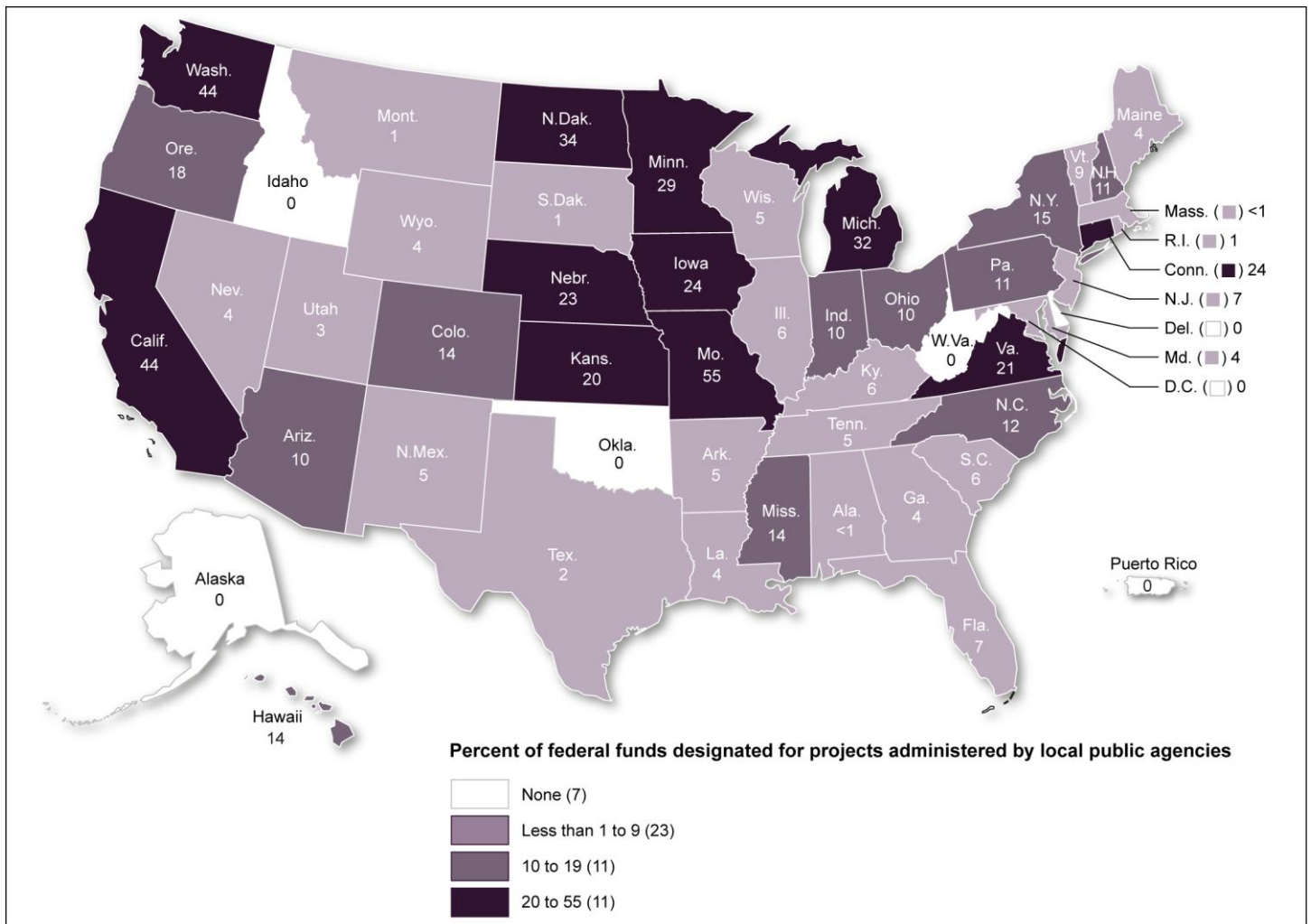


Source: GAO analysis of Federal Highway Administration data.

Note: Percentages may not sum to 100 because of rounding.

The extent to which states designated federal-aid funding to projects administered by local public agencies varied significantly across states, as each state approaches the administration of its programs differently and in accordance with its unique circumstances. While 5 states, the District of Columbia, and Puerto Rico, did not designate any federal funding for projects administered by local agencies, the remaining 45 states designated from less than 1 percent (Alabama and Massachusetts) to 55 percent (Missouri) of the federal-aid funding apportioned to them. (See fig. 3.)

Figure 3: Percentages of Federal-Aid Highway Funds Administered by Local Public Agencies, by State, July 1, 2012, to June 30, 2013



Sources: GAO analysis of Federal Highway Administration data and Map Resources.

For additional information on state designation of federal-aid funds to projects administered by local public agencies, see appendix II.

FHWA Is Not Collecting Information on Participating Local Agencies and Their Capabilities

FHWA is not collecting information on the local public agencies and the federal-aid projects they administer, resulting in a limited view of locally administered projects at the national level. Internal control standards state that access to relevant, reliable, and timely information is important for an agency's internal controls and to meet its objectives. Program managers need both operational and financial data to determine whether they are meeting their agencies' strategic and annual performance plans and meeting their goals for accountability for effective and efficient use of resources. For example, operating information is also needed to determine whether the agency is complying with applicable law.³⁰

FHWA does not collect data on which specific local public agencies administer federal-aid projects and it does not know how many different agencies administer projects at any given time. As such, FHWA headquarters or division office officials lack critical information about local agencies and the projects they administer, such as:

- the name of the local public agency administering the project,
- the city or county where the project is located,
- how many other projects the local public agency may also be administering, and
- how many local public agencies are administering federal-aid projects within a state or across the nation.

FHWA officials told us that they do not have plans to collect more information about local public agencies because they have not identified a need for such information. FHWA officials told us that if needed, they could ask state DOTs for this information. To collect information related to local public agency projects, FHWA headquarters has made ad-hoc data requests to division offices, which, in turn, requested data from their state DOTs. However, according to FHWA officials, the response rate to these requests has been inconsistent, where some division offices provided information, but others did not. Additionally, during our review, we experienced difficulties identifying local agencies for two of our three site visits because an FHWA division office and a state DOT could not easily

³⁰GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

identify and provide information on which local public agencies were administering federal-aid projects. Ad-hoc data requests and the challenges we experienced highlight concerns with FHWA's approach to collecting data on local public agencies.

Further, federal law requires state DOTs to ensure that local agencies, as subrecipients of federal funding, are capable of administering project funds by having adequate project delivery systems and accounting controls to properly manage project funds.³¹ However, FHWA is lacking information on which local public agencies are administering federal-aid funds, and it is not able to know whether these agencies are capable of administering federal-aid funds. The absence of timely and reliable information about the specific local agencies administering federal-aid projects and their capabilities results in a limited view of locally administered projects at the national level and may inhibit FHWA's ability to (1) identify risks, (2) assess the magnitude of the risks, (3) target its oversight of state DOTs, and (4) develop mitigation strategies to ensure compliance with federal requirements. Collecting data about which local public agencies are administering federal-aid projects would be relatively simple and inexpensive, and would only require adding a mandatory field in FMIS to identify the local public agency administering the project. Although FHWA would need to develop a reliable and ongoing data collection process in order to obtain data from state DOTs on the capabilities of local public agencies, doing so may position the agency to better identify and mitigate risks.

Project Administration by Local Public Agencies Presents Risks, and FHWA and States Have Made Efforts to Mitigate These Risks

We identified three risks posed by local public agencies administering federal-aid projects: (1) noncompliance with federal requirements, (2) ineffective oversight, and (3) inefficient use of federal funds. FHWA and state DOTs have made efforts to address these risks.

³¹23 U.S.C. § 106(g)(4).

Despite Efforts to Mitigate Noncompliance, FHWA Has Not Taken Action to Ensure Local Agencies' Capabilities

Risks of Noncompliance

FHWA has, through its risk assessment process, consistently identified locally administered projects as an agency-wide high-risk area. As recently as 2012, 36 division offices identified risks related to locally administered projects as their most pressing risk areas. FHWA officials stated their concern that if local public agencies do not possess adequate controls and procedures to administer project funds to federal standards, there could be increased opportunities for noncompliance with federal requirements. Further, noncompliance with federal requirements by local public agencies is a well-documented risk area and our analysis, derived from multiple sources, revealed a range of noncompliance risks.³² The main areas of risk for noncompliance included:

- Inadequate quality of design and construction. Some local agencies have experienced difficulties due to inadequate quality of project design and construction. In particular, according to FHWA's documents, some local agencies used outdated design standards and did not conduct substantive reviews of project design packages, rarely checking design quality. Our review of FHWA and other reports showed a lack of proper inspections and insufficient quality assurance procedures during the construction phase. For example, documentation obtained during our audit showed that on a project to construct curb ramps for a sidewalk, a local public agency did not inspect the quality of its contractor's workmanship and lacked needed measuring tools to assure compliance with the Americans with

³²These sources included FHWA documents such as the 2006-2009 Local Public Agency annual reports and the National Review Team (NRT) assessments of Recovery Act projects; the 2011 DOT OIG report; prior GAO reports; and our interviews with FHWA officials in headquarters and division offices. The sources' conclusions were based on select locally administered projects or a broad national perspective, making it difficult to determine the extent of the risks and the degree to which issues identified in earlier years have been systematically addressed. However, reviews conducted as recently as 2012, as well as our audit work, indicate continued concerns with local agencies' noncompliance with federal requirements.

Disabilities Act.³³ Inadequate project design and construction may result in risks to road infrastructure, its safety and durability.

- Inadequate contract and project administration. Our review of FHWA and other reports showed that many areas of contract and project administration on locally administered projects presented noncompliance risks. This includes noncompliance with federal requirements related to consultant procurement, materials selection, civil rights, payroll, and documentation, among others. For example, documents obtained during our site visits showed that a local public agency had incurred almost \$171,000 in ineligible cost overruns on a project to upgrade pedestrian crosswalks by not obtaining an approved change order for increased materials quantities. Also, some local agencies have not maintained adequate records to account for the decisions and actions that have taken place on federal-aid projects. Some examples from FHWA reports include poor or incomplete documentation of environmental reviews, permits, change orders, construction records, material test reports, and certified payrolls, among others. Lack of proper documentation provides limited assurance that project decisions and actions meet federal requirements.

Noncompliance with federal requirements by local public agencies may be attributed to limited staff resources and knowledge of federal requirements along with inadequate internal controls. Our review of FHWA and other reports showed that high staff turnover and the infrequency with which some local agencies receive federal funding can contribute to limited staffing capabilities. For example, if a local agency has not administered a federal-aid project in several years, it may no longer have staff who are familiar with federal-aid requirements, hindering the agency's ability to meet the requirements. Further, according to our analysis, some local agency officials have limited knowledge of federal-aid program requirements and need training, particularly in the areas of construction contract administration, procurement, and right-of-way acquisition. Improper right-of-way acquisition, for example, can result in inadequate compensation of property owners displaced by a federal-aid project from their residences, businesses or farms. Also, inadequate internal controls and procedures—which include a lack of documentation and a lack of financial controls and billing procedures—may reflect local

³³Pub. L. No. 101-336, 104 Stat. 327 (1990), codified as amended at 42 U.S.C. ch. 126.

agencies' limited capabilities to administer federal-aid projects and raise questions about how well federal funds can be administered in accordance with federal law.

FHWA and State DOT Efforts

Since 2006, FHWA has made efforts to mitigate the risk of noncompliance with federal requirements. For example, in 2007, FHWA created a dedicated position within its headquarters to coordinate the agency's efforts on locally administered projects. In addition, FHWA developed a website, *Federal-aid Essentials for Local Public Agencies*, to help local agencies better understand federal-aid requirements.³⁴ Also, in February 2012, FHWA disseminated guidance to its division offices to address seven project activities identified by the DOT OIG as having high incidences of noncompliance.³⁵ For example, FHWA recommended that division offices work with state DOTs to agree on methods for validating costs of negotiated contract change orders. FHWA division offices have also developed training. For example, New Jersey FHWA division office officials conducted 22 training sessions for state DOT officials on how to comply with provisions in the Americans with Disabilities Act, and eventually expanded the audience to include local public agency officials, consultants, and MPO staff. In California, FHWA division office and state DOT officials have jointly conducted traveling "roadshows"—informational sessions for state DOT and local agency officials on federal-aid highway program requirements.

State DOTs also have made efforts to mitigate the risk of noncompliance. For example, almost all of the 46 state DOTs responding to a Transportation Research Board (TRB) survey reported that they have developed manuals to guide local agencies through federal-aid project

³⁴The training modules developed for this website address a variety of topics, including an overview of the requirements that must be met when federal-aid funding is used for projects, including civil rights, right-of-way acquisition, and assessing environmental impacts.

³⁵DOT OIG, *Federal Highway Administration's Oversight of Federal-Aid and Recovery Act Projects Administered by Local Public Agencies Needs Strengthening* (Washington, D.C.: July 15, 2011). The DOT OIG identified the following activities as having a significant number of recurring noncompliance issues: (1) change orders and claims; (2) project bidding/contractor selection/unbalanced bid analysis; (3) utility agreements and reimbursements; (4) consultant selection and billings; (5) construction pay quantities and progress payments; (6) project reporting and tracking; and (7) quality assurance procedures.

requirements.³⁶ According to TRB survey results, 15 state DOTs administer local agency certification programs, which aim to reduce the risk of noncompliance by ensuring that local agencies are qualified to manage federal-aid funded projects. According to TRB, these certification programs vary across states, but may include state DOT officials taking one or more of the following steps: (1) determining whether local agencies have sufficient staff and resources to administer federal-aid funded projects through document reviews or interviews; (2) training local officials on federal requirements; (3) executing agreements documenting local agencies' roles, responsibilities, and expectations; and (4) helping local agencies develop internal processes to comply with federal requirements and implement best practices.³⁷

Even with these efforts and a federal statute requiring state DOTs to determine whether the local public agency has (1) adequate project delivery systems to perform the tasks it is undertaking, and (2) sufficient accounting controls to properly manage federal funds,³⁸ FHWA has not provided clear guidance on how state DOTs should implement this statute. FHWA officials have promoted local agency certification programs as a best practice and mechanism for ensuring that local agencies have adequate systems and sufficient controls in place to administer federally funded programs. However, state DOTs are not required to develop such mechanisms, and most state DOTs have not done so. In addition, FHWA has reported that existing state DOT certification programs for locally administered projects would benefit from qualification criteria to assure that local agencies are qualified to administer projects. According to FHWA, qualification criteria could include previous project experience, staff knowledge of federal requirements, and documented project-administration processes. Such criteria can mitigate the risk of noncompliance and minimize staff resources necessary for state DOTs to fulfill their responsibilities for locally administered projects.³⁹ In addition, internal control standards state

³⁶TRB, *Practices and Performance Measures for Local Public Agency Federally Funded Highway Projects*, NCHRP Synthesis 442 (Washington, D.C.: 2013).

³⁷TRB, *Practices and Performance Measures for Local Public Agency Federally Funded Highway Projects*, NCHRP Synthesis 442 (Washington, D.C.: 2013).

³⁸23 U.S.C. § 106(g)(4).

³⁹FHWA, *Good Practices for the Oversight of Federal-aid Projects Administered by Local Public Agencies*, n.d.

that managers should develop detailed policies and procedures to help responsible parties implement their assigned responsibilities.⁴⁰ However, FHWA has not developed minimum and uniform qualification criteria for state DOTs. Without such criteria, FHWA lacks assurance that existing mechanisms or those developed in the future, such as certification programs, are consistently effective in assuring that local agencies are qualified to manage federal-aid projects.

Our review of others' work and our interviews with federal and state officials indicate that existing mechanisms are not consistently effective. For example, two state DOTs surveyed by TRB reported that their certification programs had not improved local public agencies' compliance with federal-aid project requirements. In addition, FHWA New Jersey division officials questioned the effectiveness of New Jersey DOT's new mechanism, which went into effect in October 2012, in part, because it relies on local agencies to self-certify that they meet federal requirements and because New Jersey DOT has not conducted oversight reviews to ensure that the process is meeting its intended goal. State DOT officials in Florida also questioned the effectiveness of its certification program because it involves a large measure of self-certification.

FHWA Has Made Efforts to Mitigate the Risk of Ineffective Oversight, but the Effectiveness of These Efforts Remains Unclear

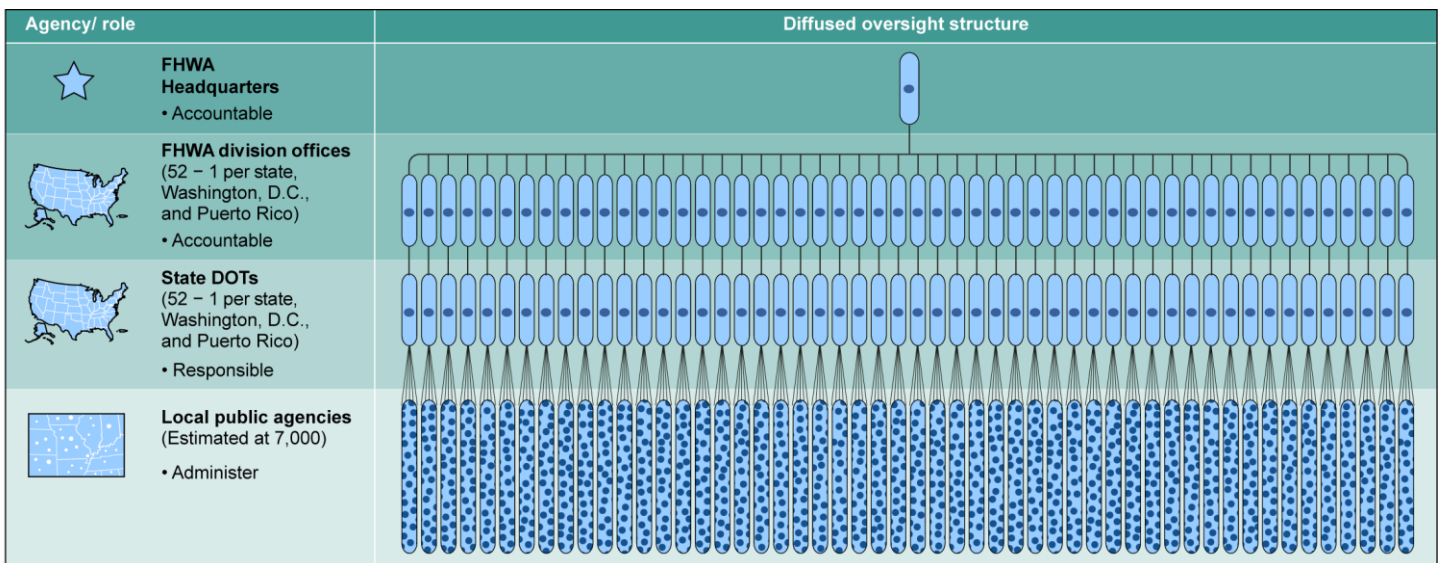
Risk of Ineffective Oversight

Oversight of locally administered projects is diffused, presenting a risk of ineffective oversight of these projects. While one party is accountable, another party is responsible. Specifically, FHWA is accountable for ensuring that federal funding is used efficiently, effectively, and consistent with applicable statutes and regulations. States are responsible for ensuring that projects are properly administered and that the local public agencies they designate to act for them have adequate project delivery systems to undertake federal-aid projects and sufficient accounting

⁴⁰GAO, *Standards for Internal Control in the Federal Government: 2013 Exposure Draft*, [GAO-13-830SP](#) (Washington, D.C.: September 2013).

controls to properly manage project funding. FHWA, by law, exercises little effective control over locally administered projects. Collectively, those projects are administered by an estimated 7,000 local public agencies. Fifty two FHWA division offices oversee funding for 52 state DOTs, which vary in staffing levels and approaches to oversight. FHWA relies on each state DOT to ensure that potentially hundreds of local public agencies in each state are complying with federal requirements. (See fig. 4.)

Figure 4: Diffused Oversight of Locally Administered Federal-Aid Highway Projects



Source: GAO.

Our review of FHWA and other reports identified deficiencies in some state DOT oversight practices of locally administered projects. For example, from 2009 to 2011, FHWA’s National Review Team (NRT) found inadequate monitoring and oversight by state DOTs of locally administered projects funded through the Recovery Act and made recommendations that 19 state DOTs needed to develop, update, or revise their guidance for local agencies. As of December 2012, 15 states had addressed NRT’s recommendations. Further, our review of statewide

Single Audits⁴¹ for the last 3 fiscal years showed that between 31 and 38 percent of reporting states had deficiencies related to insufficient monitoring of subrecipients, a category that generally includes local public agencies.⁴² For example, one state DOT reimbursed program expenses without verifying that corrective actions to address deficiencies were taken by subrecipients and another state DOT monitored subrecipient awards only after projects reached the construction phase.

Inadequate oversight practices by state DOTs may be related to the level of resources state DOTs must provide to oversee locally administered projects. State DOT officials have reported that oversight of local public agencies is not reimbursed through the federal-aid highway program, and they expend significant resources overseeing locally administered projects. The officials added that this effort can be burdensome.⁴³ States have constrained resources and this could pose challenges for state DOTs to ensure effective oversight of locally administered projects. States have faced fiscal challenges since the recent recession and are expected to face deficits both in the near and long term.⁴⁴ According to a 2012 TRB report, at least 16 state DOTs were reported to have undergone hiring freezes or temporary employee furloughs.⁴⁵

Because FHWA apportions federal-aid highway funds to states and state DOTs administer the federal-aid program, FHWA has limited or no communication directly with local agency officials. Our interviews with local agency officials and FHWA's own findings show either no interaction

⁴¹A Single Audit is a required audit of states, local governments, and nonprofit entities that expend at least \$500,000 per year in federal awards. Single Audits include determinations on whether the audited entity met the compliance requirements listed in the Office of Management and Budget's *Circular No. A-133 Compliance Supplement* for each major program. There are 14 types of compliance requirements which include allowable costs/cost principles, activities allowed or disallowed, and subrecipient monitoring. 31 U.S.C. ch. 75; OMB Cir. A-133; 49 C.F.R. § 18.26.

⁴²The number of Single Audit reporting states for the three fiscal years we reviewed varied by year. Additional details about our review can be found in appendix I.

⁴³According to FHWA, the exact time and staff resources state DOT as well as FHWA division officials spend on oversight of locally administered projects is not tracked.

⁴⁴GAO, *State and Local Governments' Fiscal Outlook, April 2013 Update*, [GAO-13-546SP](#) (Washington, D.C.: April 2013).

⁴⁵TRB, *Selected State DOT Cost Reduction Initiatives for the Administration of State Public Transportation Programs* (Washington, D.C.: December 2012).

between FHWA's division office and local agency officials or limited communication based on occasional audits or spot checks. This limited communication can pose challenges when project questions or issues need to be resolved in a timely manner. For example, a local agency official told us that it can take weeks or months to clarify information or receive answers from the FHWA division office because the state DOT is relaying the information from FHWA to the local public agency and the information may get misinterpreted or misunderstood as it is passed down. This lack of communication can further exacerbate the diffused oversight of locally administered projects.

FHWA Efforts

FHWA has undertaken efforts that may mitigate the risk of ineffective oversight. Specifically, FHWA is developing a new tool to assess state DOTs' oversight of locally administered projects. According to FHWA, this tool will respond to the DOT OIG's 2011 recommendation that FHWA establish uniform procedures and criteria to assess the ability of state DOTs to ensure that local public agencies meet federal requirements. FHWA plans for division offices to use this tool, comprised of standardized questions and methodology, to determine or assess the condition, strengths, and weaknesses of states' oversight of local agency programs. The information collected using this tool is intended to help division offices identify where to target and enhance their oversight of locally administered projects and state DOTs. FHWA expects to finalize the assessment tool by mid-2014. Because this tool is still being developed, it was not available for our review, and it remains unclear how effective it will be at improving the oversight or performance of locally administered projects.

Additional options for mitigating the risk of ineffective oversight are available. One option would be for states to opt not to designate federal funding for local agencies' projects in cases where a local public agency's capability is in question. This already occurs as some states do not designate federal funding to local agencies while others designate funding only for certain activities.

FHWA and State DOTs
Have Made Efforts to
Mitigate the Risk of
Inefficient Use of Federal
Funds, but FHWA Has Not
Fully Examined
Opportunities to Make
Local Projects More
Efficient

Risk of Inefficient Use of
Federal Funds

The cost of complying with federal requirements on a lower-cost project can be high relative to the remaining cost of constructing the project, and such projects may pose a risk of inefficient use of federal funds. According to our analysis of the 1-year snapshot of FMIS data, 54 percent of federal funding was designated for locally administered projects under \$250,000. While specific data on the cost of complying with federal requirements are generally not available,⁴⁶ local public agency officials consistently told us that—because federal requirements apply to all projects regardless of scope and size—the amount of effort and costs for meeting federal requirements involved on lower-cost projects is disproportionate to the remaining project costs. According to a local agency official with whom we spoke, sometimes construction inspection activities on a project can be 30 percent of the overall project cost. Local agency and state DOT officials with whom we spoke stated that some local agencies no longer pursue federal funding for projects under certain dollar thresholds—citing figures between \$50,000 and \$200,000—because the cost involved outweighs the benefits.

Additionally, inefficiencies may arise because of the time required for local public agencies to get projects initiated, submit an invoice to the state DOT, and close out a project. By introducing an additional government entity into the decision-making and implementation of federal-aid projects, time frames for processing and submitting invoices can get extended.⁴⁷ Additionally, after federal funds are designated for

⁴⁶[GAO-09-36](#).

⁴⁷Longer project time frames may lead to inefficiencies through increased project cost as the cost of property, materials, and labor may go up.

locally administered projects, there is a risk that they may not be used efficiently if they become inactive and cannot be deobligated and used for other projects.⁴⁸ These unexpended balances are a challenge across all federal-aid projects, but our prior work⁴⁹ and information collected during our site visits confirmed that inactive projects are a particular challenge for locally administered projects.⁵⁰

FHWA and State DOT Efforts

FHWA officials have made efforts to mitigate the risk of inefficient use of federal funds since FHWA remains accountable for ensuring that federal funding is used efficiently. For example, FHWA has issued guidance on existing administrative flexibilities in the areas of contracting and using consultant services. FHWA officials also said that they expect locally administered projects will benefit from ongoing efforts to streamline the National Environmental Policy Act environmental review process and right-of-way procedures. In addition, FHWA's current Strategic Implementation Plan includes a national performance goal and associated national initiatives aimed at improving the efficiency of all federal-aid projects, including those administered by local agencies. One of these initiatives will involve identifying and promoting flexibility in interpreting rules and guidance to reduce project delivery times.⁵¹ FHWA officials also issued guidance in 2011 recommending that state DOT and division office officials agree on a broad set of performance measures to evaluate efficiency improvement efforts, and include these measures in their Stewardship and Oversight Agreements.⁵² FHWA officials provided

⁴⁸Inactive projects are state and local construction projects to which federal funds have been obligated, but which have not had any expenditures over a 1-year period or for which funds are available but are unlikely to be obligated by FHWA within 1 year, as certified by the state. Federal funds would only become available for other projects if they were first deobligated by FHWA.

⁴⁹GAO, *Highway Emergency Relief: Strengthened Oversight of Project Eligibility Decisions Needed*, [GAO-12-45](#) (Washington, D.C.: Nov. 8, 2011).

⁵⁰In 2008, FHWA established a Financial Integrity Review and Evaluation program requiring division offices to conduct a quarterly review of inactive projects and determine the validity of the amount obligated for each project.

⁵¹FHWA, *2014 Strategic Implementation Plan: A Plan for Accomplishing the FHWA Strategic Goals and Objectives from June 2013 to May 2014* (Washington, D.C.: April 2013).

⁵²Each state's DOT and the FHWA division office in that state have a federal-aid program Stewardship and Oversight Agreement in place which documents the expectations and roles and responsibilities of the state and FHWA in implementing the federal-aid highway program.

examples of measures that division office and state DOT officials could use to evaluate their progress, such as “percentage of projects completed on time.”

Some state DOTs also have taken actions to mitigate the risk of inefficient use of federal funds on locally administered projects by attempting to maximize available administrative flexibilities. State DOTs responding to a 2011 TRB survey have indicated that a variety of administrative flexibilities can result in significant time savings for project delivery.⁵³ These include, among others, allowing local agencies to bundle several projects into a single, broader environmental document to save time and money during the environmental review process, and streamlining documentation requirements. In addition, several state DOTs have used alternative funding techniques, such as using state funding to fund local projects while reserving federal funding for statewide projects, which can potentially improve the efficiency of federal funding.

The Kansas Department of Transportation (KDOT) has reported that it has improved the efficiency of its local program by establishing a federal-funding exchange program.⁵⁴ KDOT proposes a division of its federal-aid apportionment to counties and cities based on formulas established by the state. Under the federal-funding exchange program, local agencies have the option of exchanging their proposed allocation of federal funds for state funds, which may be used on a larger variety of project types and can be developed following local procedures. KDOT then uses the federal apportionment for projects on the state highway system. The current exchange rate provides that a local agency will receive 90 cents of state funds for every federal dollar it exchanges with the state. For example, if a local agency is allocated \$100,000 in federal funding, local officials could exchange these funds with KDOT. In return, they would receive \$90,000 in state funding.

According to KDOT, the program has allowed KDOT to: (1) continue funding locally administered projects; (2) direct the administration of more federal dollars to state officials, who are generally more knowledgeable

⁵³TRB, *Effective Delivery of Small-Scale Federal-Aid Projects*, NCHRP Synthesis 414 (Washington, D.C.: 2011).

⁵⁴The terms “funding exchange” and “funding swap” are commonly used to describe programs that allow state officials to use state-aid to fund local projects and reserve federal funding for statewide projects.

about federal requirements than local agency officials; (3) reduce costs by reducing the size of its local programs staff, since KDOT no longer oversees as many locally administered projects; and (4) improve more roadway miles and bridges throughout the state, since state-funded projects are less expensive for local agencies to administer. In fiscal year 2011, KDOT reported that the state improved 180 more roadway miles and one more bridge than the year before, when the funding exchange program was not yet operational. State DOTs are allowed to develop federal-funding exchange programs, and other state DOTs have expressed interest in developing such programs for local agencies in their states.

Although FHWA has issued guidance on administrative flexibilities, such as for contracting and using consultant services for federal-aid projects, it has not explored or issued guidance targeted to local agencies on how they can maximize administrative flexibilities, despite internal and external recommendations to do so. In 2006, FHWA's Program Improvement Team recommended that FHWA work with state DOTs to take advantage of existing flexibilities to minimize regulatory burdens on local projects, such as pursuing federal-funding exchange programs, developing alternative design standards for projects off the NHS, and using contracting flexibilities available through special experimental processes. In addition, in 2009, the National Association of County Engineers (NACE) recommended that, to assist local agencies administering federal-aid projects, FHWA provide consistent regulatory interpretations and firm guidance to FHWA division offices about streamlining federal-aid programs. In 2010, FHWA officials evaluated options for responding to NACE's position statement, but did not to further examine or take a position on these options.

Some stakeholder organizations have suggested addressing the costs of complying with federal requirements on lower-cost projects by establishing a threshold for projects below which federal regulations would not apply. For example, NACE suggested in 2009 that pursuing federal dollars under a certain dollar value for locally administered projects is not cost-effective, and in 2013, it recommended that projects receiving less than \$5 million in federal funds be excluded from federal requirements. The American Public Works Association made a similar proposal in 2013 and suggested setting the threshold at \$5 million or 25 percent, whichever is greater, of a project's total funding from federal sources. In response to NACE and the American Public Works Association's suggestions, FHWA officials evaluated the option of establishing a pilot Local Projects Program that could waive certain

federal requirements for projects under a certain dollar threshold. Establishing thresholds for relaxing or waiving federal requirements on locally administered projects would require legislative action. Additional options for addressing the cost to local agencies of complying with federal requirements also exist. For example, states could (a) assume responsibility for funding all lower-cost projects, as state funds are not subject to federal requirements, or, (b) as discussed earlier, assume responsibility for administering such projects.

According to FHWA, it has not issued guidance about maximizing administrative flexibilities targeted to local agencies because such guidance likely would not be applicable across all states due to differences among state DOTs and wide differences in local agency participation in federal-aid projects across states. Further, FHWA does not plan to examine potential thresholds or take a position on such thresholds. Internal control standards state that managers are responsible for mitigating risks to ensure accountability of federal funds.⁵⁵ Without guidance about maximizing administrative flexibilities or examining potential dollar thresholds, federal funds may be used inefficiently. Because of FHWA's role in advancing the federal-aid highway program, including working with states to identify issues, develop and advocate solutions, and provide technical assistance and training to state DOTs, FHWA is well-positioned to explore opportunities to make the administration of federal-aid projects by local public agencies more efficient.

Local Agencies Report Challenges to Administering Federal-Aid Highway Projects

Many local public agency officials we interviewed reported challenges they experience administering federal-aid projects and complying with federal requirements. These challenges are a concern to local agencies because they may bear partial or full project costs in the event that their activities are determined to be ineligible for federal funding due to noncompliance with federal requirements.

Local public agency officials reported challenges posed by specific federal requirements in certain contexts. For example, local agency officials reported challenges when local policies or state laws regarding procurement requirements conflict with federal law. In one case identified during our site visit, a county policy required local public agencies to give

⁵⁵[GAO/AIMD-00-21.3.1](#).

preference to local consultants, while, in contrast, federal requirements called for open competition without such a restriction. While federal law governs in such cases, the project could not proceed until the county board members came to an agreement to override the local policy.

Another federal requirement with which local agencies have experienced challenges is Buy America.⁵⁶ In situations when Buy America provisions apply to materials supplied by utility companies, such as for iron rings on raised manhole covers on road resurfacing projects, local public agency officials told us that they have experienced difficulties working with utility companies. Utility companies must provide documentation that the source of iron was American, but they have little incentive to do so because their cost for the utility work and materials is not reimbursed as part of a federal-aid project. Local public agency officials told us that utility companies have been reluctant to share their manufacturing sources, creating potential compliance issues for local agencies as well as project delays.

Local agency officials also reported that state DOTs may place requirements on local agencies beyond federal requirements for federal-aid projects, creating additional challenges. State DOTs oversee locally administered projects on roads off the NHS⁵⁷ on which some federal requirements, such as design and construction standards, do not apply. In such cases, state DOTs place their own requirements on locally administered projects. According to FHWA officials, state DOT requirements are often similar to, if not the same as, federal requirements because state officials do not want to follow two different sets of parallel processes. Additionally, so long as federal law does not require otherwise, state DOTs may develop their own policies, forms, and checklists for local agencies to follow when administering federal-aid projects. For example, officials from one local public agency told us that in order to acquire property for a project, the agency must enlist a state-certified real estate broker, a process that adds time and cost to the project. Similarly, one state DOT's policy does not allow contingencies or change orders on locally administered projects. As a result, local





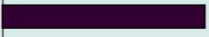

⁵⁶Buy America requires all manufacturing processes for iron and steel products and their coatings to take place domestically on construction projects funded through the federal-aid highway program. 23 U.S.C. § 313.

⁵⁷According to our analysis of a 1-year snapshot FMIS data, 91 percent of locally administered projects were off the NHS.

agencies must cover any project cost increases from change orders with their own funds.

Local agency officials consistently told us that federal-aid projects cost more and take longer than comparable locally or state-funded projects because of compliance with federal requirements. Officials from one local agency with whom we spoke identified two projects that were comparable in scope, but one was locally funded and the other was funded through federal-aid highway funds, and the two projects had significant differences in project duration and cost. In 2009, officials in Highlands County, Florida, began administering the two similar projects—one locally funded sidewalk on Sun 'N Lakes Boulevard in Lake Placid and one sidewalk funded with federal-aid highway funds on Sun 'N Lake Boulevard in Sebring—in residential communities about 20 miles from each other. While these two projects are very similar, the federal-aid project took three times as long and cost more than double that of the locally funded project. (See fig. 5.) We corroborated the time and cost information by examining project time records and contract documentation, but did not independently verify all causes that may have contributed to those time and cost differences between the two projects.

Figure 5: A Comparison of a Locally Funded Project and a Federal-Aid Highway Project in Highlands County, Florida

	Locally funded Sun 'N Lakes Sidewalk 	Federal-aid Sun 'N Lake Sidewalk 
Sidewalk properties	6,575 linear feet	6,929 linear feet
Design by	Highlands County	
Construction by	Same local paving company	
Materials and testing specifications	Florida Department of Transportation Standard Specifications for Road and Bridge Construction	
Quality of construction	No difference in quality of construction according to county officials' inspections and testing	
Project duration	 11 months	 38 months
Project cost	 \$135,000	 \$299,000

Source: GAO analysis of Highlands County, Florida documentation.

The two projects showed two main areas of cost differences: (1) labor costs by county engineers to design, manage, and oversee the projects, and (2) construction cost, including unit prices for construction materials. On the locally funded project, the county labor cost was \$11,684 for 312 hours of employee time while on the federal-aid project the cost was \$54,333 for 1,536 hours of employee time for the same group of employees. According to Highlands County officials, the additional time on the federal-aid project reflects the additional documentation preparation, reviews, and compliance associated with federal requirements. Similarly, a comparison of unit prices between the two projects identified higher unit prices on the federal-aid project. For example, the unit price for a 4-inch concrete sidewalk was \$13.25 per foot on the local project and \$17.10 per foot on the federal-aid project.

According to Highlands County officials, contractors charge more on federal-aid projects because of greater documentation requirements.

Despite the noted challenges, local public agency officials told us that the benefits of federal funding for local infrastructure outweigh the challenges. Federal funding is important to local agencies because they may not have sufficient funds to implement needed infrastructure improvements. For example, officials from one local agency told us that they could only construct one mile of sidewalk per year with their own funds, but with federal funding the local agency was able to build 17 miles of sidewalk in a year. Local agency officials we interviewed consistently told us that without federal funding their projects would be deferred and some would likely never get done. Federal funding is particularly important for local agencies in states that do not provide funding for local roads. In these states, federal funding is typically one of the only outside sources of funding available to local agencies. Additionally, local agency officials told us that because they are familiar with the needs of their communities and because they are accountable to the people the projects are meant to serve, they are in the best position to administer these projects and to deliver them efficiently. Specifically, local agencies are incentivized to get projects built quickly and to minimize disruptions and complaints that roadway construction may cause for the local community.

Conclusions

Local public agencies have become prominent players in the federal-aid highway program because congressional policy and funding decisions, such as those encouraging safe routes to schools, have precipitated greater local agency involvement and because locally administered projects provide benefits to and address the needs of local communities and the states. However, the administration of federally funded projects by local public agencies presents risks. FHWA is accountable for the efficient and effective use of federal funds, and for ensuring that states fulfill their responsibilities to determine whether local public agencies have adequate project delivery systems and sufficient accounting controls to properly manage federal funds. FHWA has taken numerous actions to more effectively meet its responsibilities in recent years including collecting additional information on locally administered projects. However, it needs information it does not currently have, such as which local agencies are administering projects and the capabilities of those agencies. Collecting data about which local agencies are administering projects would be relatively simple and inexpensive and could be readily accomplished through FHWA's FMIS system. Information on local agency capabilities should be available from state DOTs; however, FHWA would

need to develop a reliable and ongoing data collection process. Collecting this data and information on an ongoing basis and at the national level would allow FHWA to identify and assess the extent and magnitude of risks and more effectively target its oversight over the states in what has consistently been identified as an agency-wide, high-risk area.

FHWA and states have taken numerous actions and expended considerable resources to mitigate noncompliance and to improve oversight of locally administered projects. These include ongoing efforts by FHWA to assure states fulfill their responsibilities for ensuring local public agencies have adequate project delivery systems and sufficient accounting controls to properly manage federally funded projects. The effectiveness of these ongoing efforts has yet to be determined; however, FHWA can take reasonable steps to help improve states' efforts by providing state DOTs with a set of minimum and uniform qualification criteria to determine whether local agencies are capable and equipped. Such minimum and uniform criteria could help ensure that: (a) the law is being consistently applied, (b) the certification programs in place are equally effective, and (c) federal funds are used in accordance with federal requirements.

Additionally, guidance from FHWA about administrative flexibilities targeted to local public agencies could help improve the efficiency of locally administered projects. Some local public agencies, due to a lack of funding alternatives, choose to undertake federal projects that may not be cost-effective because, for example, the cost of complying with federal requirements can be high relative to the remaining cost of constructing the project. There may be opportunities to explore potential dollar thresholds at which the cost of complying with federal requirements for local agencies may be too high compared to project costs. Some organizations have suggested relaxing or eliminating federal requirements for lower-cost projects; additional options, such as states assuming responsibility for lower-cost projects, also exist. FHWA is well-positioned to undertake an analysis of potential dollar thresholds under which the use of federal funds may no longer be cost-effective. Such an analysis could help inform future congressional decisions regarding funding and the administration of locally administered projects.

Recommendations for Executive Action

We recommend that the Secretary of Transportation direct the FHWA Administrator to take the following four actions:

1. Collect data, on an ongoing basis, about which local public agencies are administering federal-aid projects.
2. Collect information, on an ongoing basis, from state DOTs on local public agencies' capabilities.
3. Identify and disseminate minimum and uniform qualification criteria for state DOTs to determine whether local public agencies are capable and equipped to administer federal-aid projects.
4. Explore opportunities to make administration of federal-aid projects by local public agencies more efficient by examining: (a) the circumstances in which issuing guidance on administrative flexibilities targeted at local agencies would be appropriate, and (b) a potential dollar threshold under which the use of federal funds may no longer be cost-effective.

Agency Comments

We provided a draft of this report to DOT for review and comment. DOT did not take a position on our recommendations, but generally agreed with the facts presented. DOT provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees and the Secretary of Transportation. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or rectanusl@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.

Sincerely yours,



Lori Rectanus
Acting Director, Physical Infrastructure Issues

Appendix I: Objectives, Scope, and Methodology

This report focuses on the Federal Highway Administration's (FHWA) oversight of federal-aid highway projects administered by local public agencies, such as counties, cities, and towns. Specifically, the objectives of this report were to examine: (1) What is known about federal-aid highway projects that local agencies administer? (2) What risks are presented by local agencies administering federal-aid highway projects and what is being done to mitigate those risks? (3) What challenges local agencies report in administering federal-aid highway projects?

To answer these questions, we reviewed and analyzed relevant statutes pertaining to the federal-aid highway program. To obtain information on what is known about federal-aid highway projects that local agencies administer, we obtained access to and analyzed FHWA's Financial Management Information System (FMIS) data. To collect data on locally administered projects, FHWA made a change to a required *project oversight* data field in FMIS by adding options for locally administered projects. Because FHWA began collecting data on locally administered projects in FMIS starting in May 2012, we used a 1-year snapshot of federal obligations to states for all FHWA-approved projects from July 1, 2012, to June 30, 2013. We used data on active projects for which federal funds were obligated. FHWA officials reviewed our methodology for gathering data from FMIS to assure that our data queries were accurate. To assess the reliability of data collected in FMIS, we reviewed available documentation and interviewed FHWA officials on the procedures used by FHWA and state departments of transportation (state DOT) to enter and verify financial information entered into FMIS. We also conducted electronic testing for duplicate entries and missing values in the data we extracted from FMIS. We found the FMIS data elements we used in our report to be sufficiently reliable for the purposes of reporting federal obligations to states for locally administered projects since May 2012.

To obtain information on the risks presented by local agencies administering federal-aid projects, we reviewed reports by FHWA and others on risks posed by locally administered projects. Specifically, we reviewed FHWA's annual reports about locally administered projects, the National Review Team's (NRT) assessments of American Recovery and Reinvestment Act of 2009 (Recovery Act)¹ projects administered by local

¹American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009).

agencies,² and FHWA's national Risk Register.³ We also reviewed external reports by the U.S. Department of Transportation's Office of Inspector General (DOT OIG),⁴ the Transportation Research Board (TRB),⁵ as well as our own work in this area.⁶ We read, analyzed, and synthesized these documents to identify key areas of risk. Further, we conducted three site visits to California, Florida, and New Jersey. We interviewed officials at the FHWA, metropolitan planning organizations (MPO), state DOTs, and local agencies to understand the risks presented to FHWA when local agencies administer federal-aid projects, as well as the challenges faced by local agencies when administering these projects. Although information from our site visits is not generalizable to all states and localities, this information provides context to our understanding of the risks and challenges associated with locally administered projects. We selected these states based on various criteria, including FHWA risk assessment reports, 2010 and 2011 statewide Single Audit⁷ results, number of local agencies in a state administering federal-aid projects as identified in a 2009 FHWA data call, federal obligations for locally administered projects, geographic dispersion, and state size. Within each state, to obtain a diverse range of perspectives from local agency officials, we selected and conducted site visits to local agencies based on geographic area; local agency size and type (e.g.,

²Id. authorized and funded under Div. A, Title XII, Highway Infrastructure Investment.

³FHWA division offices conduct annual assessments of their states to identify the greatest risks and vulnerabilities, and FHWA headquarters combines risk information into a national Risk Register and uses this information to identify common risk areas across the nation.

⁴DOT OIG, *Federal Highway Administration's Oversight Of Federal-Aid And Recovery Act Projects Administered By Local Public Agencies Needs Strengthening* (Washington, D.C.: July 15, 2011).

⁵TRB, *Effective Delivery of Small-Scale Federal-Aid Projects*, NCHRP Synthesis 414 (Washington, D.C.: 2011).

⁶GAO, *Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed*, [GAO-09-1016](#) (Washington, D.C.: September 23, 2009); GAO, *Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability*, [GAO-10-231](#) (Washington, D.C.: December 10, 2009); [GAO-12-45](#); and [GAO-12-474](#).

⁷A Single Audit is a required audit of states, local governments, and nonprofit entities that expend at least \$500,000 per year in federal awards. 31 U.S.C. ch. 75; OMB Cir. A-133; 49 C.F.R. § 18.26. At the time we were selecting our states for our site visits, the 2012 Single Audit results were not yet available.

county, city, town, borough); and diversity of improvement types (e.g., road and bridge improvements, sidewalks, safety, etc.). To see a list of the 16 local agencies we spoke with during our three site visits, see appendix III.

To obtain an independent view of the risks presented by local agencies administering federal-aid projects, we examined the results of the 2010 through 2012 statewide Single Audits. For 2010, we used analysis from our previously published work.⁸ For 2011, 46 states reported their results in the Federal Audit Clearinghouse as of June 30, 2013.⁹ For 2012, 45 states reported their results in the Federal Audit Clearinghouse as of September 30, 2013.¹⁰ To determine relevant findings to our work, we identified audit records for FHWA funding categories with subrecipient monitoring audit findings.¹¹ We also examined full-text Single Audit reports to determine issues associated with subrecipient monitoring.

To obtain information on what is being done to mitigate risks presented by local agencies administering federal-aid highway projects, we interviewed federal and state officials during our three site visits and reviewed relevant documentation, such as FHWA annual reports about locally administered projects and state DOT agreements with FHWA division offices. To identify criteria for mitigating these risks, we reviewed relevant sections of U.S. Code, FHWA documents, state DOT documents, and reports by DOT OIG, GAO, and the TRB.

⁸[GAO-12-474](#).

⁹Four states (Hawaii, Michigan, New Mexico, and North Dakota), the District of Columbia, and Puerto Rico do not have or did not submit statewide Single Audits as of June 30, 2013.

¹⁰Six states (Hawaii, Michigan, Montana, New Mexico, South Carolina, and Wyoming) and Puerto Rico do not have or did not submit statewide Single Audits as of September 30, 2013.

¹¹Single Audits include determinations on whether the audited entity met the compliance requirements listed in the Office of Management and Budget's *Circular No. A-133 Compliance Supplement* for each major program. There are 14 types of compliance requirements: Activities allowed or disallowed; Allowable costs/cost principles; Cash management; Prevailing Wage Requirements; Eligibility; Equipment and real property management; Matching, level of effort, earmarking; Period of availability of Federal funds; Procurement and suspension and debarment; Program income; Real property acquisition and relocation assistance; Reporting; Subrecipient monitoring; Special tests and provisions, and Other.

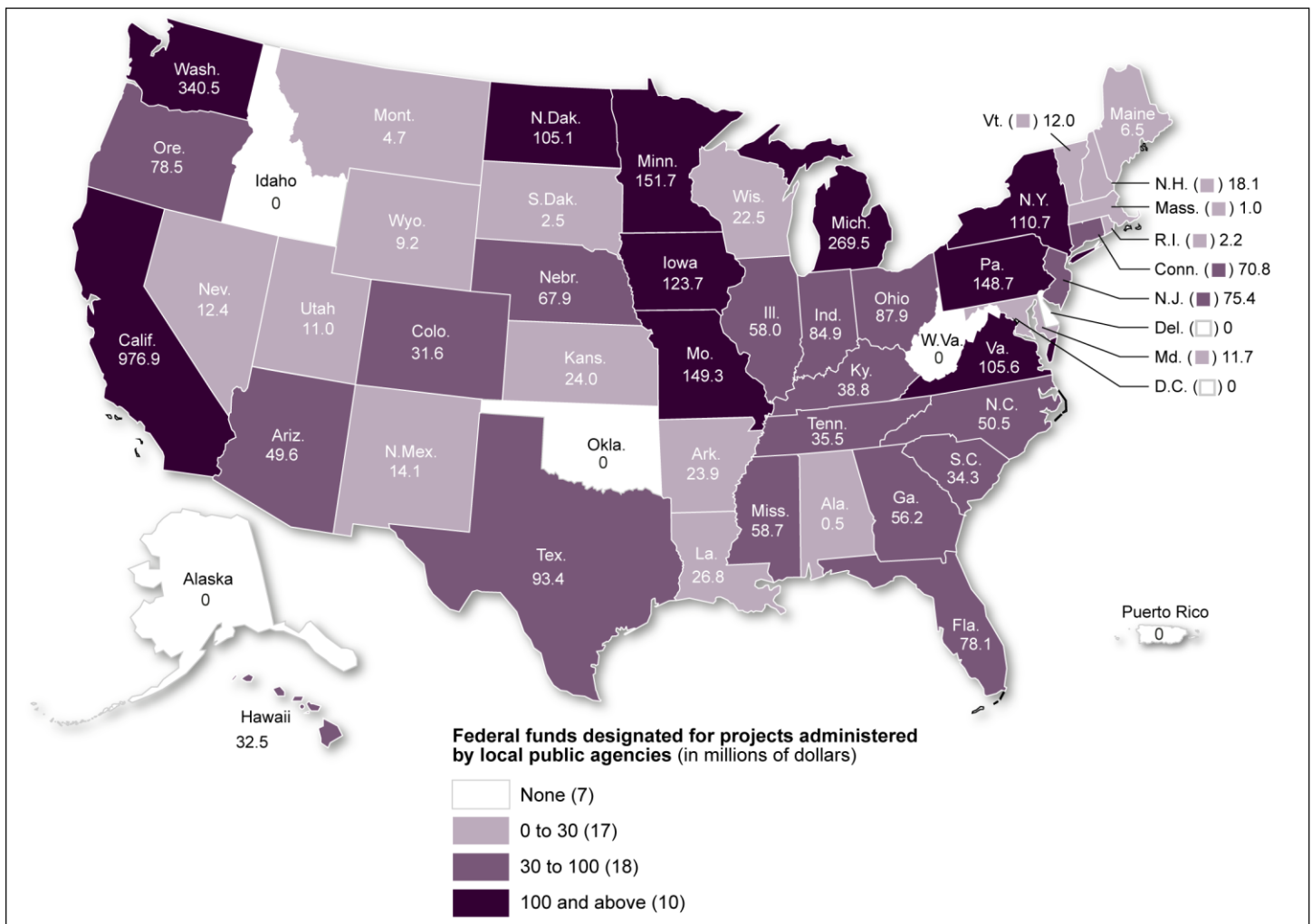
To obtain information on the challenges local agencies report in administering federal-aid highway projects, in addition with the information gathered during our site visits, we also worked in conjunction with the National Association of County Engineers (NACE), a professional association, to get input from local public agency officials on their experiences with federal-aid projects. We conducted three discussion groups that collectively included over 50 local agency officials from 19 states at NACE's annual conference to obtain perspectives of local agency officials on the benefits and challenges of locally administered projects. We also received written responses from discussion group participants about the effectiveness and the types of resources, guidance, and technical assistance their local agencies receive from FHWA and state DOTs. Lastly, although not generalizable to all locally administered projects, we present a case example to help illustrate and contrast differences between two similar projects. Officials from one local agency with whom we spoke identified two projects that were comparable in scope, but one was locally funded and the other was funded through federal-aid highway funds, and the two projects had significant differences in project duration and cost. These types of differences were consistently reported to us by local officials about locally or state-funded projects and federal-aid projects. We corroborated this testimonial evidence by examining project time records and contract documentation, but we did not independently verify all causes that may have contributed to time and cost differences between the projects.

We conducted this performance audit from December 2012 to January 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: State Designation of Federal-Aid Highway Funds to Projects Administered by Local Public Agencies

Our analysis of FHWA FMIS data from July 1, 2012, to June 30, 2013, showed that state designation of federal-aid funds to projects administered by local public agencies varied across states. While 5 states, the District of Columbia, and Puerto Rico, did not designate any federal funds to local public agencies, 10 states designated over \$100 million during the 1-year time period, with California designating the highest amount of \$976.9 million. (See fig. 6.)

Figure 6: Federal-Aid Highway Funds (in Millions) for Locally Administered Projects, by State, July 1, 2012, to June 30, 2013

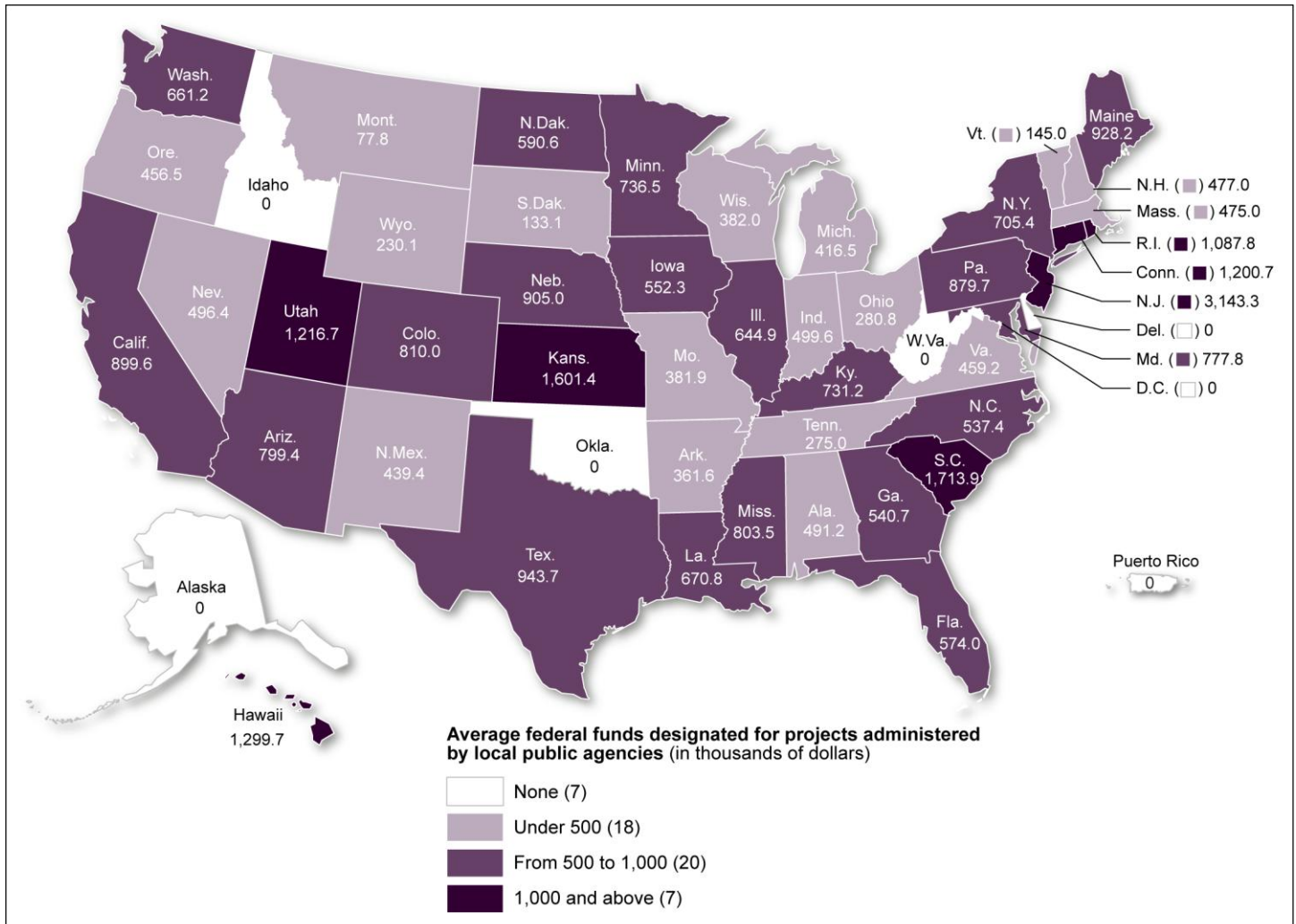


Sources: GAO analysis of Federal Highway Administration data and Map Resources.

Appendix II: State Designation of Federal-Aid Highway Funds to Projects Administered by Local Public Agencies

According to our analysis, federal funding for projects administered by local public agencies ranged from under \$5,000 to \$57 million per project, and the average amount of federal funds for locally administered projects was \$622,402. The average amount of federal funds for locally administered projects varied significantly across states. (See fig. 7.)

Figure 7: Average Amount of Federal-Aid Highway Funds for Locally Administered Projects (in Thousands), by State, July 1, 2012, to June 30, 2013



Sources: GAO analysis of Federal Highway Administration data and Map Resources.

Appendix III: List of 16 Local Public Agencies Interviewed during Site Visits

Table 1: List of 16 Local Public Agencies Interviewed during Site Visits

State	Local public agency
CA	City of Bell Gardens
CA	City of Los Angeles
CA	City of Santa Fe Springs
CA	City of West Sacramento
CA	Los Angeles County
CA	Yolo County
FL	Blueprint 2000
FL	City of Orlando
FL	Leon County
FL	Orlando-Orange County Expressway
FL	Volusia County
NJ	Burlington County
NJ	City of South Amboy
NJ	Haddonfield Borough
NJ	Middlesex County
NJ	Monmouth County

Source: GAO.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Lori Rectanus, (202) 512-2834, rectanusl@gao.gov

Staff Acknowledgments

In addition to the individual named above, other key contributors to this report were Steve Cohen, Assistant Director; Melissa Bodeau; Irina Carnevale; Melinda Cordero; Colin Fallon; Bert Japikse; Catherine Kim; Mary Koenen; Hannah Lafe; Leslie Locke; Joshua Ormond; and Terry Richardson.

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