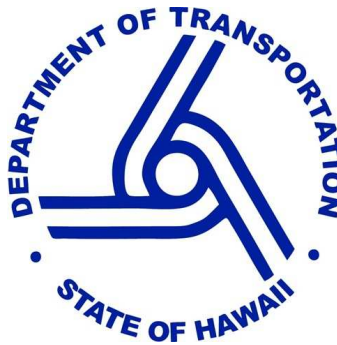


**State of Hawaii**  
**Department of Transportation**  
**Highways Division**



**Local Public Agency (LPA) Manual for  
Federal Aid Program**

February 2015

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## Introduction: Local Public Agency Administered Projects

Local Public Agencies (LPAs) share with the Hawaii Department of Transportation (HDOT) the unique goals and responsibilities to develop and maintain safe and efficient transportation systems using combinations of Federal, State, and local funds. This manual uses the term LPA to be consistent with Federal documentation, but for practical purposes in Hawaii, the term *LPA* is synonymous to the term *County*.

The *HDOT LPA Manual (Manual)* has been developed to provide guidance to the LPAs in the administration, planning, design, and construction of Federal-aid projects. It provides information and instructions to LPA's management and staff to help them successfully develop Federal-aid transportation projects in accordance with requirements set forth in applicable Federal and State laws, regulations, policies, and guidance documents.

The Manual presents information required for administering a typical federal-aid project. Due to the variety of projects and situations, this manual is not comprehensive. In some cases, references are made to other documents that provide more detailed information concerning specific Federal-aid project requirements. Therefore, LPA administrators and engineers should review and become familiar with the source documents referenced throughout the *HDOT LPA Manual* to help them abide by all legal requirements. They must also exercise good engineering judgment on individual projects, including research into design and construction best practices.

The *Manual* serves as an overview document for the project development process (Planning, Programming, Design, Environmental, ROW, etc.) and provides additional references where detailed information on a specific phase of project can be found. Delivering a project through the Federal Aid process requires good planning and an understanding of the total process. Continued coordination with HDOT Project Coordination & Control Section staff will help ensure a successful project.

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## Chapter 1: Overview of Federal Aid Requirements

Federal-aid Transportation funds are authorized by Congress to assist the states and LPAs in building, maintaining, and reconstructing roads and bridges on eligible Federal-aid roadway routes and for other special purpose programs and projects. Federal funds are apportioned to the States, which will then allocate Federal funds to each of the different LPAs. These funds are provided on a reimbursable basis, which means that the HDOT/LPA incurs the costs initially (*after receiving the FHWA authorization*) and then will be reimbursed by FHWA once the proper billing/invoice is submitted by the State to the FHWA.

Most Federal transportation programs require a local match to receive Federal funds. The local match commitment is an integral part of the FHWA Authorization. Usually, the local match is provided in the form of cash. However, under certain circumstances, certain non-cash contributions may be counted towards the required local match. More details about funding can be found in Chapter 3: *Project Funding*.

### Phases of Project Development

Typical phases for project development are:

- Planning
- Design
- Preliminary Right of Way (ROW)
- Right-of Way (ROW) and Utilities
- Construction

FHWA authorization is required to expend Federal funds in each of the phases. The FHWA phase convention differs from those listed above, as discussed on page 27. Depending on resources available and other factors, the LPA may choose to do some phases of a project without federal funding. However, **if any phase utilizes Federal funds, all previous phases must have conformed to all applicable Federal requirements.** For example, the LPA may

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choose to do the design phase with local funds, but in order to qualify for Federal funds for construction, the design phase must have met all applicable Federal requirements.

## **Sequence of Requirements**

The sequence of steps in the project development process can be critical to receiving federal funding in a subsequent phase. For example, in order for a project to receive funding for a certain phase of work, that phase of work must be programmed on an approved TIP and/or STIP. (See *Project Programming (STIP)* section in *Chapter 3: Project Funding*). Once programmed, each phase of the project programmed for federal funds must then receive FHWA's approval and authorization for obligation of Federal Funds. The requirements for obligating funds for various phases are outlined in the *Obligation of Federal Funds* section of *Chapter 3: Project Funding*.

Environmental compliance documents are also critical to receiving federal funding for ROW or Construction phases. In addition, for large or complex project where an environmental impact statement or a 'major' environmental assessment is performed, the use of final project design funds will be contingent on completion of the National Environmental Policy Act (NEPA) documents. See *Chapter 5: Environmental Clearances and Permits* for more details about environmental requirements on federally funded projects.

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## Chapter 2: Roles and Responsibilities

The Federal Highway Administration (FHWA) administers the federal-aid funds apportioned to the States for the planning, design, construction and maintenance of public transportation roadway facilities. Each Federal Fiscal Year (beginning October 1), Congress authorizes Federal-aid Transportation funds to assist the States in providing for construction, reconstruction, and improvement of highways and bridges on eligible federal-aid highway routes and for other special purpose programs and projects. Title 23 and Title 49 of the United States Code (USC) are the laws established by Congress allowing for the distribution of federal funds to the States. Regulatory requirements for the use of federal funds are generally found in Title 23 and Title 49 of the Code of Federal Regulations (CFR). In accordance with 23 CFR 450.200, the State of Hawaii, Department of Transportation (HDOT) is responsible for the management, coordination, and programming of the federal-aid funds. The HDOT has the prerogative to distribute portions of its annual apportionment to the LPAs. In order for LPAs to request and receive federal-aid funds, they are required to work with the HDOT through the HDOT's planning and programming coordination and consultation process (23 CFR 450.208 and 210). Federally funded LPA project(s) must comply with all Federal, State, and local laws and regulations. Federal funds are provided on a reimbursable basis, which means that the HDOT/LPA incurs the costs initially (*after receiving the FHWA authorization*) and then will be reimbursed by FHWA once the proper billing/invoice is submitted by the State to the FHWA.

The FHWA is responsible for ensuring that federal-aid funds are expended in accordance with all Federal laws and regulations. While the FHWA retains full oversight of the Federal Aid Program, certain direct oversight responsibilities on LPA projects were delegated to the HDOT through a Stewardship Agreement, which is described in greater detail in the next section. Similarly, the State-County Memorandum of Agreement (MOA) outlines the roles and responsibilities of the LPAs and the State. The MOA is described in greater detail in the *State – County MOA* section below.

The purpose of this HDOT LPA Manual is to provide the LPAs a navigation tool which will help to explain the LPAs roles and responsibilities in following the requirements set forth in the Code

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of Federal Regulations, the Hawaii Revised Statutes, the State-County MOA, and the Stewardship Agreement. It is intended to provide guidance on the processes and responsibilities required when requesting and using federal-aid funds for LPA projects.

## **Stewardship Agreement**

The Stewardship Agreement is an agreement between the FHWA and the HDOT that identifies oversight responsibility and accountability. It does not directly apply to the LPAs, as it is an agreement between HDOT and FHWA. The HDOT cannot delegate oversight functions to the LPA, as the LPA does not legally have a direct relationship with FHWA. When HDOT provides Federal-aid to the LPA, it still must ensure that the LPAs have an adequate project delivery system and sufficient accounting controls to properly manage Federal funds. (See 23 USC 106, amendment Section 1904(a)). All Federal-Aid projects shall be coordinated through the HDOT. The Stewardship Agreement specifically shows project approval actions and responsibilities for each phase of local agency projects. (See Appendix A)

FHWA has full oversight of all Federal-aid programs. This means that they insure that the Federal highway program complies with applicable laws, regulations and policies. FHWA is responsible for project level oversight for the following types of projects, as specified in the current Stewardship Agreement (dated Jan 5, 2007):

1. Special Projects utilizing (1) Innovative Financing; (2) Innovative Contracting; and (3) Interstate Route H-3 completion projects;
2. NHS Projects on the Interstate and Certain Other Projects with an estimated construction cost greater than \$5 million;
3. Other NHS Projects not on the Interstate with an estimated construction cost greater than \$10 million; and
4. Non- Title 23 Responsibility. This would include, but is not limited to
  - National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. Chapter 55).
  - Section 4 (f) of the DOT Act of 1966 (49 U.S.C. 303)
  - Civil Rights Act of 1964 (42 U.S.C Chapter 21)

- 
- Uniform Relocation Assistance and Real Properties
  - Acquisition Policies Act of 1970 (42 U.S.C Chapter 61)
  - Underutilized Disadvantaged Business Enterprise Program (UDBE)
  - Clean Air Act Amendments of 1990 (42 U.S.C. Chapter 85)

Future updates to the Stewardship Agreement may change the above criteria for Federal oversight. Changes to the Stewardship Agreement will be reflected in updates to this Manual.

While FHWA has full oversight responsibility for all projects, the direct oversight of projects or programs not listed above is delegated to HDOT in the Stewardship Agreement. For those projects delegated to HDOT the FHWA still does comprehensive reviews to evaluate the States and/or LPA policies, procedures, practices and controls for the development and implementation of the projects. FHWA also still has full oversight responsibilities Non-Title 23 responsibilities. For example, FHWA must approve the NEPA documents for ALL projects regardless of oversight.

## **State – County MOA**

The State – County MOA is an agreement between the HDOT and the LPAs which defines the roles and responsibilities of each party in the use of federal-aid funds.

The State – County MOA specifies that the LPAs are responsible to provide administrative personnel and technical supervision to insure that the initiation, development, implementation, and performance reporting of all eligible activities financed by federal transportation funds under the MOA are done in conformance with: all applicable Federal, State, and County regulations. Eligible activities include, but are not limited to, the following activities of LPAs federal-aid projects: planning, environmental, design, right-of-way, utility adjustments and accommodations, equal employment opportunity, labor provisions, accounting procedures, public hearings, and construction administration. Each LPA must ensure that its staff members, consultants, and contractors comply with the applicable regulations and procedures in developing, constructing, and maintaining its projects; and it is expected to be knowledgeable of the federal requirements and produce a federally funded project with nominal assistance from HDOT.

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On all federal-aid projects, the LPA must be adequately staffed & suitably equipped to undertake & satisfactorily complete the work. In instances where the LPA chooses to use consultants, the LPA must still provide a full-time employee of the agency to be in responsible charge of the project. (23 CFR 635.105) All official submittals from the LPA should be signed by the agency employee who is in responsible charge.

The role of the State is to review, advise, approve, and assist the LPAs with conformance to State and FHWA procedures. The State may provide technical support to the LPAs in the form of training, reviews, and procedures, and will process approval requests.

The State is responsible to the federal government for the administration of Federal-aid projects and programs. As outlined in the Stewardship plan (discussed in the previous section), LPA projects may fall under the oversight of the State and/or FHWA, depending on the scope, size, financing method, contracting method, risk, or unusual circumstances. All projects will be subject to appropriate approval actions by the State and/or FHWA.

Subsequent chapters of this manual are intended to give additional guidance to assist the LPAs to comply with the State-County MOA. The State-County MOA is included in its entirety in Appendix B.

## **Points of Contact**

The Engineering Program Manager in the Project Coordination and Technical Services Office (HWY-A), is the coordinator for the LPA program. Under the supervision of the Engineering Program Manager, the Project Coordination & Control Section (HWY-AP) is responsible for leading communication or cooperation facilitating a closer working relationship between the HDOT and the LPAs.

HDOT requires each LPA to provide the status of its federally-funded projects on a regular basis to the Project Coordination & Control Section (HWY-AP) and the assigned design contact. The LPA's overall point of contact or designated representative is required to participate in the Over the Shoulder Review (OSR) status meetings with HDOT. In addition to the OSR



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meetings, the LPA shall provide status updates on its projects and other information related to its federal-aid program upon request by the HDOT.

HWY-AP is responsible for maintaining and updating the LPA Manual, so questions or comments about the manual should be directed to HWY-AP.

HDOT does not have a dedicated LPA section. Specific functions of the LPA program are managed by various offices within HDOT. As the LPA coordinator, HWY-A is responsible for addressing comments or questions about the LPA program. They are also the first point of contact if the LPA is unsure who to contact for a specific question about the project. In addition, if the LPA has questions or concerns about the review and approval process or about delays in the State or FHWA response, HWY-AP will assist in communicating with the responsible persons to facilitate timely project development. The specific points of contact are listed in *Table 1*. The assigned contacts for the project design phase are listed in *Table 2* on page 17. Points of Contact for LPAs are listed in *Table 3*.

**Table 1 HDOT Point of Contact**

<b>Type of Activity</b>	<b>HDOT Contact</b>	<b>Contact Info.</b>
All official correspondence with HDOT.	<b>Robert Miyasaki</b> HWY-A: Project Coordination & Technical Services Office, Engineering Program Manager	587-2347 <a href="mailto:Robert.Miyasaki@hawaii.gov">Robert.Miyasaki@hawaii.gov</a>
General questions about the overall LPA program and the State-County MOA. Questions about the LPA Manual	<b>Mike Medeiros</b> HWY-AP: Project Coordination & Control Section	587-2336 <a href="mailto:Mike.Medeiros@hawaii.gov">Mike.Medeiros@hawaii.gov</a>
Statewide Transportation Improvement Program (TIP/STIP)	<b>Patrick Tom</b> HWY-PS: STIP Manager	587-6355 <a href="mailto:Patrick.Tom@hawaii.gov">Patrick.Tom@hawaii.gov</a>
Obligation of Federal Funds for City & County of Honolulu, Kauai, Maui, and Hawaii Closeout and Deobligation	<b>Kam Kin Sin</b> HWY-SM: Federal Program Engineer  <b>Scot Urada</b> HWY-SM: Federal Program Engineer	587-2226 <a href="mailto:Kam.Kin.Sin@hawaii.gov">Kam.Kin.Sin@hawaii.gov</a>  587-2222 <a href="mailto:Scot.T.Urada@hawaii.gov">Scot.T.Urada@hawaii.gov</a>
Submission of Single Audit & Related Documents	<b>Cathy Hiranaka</b> HWY-SF: Federal Aid Accountant	587-2196 <a href="mailto:Cathy.Hiranaka@hawaii.gov">Cathy.Hiranaka@hawaii.gov</a>
Office of Civil Rights	<b>Clifton Harty</b> OCR: Civil Rights Manager	587-5339 <a href="mailto:Clifton.N.Harty@hawaii.gov">Clifton.N.Harty@hawaii.gov</a>
Planning Procedures and Project Reviews	<b>Ken Tatsuguchi</b> HWY-P: Planning Branch Engineering Program Manager	587-1787 <a href="mailto:Ken.Tatsuguchi@hawaii.gov">Ken.Tatsuguchi@hawaii.gov</a>

Type of Activity	HDOT Contact	Contact Info.
<b>Design:</b> Design assistance (See <i>Table 2</i> for geographically assigned design contacts for design review.)		
Overall	<b>Marshall Ando</b> HWY-D: Design Branch Engineering Program Manager	692-7559 <a href="mailto:Marshall.Ando@hawaii.gov">Marshall.Ando@hawaii.gov</a>
Bridge design	<b>Paul Santo</b> HWY-DB: Bridge Design Section	692-7611 <a href="mailto:Paul.Santo@hawaii.gov">Paul.Santo@hawaii.gov</a>
Highway design	<b>Julius Fronda</b> HWY-DD: Highway Design Section	692-7570 <a href="mailto:Julius.Fronda@hawaii.gov">Julius.Fronda@hawaii.gov</a>
Hydraulic design	<b>Curtis Matsuda</b> HWY-DH: Hydraulic Design Section	692-7561 <a href="mailto:Curtis.Matsuda@hawaii.gov">Curtis.Matsuda@hawaii.gov</a>
Environmental permits	<b>Todd Nishioka</b> HWY-DE: Environmental Permitting & Project Compliance	692-7594 <a href="mailto:Todd.Nishioka@hawaii.gov">Todd.Nishioka@hawaii.gov</a>
Consultant contracts & Consultant procurement	<b>Karen Chun</b> HWY-DS: Technical Design Services Office	692-7544 <a href="mailto:Karen.Chun@hawaii.gov">Karen.Chun@hawaii.gov</a>
Landscape design	<b>Michele Nagafuchi</b> HWY-DL: Landscape Design	692-8363 <a href="mailto:Michele.R.Nagafuchi@hawaii.gov">Michele.R.Nagafuchi@hawaii.gov</a>
<b>Traffic Safety, Operations and Design.</b> Design assistance for traffic projects (See <i>Table 2</i> for geographically assigned design contacts for design review.)		
Overall Traffic Section	<b>Bryan Kimura</b> HWY-T: Traffic Branch Engineering Program Manager	692-7690 <a href="mailto:Bryan.Kimura@hawaii.gov">Bryan.Kimura@hawaii.gov</a>
Traffic Design	<b>Karl Kunishige</b> HWY-TD: Traffic Design Service Section	692-7679 <a href="mailto:Karl.Kunishige@hawaii.gov">Karl.Kunishige@hawaii.gov</a>
Traffic Operation	<b>Benson Chow</b> HWY-TO: Traffic Operation Sect.	692-7673 <a href="mailto:Benson.Chow@hawaii.gov">Benson.Chow@hawaii.gov</a>
Traffic Safety	<b>Sean Hiraoka</b> HWY-TS: Traffic Safety Section	692-7684 <a href="mailto:Sean.Hiraoka@hawaii.gov">Sean.Hiraoka@hawaii.gov</a>
<b>Right of Way:</b> Information and Procedures for acquisition of land		
Overall	<b>Vacant</b> HWY-R: Rights of Way Manager	692-7325
Land Acquisition	<b>Bruce Shimokawa</b> HWY-RL: Land Acquisition Section	692-7330 <a href="mailto:Bruce.Shimokawa@hawaii.gov">Bruce.Shimokawa@hawaii.gov</a>
Property Management	<b>Chris Yamamoto</b> HWY-RM: Property Management Section	692-7332 <a href="mailto:Chris.M.Yamamoto@hawaii.gov">Chris.M.Yamamoto@hawaii.gov</a>
Appraisals	<b>Richard Ching</b> HWY-RP: Appraisal Section	692-7341 <a href="mailto:Richard.Ching@hawaii.gov">Richard.Ching@hawaii.gov</a>
Abstracts	<b>Charles Santiago</b> HWY-RA: Abstract Section	587-1854 <a href="mailto:Charles.Santiago@hawaii.gov">Charles.Santiago@hawaii.gov</a>

Type of Activity	HDOT Contact	Contact Info.
<b>Materials Testing and Research:</b> Information and Procedures for Materials testing and quality assurance program		
Overall	<b>Vacant</b> HWY-L: Materials Testing & Research Branch Engineering Program Manager	833-3407, Ext. 105
Material Certification	<b>Gerald Pang</b> HWY-LR: Research & Technology Transfer Section	833-3407, Ext. 110 <a href="mailto:Gerald.Pang@hawaii.gov">Gerald.Pang@hawaii.gov</a>
Geotechnical and Pavement Design	<b>Herbert Chu</b> HWY-LG: Geotechnical and Pavement Design Section	833-3407, Ext. 121 <a href="mailto:Herbert.Chu@hawaii.gov">Herbert.Chu@hawaii.gov</a>
Asphalt	<b>Vacant</b> HWY-LB: Bituminous Materials Section	833-3407, Ext. 132
Concrete and other structural materials	<b>Vacant</b> HWY-LS: Structural Materials Section	833-3407, Ext. 132
<b>Construction and Maintenance Branch:</b> Construction Procedures, Underutilized Disadvantaged Business Enterprise Goals, Construction Closeout		
Underutilized Disadvantaged Business Enterprise Goals	<b>Jamie Ho</b> HWY-C: Construction and Maintenance Branch Engineering Program Manager	587-2185 <a href="mailto:Jamie.Ho@hawaii.gov">Jamie.Ho@hawaii.gov</a>
Construction Procedures and Closeout	<b>Blaine Kawamura</b> HWY-CC: Construction Section	587-2630 <a href="mailto:Blaine.Kawamura@hawaii.gov">Blaine.Kawamura@hawaii.gov</a>
<b>District Contacts:</b> Construction Administration		
Hawaii County	<b>Salvador Panem</b> HWY-H: Hawaii District Engineering Program Manager	933-8866 <a href="mailto:Sal.Panem@hawaii.gov">Sal.Panem@hawaii.gov</a>
Maui County	<b>Ferdinand Cajigal</b> HWY-M: Maui District Engineering Program Manager	873-2528 <a href="mailto:Ferdinand.Cajigal@hawaii.gov">Ferdinand.Cajigal@hawaii.gov</a>
Kauai County	<b>Raymond McCormick</b> HWY-M: Kauai District Engineering Program Manager	241-3006 <a href="mailto:Raymond.J.McCormick@hawaii.gov">Raymond.J.McCormick@hawaii.gov</a>
City and County of Honolulu	<b>Pratt Kinimaka</b> HWY-O: Oahu Construction and Maintenance Section District Engineer	831-6700 ext 126 <a href="mailto:Pratt.Kinimaka@hawaii.gov">Pratt.Kinimaka@hawaii.gov</a>

**Table 2 Assigned Design Contacts by Geographic location and project type**

<b>Design:</b> Assigned Contacts for County Design Project Review. (NOTE: In case of reassignment due to workloads, HDOT will notify the LPA directly.)		
<b>Type of Project</b>	<b>Contact Name/Section</b>	<b>Phone/Email</b>
Traffic Signal Projects: Statewide	<b>Karl Kunishige</b> HWY-TD: Traffic Design Service Section	692-7679 <a href="mailto:Karl.Kunishige@hawaii.gov">Karl.Kunishige@hawaii.gov</a>
County of Hawaii Design Contact	<b>Robert Sun</b> HWY-DD: Highways Design Section	692-7578 <a href="mailto:Robert.Sun@hawaii.gov">Robert.Sun@hawaii.gov</a>
County of Kauai Design Contact	<b>Christine Yamasaki</b> HWY-DD: Highways Design Section	692-7572 <a href="mailto:Christine.Yamasaki@hawaii.gov">Christine.Yamasaki@hawaii.gov</a>
County of Maui Design Contact	<b>Li Nah Okita</b> HWY-DD: Highways Design Section	692-7581 <a href="mailto:Li.Nah.Okita@hawaii.gov">Li.Nah.Okita@hawaii.gov</a>
City and County of Honolulu—Roadway projects Design Contact	<b>Ross Hironaka</b> HWY-DD: Highways Design Section	692-7575 <a href="mailto:Ross.Hironaka@hawaii.gov">Ross.Hironaka@hawaii.gov</a>
City and County of Honolulu—Traffic Related Projects Design Contact	<b>Reed Matsuo</b> HWY-TO: Traffic Operation Section	692-7684 <a href="mailto:Reed.Matsuo@hawaii.gov">Reed.Matsuo@hawaii.gov</a>

**Table 3 LPA Point of Contact**

<b>County</b>	<b>Contact</b>	<b>Contact Info</b>
City & County of Honolulu	Mark Garrity – Deputy Director	(808)768-8302 <a href="mailto:mgarrity@honolulu.gov">mgarrity@honolulu.gov</a>
	Morgana Lasco - Planner	768-5481 <a href="mailto:mlasco@honolulu.gov">mlasco@honolulu.gov</a>
	City and County of Honolulu: Department of Transportation Services	
County of Hawaii	<b>Ben Ishii</b> Hawaii County: Department of Public Works – Engineering Division, Chief	(808)961-8423 <a href="mailto:Ben.Ishii@hawaiicounty.gov">Ben.Ishii@hawaiicounty.gov</a>
County of Kauai	<b>Larry Dill</b> Kauai County - Department of Public Works –Engineering Division, Chief	(808)241-4996 <a href="mailto:ldill@kauai.gov">ldill@kauai.gov</a>
County of Maui	<b>Cary Yamashita</b> Maui County - Department of Public Works –Engineering Division, Chief	(808)270-7430 <a href="mailto:Cary.Yamashita@co.maui.hi.us">Cary.Yamashita@co.maui.hi.us</a>

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## Updates to the LPA Manual

The HDOT recognizes that regulations and best practices are constantly changing. Therefore, the manual will be updated annually in November. If the LPAs need clarification, or conflicting or outdated requirements are discovered, they shall contact the HDOT Highways Division – Project Coordination & Control Section (HWY-AP). The staff at HWY-AP will keep a log of all comments or suggestions, and determine if updates to the manual are warranted to address the comments. The updated manual will be provided to the LPAs every year after it is updated. Any critical updates or corrections may also be sent to the LPAs between the annual updates.

## Additional Resources

Useful resources available for the LPA from the HDOT Highways Division offices are:

- Project Development Manual by the HDOT Design Branch (HWY-D)—The manual provides guidelines to the HDOT Highways Design Staff for the development of projects from initial project scoping, through the design phase to construction. While procedures and processes will vary for LPA projects, the overall requirements will be similar.
- Consultant Selection Procedures by the HDOT Design Branch (HWY-D)—Facilitates a consistent consultant selection process for the HDOT Highways division which fulfills all applicable State and Federal procurement requirements.
- Environmental Permitting Guidance Manual by HWY-DE—This manual addresses the environmental procedures, documents and permits required prior to advertising most federal and State funded highway projects for construction. The manual provides information that is applicable to both State and County roadway projects receiving federal assistance.
- State Design Criteria for Drainage by the HDOT Hydraulics Branch (HWY-DH)—This document sets forth drainage criteria and policies for HDOT.
- Hawaii Test Methods by the HDOT Materials Testing & Research Branch (HWY-L). Can be found at <http://hidot.hawaii.gov/highways/other/materials-testing-and-research-branch/> -- This provides instructions for standard test methods used by the State for various common measurements.

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- Quality Assurance Manual for Materials by HDOT Materials Testing & Research Branch (HWY-L). Can be found at <http://hidot.hawaii.gov/highways/other/materials-testing-and-research-branch/> --Provides procedures and guidelines ensure the quality of materials for all State Highway construction projects, and County Federal-aid projects on the National Highway System in accordance with the CFR.
  - ROW Procedure Manual maintained by HDOT Right-of-Way Branch (HWY-R). Can be found at <http://hidot.hawaii.gov/highways/highways-division-rights-of-way-manual-2011/> -- HDOT ROW procedures including abstracting, appraisal, negotiations, condemnation, ROW certification, relocation, payments, property management, and utility agreements.
  - Construction Procedure Manual maintained by HDOT Construction & Maintenance Branch (HWY-C)—Outlines procedures followed on HDOT Construction Projects. While internal procedures for LPAs will vary, most of the requirements will be similar.

The FHWA website offers additional information and training on requirements of administering programs using Federal-Aid funding.

One FHWA website that can serve as a valuable training and information resource to the LPA is Federal Aid Essentials for Local Public Agencies. This website provides training videos on a variety of common topics that apply specifically to LPAs. It also provides links to other resources on each topic. This website can be found at <http://www.fhwa.dot.gov/federal-aidessentials/index.cfm>.

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## **Chapter 3: Project Funding**

### **Project Programming (STIP)**

Project Programming is a first step in the Federal-aid process. All Federal-aid projects (except emergency response funds and certain planning and research activities) must be included or “programmed” in the State Transportation Improvement Program (STIP) in order to receive federal funding. In addition, projects within a Metropolitan Planning Organization (MPO) area must first be included or “programmed” in the MPO Transportation Improvement Program (TIP). The TIP requirement would currently apply for all City and County of Honolulu projects and will soon apply to the Maui County as well.

Federal law requires each state to develop a financially constrained STIP listing all eligible projects to be funded with federal aid, along with their anticipated costs and funding sources that are planned for the upcoming four (4) years. The STIP is developed and maintained by HDOT’s Planning Branch (HWY-P) in collaboration with other HDOT Branches, the Oahu Metropolitan Planning Organization (OMPO) and LPAs. Federally funded projects must be identified in the STIP for the funding to be authorized and released for the project. Additionally, for LPAs to have their projects listed in the STIP, the projects must be consistent with long range plans or programs. The regional long range plans provides goals and guidance for the distribution of the funding for categories of projects (i.e., system preservation, capacity).

The HDOT has the prerogative to set aside part of its federal apportionment for LPAs to partially fund their transportation projects, as described in USC 134 and 135. In order for a project to qualify for Federal funds, projects must be programmed on the Statewide Transportation Improvement Program (STIP) and, if applicable, a Transportation Improvement Program (TIP). Development of these programs must comply with 23 CFR 450 Sub-parts B and C (Statewide and Metropolitan Transportation Planning and Programming), the implementing rules for 23 USC 134 and 135, and 23 CFR 470 and 500 (Federal Aid Highway Systems, Management and Monitoring Systems).



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The STIP and TIP are based on the federal fiscal calendar (which begins October 1) and developed in 4-year periods (23 CFR 450.216(a)) with each Federal Fiscal Year (FFY) financially constrained. In addition to the first four official STIP years, HDOT develops a STIP that includes 2 future years for informational purposes only. General information on the STIP is available on HDOT's website and is managed by its Planning Branch (HWY-P):

<http://hidot.hawaii.gov/highways/other/other-related-links/stip/>. Additional information is also available on FHWA's website <http://www.fhwa.dot.gov/federalaid/projects.cfm> in "A Guide to Federal-Aid Programs".

### **Developing the STIP**

The development of the STIP and its revisions are vetted through a public process and requires LPA participation. In addition, LPAs with a population greater than 50,000 people must process their proposed projects through a Metropolitan Planning Organization (MPO) Transportation Improvement Program (TIP) process (23 CFR 450 Sub-Part C) prior to acceptance on the STIP. An approved TIP is subsequently included unchanged on the STIP. As of 2014, the Oahu Metropolitan Planning Organization is the only MPO in the State of Hawaii. A MPO is currently being created on Maui. Projects for non-MPO areas must be chosen based on a planning process including public input as determined by each county. Specifically, each County submits projects to the HDOT that are consistent with that County's long-range and/or Statewide Transportation Plan for development (23 CFR 450.216 (k)). Roadways must be functionally classified. Proposed projects should also be prioritized and identified through a management plan or program (23 CFR 500.105(d)). Upon request, these management plans or programs shall be made available to HDOT.

In accordance with 23 CFR 450.216(a), the STIP must be updated at least every four years to reflect the next "4-year STIP" period. The HDOT initiates the process to update the STIP by issuing a "Request for Project Proposals" (RPP) to the LPAs. The RPP is initiated approximately one year prior to the Federal Fiscal Year (FFY) that the update is required. For example, for the STIP that covers the FFY 2015 through 2018, the RPP was initiated in October 2013, the beginning of federal fiscal year 2014. Instructions are provided to the LPA when the Request for Project Proposals is issued.

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In response to the RPP, each LPA submits their proposed STIP to HDOT's Director through HWY-P. For each project requested, the LPA must fill out a Project Programming Report (PPR). (See *Sample 1* at end of this chapter. A fillable form can be downloaded from: <http://hidot.hawaii.gov/highways/files/2013/10/131018-PPR-Form-for-LPAs.xls>).

Next, the HDOT creates a proposed financially unconstrained draft of the "4-year STIP" that identifies all eligible proposed projects, which shows the anticipated share of Federal funds by agency and by project. The HDOT then processes the proposed draft STIP in accordance with 23 CFR 450 and STIP procedures. The proposed draft STIP is then financially constrained based initially on the anticipated amounts of available federal funds and a proportional share for each county. Financial constraint of the STIP is further refined by system and funding goals identified in the long range plans, priorities identified in the management systems and plans, public comment and agency coordination, and project readiness. The STIP is then submitted to the FHWA and to the Federal Transportation Authority (FTA) for approval. Prior to the start of the FFY that the update is required, the FHWA renders a decision on the proposed draft STIP (23 CFR 450.218). The current status and applicable version of the approved STIP, along with STIPs from previous years, are posted on HDOT's website: <http://hidot.hawaii.gov/highways/other/other-related-links/stip/>. The website is managed by HDOT's Planning Branch.

Prior to requesting that a project be included in a STIP, the LPAs must verify that the following requirements have been or will be met:

- 1) Proposed STIP projects are consistent with that County's long-range and/or Statewide Transportation Plan for development (23 CFR 450.216 (k)) and the long range plan was reviewed in a planning process as determined by the county.
- 2) local matching funds are assured to be available during the programmed FFY; and
- 3) will be "Ready to go" in the programmed FFY. A project is considered "Ready to go" when the LPA has its local matching funds and after clearing federal requirements for the requested project phase and environmental clearance has been completed, as applicable. For construction phase, "ready to go" would mean that the PS&E, environmental, and

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rights of way functions are complete and the construction contract documents are ready to be advertised.

The above requirements apply regardless of what phase: PLN, DES, ROW, or CON, that the proposed project is in. When initially developing and later revising its STIP plan, the LPA should be mindful that all federal funds expended shall be reimbursed to FHWA if the LPA decides to withdraw or cancel a project. Planning funds, however, would not have to be reimbursed to FHWA *if* the LPA completes the environmental process and arrive at a no-build alternative following that process. Also, in the event ROW acquisition or actual construction of a project does not start by the close of the 10<sup>th</sup> FFY from the date preliminary engineering work was authorized, the LPA may be required to repay all federal reimbursements.

### **Funding Categories**

Federal funds are not distributed to State DOTs in a lump sum, but in prescribed amounts to various funding categories described in the current long-term Highway funding authorization signed into law by the federal government, Moving Ahead for Progress in the 21st Century Act (MAP-21) or from previous authorization Acts. A list of the funding categories used in Hawaii can be found on the HDOT website under STIP abbreviations/definitions.

<http://hidot.hawaii.gov/highways/other/other-related-links/stip/general-stip-information/>. To use the funds in a particular category, the project needs to meet the conditions of the category.

### **Funding by Project Phase**

Phases of a project typically programmed on the STIP for LPA projects are listed below. A complete listing is available on HDOT's website under STIP abbreviations/definitions.

<http://hidot.hawaii.gov/highways/other/other-related-links/stip/general-stip-information/>.

Information on the requirements, process and deadline for a LPA to request for the programmed funds to be obligated is provided in the *Obligation of Federal Funds* section of this Chapter.

- A. Planning (PLN): The planning phase would involve planning studies as well as environmental compliance. Not all projects will have a planning phase, but a planning phase would generally be required for projects that require an environmental impact statement or if there is uncertainty if the environmental document will result in an Environmental Assessment or Environmental Impact Statement. During this phase the

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LPA would focus on satisfying local, state and federal environmental regulatory requirements. All work during this phase must be developed in compliance with FHWA's planning regulations in 23 CFR 771. See also *Chapter 5: Environmental Clearances and Permits*.

- B. Design (DES): Funding for this phase can be used for preliminary engineering, environmental coordination and consultation, continuing to prepare and finalize environmental clearance documents, and performing final design after environmental clearance is complete. All work during this phase must be developed in compliance with 23 CFR 625. For more information see *Chapter 6: Design*. LPA should keep in mind when considering to request funding for its preliminary engineering work that 23CFR 630.112 allows FHWA to require repayment of the "sum or sums of Federal funds paid..." in the event that "right-of-way acquisition for, or actual construction of, the road for which this preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized..."

Most design projects will require that the first set of Plans, Specifications and Estimates (PS&E) be sent no later than 60%. (See *Chapter 6: Design*.) However, for low risk projects, such as Pavement Preventative Maintenance, restriping, or resurfacing projects with a routine and straight forward scope of work, the LPA may request to only submit a PS&E for the 90% and the 100% design stages. Such requests shall be made in writing by the LPA when it requests to place the proposed project on the TIP or the STIP.

C. Right-of-Way:

- 1) Preliminary ROW funds (Pre-ROW) – Funding for this phase can be used for ROW acquisition activities with the exception of negotiating and making offers to purchase property or to relocate an entity from a property. The NEPA process does not have to be completed in order to obligate Pre-ROW funds, as outlined in 23 CFR 710.
- 2) ROW funds (ROW) - programmed on the approved TIP or STIP may be used for the acquisition or purchase of property interest (easement, rental, license, title, access) or for the payment of relocations. The LPA must complete the NEPA process for a

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project before requesting to have ROW funds obligated, as specifically stated in 23 CFR 710.305.

D. Construction (CON) funds – Funding for this phase can be used for the construction and construction engineering of a project.

E. Alternative Funding Methods

1) Advance Construction funds (AdvCon)

Advance Construction is a financing technique that allows committing future years' federal funds, but reduces the future years' funding levels. This method of funding would occur when the LPA wishes to spread the cost of its projects, including the local match, over several years. The LPA must obtain HDOT approval prior to the use of this method. Therefore, if the LPA decides to pursue AdvCon it should consult with HDOT Project Coordination & Control Section (HWY-AP). If appropriate, HWY-AP will then coordinate meetings with HDOT Project Control Section (HWY-SM) and the HDOT advance planning section (HWY-PS). If approved, the amount of Advance Construction (AdvCon) funds obligated to the LPA will be deducted from the amount of federal funds typically programmed for the LPA in the subsequent FFY(s). Additionally, when using AdvCon funds, the LPA should be aware that the future funds are not guaranteed to be available for the project. The FHWA authorization of AdvCon funding does not constitute any commitment of Federal funds on the project. In addition, the FHWA shall not reimburse the State until AdvCon amount is converted and Federal funds are obligated. Conditions and requirements for use of AdvCon funds are prescribed in 23 CFR 630.

To utilize this funding method, the LPA must submit their request to use AdvCon funds with their financially constrained STIP program. In order to maintain annual FFY constraint their STIP request would show the conversion of the AdvCon funds in the next FFY, along with adjustments to the rest of its STIP program in future FFYs to accommodate its request.

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## 2) Soft Match to LPA Funds

Usually, the local match provided to receive federal funding is in the form of cash, but the LPA may request federal funds to “Soft Match” previously purchased or donated lands, consultant services, staff services materials or funds in accordance with 23 USC Section 120 and Section 323. Requests shall be in writing to the HDOT design contact (see Table 2 page 17), substantiated by proper appraisal and accounting documentation, and the proposed funding must be reflected in the LPA’s STIP program. Subject to review and approval by HDOT, the agreed-upon value of the Soft Match contribution will be applied as a credit toward the local match of Federal funds. While Soft Match contributions are not “authorized” in the same sense in which Federal-aid funds are authorized, they do need to be approved by HDOT before credit for the Soft Match value may be applied toward the local match. If satisfactory, HDOT will transmit the appropriate documents to FHWA for approval. The LPA will then receive a written reply from HDOT.

- F. Emergency Relief projects – Funding of design and construction funds for work due to an emergency is not, by nature, programmed on the STIP. Thus, upon realizing the need for federal assistance, the LPA should contact HDOT Construction and Maintenance Branch (HWY-C) as soon as possible and follow-up with a letter to HDOT Director requesting design and/or construction funds for Emergency Relief (ER) efforts. In the event an emergency related project is not advanced to construction obligation by the end of the second fiscal year following the disaster, the project will not be advanced using ER funds (23 CFR 688.105(h)).

The LPA is responsible for working with HDOT STIP Manager (HWY-P) and LPA Coordinator (HWY-AP) to ensure that its project is included or “programmed” in the STIP with adequate funding for the correct Federal Fiscal Year (FFY).

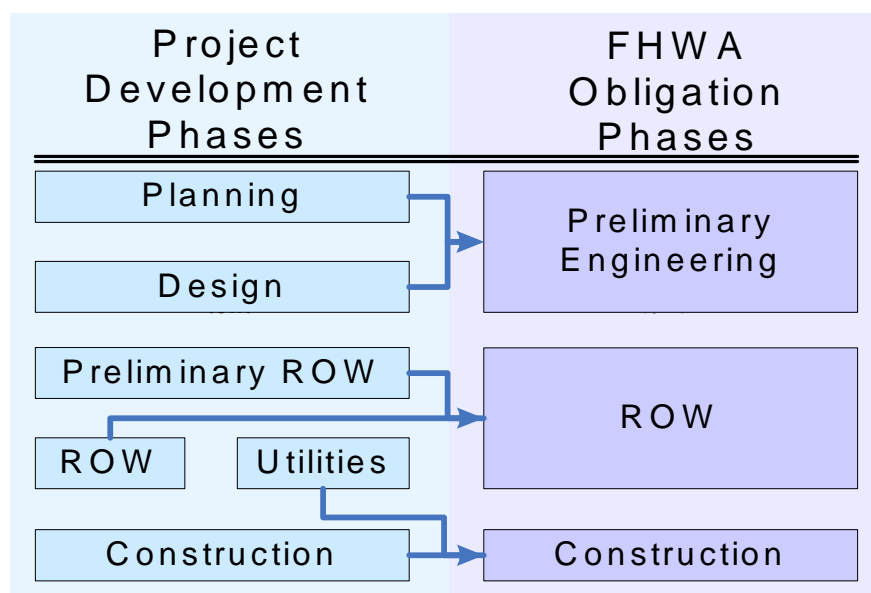
## **Obligation of Federal Funds**

After programming, FHWA authorization and obligation of funds is the next required step in the Federal funding process. When FHWA approves (or executes) a Request for Project

Authorization, Agreement, and/or Modification (Form PR-1240) received from HDOT, it is considered a contractual obligation of the Federal government for Federal Funding and Reimbursements (23 USC 106). Note that there are some exceptions (such as advance construction) where authorization to proceed is not a commitment to provide funds for the entire project. The common exceptions are covered in more detail below.

When Federal funds are used for multiple project phases (Planning, Design, Right-of-Way, and/or Construction), projects receive FHWA Authorization in phases, but the phase convention for FHWA is different from the project development or programming phases. *Figure 1* shows the relationship between the project development phases and the FHWA phases. In order to receive programmed federal-aid funds, LPAs must formally request HDOT to obligate the funds for that phase. An HDOT contact is designated for each phase of the process as shown in *Table 1* and *Table 2* (see pages 14 through 17).

**Figure 1 Comparison of Phases used for project development and programming versus those used by FHWA for obligation purposes**



LPAs must submit a request to obligate funds with all required documentation (PS&E checklist and related items) to HDOT by May 31<sup>st</sup> of the corresponding programmed FFY. If a LPA does not submit or if its submittal request is deemed incomplete or unacceptable by HDOT after

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review, then HDOT has the discretion to reallocate the affected programmed funds to other projects that may or may not be within the affected LPA's jurisdiction. Phase specific requirements which the LPAs shall follow prior to requesting the obligation of funding are provided in the following sections.

HDOT will review the request, and if acceptable, will send a formal request for project authorization, agreement, and/or modification (Form PR-1240) along with required documentation to FHWA. After receiving a response from FHWA, HDOT will mail a hard copy of the Form 1240 to the LPA, and will submit an advance copy through email to the applicable contacts listed in *Table 2* (Chapter 2). When the request pertains to phases other than construction, the LPA may proceed with its work upon receiving the electronic copy of the approved Form 1240. When the request involves construction funds, the electronic copy of the Form 1240 is sent to the LPA so that the LPA may begin the procurement process. Refer to the related section on Construction Funds below for further information.

### **Planning Funds**

Planning funds must be programmed on the current approved TIP or STIP, but there are no other requirements to complete prior to obligating funds for planning (PLN) phase. The LPA may request for the obligation of PLN funds once the FFY begins. Requests shall be submitted to the Federal Program Engineer (HWY-SM) through the HDOT contact in either the Traffic Branch (HWY-T) or the Planning Branch (HWY-P). (The point of contact would be HWY-T for all traffic studies. HWY-P would be the point of contact for all other projects.) The letter should include the following information which should correspond to the information on the STIP:

- a) County Name
- b) State Project Number
- c) State Route Number
- d) General Location
- e) General Description of work
- f) Cost Estimate



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Attached to the letter would be a project location map (*Sample 4*) and a completed Federal and Program Data Sheet (DOT 4-494) *Sample 5*. The samples can be found at the end of this Chapter.

The Federal Program Engineer (HWY-SM) will prepare and forward the appropriate documents to FHWA for approval. The LPA may proceed with their project upon receiving either an electronic or hard copy of the approved Form 1240.

### **Design Funds**

Design (DES) funds must be programmed on the current approved STIP.

Projects shown as DES on STIP which did NOT include a previous planning phase would have a scope of preliminary engineering, environmental coordination and consultation, preparation of environmental clearance documents, and performing final design. These would generally be smaller or less complex projects that do not require a major environmental assessment or environmental impact statement.

For typically larger or more complex projects where a planning phase involving an environmental impact statement or a major environmental assessment is performed, *final* design cannot begin until the LPA completes the requirements of the Federal National Environmental Protection Act (NEPA) (23 CFR Part 771) and the State's HRS Chapters 343 and 6E. See the *Glossary of Terms* on page 82 for definitions of preliminary and final design.

Requests to obligate DES funds shall be submitted to the assigned HDOT design contact (see *Table 2* on page 17). The following should be included with the request to obligate funds:

- a) A cover letter that lists the project name and number corresponding to what shows on the STIP.
- b) A Detailed Cost Estimate. The cost estimate should separate out design costs for preliminary and final design. It should also include costs for County review if the design is being done by a consultant. (See *Sample 2* at end of this Chapter.)
- c) Sketch Map. (See *Sample 4* at end of this Chapter)
- d) Federal Aid Program Data Sheet (See *Sample 5* at end of this Chapter)

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Upon receiving either an electronic or hard copy of the approved Form 1240 the LPA may proceed with their project.

### **Right-of-Way Funds**

Right-of-Way (ROW) funds are shown in 2 phases on the STIP: Pre-Right-of-Way (preROW) and final acquisition.

PreROW may be used for any ROW acquisition activities except negotiating and making offers to property owners or negotiating and making offers for relocations. In order to obligate PreROW funds programmed on the approved STIP, the LPA must submit a letter to the Federal Program Engineer (HWY-SM), through the assigned HDOT contact in either HWY-D or HWY-T (See *Table 2* on page 17). The letter must contain the project name and number corresponding to what shows on the STIP along with any other documents requested by the State.

ROW funds programmed on the STIP can be used for final acquisition including purchase of property interest (easement, license, title, access), or for the payment of relocations. ROW funds cannot be obligated until the National Environmental Policy Act (NEPA) documents have been accepted by FHWA. (See *Chapter 5: Environmental Clearances and Permits* for more information about the NEPA documents.) Requests to obligate ROW funds shall be submitted to the assigned HDOT contact in Design Branch (HWY-D) or Traffic Design Branch (HWY-T) (See *Table 2* on page 17). The following should be included with the request:

- a) A cover letter stating that the LPA wishes to obligate ROW funds. The cover letter should include the project name and number corresponding to what shows on the STIP.
- b) Copies of the approved NEPA package. (See *Chapter 5: Environmental Clearances and Permits* for more information about the NEPA documents.)
- c) If not furnished in any previous planning or design obligation requests, a project location map (see *Sample 4* on page 44) and a completed DOT form 4-494 (see *Sample 5* on page 45).

Upon receiving either an electronic or hard copy of the approved Form 1240 the LPA may proceed with their project.

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## Construction Funds

The following conditions must be met before a LPA may request to obligate construction (CON):

- a.) The funding has been programmed on the approved STIP.
- b.) The LPA has completed the NEPA process and obtained a Categorical Exclusion (CATEX) or a Finding of No Significant Impact (FONSI) or a Record of Decision (ROD) from the FHWA, thus securing the appropriate environmental clearances in accordance with 23 CFR Part 771 and HRS 343 and 6E. For more information about the NEPA process, see *Chapter 5: Environmental Clearances and Permits*.
- c.) FHWA has approved a ROW Certification (see *Chapter 8: Right-of-Way*), which was prepared in accordance with 23 CFR 710.311 for acquisitions as required by 23 CFR 636.309. For design-build projects (23 CFR 710.313), a ROW Certification was prepared in accordance with 23 CFR 309(p).
- d.) Plans, Specifications and Estimates (PS&E), design exceptions, PS&E or other checklists, reports, Request for Proposals (RFP), and other applicable documents have been reviewed and approved by the HDOT and/or FHWA.
- e.) If FHWA has oversight of project (see page 10), FHWA's approval of the PS&E obtained by the HDOT design contact.

Requests for obligation of funds should be submitted to the LPAs assigned HDOT contact in HWY-D or HWY-T (see *Table 2* on page 17). The request must at minimum include:

- a.) 2 sets of approved 100% half-size Plans, Special Provisions, Engineer's Preliminary Detail Estimate, (See *Sample 2* at the end of this Chapter.)
- b.) Final PS&E Checklists, along with HDOT's review on previous submittals. For correspondence procedures, refer to Section 12.7 of the PDM. (See *Sample 3* at end of this Chapter.)
- c.) on page 45) if not furnished on a previous obligation request.

If satisfactory, HDOT will forward required documentation to FHWA for approval. The LPA may advertise the project for bids only after receiving the approved hard copy of Form 1240 from HDOT **AND** satisfying any conditions stated in HDOT's cover letter. Receipt of the

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electronic copy of the approved Form 1240 without a cover letter that may include additional conditions does not imply or represent approval by HDOT to advertise the project.

### **Emergency Relief Projects**

As previously mentioned in this Manual, funding of design and construction funds for work due to an emergency is not, by nature, programmed on the STIP. Thus, upon realizing the need for federal assistance, the LPA should contact HDOT, Construction & Maintenance Branch (HWY-C) as soon as possible and follow-up with a letter to HDOT Director requesting design and/or construction funds for Emergency Relief (ER) efforts. If acceptable and after completion of the following items, the HDOT may request for the obligation of funds from FHWA.

- Preparation of Detailed Damage Inspection Reports (DDIR) by the LPA and submitted to the HDOT and FHWA (See Sample 6 at end of this Chapter),
- Completion of site visit with HDOT and FHWA,
- FHWA acknowledgement of emergency event,
- FHWA approval of submitted DDIRs,
- Agreement, understanding, and appropriate documentation on the DDIR form of 100% immediate work items versus the 80% permanent work items.
- ER construction projects competitively bid (most cases for permanent repairs) shall be subject to the same requirements described above in having appropriate environmental clearances, ROW certification, and approved PS&Es.

In the event a project resulting from an emergency event is not advanced to construction within the second fiscal year following the disaster, but the LPA still desires to use federal funding, the project may be eligible to use federal funds, but will be subject to all processes to include it into the STIP/TIP like any other non-emergency project.

For additional information on the Emergency Relief program, please reference the official Emergency Relief Manual, which can be found at: <http://www.fhwa.dot.gov/reports/erm/er.pdf>.

### **Making Changes to the STIP**

The two methods available to request changes to their portion of the STIP are 1) Administrative Modification and 2) Major Revision (Amendment). The scope of the revision determines the

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applicable regulatory process. If a LPA would like to request a revision to the STIP, the LPA shall submit the documents noted on HDOT's website in one complete package to the HDOT Director with attention to HDOT Planning Branch (HWY-P) with copies to HWY-AP, HWY-SM, geographically appropriate district office, and design contact (see *Table 2* on page 17). Guidelines determining the applicable method are provided in HDOT website. (See <http://hidot.hawaii.gov/highways/other/other-related-links/stip/>)

In addition to the formal package sent to HDOT with the proposed changes, the LPA should participate in the bi-annual over the shoulder reviews with State and FHWA personnel. These meetings are an opportunity to discuss potential schedule or cost changes in the programmed projects, and explain why potential changes may be necessary. It also gives the LPAs the opportunity to discuss alternates with the State and FHWA.

### ***Administrative Modification***

Preapproved changes to a project's cost estimate or schedule can be processed by HDOT as an Administrative Modifications per 23 CFR 450.216(n). The resulting STIP, after processing Administrative Modifications, does not have to be financially constrained but financial constraint must be re-established through the next Major Revision process. Therefore, administrative changes that impact financial constraint are usually done as part of a major revision. For projects within a Metropolitan Planning Organizations (MPO), a separate Administrative Modification process must first be completed for administrative updates of the TIP. The exception for going through the MPO process for modification would be for corrections of clerical errors, project name, schedule changes, etc. that do not require technical review or approval by the MPO. Administrative Modifications are effective once the HDOT Highways Administrator sends a letter to FHWA notifying them of the changes.

Administrative modifications could also be used for changing the scope of a project to accommodate prescribed actions made under the National Environmental Policy Act. Other examples on the type of changes considered as an Administrative Modification are described on HDOT's website under "STIP Revision Guidelines":

<http://hidot.hawaii.gov/highways/other/other-related-links/stip/general-stip-information/>.

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### ***Major Revision (Amendment)***

Examples of the types of changes which qualify as a Major Revision are adding a new project, deleting a project from the approved STIP, making a major modification to the design concept or scope, or adding a phase to a project already on the STIP. Further examples on the types of changes, along with related requirements, are posted on HDOT's website under "STIP Revision Guidelines": <http://hidot.hawaii.gov/highways/other/other-related-links/stip/general-stip-information/>.

Major Revisions must be coordinated by HDOT and processed according to 23 CFR 450.208 and 210 and result in the STIP remaining financially constrained. The Proposed Major Revisions must be approved by FHWA and the Federal Transportation Authority (FTA). For projects within a MPO, a separate TIP Expedited Modification or Amendment process must first be approved by the MPO. Major Revisions are scheduled twice within a FFY (23 CFR 450.216(n)). The deadlines for a LPA within an MPO to submit its requests are: November 1<sup>st</sup> and April 15<sup>th</sup>. All other LPA's must submit by December 1<sup>st</sup> and May 15<sup>th</sup>.

If a LPA would like to request a major amendment to the STIP, the LPA shall submit, for each project affected by the request, all of the following documents to the HDOT Director through HWY-P with copies to HWY-AP, HWY-SM, geographically appropriate district office, and design contact (see *Table 2* on page 17).

- 1) Cover letter – describing the requested revision(s)
- 2) LPA 4 Year Plan – indicating the requested revision(s) in red font, including adjustments necessary to remain at or below the total federal funding by FFY for the LPA established in the latest approved STIP.
- 3) For each project affected by the requested revision(s):
  - a) Updated Project Programming Request (PPR) form to reflect revisions
  - b) Project development Schedule
  - c) PS&E Checklist (See Sample 3 PS&E Checklist)
  - d) Location Map (See Sample 4 at end of this chapter.)

HDOT will begin its review after receiving all of the above required documents.

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## Project Agreement Modifications

FHWA's administrative method to revise prior obligations contracted in a Form 1240 is to process a Project Agreement Modification (PAM). When deciding on whether or not to request of HDOT to process a PAM, the LPA should consider the following:

- PAM requests resulting in an increase to a project's funds may be deducted from the LPA's obligation authority allotment on the STIP in the FFY the adjustment(s) is executed by FHWA or as otherwise determined by HDOT.
- Depending on the effect of the PAM on a project's original purpose and need, a change to the STIP may be required via a major revision (See previous Section entitled *Major Revision (Amendment)*). Therefore, the LPA should be aware that the amount of time for HDOT to process their request may negatively delay the project's schedule.
  - If a PAM request for additional funds will not result in expanding a project's original purpose and need, and the amount is within the established thresholds for an administrative STIP amendment, the STIP does not need to be amended.
  - If a PAM request will result in expanding a project's original Purpose and Need (example: adding ¼ mile of paving beyond the original limits or adding a traffic signal for safety or operational improvements that was not part of the original scope) or if the amount of funds to be added exceeds established thresholds for administrative STIP amendments, then the STIP must be amended via a non-administrative STIP amendment and approved by FHWA before the additional funds can be obligated for the project.

When a PAM request involves the de-obligation of excess funds related to low bid opening or less than anticipated project needs or the closing of a project, de-obligations will occur within the timelines specified in 23 CFR 630.106 or within 90 calendar days after a determination of funding needs have been made by HDOT. Use of the excess funds will be determined by HDOT. The LPA may request to transfer the de-obligated funds to another ready-to-go project(s) that is already programmed on the TIP or STIP if the use of the deobligated funds for the alternate project meets regulatory requirements. The LPA must submit a viable project development schedule and documentation showing source and amount of local match for the

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project to HDOT. After evaluating the information provided, HDOT will notify the LPA of its decision. If HDOT agrees, then the LPA must submit an approvable obligation request, along with the required documentation (see section on *Obligation of Federal Funds*) by May 31<sup>st</sup> of the same FFY that the funds were de-obligated by the FHWA. To avoid the possible lapsing of formula obligation authority, if the LPA does not have a ready to go project to receive the de-obligated funds, then use of such deobligated funds will be determined by HDOT.

For Project Agreement Modifications (PAM) involving the obligation of additional or the reduction of Federal funds, the LPA shall provide the following to the HDOT:

- Requested amount, along with documentation showing source and amount of local match for the project.
- Reason for the cost change
- Confirmation that the increase is for the original project purpose and need. For project cost decreases, provide reason(s) for decrease along with a revised project estimate.
- For modification to a construction project, provide a revised Detail Estimate Summary Sheet.
- Current schedule
- Schedule when adjustments to funds must be completed
- Confirmation that the increase will not be applied to any previously completed work already paid for by the FHWA and thus considered as double payment.
- For construction change orders, approval by the appropriate HDOT District Engineer.
- Approval by FHWA, when required.

LPA assumes all cost related to delays impacting its project schedule caused by HDOT and or FHWA to process its request, including additional time taken for the LPA to submit and HDOT and FHWA to evaluate resubmittals required due to incomplete or incorrect initial requests. The HDOT and FHWA will make reasonable effort to evaluate submittals in a timely manner.

Upon determining that a request is complete and valid, HDOT will submit a request to FHWA for authorization and obligation of the funds. HWY-SM – Federal Program Engineer will provide the LPA a modified PR-1240.



## Sample 1 Project Programming Report to be used for requesting a project be added to the STIP

Instructions:  
 1. Underlined fields are to be completed.  
 2. Shaded gray fields are auto-filled.  
 3. Specific instructions for each item can be found by clicking on the item in the electronic form.

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State of Hawaii  
Department of Transportation  
Highways Division

**Project Programming Request (PPR) – For Local Planning Agency (LPA) Use**

Date: \_\_\_\_\_

**I. Requesting Office**

A. Agency: \_\_\_\_\_ Approval: \_\_\_\_\_  
Signature of Approving Agency Authority

B. Section or Office: \_\_\_\_\_  
 Program Manager: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_  
 Email: \_\_\_\_\_

**II. Program Information**

A. Subprogram: \_\_\_\_\_  
If subprogram is not listed, specify subprogram and program below:  
 Subprogram: \_\_\_\_\_ Program: \_\_\_\_\_

B. Program: \_\_\_\_\_  
(auto-fill)

C. Included in plan or study: \_\_\_\_\_  
For STIP inclusion purposes, if the project is not listed in a regional long range plan, indicate which goals and objective from the LRP or Statewide Transportation Plan are being met.

D. Consent Decree? \_\_\_\_\_

**III. Project Information**

A. Title: \_\_\_\_\_

B. Location: \_\_\_\_\_

Island: \_\_\_\_\_ Land Use: \_\_\_\_\_

District: Indicate if project falls within more than one district and list them separately:  
 1) \_\_\_\_\_ 2) \_\_\_\_\_ 3) \_\_\_\_\_

Route No.	Route Name	M.P.	to	M.P.	Functional Classification
_____	_____	_____	to	_____	_____
_____	_____	_____	to	_____	_____
_____	_____	_____	to	_____	_____

Travelway Users: ☐ Vehicles & Trucks  
☐ Transit  
☐ Bicycles  
☐ Pedestrians  
select all that apply

Attach location map  1. Click on the "Attach file here" box (located on this page to the left)  
 2. Click on Insert menu at the top  
 3. Select Object → Create from File...  
 4. Use the Browse button to locate file  
 5. Check box for "Display as icon" → Select Ok

For HWY-PS Use Only		For HWY-SM Use Only	
Date Received	Initial	Date Received	Initial
Outgoing Date	Initial		

---

Instructions:  
1. Underlined fields are to be completed.  
2. Shaded gray fields are auto-filled.  
3. Specific instructions for each item  
can be found by clicking on the item  
in the electronic form.

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C. Purpose & Need: [How To Write Purpose & Need](#)

D. Work Description: If the project is a phase of a multi-phased project, identify and provide cost estimates for all future phases.

E. If deferred, impact on meeting needs:

F. If constructed, impact on operating and maintenance efforts and costs:

G. Existing Utilities:

H. New Utilities:

I. Property Acquisition:

J. Property Use, Size & Ownership Issues:

K. Full Access Control & Easements:

Instructions:  
 1. Underlined fields are to be completed.  
 2. Shaded gray fields are auto-filled.  
 3. Specific instructions for each item can be found by clicking on the item in the electronic form.

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#### IV. Project Phases - Estimated Costs and Start Years

	Start Year	Total Cost	Federal Share	Local Share
A. PLN		\$ -		
B. DES		\$ -		
C. ROW		\$ -		
D. CON		\$ -		
E. Total		\$ -	\$ -	\$ -

To account for "Year of Expenditure" cost inflation, future year cost estimates must include a 2% inflation factor. The inflation factor is subject to change.

For STIP inclusion purposes, the TOTAL project cost is needed. Please include cost estimates/actual costs for ALL applicable phases of the project, even if they were already funded or are scheduled for an future off STIP year.

#### F. Agency's Assurance of Local Match

Agency must show that local match for this project is assured either by attaching a document or explaining below.

Attach document here

1. Click on the "Attach file here" box (above)
2. Click on Insert menu at the top
3. Select Object --> Create from File...
4. Use the Browse button to locate file
5. Check box for "Display as icon" --> Select Ok

#### V. Environmental Action

Expected Environmental Document:

A. State (HRS 343):  Select from list

B. Federal (NEPA):  Select from list

#### C. Environmental Items

From the drop-down list, select "X" for all that apply; if not sure, select "?" so it can be checked later

- ☐ Historic clearances (Section 106, Section 4(f), Section 8(e), etc.)
- ☐ Historic bridges (Section 106, Section 4(f))
- ☐ Archaeological (Section 106, Section 4(f))
- ☐ Cultural (Section 106)
- ☐ Wetlands (Section 401, Section 404)
- ☐ Floodplain (CZM, SMA)
- ☐ Threatened or endangered species (Section 7)
- ☐ Hazardous materials (contaminate soils)
- ☐ Noise analysis
- ☐ NPDES permit
- ☐ Landscaping
- ☐ Public parks, recreational areas, wildlife/waterfowl refuges (Section 4(f))
- ☐ Title VI / Environmental Justice
- ☐ Cumulative and secondary impacts
- ☐ Other (please specify):
- ☐ Other (please specify):
- ☐ Other (please specify):
- ☐ Other (please specify):
- ☐ Other (please specify):

Instructions:  
1. Underlined fields are to be completed.  
2. Shaded gray fields are auto-filled.  
3. Specific instructions for each item  
can be found by clicking on the item  
in the electronic form.

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**VI. Proposed CIP Project** Alternatives To Be Considered

A. No-build

B.

C.

D.

E. Transportation System Management (TSM) document (required for Capacity projects)

**F. Design Guidelines**

From the drop-down list, select "X" for all that apply; if not sure, select "?" so it can be checked later

- ☐ AASHTO
- ☐ MUTCD
- ☐ 3R
- ☐ Design Exception
- ☐ FAA Clearances - vertical / horizontal

**VII. Proposed SMP Project**

(By priority, itemize the project scope to be performed, with the first listed being of highest priority)

A.

B.

C.

D.

E.

---

Instructions:  
1. Underlined fields are to be completed.  
2. Shaded gray fields are auto-filled.  
3. Specific instructions for each item  
can be found by clicking on the item  
in the electronic form.

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**VIII. Additional Information**

Engineer's Preliminary Detail Estimate  
 Federal Aid Project No. STP-000(000)  
 Page ##  
 8/13/2014

**SUMMARY**

	CONTRACT ITEMS	CONTINGENCIES	CONSTRUCTION ENGINEERING	TOTAL PROJECT COST	PARTICIPATING COST	FEDERAL SHARE (80% PAR)	COUNTY SHARE (20%)
MAINTENANCE - RESTORATION & REHABILITATION Type Code 06	\$1,684,505.00	\$84,225.25	\$265,309.54	\$1,768,730.25	\$1,768,730.25	\$1,414,984.20	\$353,746.05
UTILITIES Type Code 43	\$18,100.00	\$905.00	\$2,850.75	\$19,005.00	\$19,005.00	\$15,204.00	\$3,801.00
Total Construction	\$1,702,605.00	\$85,130.25	\$268,160.29	\$1,787,735.25	\$1,787,735.25	\$1,430,188.20	\$357,547.05
CONSTRUCTION ENGINEERING Type Code 17							
Consult (CM/CSS)			\$227,936.25	\$227,936.25	\$0.00	\$0.00	\$227,936.25
Staff Non-Labor			<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
Subtotal			\$227,936.25	\$227,936.25	\$0.00	\$0.00	\$227,936.25
County Forces			\$32,179.23	\$32,179.23	\$32,179.23	\$25,743.38	\$6,435.85
State Review			<u>\$8,044.81</u>	<u>\$8,044.81</u>	<u>\$8,044.81</u>	<u>\$6,435.85</u>	<u>\$1,608.96</u>
Subtotal			\$40,224.04	\$40,224.04	\$40,224.04	\$32,179.23	\$8,044.81
Total CENG			\$268,160.29	\$268,160.29	\$40,224.04	\$32,179.23	\$235,981.06
TOTAL PROJECT	\$1,702,605.00	\$85,130.25	\$268,160.29	\$2,055,895.54	\$1,827,959.29	\$1,462,367.43	\$593,528.11

Federal Funds Required: \$1,462,367.43  
 County Funds Required: \$593,528.11

Sample 3 PS&E Checklist

## Plans, Specifications and Estimate Checklist PS&E CHECKLIST FOR FEDERAL-AID PROJECTS

Project: \_\_\_\_\_  
Federal-aid Project No.: \_\_\_\_\_

Description	Action Taken (Letter No.)	Date of Submittal
STIP		
Innovative Financing		
Environmental Documents		
A. CZM Permit		
B. SMA Permit		
C. Section 404 Permit		
D. Section 401 Water Quality Certification (WQC)		
E. Section 106		
F. Section 4(f)		
G. Section 7 of the Endangered Species Act		
H. CE, FONSI, or ROD Approval		
I. Noise Study Report		
J. Coast Guard Permit		
K. NPDES Permit		
L. 6(f)		
M. SCAP		
Environmental Mitigations		
Noise Abatement Measures		
Right-of-Way Certification		
Utility Agreement or Memorandum of Understanding		
A. Electric		
B. Telephone		
C. Gas		
D. Water		
E. Sewer		
F. Cable T.V.		
DCAB Project Review		
Soils Engineering Report		
Structural Foundation Investigation Report		
Bridge Sufficiency Rating		
Hydraulic Report, with any Scour Evaluations		
Permanent BMP Checklist		
Pavement Justification Report		
Traffic Signal Warrants		
Proprietary Materials		
Design Exceptions		
Transportation Management Plan		
Construction Personnel (CM vs. State)		
Justification for Contract Time		
Value Engineering		
Landscape Maintenance Plan		
Approved 100% PS&E		







FEDERAL-AID PROGRAM DATA										STATE OF HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAY DIVISION			
PROJECT LOCATION (45) Interstate Route H-1, Eastbound Lanes, Waiiau Interchange to Kaimakani Street					COUNTY		STANDARD PLACE CODE 17000C	STATE		ITEM NO. 05032			
					NAME Honolulu	CODE 003		NAME Hawaii	CODE 15				
CHARACTER OF PROPOSED WORK (85) CON for roadway rehabilitation				EMERG YR	DEMO ID	PROJECT NUMBER			PROJECT OVERSIGHT				
						PREFIX LETTER(S) IM	NUMBER 0011	AGR. NO. (245)	<input type="checkbox"/> State Administered <input checked="" type="checkbox"/> FHWA full oversight (on NHS) <input type="checkbox"/> Not on NHS, FHWA full oversight				
CLASS OF FEDERAL FUNDS Interstate Maintenance					PROGRAM CODE 04M0, Q010 & H010		PARENT CODE	RURAL/URBAN Urban	NAME OF URBAN AREA Honolulu				
ROUTE NO. AND NAME Int. Rte. H-1, Eastbd. Lanes, Waiiau IC to Kaimakani			INVENTORY NO. 000000000100	MILEPOINT 10.20	TO 12.80	FUNCTIONAL SYSTEM F=Freeways & Expressways		FEDERAL-AID SYSTEM I=Interstate		CONGRESSIONAL DISTRICT 1			
PHASE	TERMINI (FULL DESCRIPTION) (INCLUDE NBI BRIDGE STRUCTURE NO.)	MILES	ESTIMATED PROJECT COST BY PHASES					SCOPE OF PROPOSED WORK					
			TOTAL ESTIMATED COST	PARTICIPATING AMOUNT	FEDERAL FUNDS (xx %)	STATE FUNDS	OTHER FUNDS						
PE	Interstate Route H-1, Eastbound Lanes from Waiiau Interchange to Kaimakani Street								CON for reconstructing AC and PCC pavement; lifting of existing PCC pavement; installing micropiles, guardrails, highway lighting, and pavement markings; upgrading drainage grates; upgrading bridge railings and end post on Waimalu viaduct; and repairing spalling of the Waimalu Viaduct parapet.				
ROW													
CON		2.6	\$21,766,540	\$21,066,540	\$18,959,886	\$2,806,654							
PREPARED BY R. Sun & P. Alencastre		PROJECT TOTALS	\$21,766,540	\$21,066,540	\$18,959,886	\$2,806,654	\$0						
PROJECT TITLE: RELATED PROJECTS: IMPROVEMENT TYPE: 06 - 4R Maintenance - Restoration & Rehabilitation REMARKS: Preliminary engineering is not Federal-aid. PENG done under Project No. H1EF-01-03M. Right-of-way acquisition is not required.								ANTICIPATED ENVIRONMENTAL CLEARANCE (CLASS OF ACTION) EIS _____ CATEGORICAL EXCLUSION: EA _____ PROGRAMMATIC - 23 CFR 771.117(g) ( <input type="checkbox"/> ) FONSI _____ STATE DOCUMENTED - 23 CFR 771.117(d) ( <input checked="" type="checkbox"/> )					
								REQUIRED FOR OBLIGATING CONSTRUCTION PHASE Estimated Construction NTP date (mm/yyyy):					

<b>DETAILED DAMAGE INSPECTION REPORT</b> (Title 23, Federal-aid Highways)				Report Number		
				Sheet _____ of _____		
Location (Name of Road and Milepost)				FHWA Disaster Number		
				Inspection Date		
Description of Damage				Federal-aid Route Number		
				State _____ County _____		
<b>Cost Estimate</b>						
Emergency Repair	Description of Work to Date (Equipment, Labor, and Materials)	Unit	Unit Price	Quantity	Cost	
					Completed	Remaining
Method <input type="checkbox"/> Local Forces <input type="checkbox"/> State Forces <input type="checkbox"/> Contract				Subtotal PE/CE		
				Emergency Repair Total		
Permanent Restoration						
Method <input type="checkbox"/> Local Forces <input type="checkbox"/> State Forces <input type="checkbox"/> Contract				Subtotal PE/CE		
				Right-of-Way		
				Perm. Repair Totals		
Environmental Assessment Recommendation <input type="checkbox"/> Categorical Exclusion <input type="checkbox"/> EA/EIS				Estimated Total		
Recommendation <input type="checkbox"/> Eligible <input type="checkbox"/> Ineligible				FHWA Engineer		
Concurrence <input type="checkbox"/> Yes <input type="checkbox"/> No				State Engineer		
Concurrence <input type="checkbox"/> Yes <input type="checkbox"/> No				Local Agency Representative		
				Date		

Form FHWA-1547 (Rev. 4-98)

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## Chapter 4: Project Management

Many aspects of project management are determined by the project phase, and will be addressed in later chapters. This chapter discusses aspects of project management required for all phases of project development, including project monitoring and tracking, financial management and reimbursements, and records retainage.

### Project Monitoring and Tracking

The LPAs shall monitor all projects with federal obligations and track the implementation of the project to its completion. Monitoring shall include, but not be limited to:

- 1) Maintaining a system to set and track project milestone dates. This may include developing and maintaining a project schedule with sufficient details that shows all major activities and milestones, and clearly show all activities occurring concurrently or sequentially.
- 2) Reviewing fiscal activity on a monthly basis. If no expenditure of funds have occurred, the LPA shall provide the HDOT Project Control Section (HWY-SM) documentation explaining the reasons for the inactivity. In accordance with 23 CFR Section 630.106(a)(5), all projects will be monitored by the HDOT for inactivity (no claims for reimbursements). If the HDOT notes that no activity has taken place for a pre-determined period (see next paragraph) HDOT will require that the LPA investigate the reasons for inactivity and provide a remediation plan to HWY-SM within one week, or other mutually agreed timeframe, if required.

In advance of the FHWA formally changing 23 CFR Section 630.106(a)(5) via Federal Rulemaking process, the FHWA has defined inactivity in their Revised Supplemental Internal Procedures for the Review, Validation, and Testing of Inactive Obligations, dated December 30, 2013 and the FHWA Hawaii Division's cover letter dated December 31, 2013 as follows:

- a) Unexpended balances \$150,000 or more and inactive for 12 months or more. It should be noted that a project may initially reside in a lower tier based on the initial amount of funds obligated. However when additional funds are obligated (example: an obligation

- 
- adding construction funds to a project that had only design funds previously obligated) to a project, this activity may move the project beyond the \$150,000 threshold for inactivity.
- b) New project obligations inactive for 12 months or more since project authorization, regardless of amount.

If the LPA is unable to provide reasonable justification for inactivity, or does not take timely action to resolve inactivity, HDOT and/or FHWA may deobligate funds from the inactive project. To avoid inactivity, for any time spent on the project, the LPA shall bill to and claim Federal reimbursements on a timely basis as described in the following section *Financial Management and Reimbursements*.

- 3) Participating in the HDOT's project status meetings and "over the shoulder review" (OSR) meetings.
- 4) Meeting with the HDOT as requested (with reasonable notice) to discuss progress of specific Federal-aid projects on an as-needed basis.
- 5) The HDOT may request monthly status updates. Typically information for such project status requests will be submitted to the HDOT Project Coordination & Control Section (HWY-AP) on the last working day of the month.
- 6) In addition to project level monitoring, the LPA shall maintain a list of all ongoing Federal-aid projects with a summary of project status. The HDOT may request for an updated list on a monthly basis.

## **Financial Management and Reimbursements**

### **Indirect Cost**

The LPA shall provide documentation of its fringe and indirect cost rates computation and approval for use in accordance with 2 CFR 225 – Cost Principles for State, Local, and Indian Tribal Government to the assigned HDOT contact in HWY-D or HWY-T.

### **Federal Reimbursement Claims**

If the LPA anticipates that claims for reimbursement will exceed \$50,000.00, or if the project or activity is funded by any economic stimulus related funds, a semi-monthly request for reimbursements is required. If processing of semi-monthly federal reimbursement requests will

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create severe hardship to the LPA, the LPA, HDOT, and FHWA must mutually agree on an alternative billing frequency.

The LPA shall prepare monthly requests for federal reimbursements for amounts from \$10,000.00 to \$50,000.00.

For amounts less than \$10,000.00, the LPA will accumulate the reimbursements amounts from one month to the next. A reimbursement request shall be submitted to HDOT upon reaching this \$10,000.00 threshold, or when three consecutive months has elapsed from the last billing, whichever comes first. If there are no reimbursements requests for 3 months, the LPA should provide HDOT (HWY-SM) the reasons for the inactivity, as outlined in *Project Monitoring and Tracking* earlier in this Chapter.

Reimbursement requests for design and rights-of-way phases shall be sent to the assigned HDOT design contact (see Table 2 on page 17). Reimbursement requests for construction phase shall be submitted to the respective HDOT District. The reimbursement requests will be reviewed and forwarded to the HDOT Project Control Section (HWY-SM) for processing. Request for reimbursements shall not exceed the amounts and participation rates shown in the original PR-1240 and subsequent approved modifications. All reimbursement requests shall clearly show the total funds expended by the LPA during the reimbursement period and the amount of federal funds requested, the amount paid and reimbursed to date, and all documents to support the reimbursement request. Supporting documents may include: paid invoices, receipts, copies of agreements, timesheets, certified payrolls, and other documents as necessary. The HDOT may specify a standard reimbursement format to increase efficiency in the processing of federal reimbursements to the LPA. Additional information about construction reimbursements can be found in the *Reimbursement Requests* sections in *Chapter 9: Construction Administration*.

### **Return of Funds to FHWA**

All costs and expenditures properly recorded to a project but ruled ineligible for financing with federal funds shall be borne by the LPA. For retroactive adjustments of reimbursed federal funds, such ineligible amounts may be deducted from future LPA reimbursement requests for the project in question, or from other LPA Federal-aid projects if necessary. If deductions from

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future LPA reimbursements are not feasible, cash reimbursements shall be provided to the HDOT within sixty (60) days. In the event cash reimbursements from the LPA create severe financial hardship, the LPA may request an extension to the repayment period, subject to approval by FHWA and the HDOT.

Cancelled or withdrawn projects with federal reimbursements may require a return of funds to FHWA. If it is determined that a reimbursement from the LPA to FHWA is due, the reimbursement shall be processed as described in the preceding paragraph.

If programmed for federal-aid, preconstruction and construction costs furnished by the HDOT may be considered a part of the normal project cost and included in the LPA's project estimate and budget. If these costs are not programmed for federal-aid, such services rendered by the HDOT on LPA projects shall be reimbursed by the LPA using non-federal funds.

An accounts receivable will be established by the HDOT that will describe the services furnished to the LPA, and whether such services are federal participating or not. The LPA shall provide a purchase order within thirty (30) calendar days when requested by the HDOT. In the event a purchase order is not received from the LPA and review or other support costs are incurred, the HDOT will notify the LPA of its intent to stop supporting services until a purchase order is received. The HDOT's direct labor charges will be based on the HDOT's personnel providing such services to the LPA and the HDOT's prevailing indirect cost rate. The HDOT will maintain timesheets and accounting to support review or administrative costs billed to the LPA.

## **Records Retainage**

All project documents shall be kept for a minimum of 3 years from the date the final voucher is submitted to FHWA (49 CFR 18.42). When requested by the HDOT or FHWA, such records shall be made available for review or audits.

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## Chapter 5: Environmental Clearances and Permits

Federal, State, and County laws and regulations require the evaluation of potential impacts to the natural and human environment resulting from transportation projects. These laws require the consideration of input from resource agencies and the public in determining the selected alternative, development and analysis of alternatives to minimize adverse effects.

The NEPA was signed into law in 1970, but the original document only established the basic framework for integrating environmental considerations, without providing details of the process. The FHWA's and the FTA's joint NEPA regulation which specifically outlines the requirements for Federally Funded Transportation projects can be found at 23 CFR 771.

FHWA approval that all environmental documents comply with the National Environmental Policy Act (NEPA) must be secured before any project can begin ROW acquisition or construction phases. Larger capacity or more complex building projects requiring a planning phase will also require that FHWA approves NEPA documents prior to the start of final design work.

### NEPA Process

The overall goal of the NEPA process is to ensure that environmental decisions for a particular project are made based on a sound process. The NEPA document is the record of these decisions and how they are carried out through planning, design, construction, and maintenance.

It is essential that the LPA applies for and obtains the appropriate environmental approvals, permits, and certifications early in the design or planning phase of a project. National Environmental Policy Act (NEPA) findings must be documented, reviewed by HDOT and approved by the FHWA (NEPA Section 102 and 23 CFR 771).

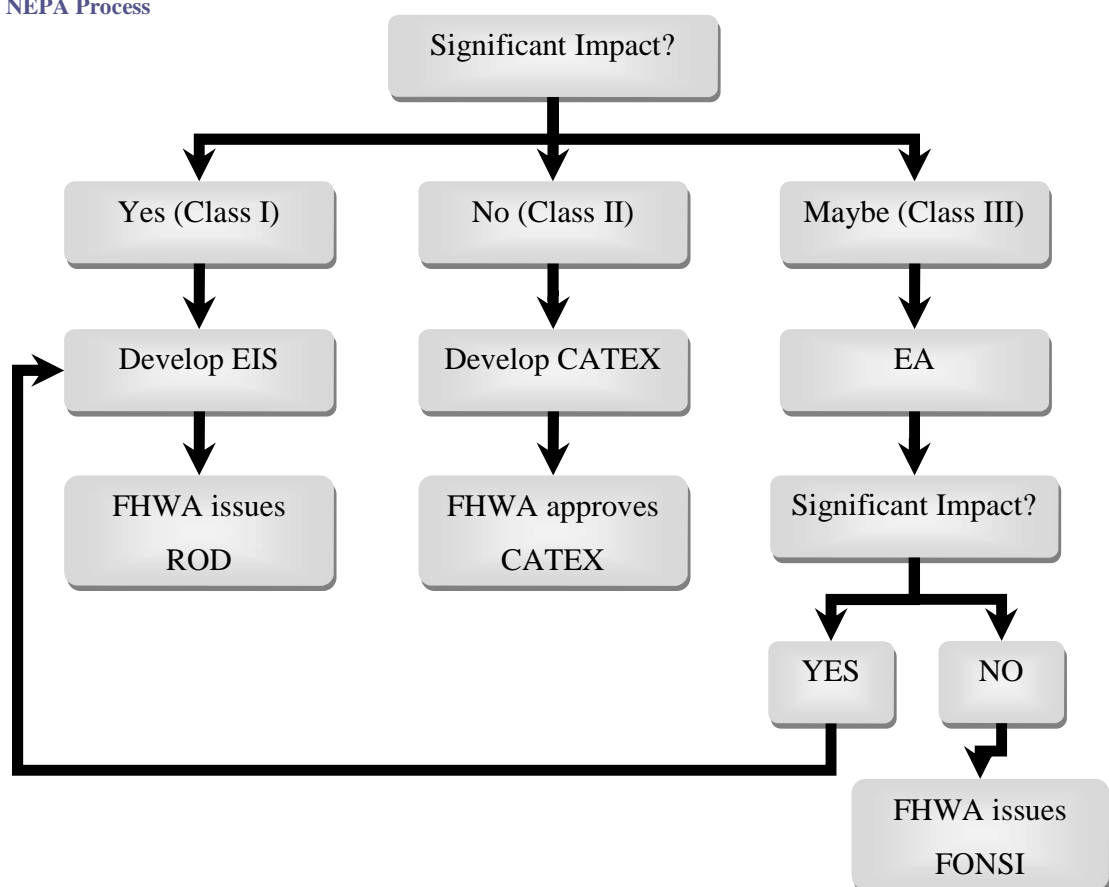
### Classes and Levels of Environmental Documents

During the beginning of a project, the LPA will determine the FHWA "*class of action*" required to complete the environmental review process for its project. The NEPA process, including

determination of the *class of action*, is illustrated in *Figure 2*. The Three classes of action defined in 23 CFR 771.115 are:

- *Class I: EIS*: If the LPA expects or determines there will be significant environmental impacts, then the LPA proceeds with an Environmental Impact Statement (EIS). Once the EIS is completed, the FHWA will issue a record of decision (ROD).
- *Class II: CATEX* : If the LPA determines an Environmental Assessment (EA) or EIS is not required, then the LPA submits a CATEX to HDOT for FHWA's approval.
- *Class III: EA*: If the LPA determines an environmental review is required but the significance of the environmental impacts is unknown, then the LPA proceeds to process an EA. If the LPA determines there are no significant impacts, then the FHWA may issue a FONSI. If the LPA determines that there are significant impacts, they will have to develop an EIS.

Figure 2: NEPA Process





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Significant impact is a function of both context and intensity. To determine significance, the severity of the impact must be examined in terms of the type, quality and sensitivity of the resource involved; the location of the proposed project, the duration of the effect (short vs long-term) and other consideration of context. To determine the appropriate class of action and the requisite level of documentation necessary to comply with NEPA, it is essential to understand the term “significance” and the process for its determination. Many common examples of Class I and Class II transportation projects are listed in 23 CFR 771.115 and 23CFR 771.117, respectively. If the LPA has questions about determining the classification of a project, they should consult with their assigned HDOT design contact. The assigned HDOT design contact must review and approve any environmental documentation prior to it being sent to FHWA for approval.

It is common for Federal Aid Projects to have a Federal Class action different from the Hawaii Environmental Protection Agency (HEPA) class action. For example, bridge replacement projects may have a HEPA (HRS 343) EA that is used to support a Federal CATEX.

### **Environmental Permits and Clearance**

All applicable permits required by local, state and federal law must be obtained by the LPA as part of the planning and design process. To obtain NEPA clearance, the LPA must provide documentation that all applicable permits were obtained.

The LPA must use good engineering practice to research the clearances and permits needed for a particular project in a particular location. The most common, but not all inclusive, regulatory clearances for projects are:

1. Section 106, National Historic Preservation Act
2. Section 4(f), US Department of Transportation Act
3. Section 6(f), Land and Water Conservation Act
4. Section 7, Endangered Species Act
5. Section 404, Clean Water Act
6. Section 401, Clean Water Act, Water Quality Certification

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The HDOT Environmental Permitting Guideline Manual, managed by HWY-DE, can be used as a valuable resource for the NEPA process. It covers in detail environmental permits, procedures and documents required prior to advertising a project in the State of Hawaii. The environmental permitting manual provides information that also is relevant to county roadway projects receiving federal assistance.

### **NEPA Clearance as a Funding Requirement**

NEPA clearance from FHWA is critical in order to obtain authorization of funding for certain phases. Offers for ROW acquisition may not be made prior to completing the NEPA process and approval by FHWA of the NEPA documents. Authorization of funding for the Final Design, ROW, and Construction phases will not be approved by FHWA without a current approved “Environmental Document”: Categorical Exclusion or Finding of no significant impact (FONSI) or a Record of Decision (ROD). The cost of work during these phases occurring prior to FHWA Authorization of environmental documents cannot and will not be reimbursed with Federal-aid funds.

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## Chapter 6: Design

This chapter provides guidance on the Federal requirements that govern the engineering (design) phase of Federal-aid projects. These design activities occur prior to award of the construction contract. Project development activities eligible for Federal-aid participation include topographic and boundary surveys; project design (e.g., investigations, studies, tests, calculations, report preparation); environmental review; preparation of project plans, specifications, quantity estimating and cost estimates; and the advertisement and award of the construction contract. If the LPA hires a consultant to prepare the design, these design activities must be detailed in the Consultant Services Agreement; see *Chapter 7: Consultant Procurement*.

The LPA is to provide a design that meets all of the technical and environmental requirements for a federally funded project. In accordance with 23 CFR 625.3, projects designed using federal funding shall comply with all applicable Federal laws, regulations, policies, standards and guidelines stated in Title 23 – Highways; the American Association of State Highway and Transportation Officials (AASHTO) Geometric Design Guidelines; adopted State standards and policies; and County design standards, ordinances, and policies. See list at the end of this chapter. Useful design procedures, examples, and references can also be found in HDOT’s Project Development Manual, which is maintained by HDOT Design Branch. While the LPA is not required to follow the internal procedures in the HDOT Project Development Manual, they are required to comply with the applicable design standards (23 CFR 625.3). As part of its oversight responsibilities, the HDOT will review LPA project Construction Plans, Specifications and Estimates (PS&E), Right-of-Way Certification, Utility Agreements, environmental clearances and permits, and any other documents as necessary to ensure that the project is designed in accordance with all Federal and State laws, regulations, and policies as listed, but not limited to, the items on the Plans, Specifications and Estimate Checklist.

The LPA must be adequately staffed and suitably equipped to undertake and satisfactorily complete the design work. In instances where the LPA chooses to use consultants, the LPA must still provide a full-time employee of the agency to be in responsible charge of the project (23

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CFR 635.104). All official submittals from the LPA should be signed by an agency employee who is in responsible charge.

The HDOT will assign the LPA a design contact for each project in HWY-D or HWY-T, depending on the type of the project and geographic location (see *Table 2* on page 17). The assigned person will then be the LPAs primary contact for all design submittals. Table 4 lists project submittals that will need to be sent to the assigned HDOT contact in HWY-D or HWY-T for review. Not all reports apply to all projects. References to the CFR and applicable chapters of the HDOT's Project Development Manual (PDM) are included in the table.

**Table 4 Documents to submitted to HDOT during Design Process**

<b>Document/Activity Description</b>	<b>References and additional information</b>
Scoping (Project Assessment Report)	<i>PDM Chapter 1.1 Scoping Procedures</i> and <i>Sample 1.1A</i>
Basis of Design Report	To be submitted with the 60% PS&E. See also <i>PDM Chapter 3.5.2 Basis of Geometric Design</i> . 23CFR 625
Design Exceptions	<i>PDM Chapter 3.5.3 Design Exception</i> . 23CFR 625.3.
PS&E (60%)	See <i>60% PS&amp;E Requirements</i> section below. 23 USC 106, 23CFR 630B, 23CFR 633.102
PS&E (90%)	See <i>90% PS&amp;E Requirements</i> section below. 23USC 106, 23CFR 630B, 23CFR 633.102
Experimental Work Plan	When applicable. 23USC 115, 23 CFR 635.411
Value Engineering	When applicable. 23CFR 627
Proprietary Materials	When applicable. 23CFR 635.411
Geotechnical Report	When applicable
Pavement Justification Report	When applicable. 23CFR 626
Bridge Calculations	When applicable. 23CFR 625.4
Bridge Scour Report	When applicable. 23CFR 650

Unusual Bridge Projects	When applicable. 23CFR 625.4
Traffic Signal Warrants	When applicable. 23CFR 655F
Traffic Management Plan	When applicable. 23CFR 630 Subpart J, 23CFR 630 Subpart K, 23CFR 634
Hydraulic Report	When applicable. 23CFR 650
Justification for Contract Time	23CFR 635.121
Permits — Sections 401, 404, CZM, SMA, SCAP, NPDES, etc.	Varies. See also <i>Chapter 5: Environmental Clearances and Permits</i>
Utility Agreements	See section entitled <i>Utility Agreements</i> on page 69 of this manual
PS&E (100%)	23USC 106, 23CFR 630 Subpart B, 23CFR 633.102
Authorization to Advertise for Construction Bids	See <i>Advertisement and Pre-Bid Meeting</i> section later in this chapter and <i>Construction Funds</i> section on page 31. 23CFR 635.309
Addenda During Advertisement	23CFR 635.112(c)
Concurrence on Contract Award	See Award section later in this chapter. 23CFR 635.114
Rejection of all Bidders	When applicable. 23CFR 635.114(h)

## Construction Plans, Specifications and Estimates (PS&E)

During the design phase, a project's Construction Plans, Specifications and Estimates (PS&E), along with the Schedule and PS&E Checklist, shall be submitted to the assigned contact in HDOT Design (HWY-D) or Traffic Branch (HWY-T) at the 60%, 90% and 100% design stages for review.

### 60% PS&E Requirements

The 60% plans consist of geometric base plans showing topography, proposed geometric features, Right-of-Way, tentative quantities, and preliminary information sheets for structures. The 60% complete plans, specifications and estimate must be submitted at this stage in order to

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correct or change a design, if needed, before more detailed plans are completed. The basis of design report should be submitted with the 60% PS&E. Design issues or design exceptions must be approved by HDOT with this submittal.

For low risk projects such as Pavement Preventative Maintenance projects, restriping projects or resurfacing projects that have a routine and straight forward scope of work, the LPA may request to provide PS&E submittals only at the 90% and 100% design stages for review. Such requests shall be made in writing by the LPA when it requests to place the proposed project on the TIP or the STIP. See *Funding by Project Phase* on page 23 for more information.

### **90% PS&E Requirements**

A 90% PS&E review allows HDOT and other parties such as FHWA to comment on the PS&E before the final design is complete and ready for advertising.

The following should be included with the 90% review submittal:

- 1) Copies of all correspondence, consultation letters, or other documents to support NEPA environmental clearances.
- 2) Right-of-way Certification—Include all pertinent attachments. See *Submittal Requirements*

A list of the Right-of-Way activities that will need to be reviewed by the HDOT are shown in *Table 5*. The relevant documents should be submitted to the assigned HDOT design contact in HDOT Design Branch or Traffic Branch (see *Table 2* on page 17) for review by HDOT ROW section.

- 3) Rights-of-Way Certification section on Page 68 of this manual.
- 4) Pavement Justification Report (if applicable)
- 5) PS&E Checklist noting any pending items (See *Sample 3* on page 43.)
- 6) Drainage reports and ADA technical infeasibility provisions (if applicable)
- 7) County's PS&E review comments of 90% submittal if designed by a consultant

The HDOT will only accept and review complete submittal sets. Submittals will not be accepted or processed until complete sets are received by HDOT. The Schedule and PS&E Checklist shall reflect the LPA's progress on and current status in obtaining environmental clearances and

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permits, Right-of-Way Certification, and Utility Agreements required for the federal-aid project. If the LPA is unsure about a particular environmental document, permit, or other requirement, it should consult the regulating authority. It may also ask HWY-DE for assistance. The LPA remains responsible for identifying the required clearances.

### **100% PS&E Requirements**

For the 100% PS&E, the County should submit two sets of the 100% half-size Plans, Special Provisions, Engineer's Preliminary Detail Estimates, and Final PS&E checklist (with check sets). All comments from previous PS&E reviews should be addressed. In addition, the LPA shall include a letter to HDOT requesting PS&E approval and authorization to advertise. Refer also to *Construction Funds* section on page 31 for further information on this process.

Submittal of 100% PS&Es and/or RFPs along with supporting documents from the LPAs will be made to the HDOT no later than May 31st of any given year to ensure review and processing by the HDOT personnel in time for federal obligation of funds that same federal fiscal year. In the event the LPA submits incomplete PS&Es and/or documentation that requires resubmittals after May 31st, or submits 100% PS&E's to the HDOT after May 31st, it is understood that the HDOT will work to review and process the LPAs PS&Es but may give such projects a lower priority in review and processing due to the HDOT's own workload requirements. Also, HDOT has the discretion to reallocate the affected programming funds to other projects that may or may not be within the affected LPA's jurisdiction to avoid possible lapsing of federal funds.

### **Underutilized Disadvantaged Business Enterprise**

After bid opening, the County will examine the bid documents for conformance to their Underutilized Disadvantaged Business Enterprise (UDBE) standards. The requirements of the UDBE program apply to all Federal transportation programs, as described in 23 CFR 635 Subpart A and 49 CFR Part 26. The UDBE program ensures that federally assisted contracts for highways are made available for small business concerns owned and controlled by socially and economically disadvantaged individuals. Every three years, HDOT is required to set an overall DBE goal that they must either meet, or show that they used good faith efforts to meet, annually. This goal is in the form of a percentage of federal funds apportioned annually to the HDOT, and is calculated based upon the relative availability of UDBE firms as compared to all firms in the

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relevant geographic market area. HDOT's HWY-C is responsible for calculating the project's unique UDBE percentage.

In order to ascertain the UDBE goal for a project, the LPA must email the following items to their assigned HDOT design contact (see *Table 2* on page 17) at least two months before advertising:

1. Table of Contents
2. Notice to Bidders
3. Engineer's Preliminary Detail Estimate (final) – in Excel format
4. Ready-To-Advertise date

The design contact will then review and forward to the HWY-C Branch Head requesting the calculation of LPA's project specific UDBE goal. In pursuing that goal, only certified UDBEs may be used by the LPAs.

## **Design Build**

For design-build projects or other competitive sealed proposals (such as Request for Proposals "RFP"), the following shall be submitted to HDOT:

- Description of scope, scoring, and award process incorporated into the initial draft document;
- An intermediate submittal that addresses any HDOT or FHWA comments on the initial submittal; and
- A final submittal (100%) for review.

The LPA should provide copies of all the same documents as listed in the 90% PS&E Requirements and 100% PS&E in the sections above. This includes the correspondence, consultation letters or other documents to support NEPA environmental clearances, ROW certification, and a completed PS&E Checklist.



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## Advertisement and Award

### Advertisement and Pre-Bid Meeting

As mentioned in the *100% PS&E Requirements* section and also described in the *Construction Funds* section on page 31, the LPA shall include a letter to HDOT requesting authorization to advertise with the 100% PS&E submittal. Once written approval to advertise is received, the LPA can proceed to advertise for bids.

Prior to opening bids, the LPA should invite HDOT Design Branch and HDOT District Office to attend Pre-bid meetings. If FHWA has direct oversight on the project (see *Stewardship Agreement* section on Page 10) FHWA must also be invited to pre-bid meetings. Meeting minutes should be provided to the attendees prior to opening bids.

The advertisement and approved plans and specifications shall be available to bidders a minimum of 3 weeks prior to opening of bids (23CFR 635.112(b)).

### Award

Prior to awarding the contract, the LPA shall send the following to their assigned HDOT Design Contact (See *Table 2*, Page 17):

1. Documents to confirm the UDBE goal.
2. A written request for HDOT's concurrence to award the contract. Attach the following to the letter: Tabulation of Bids and Justification of Contract Award for High/Low Bid (if needed).
3. The LPA shall submit additional documentation as requested by HDOT in a timely manner to not delay HDOT's ability to evaluate the LPA's request to award.

Once the LPA receives written approval to award from HDOT, they shall issue a Contract Award Letter to the Contractor. Copies of the Contract Award Letter shall be sent to HDOT (HWY-A, -C, -D, -S, -District Office, and FHWA) within 5 working days of issuance.

Upon receiving a hard copy of an approved FHWA Form 1240, the LPA shall expeditiously proceed to advertise, open and evaluate bids, and award a construction contract. The Hawaii

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Division of FHWA has imposed 180 day time limit between approval of the FHWA form 1240 and the NTP date.

The LPA should submit copies of the Plans, Specifications, and Detail Estimate to the assigned HDOT design contact in HWY-D or HWY-T (see *Table 2* on page 17) and to the geographically appropriate HDOT HWY-District Office. HDOT will process a Federal Agreement Modification with FHWA as required to reflect the award amount.

## **Federal Requirements**

As applicable, the Federal-aid project should meet the design criteria included in the most current documents provided by the following organizations. The most common, but not all inclusive, policies and guidelines are listed below:

1. American Association of State Highway and Transportation Officials (AASHTO). AASHTO design criteria may be found in the following documents:

- *A Policy on Geometric Design of Highways and Streets*;
- *Guidelines for Geometric Design of Very Low-Volume Roads ( $ADT \leq 400$ )*;
- *A Guide for Achieving Flexibility in Highway Design*;
- *Roadway Lighting Design Guide*;
- *Guide for the Development of Bicycle Facilities*;
- *Guide for the Planning, Design, and Operation of Pedestrian Facilities*;
- *Roadside Design Guide*;
- *Guide Specifications for Design of Pedestrian Bridges*;
- *A Guide for Transportation Landscape and Environmental Design*;
- *A Policy on Design Standards – Interstate System*; and
- *Highway Safety Design and Operations Guide*

2. Transportation Research Board (TRB). Federal-aid project design criteria may be found in the following TRB documents:

- *Highway Capacity HDOT LPA Manual*; and
- NCHRP Report 350, *Recommended Procedures for the Safety Performance Evaluation of Highway Features*

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3. Institute of Transportation Engineers (ITE). Design criteria that may apply to a Federal-aid project can be found in the following ITE documents:

- *Traffic Engineering Handbook*;
- *Design and Safety of Pedestrian Facilities*;
- *Guidelines for Driveway Location and Design*; and
- *Traffic Calming*

4. Other Federal and National Criteria. Design criteria that may apply to a Federal-aid project can be found in the following documents:

- *Manual of Uniform Traffic Control Devices* (MUTCD), FHWA, AASHTO, ITE, and ATSSA;
- *Federal-aid Policy Guide*, FHWA;
- *Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way* (ADA Guidelines), US Access Board; and
- *Uniform Building Code*, International Conference of Building Officials (ICBO)

5. *Code of Federal Regulations* (CFR). CFR Title 23 discusses the applicable Federal Regulations that apply to highway projects.

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## Chapter 7: Consultant Procurement

### Eligibility

To be eligible for Federal-aid funds, all consultant procurements shall be made in accordance with 23 CFR Part 172 and the Brooks Act (23 U.S.C. Section 112 (b)(2)(A)). The LPA may elect to adopt HDOT's procurement procedures or develop its own procedures that shall be, in accordance with 23 CFR 172.9(a), and approved by HDOT and FHWA. For a copy of the HDOT's Consultant Selection Procedures, the LPA may contact their assigned contact in HDOT's Design Branch or Traffic Branch (see *Table 2* on page 17).

The following are the applicable Federal documents on consultant service requirements that the LPA must know and follow:

- 23 CFR 140, *Reimbursement*;
- 23 CFR 172, *Administration of Engineering and Design Related Service Contracts*;
- 48 CFR 31, *Contract Cost Principles and Procedures*;
- 49 CFR 18, *Uniform Administrative Requirements for Grants and Cooperative Agreement to States and Local Governments*;
- 49 CFR 21, *Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964*; and

Alternatively, the LPA may elect to procure consultant services using non-FHWA approved procedures and utilize all LPA funds. Use of this method eliminates the option to use the procured consultant as soft-match for future project phases.

### Requesting Approval

The LPA shall submit the following to the assigned HDOT contract in Design Branch or Traffic Branch (see *Table 2* on page 17):

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- 
- Approval of Selected Consultant letter
  - Approval of Negotiated Consultant Fee letter
  - Approval of Contract Change Order or Contract Amendment letter

If the LPA chooses to use Construction Management or Construction support services, they shall submit the following to the geographically appropriate district office:

- Approval of Selected Consultant for Construction Management Services letter
- Approval of Negotiated Fees for Construction Management Services letter
- Approval of Contract Change Order or Contract Amendment letter for  
Construction Management Services letter

When a project is under FHWA's oversight, the LPA submits the above letters addressed to FHWA for approval through HDOT. When a project is under HDOT oversight, the LPA submits the above letters addressed to HDOT for approval. For more information on oversight, see *Stewardship Agreement* section of *Chapter 2: Roles and Responsibilities* on Page 10.

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## Chapter 8: Right-of-Way

The purpose of this section is to provide guidance to LPAs when faced with the complex issues of acquiring real property or utility relocation. LPAs that foresee right-of-way or utility relocation as part of their Federal-aid project should contact the assigned HDOT design contact in HDOT Design Branch or Traffic Branch (see *Table 2* on page 17) for guidance.

### Right-of-Way Acquisitions, Management, Disposals, and Transfers

The LPA shall acquire, manage, relocate, or dispose ROW in accordance with 23 CFR Part 710 and 49 CFR Part 24. LPAs must comply with the Federal and State requirements during the right-of-way process. (Note: these requirements also apply to donated right-of-way.)

The LPA should note the following:

- The FHWA through HDOT will give the LPA authorization to proceed with ROW activities when Federal funds are used in the acquisition of ROW via signed PR-1240.
- Federal-aid projects may not make an offer to purchase land until FHWA has approved the environmental documents.
- All Federal-aid projects must be built on public land or a permanent easement must be in place.
- When using Federal funds to acquire property, the acquisition must be transacted in accordance with the following applicable federal right-of-way requirements:
  - Title VI of the *Civil Rights Act of 1964*;
  - Title IV of the *Surface Transportation and Uniform Relocation Assistance Act of 1987*;
  - *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*;
  - 23 CFR 710; *Right-of-way and Real Estate*;
  - 49 CFR 24; *Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs*; and
  - *Uniform Appraisal Standards for Federal Land Acquisitions*.

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If the LPA does not acquire property in accordance with the federal Uniform Act, then the transaction is ineligible for any future soft match consideration.

Additional guidance may be found in the FHWA publication “*A Real Estate Acquisition Guide for Local Public Agencies*”, available on the FHWA website:

<http://www.fhwa.dot.gov/realestate/lpaguide/toc.htm>. Also available for use is HDOT’s ROW

Manual, which can be found on the HDOT website at:

<http://hidot.hawaii.gov/highways/highways-division-rights-of-way-manual-2011/>.

**Table 5 ROW Activities/documents requiring HDOT review and/or approval**

<b>Project Activity/document</b>	<b>Description/Action</b>
ROW Certification	To be submitted with PS&E, but no later than “Request for Authorization to Advertise”. See <i>Submittal Requirements and Rights-of-Way Certification</i> section below.
Appraisal documents	Documentation to be submitted with ROW Certification for DOT Review
Abstract (Title Search)	Documentation to be submitted with ROW Certification for DOT Review
Acquisitions	Documentation to be submitted with ROW Certification for DOT Review
Relocations	Documentation to be submitted with ROW Certification for DOT Review
ROW Authorizations and Agreements	Documentation to be submitted with ROW Certification for DOT Review
Functional Replacement (Public Involvements)	To be submitted on an as-needed basis, if applicable. Coordinate with HDOT design contact.
Any Change in Access, Use or Occupancy (Interstate)	To be submitted on an as-needed basis, if applicable. Coordinate with HDOT design contact.
Disposal of Excess ROW	To be submitted on an as-needed basis, if applicable. Coordinate with HDOT design contact.
Early Acquisition, Hardship, or Protective Buying	If this is applicable, coordinate submittals with HDOT design contact.
Early Acquisition Cost Reimbursement	If this is applicable, coordinate submittals with

	HDOT design contact.
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### **Submittal Requirements**

A list of the Right-of-Way activities that will need to be reviewed by the HDOT are shown in *Table 5*. The relevant documents should be submitted to the assigned HDOT design contact in HDOT Design Branch or Traffic Branch (see *Table 2* on page 17) for review by HDOT ROW section.

### **Rights-of-Way Certification**

Rights-of-Way (ROW) Certification is required for all federal-aid projects. ROW certification is a statement certifying that all rights to property have been obtained. By requesting for a ROW Certification, the LPA attests that it has clear title or approved use of the properties affected by its project. There are three levels of rights-of-way clearances:

Cert #1 – all rights to property have been obtained

Cert #2 – right of entry (ROE) has been obtained, with the intent to obtain permanent easements or title.

Cert #3 – work arounds have been identified, with the intent to obtain ROE and permanent easement and/or title

FHWA Hawaii currently requires that a project has a Cert #1 prior to obligation of construction funds.

*Sample 7* at the end of this chapter can be used as a template for a ROW certification statement.

### **Land Donations**

In addition to purchasing ROW, the LPA may receive land donations in accordance with 23 CFR 710.505 that may be credited, based on fair market value, toward the LPA's matching share. Eligibility and application of soft matching for donated land shall be in accordance with 23 U.S.C. Section 120 and 323. Land donated by private parties is eligible for flex match if the determination of the appraisal value conformed to the Uniform Act.



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### **HDOT assistance in appraisal or acquisition**

The LPA may request for assistance from HDOT Right-of-Way Branch (HWY-R) through HWY-D or HWY-T in the appraisal or acquisition of ROW. The HDOT will notify the LPA of its ability to assist given its current circumstances at the time of request. If such assistance by the HDOT is provided, the LPA agrees to reimburse such costs incurred by the HDOT.

Reimbursement of such costs to the HDOT shall be in accordance with provisions contained in the State –County Memorandum of Agreement.

### **Transfer of Jurisdiction/Ownership between LPA and State**

In the event the LPA and the HDOT agree that jurisdiction and/or ownership of a particular route should be transferred to either party, the LPA shall coordinate such transfer activities with the HDOT Construction and Maintenance Branch (HWY-C). The transferring party shall be responsible and bear all costs to prepare all land transaction documents, including any legal costs, notification costs, escrow, filing fees, or any other costs related to transfer of property. All record plans, property descriptions, ROW maps, easement documents, licenses or other documents that describe title, encumbrances, ownership and/or jurisdiction shall be provided to the receiving party in paper (2 copies) and electronic format. If the LPA does not follow the federal process when purchasing land without federal funds, then that land is not eligible for soft match purposes in the future.

### **Utility Agreements**

There may be occasions where utility facilities must be relocated or adjusted to construct a LPA project. An agreement must be made between the LPA and utility company establishing who is responsible for moving the utility and, if any payment is required, the amount the LPA and the affected utility will pay to move the utility. Both public utilities and private utilities are reimbursed, provided they can show a valid, prior existing right by an easement or other instrument. Examples of utilities include electrical, telephone, gas, water, sewer, and cable TV.

Utility relocations and accommodations shall be in accordance with Hawaii Revised Statutes 264-33 and 264-33.5, and with Title 19, Subtitle 4, Chapter 105 – Accommodation and Installation of Utilities on State Highways and Federal-Aid County Highways, State of Hawaii dated May 30, 1981. Utility Agreements (UA), Memorandum of Agreements (MOA),

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Memorandum of Understanding (MOU), Facility Relocation Agreement (FRA), or Letter of Agreement, or other similar instruments as appropriate, shall be executed with the respective utility owners during the course of constructing, relocating, or removing utilities within the ROW and shall specify the terms of construction, use, occupancy, and cost sharing.

As established by the Highways Utilities Committee, the maximum dollar amount for MOUs is \$50,000.00. This limit pertains to both private and public-owned utility companies. Utility Agreements generally applies to work in excess of \$50,000.00. The cost for Utility agreements would be shared by the Utility and the LPA. The portion paid by the LPA may qualify for Federal reimbursement. FRAs are usually used for relocated facilities owned by the Army. LPAs should discuss questions about cost sharing with the Army with your design contact in HWY-D or HWY-T (see *Table 2* on page 17.)

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**Sample 7 ROW Certification Statement**

(AGENCY LETTERHEAD)

(Date)

(Name) Division Administrator, Federal Highway Administration

(Address)

Dear \_\_\_\_\_:

**SUBJECT:** (PROJECT NAME)  
(PROJECT NUMBER)  
(ISLAND)

We certify that all conditions and requirements of the following Section of 23 CFR 635.309 are in Compliance:

Sections 635.309(b), (c) and (h). All necessary arrangements have been made for all right-of way clearance and utility work to be undertaken and completed as required for proper coordination with the physical construction schedule.

The (NUMBER) properties affected by the project have been acquired and individuals and families relocated to decent, safe, and sanitary housing. A Right-of-Entry and Rental Agreement for Construction Parcel (CONSTRUCTION PARCEL NUMBER) has been fully executed.

Section 635.309(k). Disconnection of utilities does not require any transfer of funds.

The scope of work includes (SCOPE OF WORK).

The request for advertising will be made with PS&E submittal.

Thank you for your cooperation in this matter.

If you have any questions, please call (PROJECT ENGINEER NAME), at (PROJECT ENGINEER PHONE) or (ROW BRANCH CONTACT) at (ROW BRANCH PHONE).

Very truly yours,

(ADMINISTRATOR NAME)  
Administrator  
Highways Division

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## Chapter 9: Construction Administration

In accordance with the *Letter of Agreement and Stewardship Plan* (See page 10) between HDOT and FHWA Hawaii Division, HDOT is directly responsible for ensuring that all Federal-aid requirements are met on all LPA administered projects, since Title 23 of the United States Code does not recognize local public agencies as direct recipients of Federal-aid funds. The LPA projects shall be administered to the same requirements as the State Federal-aid projects. The HDOT Construction Procedures Guidelines and HDOT Quality Assurance Manual shall be used unless the LPA has similar procedures in compliance with 23 CFR Subchapters 630, 633, 635, 636, and 637 and approved by the HDOT prior to use. References to the HDOT Construction Procedures Guidelines are made throughout this chapter.

The LPA will be accountable to HDOT for ensuring that they comply with all Federal and State requirements throughout the construction process. The HDOT will assure local compliance with all Federal and State laws, regulations, and policies, including construction procurement; review and approval of billings, time extensions, claims, and change orders; and final project inspection and acceptance.

On all federal-aid projects, the LPA must be adequately staffed & suitably equipped to undertake and satisfactorily complete the work. In instances where the LPA chooses to use consultants, the LPA must still provide a full-time employee of the agency to be in responsible charge of the project. (23 CFR 635.104) All official submittals from the LPA should be signed by the agency employee who is in responsible charge.

The LPA shall submit the documents shown in Table 6 to their respective HDOT District Office (See *Table 1 HDOT Point of Contact* on Page 14). Additional parties that need to be notified are listed in *Table 6*. Note that if FHWA has oversight of a project (see *Stewardship Agreement* section earlier in this Manual) all of the documents in Table 6 will also require FHWA approval.

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**Table 6 Required Document Submittals During Construction**

<b>Document</b>	<b>Description/Action</b>
NTP Letter	Letter to Contractor setting Notice to Proceed date. A copy is to be submitted to HWY-A, -C, -D or -T, -S, -District Office, and FHWA 5 working days from issuance.
Disposition Log	Submitted to HWY-A, -C, -D or -T, -S, -R -District Office, and FHWA at NTP, Final Payment, and Final Closeout. See <i>Sample 8</i> at end of Chapter.
Value Engineering Change Proposals	Any Value Engineering proposals shall be sent to the HDOT district office for approval. (23 CFR 627)
Contract Change Orders (including time extensions and contract amendments)	All Contract change orders shall be sent to the HDOT district office for approval. (23 CFR 635.120, 23 CFR 635.121)
State Reimbursement Requests	See <i>Reimbursement Requests</i> section below.
Construction Contractors Annual EEO Report	From FHWA 1391 and 1392
Final Acceptance Documents	See <i>Final Acceptance</i> section below.

In addition to the requirements shown in the table above, the LPA shall submit the following documents to the geographically appropriate HDOT district office if applicable to the project: Work Suspensions (23 CFR 635.109(2)), Contract Termination (23 CFR 635.125), Legal Claims (23 CFR 635.124), and Buy America Waivers (23 CFR 635.410).

The LPA shall invite an HDOT representative to the construction meetings or activities listed in *Table 7*.

## **Pre-Construction Conference**

The pre-construction conference is an opportunity for all parties involved in the project (including but not limited to consultants, government agency, private contractors, sub-contractors, utilities) to meet and exchange information pertaining to the project. Please refer to HDOT Construction Procedure *10-02-05 Pre-construction Conference* for additional information on a pre-construction conference.

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**Table 7 List of Meetings to which HDOT must be invited**

<b>Meeting/Activity</b>	<b>Description/Action</b>
Pre-Construction Conference	Invite HDOT district contact. FHWA representative should also be invited for projects with direct FHWA oversight.
Pre-final Inspection	Invite HDOT design contact and HDOT district contact. FHWA representative should also be invited for projects with direct FHWA oversight.
Final Inspection	Invite HDOT design contact and HDOT district contact. FHWA representative should also be invited for projects with direct FHWA oversight.
Public meetings	Invite HDOT design contact and HDOT district contact. FHWA representative should also be invited for projects with direct FHWA oversight.

The LPA should invite the HDOT District Office to its preconstruction conference and the FHWA representative if the project is subject to direct FHWA oversight. (See *Stewardship Agreement* section on page 10 for explanation of direct FHWA oversight.) The LPA should provide to FHWA and/or HDOT copies of the meeting minutes.

## **Notice to Proceed**

Upon receiving a hard copy of an approved FHWA Form 1240, the LPA shall expeditiously proceed to advertise, open and evaluate bids, award a construction contract and issue Notice to Proceed (NTP). As of July 1, 2014, the Hawaii Division of FHWA imposed a 180 day time limit from approval of the Form 1240 (Construction Obligation) to NTP. Projects that exceed the 180 calendar day limit will be subject to unilateral de-obligation by FHWA. Thus, a LPA should be mindful of its progress towards meeting these deadlines. Should issues arise or circumstances beyond the control of the LPA occur that may cause a project to be at risk of not meeting the deadline(s), the LPA could request for a time extension. The LPA shall notify HDOT Project Coordination and Control Section (HWY-AP) immediately when faced with a situation potentially preventing them from meeting the time limits. As soon as the LPA determines it is unable to set the NTP date or submit final voucher within the time limits, it shall submit a written

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request to HDOT Project Coordination and Technical Services Office (HWY-A) for consideration of a time extension.

NTP should be issued by the LPA to its contractor within the timeframes specified in the construction specifications. The LPA shall provide copies of the NTP Letter and the 1<sup>st</sup> project disposition log (see *Sample 8*) to HDOT (HWY-A, -C, -D or -T, -S, -R, -District Office, and FHWA) within 5 working days of issuance. See *Table 2* on page 17 for guidance on whether to copy HWY-D or HWY-T.

## **Construction Administration**

### **Measurement and Payment and Reimbursement Requests**

The broad goal of administering a construction contract is to ensure that the contract work is done on time for the price and at the quality level specified in the contract, while the contractor receives proper compensation for that work in a timely manner as specified in the contract.

Uniform and adequate procedures in record keeping of all pay items must be maintained at the project level. These records are the source documents to substantiate quantities paid to the contractor. For more information on measurement and payment, see HDOT Construction Guidelines *10-02-15 Measurement and Payment, 10-02-19 Progress Payment, and 10-03-01 Ledger*.

It is important to keep in mind throughout the project that quality assurance procedures should be followed such that the contractor is not being paid for work and materials that do not meet the quality standards. (See 23 CFR 637 and HDOT's Quality Assurance Manual.) Final acceptance of the project is dependent on receiving the State's Material Certificate, which is discussed in more detail in the *Final Acceptance* section below.

### **Reimbursement Requests**

Reimbursement Requests shall be submitted to the respective HDOT District, who will check request and the forward to HWY-SF for processing. The LPA shall affix their certification of receipt and payment approval on County's reimbursement request as required by Department of Accounting and General Services (DAGS). See section entitled *Federal Reimbursement Claims* in *Chapter 4: Project Management* for more information on reimbursements.

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## **Project Correspondence, Inspections and Reviews**

HDOT and or FHWA may periodically review or audit LPA projects to verify conformance with approved construction administration procedures and contract requirements. Therefore, the LPA shall make available for inspection all project related records, including, but not limited to: financial, construction material and administration records and correspondences. A representative from the HDOT district office will also be performing a site visit one or more times during the duration of the project. The LPA shall make sure that the HDOT representative has access to the construction site in order to appropriately inspect any work to date.

The LPA shall copy their respective HDOT District Office on project correspondence relating to any potential claims or problems that may result in the LPA requesting for additional federal funds. Other project correspondence may also be requested by the respective HDOT district office. In addition, monthly status updates shall be submitted to respective District Office and HWY-AP.

## **Change Orders and Time Extensions**

It is understood within the construction industry that it is unrealistic for projects to be constructed without ever deviating from the original plans. Change Orders provide a formal mechanism to make revisions to the contract documents. The federal regulations governing Change Orders can be found in 23 CFR 635.120 and 635.121. The LPA must submit all change orders to their respective HDOT District office for review and approval. Contract Change Orders should include the following elements:

- Description of Change including appropriate plans or sketches
- Explanation of necessity for the work
- Justification for agreed prices
- Justification for contract time extension or deletion
- Statement of Funds (showing federal funds are not being exceeded)

For samples and more information on Change Orders, refer to HDOT Construction Guideline *10-02-18 Contract Change Orders* and *10-02-12 Contract Time Extensions and Suspensions of Contract Time*.



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## **Value Engineering Change Proposals**

Value Engineering Change Proposals (VECPs) are post-award changes to the contract proposed by the contractors during the course of construction. The contractor may request to complete the contract requirements in a different way which results in time and/or monetary savings on the contract. It is important to understand that value engineering should be of benefit to the LPA (and by extension HDOT and FHWA) as well as the contractor, and that the benefits will be shared between the Contractor and the LPA. Requests for VECP should be submitted to the LPA's respective HDOT District Office. For more about VECPs, refer to HDOT Construction Guideline *10-02-25 Construction VECP*.

## **Project Agreement Modifications**

When the LPA expects that funds provided for the contract will be exceeded, they shall submit a requests for additional funds to their respective HDOT District office. The request shall include the source and amounts of funds required. The HDOT will review, and if it deems acceptable and funds are available, will prepare a modified project agreement with the FHWA to add Federal funds into the project.

## **Claims**

Claims are Contractor's demands for additional compensation that are submitted outside the change order process (usually because the change order request was denied). Eligibility for Federal-aid participation on a claim is made on a case-by-case basis. It is essential that the LPA informs their respective HDOT District office of the potential claim at an early stage so that coordination of efforts between the HDOT, FHWA, and the LPA can be satisfactorily accomplished. For regulations governing claims, see 23 CFR 635.124.

## **Pre-Final and Final Inspections**

The pre-final and final inspections allow all parties to see that the project has been built according to the contract, and that it meets Federal and State regulations. The LPA shall invite the HDOT design contact and the HDOT district contact to the pre-final and final inspections. FHWA representative should also be invited for projects with direct FHWA oversight. Any comments or concerns brought up by the HDOT or FHWA representatives at these inspections shall be addressed before the project is accepted.

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## Final Acceptance

Prior to requesting for Final Acceptance from HDOT and or FHWA, the LPA shall submit the following documents to their respective HDOT District Office:

1. A copy of the County's memorandum or letter concerning project completion
2. Certificate of Wages and Classification--Statement of Compliance – Letter from Contractor. As required by Form PR-1273.
3. Statement of Certified Payroll- Letter from LPA stating that all certified payroll has been received and checked.
4. State's Materials Certificate—Throughout the project, the LPA shall keep a record of sampling and testing done for all materials used on project. The record should show that all materials have been sampled or tested in accordance with the HDOT's HWY-L *Sampling and Testing Guide for Acceptance and Verification*, and that they met the minimum requirements specified in the contract. When the project is complete, send HDOT HWY-L a request for a Letter of Material Certification (see *Sample 9*) along with your record of sampling and testing for the project. A Letter of Material Certification will be issued by HWY-L if they find the LPA documentation acceptable.
5. Consent of the Surety—Statement from bonding company
6. Contractor's Certification of Claims Paid—Statement from contractor saying all claims have been resolved or paid
7. Final Estimate—The final pay estimate. For more information on the final pay estimate refer to HDOT Construction Guideline *10-02-20 Final Payment*. A project disposition log should also be filled out and sent when final payment is made.
8. Tax Clearance Certification (Certificate of Vendor Compliance)
9. Final Statement of Working Days—A weekly statement of working days should be made throughout the project. This is the final statement. Refer to HDOT Construction Guideline *10-03-18 Weekly Statement of Working Days*.
10. Final report of DBE Participation and Prompt Payment Certification

After reviewing the above, HDOT will submit the LPA's letter concerning project completion and State's Material Certification to FHWA.

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## **Final Close-out**

The LPA shall submit a letter to HDOT District Office with copies to HWY-SM indicating that it has completed all requirements for its project: Construction contract; Consultant services contracts if applicable (design, post design, construction management); Right-of-Way; and Utility Agreements. The letter shall be submitted within 30 days of completing all of the requirements. With the letter, the LPA shall submit a final disposition log (see *Sample 8*) with all applicable fields filled in. The LPA may be requested to provide applicable supporting documents. Upon completing its review and concurrence, HDOT Project Control Section (HWY-SM) will prepare and process a Final Voucher with FHWA. Releasing the LPA of its responsibility for any remaining federal funds will be coordinated by the HDOT HWY-SM - Federal Program Engineer.

Currently, the FHWA deems a project's status to be inactive if no reimbursement requests are processed by the FHWA within twelve (12) months. For more on inactive projects, see the section on *Project Monitoring and Tracking* on page 47 of this manual. Also as of July 1, 2014, the Hawaii Division of FHWA requires projects to be closed within 365 days of HDOT or the LPA's final construction acceptance. If this condition is not met the remaining federal funds, including all phases of funding for a project, are then at jeopardy of being unilaterally de-obligated by the FHWA.

## **Record Retention**

All project documents shall be kept for a minimum of 3 years from the date the Final Voucher is submitted to FHWA (49 CFR 18.42). When requested by HDOT or FHWA, such records shall be made available for review or audits.

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## Sample 8 Project Disposition Log

State of Hawaii  
Department of Transportation  
Highways Division  
District's Project Disposition Log

DOT 4-609  
(HWY-C  
r08/25/2014)  
(PSS Version)

### A General

Project No. \_\_\_\_\_ Charge Code \_\_\_\_\_  
Project Title \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice to Proceed \_\_\_\_\_ Final Payment:  
Final Inspection \_\_\_\_\_ Number \_\_\_\_\_  
Final Acceptance \_\_\_\_\_ Total Amount (\$) \_\_\_\_\_  
District Approval Date \_\_\_\_\_

### Utility Agreements

Utility Co.	Agreement No.	Work Started	Work Complete	Cost Data Sent/	Rev. Final Statement	Final Statement to HWY-SF
UAs:						
MOUs:						

### B Submittal

#### As-Built Plans:

To Design Branch \_\_\_\_\_  
Filed by District \_\_\_\_\_  
CM/CS Final Acceptance \_\_\_\_\_

#### Log Submittals\*

Log Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_

1) \_\_\_\_\_  
2) \_\_\_\_\_  
3) \_\_\_\_\_

### C Final Report

Required ☐ yes ☒ no  
Date Completed \_\_\_\_\_  
Date to HWY-C \_\_\_\_\_

\* 1) At NTP  
2) At Final Payment  
3) 100% Complete - A, B, C

Copies to: HWY-C HWY-D  
HWY-SM, SF HWY-R  
(County F.A.) HWY-A  
PE

## MTRB MC (R9/2009)

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## Glossary of Terms

Below is an alphabetical listing of terms and phrases used in the *LPA Manual*. Following each term or phrase is a brief definition.

**Authorization/Agreement** - A document that the HDOT and FHWA electronically sign in FMIS that obligates Federal funds for the project. This document also establishes the Effective Authorization Date.

**Amendment or Modification** - A document that amends a previously executed Authorization/Agreement or a prior Amendment or Modification. In instances when a federally-funded project needs to be amended for any reason (cost overrun, additional phase of work, supplemental agreement, etc.), an Amendment or Modification is signed by the HDOT and FHWA to electronically approve the modification. This process is also completed through FMIS.

**Effective Authorization Date** - This is the date after which work may begin on a project that is to be reimbursed with Federal funds. Any costs incurred prior to this date are not eligible for Federal reimbursement. This date is shown on the Authorization/Agreement and Amendment/Modification documents.

**Federal Fiscal Year (FFY)** - Begins on October 1 and ends September 30 of each calendar year. For example, October 1, 2014 is the beginning of the Federal fiscal year 2015.

**Federal Funds** - Federal funds reflect the amount of funding that the Federal government agrees to reimburse after it is spent on a project if the project is delivered according to the Federal regulations.

**Federal Share** - The percentage of eligible and authorized project costs paid by the Federal government. With a few exceptions, the Federal government does not pay for the entire cost of the project. In most cases, Federal funds must be matched with funds from non-Federal sources. For most FHWA transportation programs, the federal share of project costs is 80%. Refer to the Federal Aid Agreement for the applicable pro-rate Federal share and matching requirements of the specific type of Federal funds involved.

**FHWA Authorization** - The action taken by FHWA when signing the Authorization/Agreement document or the Amendment/Modification document in FMIS. This action results in an obligation of Federal funds at the specified Federal share for the specific type of project costs identified on the Authorization/Agreement or Amendment/Modification.

**FHWA Environmental Concurrence** - This milestone in project development is marked by different events for different types of projects, depending on the anticipated level of environmental impacts. The event that marks the completion of the NEPA process depends on the type of NEPA document that is required for the project:

- 
- For projects that are classified as a Categorical Exclusion (CE), the NEPA process is complete as of the date that the HDOT or, as appropriate, the FHWA, signs the document.
  - For projects that require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) document, the NEPA process is considered complete as of the date that the FHWA signs the Finding of No Significant Impact (FONSI) or Record of Decision (ROD) document, respectively.

**Financial Management Information System (FMIS)** - FMIS is the FHWA's electronic financial system for Federal-aid transportation projects. HDOT personnel use this system to request FHWA Authorization or obtain project funding reports.

**Final design** - any design activities following preliminary design and expressly includes the preparation of final construction plans and detailed specifications for the performance of construction work.

**Incurred Costs** - Costs are considered to be incurred when the work associated with those costs begins.

Example: Costs have been incurred once a consultant, whose services are to be reimbursed with Federal funds, begins work, even if the LPA has not received a bill or made any payments to the consultant.

**Local Public Agencies (LPAs)** – General term used by Federal government for all local governments. In the context of this manual, this term specifically refers to the Counties.

**Obligation** - An obligation is a commitment – the Federal government's promise to pay the Federal share of a project's eligible cost. This commitment occurs when the project is authorized by FHWA and the Authorization/Agreement or the Amendment/Modification is executed through FMIS. Obligation is a key step in financing. Obligated funds are considered "used," or set aside for that particular project by the Federal government, even before any cash is transferred.

**Preliminary design** - defines the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design. Prior to completion of the NEPA review process, any such preliminary engineering and other activities and analyses must not materially affect the objective consideration of alternatives in the NEPA review process.

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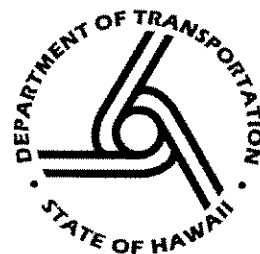
## **Appendix A: Federal Highway Administration and Hawaii Department of Transportation Letter of Agreement and Stewardship Plan**



**Federal Highway Administration  
&  
Hawaii Department of Transportation**

**LETTER OF AGREEMENT  
  
AND  
  
STEWARDSHIP PLAN**

January 5, 2007



## LETTER OF AGREEMENT

### BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND THE HAWAII DEPARTMENT OF TRANSPORTATION

The Hawaii Department of Transportation (HDOT) and the Federal Highway Administration, Hawaii Division (FHWA) agree to follow the procedures set forth in the FHWA and HDOT Stewardship Plan, dated January 5, 2007, which is attached to and made a part of this agreement, to carry out their respective oversight responsibilities in the delivery of Federal-aid projects. This Letter of Agreement supersedes all past agreements, including the agreement signed February 24, 1993.

The Stewardship Plan (Plan) accomplishes a major goal of the respective agencies, in partnership, to further improve program and project delivery in the State of Hawaii. Since the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) of 1998 and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005, FHWA's relationship with HDOT has changed from full project oversight and approval of every project or activity funded with FHWA funds to program oversight and some targeted project level approval. ISTEA, TEA-21 and SAFETEA-LU requires the FHWA Hawaii Division to share certain oversight responsibilities with its HDOT partner to a much greater extent than in the past and HDOT's acceptance has resulted in a greater program accountability due to less federal involvement in certain projects and programs.

Although stewardship roles have changed, accountability has not changed. FHWA remains responsible and accountable to Congress and the public. HDOT is also committed to being accountable and responsive to its constituents, the people of Hawaii.

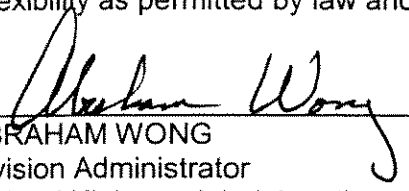
This Plan embodies the shared vision:

*"Together create a dynamic, Hawaii inspired, transportation system that improves the quality of life in Hawaii through a partnership based on mutual respect, trust, and cooperation that ensures the judicious use of public resources."*

Narrative, matrix tables and flow charts in the Stewardship Plan outlines responsibilities and accountability for FHWA and HDOT. The purpose of the Plan is to clarify actions, prevent misinterpretation and avoid time delays.

The Stewardship Plan is a living document that can be modified to incorporate additional legislation, and other processes or changes that may impact the oversight responsibilities. The FHWA Hawaii Division Administrator or the Director of HDOT may initiate changes to this Stewardship Plan. Both parties, HDOT and FHWA, shall mutually agree upon all future changes.

It is the mutual objective of FHWA and HDOT to work toward providing the State of Hawaii the maximum flexibility as permitted by law and to implement the shared vision.

  
ABRAHAM WONG  
Division Administrator  
Federal Highway Administration  
Hawaii Division

Date

1/5/07

  
BARRY FUKUNAGA  
Interim Director  
Hawaii Department of Transportation

Date

1.5.07

## **STEWARDSHIP PLANNING COMMITTEE MEMBERS**

### **STEERING COMMITTEE**

FHWA: Jodi Chew, Richelle Takara  
HDOT: Gary Choy, Gerald Dang

### **WORKING GROUPS**

#### **Planning**

FHWA: Elizabeth Fischer  
HDOT: Wayne Kawamura, Dean Nakagawa, Pat Tom, Ron Tsuzuki

#### **Environment**

FHWA: Jodi Chew  
HDOT: Todd Nishioka, Nelson Sagum, Robert Sun, Ron Tsuzuki, Darell Young

#### **Right-of-Way**

FHWA: Jodi Chew  
HDOT: Mike Amuro, Dale Suzuki, Jerry Yamada, Dean Yogi

#### **Consultant Services**

FHWA: Pat Phung  
HDOT: Jeffrey Fujimoto, Ben Hung

#### **Design**

FHWA: Richelle Takara  
HDOT: Julius Fronda, Christine Yamasaki

#### **Construction**

FHWA: Clifford Chew  
HDOT: Stanley Arakaki, Sterling Chow, Jamie Ho, Blaine Kawamura,  
Kyle Oyasato, Sal Panem, Rudy Raralio, Charlene Shibuya

#### **Maintenance**

FHWA: Clifford Chew  
HDOT: Jamie Ho, Kelly Lee Sato

#### **Materials**

FHWA: Pat Phung  
HDOT: Gerry Carnate, Herbert Chu, JoAnne Nakamura

#### **Structures**

FHWA: Domingo Galicinao  
HDOT: Herbert Chu, Curtis Matsuda, Paul Santo

#### **Safety**

FHWA: Wayne Kaneshiro  
HDOT: Jan Higaki, Sean Hiraoka

**Traffic Engineering and Intelligent Transportation Systems**

FHWA: Richelle Takara

HDOT: Peter Chan, Benson Chow, Bryan Kimura, Karl Kunishige

**Financial Management and Accounting**

FHWA: Dean Fujita

HDOT: Philbert Alencastre, Kam Kin Sin, Gerald Dang, Eva Uchihara, Scot Urada

**Research and Technology Transfer**

FHWA: Domingo Galicinao, Wayne Kaneshiro

HDOT: Steve Ege, Franci Terada

**Civil Rights**

FHWA: Vincent Mammano

HDOT: Rey Domingo, Blaine Kawamura

**Risk Management**

FHWA: Vincent Mammano

HDOT: Brennon Morioka, Glenn Yasui

# STEWARDSHIP PLAN HAWAII

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## **SECTION 1 – BACKGROUND AND OVERVIEW**

Congress has charged the Federal Highway Administration (FHWA) with administering the Federal-Aid Highway Program (FAHP) under Title 23, and other associated laws. In addition, FHWA's responsibility for administering the FAHP has been clearly outlined in the following legislations: the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991; the Transportation Equity Act of the 21<sup>st</sup> Century (TEA-21) of 1998; and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005. These laws allow States to assume certain delegated responsibilities for FHWA in certain National Environmental Policy Act approvals and in the design, construction, award and inspection of certain Federal-aid projects.

The FHWA and the State Departments of Transportation (SDOTs), the funds recipients, have jointly administered the FAHP for many years. With the enactment of ISTEA, the Stewardship Agreement was introduced and provided a documented provision that addressed how the SDOT and FHWA division office would handle the delegated authorities for certain project action. Since that time, and the passage of SAFETEA-LU, the overall program has evolved requiring a more comprehensive Agreement that covers all aspects of the FAHP. This new Agreement provides a road map to effectively and efficiently execute the Federal-aid program relating to program/project delivery. FHWA assistance is not just financial integrity; it is managerial and technical as well.

Stewardship goes beyond regulatory compliance or oversight. This Stewardship Plan (Plan) outlines the roles of both FHWA and HDOT. In order to distinguish stewardship from oversight the following definition will apply:

*Stewardship: The efficient and effective management of the public funds that have been entrusted to the Federal Highway Administration.*

*Oversight: The act of ensuring that The Federal highway program is delivered consistent with applicable laws, regulations and policies.*

This Stewardship Plan serves as a continuing plan of program oversight and responsibilities for each agency covering the following functional areas:

- Planning
- Environment
- Right-of-way
- Consultant Services
- Design
- Construction
- Maintenance
- Materials
- Structures
- Safety
- Traffic Engineering and Intelligent Transportation Systems
- Financial Management and Accounting
- Research and Technology Transfer
- Civil Rights
- Risk Management

The Plan takes into account FHWA's and HDOT's resources and capabilities, and the area of responsibilities and federal requirements where FHWA has an active role in the oversight process. The Plan sets the general framework for accomplishing FHWA's stewardship and oversight responsibilities. In general, FHWA will use Process Review/Product Evaluation (PR/PE) techniques

to assess the capability and capacity of HDOT in those areas where HDOT has assumed FHWA's responsibilities. FHWA will also use these techniques to monitor and evaluate HDOT's fulfillment of the responsibilities outlined in this Plan.

In cases where project level activity is still an integral part of FHWA's stewardship and oversight efforts, early involvement in project decisions combined with an assessment of the quality of the products produced during the project development process will be the primary focus.

In addition the Plan includes the stewardship responsibilities for various programs with identified action by each agency. FHWA will use Program Activities as defined later in this Plan to monitor and evaluate program performance and effectiveness. This Plan incorporates mutual service standards that include agreed upon formats and procedures for HDOT and FHWA actions.

## **SECTION 2 – OVERSIGHT ACTIVITIES**

This Agreement between the HDOT and the Hawaii Division of the FHWA sets forth the respective roles and responsibilities of each party in the administration and oversight of the FAHP in the State of Hawaii.

### **Program Oversight**

FHWA has full oversight of all Federal-aid programs. FHWA will manage and provide oversight of Hawaii's Federal-aid programs in various ways. The methods used will include:

- Routine day-to-day program actions and other interaction.
- Division participation on HDOT task forces, quality teams, implementation committees reviews with individuals, attendance at HDOT meetings, etc.
- PR/PE reviews.
- CPI activities will be undertaken in cooperation with HDOT as needed.

FHWA's PR/PE approach will comprise the traditional process of comprehensively reviewing and evaluating State and/or local agency policies, procedures, practices and controls for the development and implementation of Federal-aid projects and programs.

FHWA will provide technical assistance to HDOT and local agencies on any aspect of eligible Title 23 projects. Such technical assistance activities will be identified on a case-by-case basis in consultation with HDOT and other interested partners.

FHWA will work with HDOT in carrying out the program related stewardship responsibilities.

### **HDOT Responsibilities**

As a condition to accepting Federal-aid highway funds, HDOT agrees to follow all applicable project and program requirements. In addition, as party to this agreement, HDOT assumes project oversight responsibilities, in accordance with the following:

- NHS Projects on the Interstate – HDOT assumes oversight responsibility for the design, plans, specifications, estimates, contract award and inspection for all NHS projects with an estimated construction cost of \$5 million or less on the Interstate System. All Interstate projects must comply with all Title 23 U.S.C. and non-Title 23 U.S.C. requirements.
- Other NHS Projects (not on the Interstate System) – HDOT assumes oversight responsibility for the design, plans, specifications, estimates, contract award and inspection of projects on the NHS with an estimated construction cost of \$10 million or less. All NHS projects must comply with all Title 23 U.S.C. and non-Title 23 U.S.C. requirements.
- Non-NHS Projects – HDOT assumes oversight responsibility for the design, plans, specifications, estimates, contract award and inspection of projects not on the NHS. Non-NHS projects are required to be designed, constructed, operated and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards, in lieu of many Title 23 requirements. Requirements that are applicable to all Federal-aid projects include, but are not limited to, transportation planning, procurement of professional services, Davis-Bacon wage rates, advertising for bids, award of contracts and Buy America Act provisions. All non-NHS projects must also comply with all non-Title 23 U.S.C. requirements.
- Local Agency Projects – HDOT is responsible for assuring that all local agency Federal-aid projects comply with all applicable Federal and State requirements.



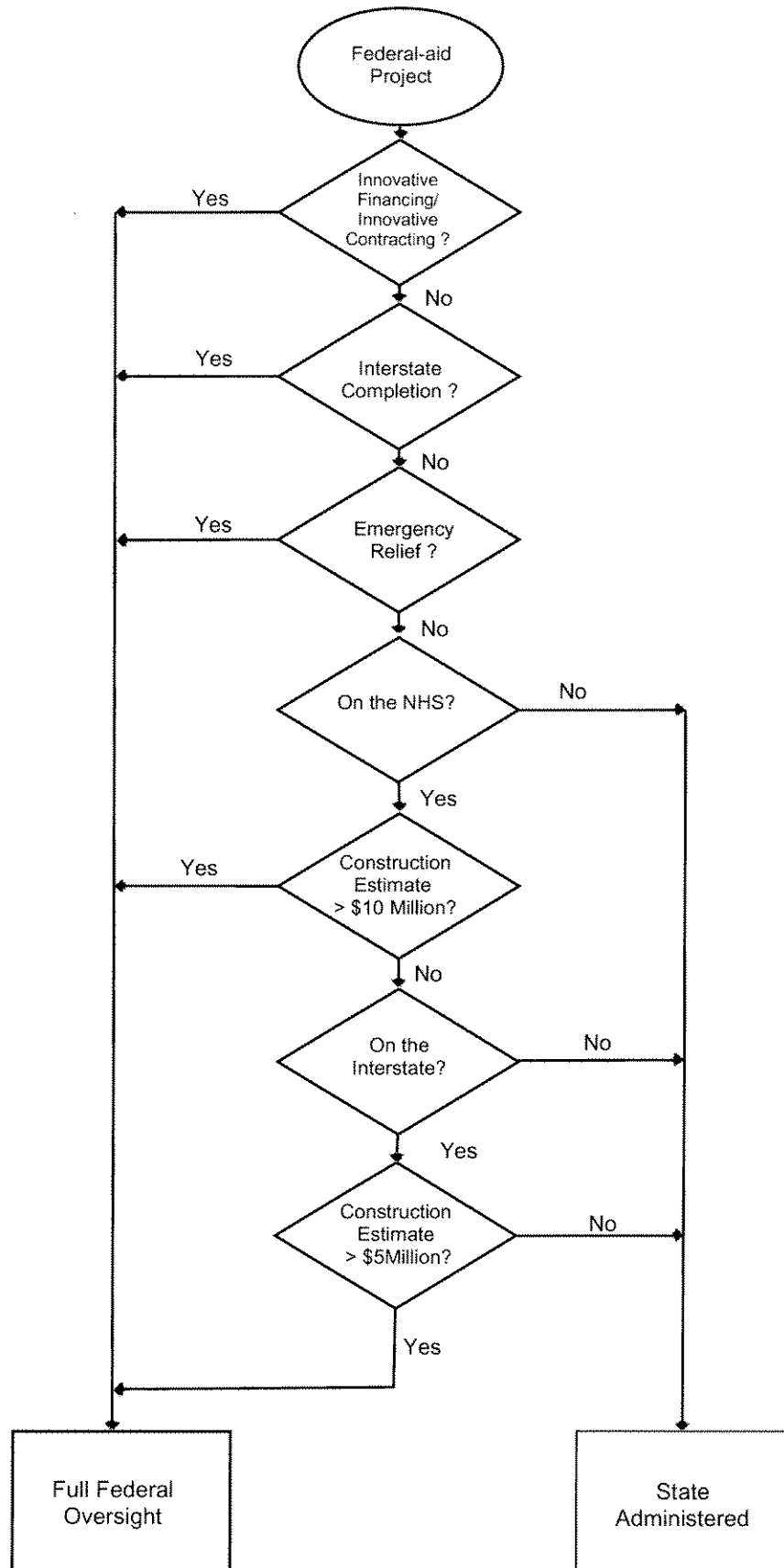
### **FHWA Responsibilities**

While ultimately accountable for all Federal-aid highway projects, FHWA is responsible for full project level oversight as indicated below:

- Special Projects – FHWA will retain full oversight responsibility for (1) Innovative Financing; (2) Innovative Contracting; and (3) Interstate Route H-3 Completion Projects.
- NHS projects on the Interstate and Certain Other Projects – FHWA will have full oversight on NHS projects on the Interstate System with an estimated construction cost greater than \$5 million. FHWA will conduct project level oversight of Title 23 U.S.C. and non-Title 23 U.S.C. requirements on full oversight projects. FHWA will take approval action on project plans, specifications, estimates, contract awards and inspection of projects.
- Other NHS Projects (not on the Interstate System) - FHWA will have full oversight on NHS projects with an estimated construction cost greater than \$10 million. FHWA will conduct project level oversight of Title 23 U.S.C. and non-Title 23 U.S.C. requirements on full oversight projects. FHWA will take approval action on project plans, specifications, estimates, contract awards and inspection of projects
- Non-Title 23 Responsibility – FHWA will continue to be responsible for the oversight of applicable non-Title 23 requirements. Such oversight will be conducted through a combination of both project and program level activities.

In consultation with HDOT, FHWA may become involved with the project level oversight of any Federal-aid project, including those for which HDOT has assumed oversight responsibility. In addition, any Federal-aid project may be included in the project sampling for program level review activities.

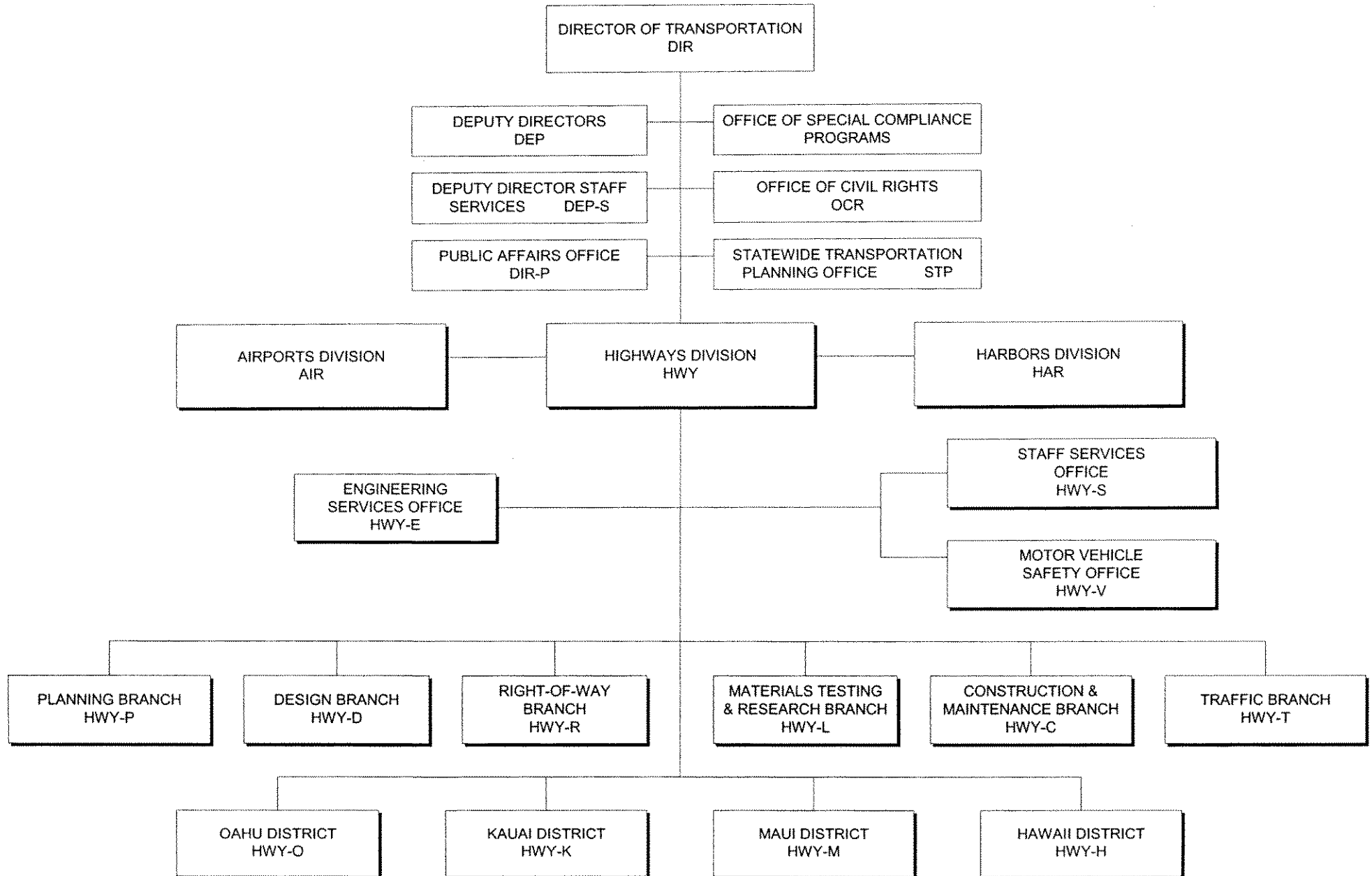
## PROJECT OVERSIGHT



**NOTE:**

If either agency wants to place any project in the other category, the proposing agency shall bring up the issue to the other agency at the STIP stage or at the beginning of the project.

### SECTION 3 - HDOT, HIGHWAYS DIVISION ORGANIZATION CHART



## **SECTION 4 – PROJECT/PROGRAM OVERSIGHT**

- 4.1 – Planning
- 4.2 – Environment
- 4.3 – Right-of-way
- 4.4 – Consultant Services
- 4.5 – Design
- 4.6 – Construction
- 4.7 – Maintenance
- 4.8 – Materials
- 4.9 – Structures
- 4.10 – Safety
- 4.11 – Traffic Engineering and Intelligent Transportation Systems
- 4.12 – Financial Management and Accounting
- 4.13 – Research and Technology Transfer
- 4.14 – Civil Rights
- 4.15 – Risk Assessment

## SECTION 4.1 - PLANNING

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- Title 23 –United States Code (U.S.C.) Highways and non-Title 23 U.S.C. requirements.
- 23 CFR Part 420
- 23 CFR Part 450
- 23 CFR Section 470.105 Urban Area Boundaries and Highway Functional Classifications
- 23 CFR Section 470.111 Interstate System Procedures
- 23 CFR Section 470.113 National Highway System Procedures
- 23 CFR Part 460 – Public Road Mileage for Apportionment of Highway Safety Funds
- 23 CFR Part 669 – Enforcement of Heavy Vehicle Use Tax
- Heavy Vehicle Travel Information System Field Manual
- SAFETEA-LU Section 1117
- CMAQ Guidelines (February 2004)
- Federal Register Volume 60:6 p26759 (May 18, 1995)
- July 24, 2001 FHWA HQ Memo

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
<b><u>Statewide Planning &amp; Research (SPR) Program</u></b>				
Work Program and Revisions: SPR – Part 1: Statewide Planning		STP: Approve HWY-P: Review	Approve annual program	Prior to program period
Annual Performance & Expenditure Reports		STP: Prepare	Approve	90 days after end of period
Other Periodic Performance & Expenditure Reports		STP: Prepare not more frequently than quarterly.	Review	30 days after end of period
Approval of Reports Before Publication		STP: Consolidate	Approve	Per Division requirements

<b><u>Statewide Transportation Planning Products</u></b>				
Statewide Transportation Plan		STP: Approve coordinated Departmental multi-modal plan HWY-P: Approve coordinated and prioritized State Highway LRTP (prioritize & consolidate the county LRTPs)	Review	Update as needed
Public Involvement Procedures	Review	STP: Approve Departmental PI Plan HWY-P: Review	Review	Update as needed
Statewide Transportation Improvement Program (STIP)	Review	HWY-P: Prepare	Approve jointly with FTA	Prior to program period (2007 & n+4)
STIP Amendments	Review	HWY-P: Prepare	Review	As needed
Federal Finding on STIP		Review	Approve jointly with FTA	Concurrent with STIP approval
State Self-Certification on Planning Process		HWY-P: Approve	Review	Submitted with STIP. Update as needed
State Consultation Process(es) with Non-Metropolitan Local Officials	Review	STP: Approve process		February 24 (2011 & n+5) (last in 2006)
<b><u>Highway System Actions</u></b>				
Interstate		HWY-P: Submit	Review and approve	As needed
Federal-aid Urban Area Boundaries		HWY-P: Prepare and submit in required digital format	Approve	When revised
Functional Classification		HWY-P: Prepare and review	Approve	When revised
National Highway System (NHS)		HWY-P: Approve	Review and approve	As needed

<b><u>Official Work Program (OWP/UPWP)</u></b>				
Transportation Management Areas (TMAs) OWP/UPWP	OMPO: Prepare and submit	Review	Approve jointly with FTA	
Non-TMA MPOs OWP/UPWP	OMPO: Prepare		Approve jointly with FTA	Prior to program period
OWP/UPWP Revisions/Amendments	OMPO: Prepare	Review	Approve jointly with FTA	As needed
Performance & Expenditure Reports	OMPO: Prepare & submit	Review	Review	Not more frequently than quarterly.
Approval of Reports Before Publication	OMPO: Review	Review	Approve jointly with FTA	Per Division Office Requirements
<b><u>Metropolitan Planning: Long-Range Transportation Plan (LRTP)</u></b>				
MPO LRTP Updates	OMPO: Develop & Approve	Review	Review	Update at least every five years (2011 & n+5) (last 2006)
MPO Public Involvement Procedures	OMPO: Develop & Approve	Review	Review	Update as needed
Air Quality Conformity Determination on LRTP		Review	Approve jointly with FTA	Concurrent with LRTP. Update at least every 4 years
<b><u>Certification/Certification Reports</u></b>				
State/MPO Self-Certifications	OMPO: Approve	Review	Review	May be included in TIP or OWP. Annual
FHWA/FTA TMA Certification Review Report	OMPO: Prepare	Review	Approve jointly with FTA	Every 3 years
<b><u>Transportation Improvement Program (TIP)</u></b>				
TIP	OMPO: Approve Governor: Approve	Review & Incorporate into STIP	Review	Prior to program period
TIP Amendments	OMPO: Approval thru the STIP amendment process	Review & Incorporate into STIP	Review jointly with FTA	As needed
Air Quality Conformity Determination on TIP	N/A	N/A	N/A	Hawaii attainment area.

Federal Finding on TIP	OMPO: Prepare	Review	Approve jointly with FTA	Concurrent with S(TIP) submittal
<b><u>Metropolitan Planning Area Designation</u></b>				
Metropolitan Planning Area Boundaries	OMPO: Approve and submit	Review	Review	When revised
Allocation Formulas for PL funds	Review	Review	Approve	When revised
MPO Agreements	OMPO: Prepare and Approve Local Transit provider: Approve	Approve	Review	When completed
Designation/Redesignation of MPOs	OMPO: Prepare and Submit	STP: Approve HWY-P: Review	Review	When completed
<b><u>Highway Performance Monitoring System (HPMS)</u></b>				
Data Submittal		HWY-P: Prepare and Submit to FHWA-HPPI	Review & Approve	June 15
Certified Public Roads Miles		HWY-P: Prepare and Submit	Approve	June 1
Annual Field Review Report		Review	Approve	November 1
Highway Statistics Reports <ul style="list-style-type: none"> <li>Motor Fuel (551-M)</li> </ul>		HWY-P: Submit via UPACS	Review & Approve	Due 60 days after end of each reporting month
<ul style="list-style-type: none"> <li>Motor Fuel (556)</li> </ul>		HWY-P: Submit via UPACS	Review & Approve	April 1
<ul style="list-style-type: none"> <li>Finance (531, 532, 541, 542, and 543(optional))</li> </ul>		HWY-P: Submit via UPACS	Review & Approve	April 1
<ul style="list-style-type: none"> <li>Finance (534)</li> </ul>	OMPO: Submit biennially	HWY-P: Submit annually	Review	June 15
<ul style="list-style-type: none"> <li>Finance (536)</li> </ul>		HWY-P: Submit	Review	September 30
<ul style="list-style-type: none"> <li>Vehicles and Drivers (561, 562, 566 and 571)</li> </ul>		HWY-P: Submit annually	Review	April 1
State DOT/Toll Authority Audits & Published Annual Reports & Form 539 (optional)		HWY-P: Prepare & Publish annually	Review	Due as soon as available.



State DOT Budgets and Published Annual Reports		HWY-P: Prepare & publish	Review	When published
Transportation Bond Referendums		HWY-P: Submit corresponding information	Review	When published
Highway Finance & Tax Legislation		HWY-P: Submit changes in coordination with State Taxation	Review	When published
<b><u>TRAFFIC MONITORING DATA</u></b>				
Vehicle Classification Data		HWY-P: Prepare & submit as part of annual HPMS report	Review & Approve	June 15
Permanent ATR Data		HWY-P: Collect & submit to FHWA-HPPI	Review & Approve	Monthly
Continuous Automatic Vehicle Classifier Data		HWY-P: Collect and submit to FHWA-HPPI	Review & Approve	Monthly
Weight & Vehicle Classification Data collected at Weigh-in-Motion sites		HWY: Collect and submit	Review & Approve	June 15 (or quarterly)
Annual Traffic Reports		HWY-P: Submit to FHWA-HPPI	Review & Approve	When published
Traffic Flow Maps		HWY-P: Submit to FHWA-HPPI	Review & Approve	When published
State Highway Maps (including Tourist, Bike, Route maps)		HWY submit 100 copies	Review	When published
Motor Fuel Oversight Review & Annual progress reports and statement of verification		HWY-P: submit via UPACS. Coordinate with State Tax Dept	Approve	June 30
Heavy Vehicle Use Tax (HVUT) <ul style="list-style-type: none"> <li>Proof of Payment</li> </ul>		HWY: Approve	Review	July 1
<ul style="list-style-type: none"> <li>Compliance Review</li> </ul>		HWY-Prepare & submit	Approve	Every three years (2006)
TCSP Evaluation Report		HWY: Approve	Review	June 30
CMAQ Annual Report		HWY: Approve	Review	February 1
Scenic Byways Program Grant Review & Progress Reports		HWY: Approve	Review	Quarterly

## **MONITORING**

The overall effectiveness of the stewardship agreement pertaining to the Transportation Planning Program will be determined through a performance evaluation related to the timely production of required documents, plan implementation, and the quality and timeliness of other products produced as part of the program. Timely review and approval of the administrative paperwork is necessary to authorize the program and to ensure the state's accountability for the use of state and federal moneys.

The HDOT and FHWA Transportation Planning Program Stewardship Agreement performance objectives will be evaluated through actions such as but not limited to the following:

- Joint HDOT/FHWA reviews of the various Highway Performance Monitoring System (HPMS) data, traffic data, and various required statistical reports. FHWA Headquarters (Office of Policy and Information - HPPI) evaluates and checks HPMS data and conducts field reviews of the HPMS data in conjunction with the Division Office.
- Joint HDOT/FHWA (may also include FTA) planning team reviews MPO annual self-certification, discuss work program emphasis areas and schedules in coordination with OMPO.
- Quarterly review meetings between HDOT Planning Staff (STP & HWY-P) and FHWA to evaluate HDOT's progress in meeting work objectives contained in the SPR work program, overall planning program, and data collection and analysis processes.

## SECTION 4.2 - ENVIRONMENT

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- 23 CFR Part 771 – Environmental Impact and Related Procedures
- 23 CFR Part 772 – Procedures for Abatement of Highway Traffic Noise and Construction Noise
- 23 CFR Part 777 – Mitigation of Impacts to Wetlands and Natural Habitat
- National Environmental Policy Act
- Section 106 of the National Historic Preservation Act
- 36 CFR Part 800, Protection of Historic Properties
- Section 7 of the Endangered Species Act
- HDOT Noise Analysis and Abatement Policy
- Public Involvement/Public Hearing Procedures for Federal-aid Highway Actions
- Hawaii Revised Statutes Chapter 343 Environmental Impact Statements (HRS 343)
- Hawaii Administrative Rules, Chapter 11-200 Environmental Impact Statements
- Hawaii Revised Statutes Chapter 341 Environmental Quality Control (HRS 341)
- Hawaii Administrative Rules, Chapter 11-201 Environmental Council Rules of Practice and Procedures
- Hawaii Revised Statutes, 6E
- Act 50, Session Laws of Hawaii 2000 (cultural practices)
- Comprehensive Exemption List for the State of Hawaii Department of Transportation, November 11, 2000

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
1995 MOU NEPA/404 Integration Process		Revise and Sign	Review and Sign	Updated MOU

### PROJECT APPROVAL ACTIONS – HDOT PROJECTS

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Identify Environmental Document Type	Identify NEPA document needed	Concur	Identify NEPA document needed	Concur

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Documented Categorical Exclusion	Complete Documented Cat Ex and Sign	Concur and Sign	Complete Documented Cat Ex and Sign	Concur and Sign
Pre-draft Environmental Assessment	Complete EA	Review EA	Complete EA	Review EA
Environmental Assessment	Complete and Sign EA	Approve and Sign EA	Complete and Sign EA	Approve and Sign EA
Public Involvement	Receive Public Input	Receive Public Input	Receive Public Input	Receive Public Input
Final Environmental Assessment	Complete EA	Concur	Complete EA	Concur
NEPA Finding of No Significant Impact	Draft FONSI	Sign FONSI And Issue	Draft FONSI	Sign FONSI and Issue
Notice Of Intent	Draft NOI	Approve/Submit for Publication in Federal Register	Draft NOI	Approve/Submit Publication in Federal Register
Participating Agency and Cooperating Agency Letters	Draft Letters	Review and Issue Letters	Draft Letters	Review and Issue Letters
Public Involvement	Perform Public Involvement	May Attend	Perform Public Involvement	May Attend
Purpose and Need	Develop Purpose and Need	Concur	Develop Purpose and Need	Concur
Interagency Coordination	Perform Coordination	Facilitate Coordination	Perform Coordination	Facilitate Coordination
Pre-Draft Environmental Impact Statement	Complete Pre-Draft EIS	Review Pre-Draft EIS	Complete Pre-Draft EIS	Review Pre-Draft EIS
Draft Environmental Impact Statement	Complete Draft EIS and Sign	Review Draft EIS and Sign	Complete Draft EIS and Sign	Review Draft EIS and Sign
Public Hearing	Hold Hearing	May Attend	Hold Hearing	May Attend
Pre-Final Environmental Impact Statement	Complete Pre-Final EIS	Review Pre-Final EIS	Complete Pre-Final EIS	Review Pre-Final EIS
Final Environmental Impact Statement	Complete FEIS and Sign	Review by FHWA Legal and Sign	Complete FEIS and Sign	Review and Sign

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
NEPA Record of Decision	Draft ROD	Sign ROD and Issue	Draft ROD	Sign ROD and Issue
Preliminary Programmatic Section 4(f) Evaluation	Prepare 4(f)	Review 4(f)	Prepare 4(f)	Review 4(f)
Programmatic Section 4(f) Evaluation	Complete 4(f)	Review and Sign 4(f)	Complete 4(f)	Review and Sign 4(f)
Pre-Draft Section 4(f) Evaluation	Complete Pre-Draft	Review Pre-Draft	Complete Pre-Draft	Review Pre-Draft
Draft Section 4(f) Evaluation	Complete Draft	Review Draft by FHWA Legal	Complete Draft	Review Draft by FHWA Legal
Final Section 4(f) Evaluation	Complete 4(f)	Review and Sign	Complete 4(f)	Review and Sign
De Minimis Finding	Coordinate with SHPD or owning agency, receive agency concurrence, give public opportunity to comment	Issue De Minimis Finding	Coordinate with SHPD or owning agency, receive agency concurrence, give public opportunity to comment	Issue De Minimis Finding
Letter Identifying Area of Potential Effect and Request for Identification of 106 properties	Prepare Letter	Approve for HDOT to sign and send to SHPD	Prepare Letter	Approve for HDOT to sign and send to SHPD
Section 106 Coordination with Interested Parties and Native Hawaiian Organizations (NHOs)	Prepare Letter	Approve for HDOT to sign and send to Interested Parties or NHOs	Prepare Letter	Approve for HDOT to sign and send to Interested Parties or NHOs
Section 106 Coordination Traditional Cultural Properties and Cultural Impact Assessment	Perform Coordination and Impact Analysis	Facilitate Coordination	Perform Coordination and Impact Analysis	Facilitate Coordination
Section 106 No Adverse Effect	Prepare Letter	Review and Sign Letter to SHPD	Prepare Letter	Review and Sign Letter to SHPD
Section 106 Adverse Effect Determination	Prepare Letter	Review and Sign Letter to SHPD	Prepare Letter	Review and Sign Letter to SHPD
Section 106 Memorandum of Agreement	Prepare and Sign MOA	Review and Sign MOA. Send to Advisory Council of Historic Preservation.	Prepare and Sign MOA	Review and Sign MOA. Send to Advisory Council of Historic

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
				Preservation.
Letter Identifying Area of Effect and Identification of Section 7 Resources	Prepare Letter	Approve for sending to USFWS	Prepare Letter	Approve for sending to USFWS
Section 7 No effect	Write Letter	Approve and Sign letter to USFWS	Write Letter	Approve and Sign letter to USFWS
Section 7 Biological Evaluation and Letter of Effect	Prepare Letter	Approve and Sign letter to USFWS	Prepare Letter	Approve and Sign letter to USFWS
Formal Written Re-evaluation	Prepare Re-evaluation	Review and Issue decision on Re-evaluation	Prepare Re-evaluation	Review and Issue decision on Re-evaluation
Draft Supplemental Environmental Impact Statement	Prepare Draft SEIS	Review Draft SEIS	Prepare Draft SEIS	Review Draft SEIS
Final Supplementary Environmental Impact Statement	Prepare Final SEIS and Sign	Review and Sign SEIS	Prepare Final SEIS and Sign	Review and Sign SEIS

#### **PROJECT APPROVAL ACTIONS – County and Other Local Agency Projects**

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Identify Environmental Document Type	Identify NEPA document needed	Concur	Concur	Identify NEPA document needed	Concur	Concur
Documented Categorical Exclusion	Complete Documented Cat Ex and Sign	Concur and Sign	Concur and Sign	Complete Documented Cat Ex and Sign	Concur and Sign	Concur and Sign
Pre-draft Environmental Assessment	Complete EA	Review EA	Review EA	Complete EA	Review EA	Review EA
Environmental Assessment	Complete EA	Concur and Sign EA	Approve and Sign EA	Complete EA	Concur and Sign EA	Approve and Sign EA
Public Involvement	Receive Public Input	Receive Public Input	Receive Public Input	Receive Public Input	Receive Public Input	Receive Public Input

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Final Environmental Assessment	Complete EA	Concur	Concur	Complete EA	Concur	Concur
NEPA Finding of No Significant Impact	Draft FONSI	Review	Sign FONSI And Issue	Draft FONSI	Review	Sign FONSI and Issue
Notice Of Intent	Draft NOI	Concur	Approve/Submit for Publication in Federal Register	Draft NOI	Concur	Approve/Submit Publication in Federal Register
Participating Agency and Cooperating Agency Letters	Draft Letters	Review Letters	Review and Issue Letters	Draft Letters	Review Letters	Review and Issue Letters
Public Involvement	Perform Public Involvement	May Attend	May Attend	Perform Public Involvement	May Attend	May Attend
Purpose and Need	Develop Purpose and Need	Concur	Concur	Develop Purpose and Need	Concur	Concur
Interagency Coordination	Perform Coordination	Perform Coordination	Facilitate Coordination	Perform Coordination	Perform Coordination	Facilitate Coordination
Pre-Draft Environmental Impact Statement	Complete Pre-Draft EIS	Review	Review	Complete Pre-Draft EIS	Review	Review
Draft Environmental Impact Statement	Complete Draft EIS and Sign	Review	Review	Complete Draft EIS and Sign	Review	Review
Public Hearing	Hold Hearing	May Attend	May Attend	Hold Hearing	May Attend	May Attend
Pre-Final Environmental Impact Statement	Complete Pre-Final EIS	Review	Review	Complete Pre-Final EIS	Review	Review
Final Environmental Impact Statement	Complete FEIS and Sign	Review and Sign	Review by FHWA Legal and Sign	Complete FEIS and Sign	Review and Sign	Review and Sign
NEPA Record of Decision	Draft ROD	Review ROD	Sign ROD and Issue	Draft ROD	Review ROD	Sign ROD and Issue
Preliminary Programmatic Section 4(f) Evaluation	Prepare 4(f)	Review 4(f)	Review 4(f)	Prepare 4(f)	Review 4(f)	Review 4(f)
Programmatic Section 4(f) Evaluation	Complete 4(f)	Review 4(f)	Review and Sign 4(f)	Complete 4(f)	Review 4(f)	Review and Sign 4(f)
Pre-Draft Section 4(f) Evaluation	Complete Pre-Draft	Review	Review	Complete Pre-Draft	Review	Review
Draft Section 4(f) Evaluation	Complete Draft	Review	Review by FHWA Legal	Complete Draft	Review	Review by FHWA Legal

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Final Section 4(f) Evaluation	Complete 4(f)	Review	Review and Sign	Complete 4(f)	Review	Review and Sign
De Minimis Finding	Coordinate with SHPD or owning agency, receive agency concurrence, give public opportunity to comment	Review	Issue De Minimis Finding	Coordinate with SHPD or owning agency, receive agency concurrence, give public opportunity to comment	Review	Issue De Minimis Finding
Letter Identifying Area of Potential Effect and Request for Identification of 106 properties	Prepare Letter	Review	Approve for local agency to sign and send to SHPD	Prepare Letter	Review	Approve for local agency to sign and send to SHPD
Section 106 Coordination with Interested Parties and Native Hawaiian Organizations (NHOs)	Prepare Letter	Review	Approve for local agency to sign and send to Interested Parties or NHOs	Prepare Letter	Review	Approve for local agency to sign and send to Interested Parties or NHOs
Section 106 Coordination Traditional Cultural Properties and Cultural Impact Assessment	Perform Coordination and Impact Analysis	Facilitate Coordination	Facilitate Coordination	Perform Coordination and Impact Analysis	Facilitate Coordination	Facilitate Coordination
Section 106 No Adverse Effect	Prepare Letter	Review	Review and Sign Letter to SHPD	Prepare Letter	Review	Review and Sign Letter to SHPD
Section 106 Adverse Effect Determination	Prepare Letter	Review	Review and Sign Letter to SHPD	Prepare Letter	Review	Review and Sign Letter to SHPD
Section 106 Memorandum of Agreement	Prepare and Sign MOA	Review and Sign	Review and Sign MOA. Send to Advisory Council of Historic Preservation.	Prepare and Sign MOA	Review and Sign	Review and Sign MOA. Send to Advisory Council of Historic Preservation.
Letter Identifying Area of Effect and Identification of Section 7 Resources	Prepare Letter	Review	Approve for sending to USFWS	Prepare Letter	Review	Approve for sending to USFWS



Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Section 7 No effect	Prepare Letter	Review	Approve and Sign letter to USFWS	Prepare Letter	Review	Approve and Sign letter to USFWS
Section 7 Biological Evaluation and Letter of Effect	Prepare Letter	Review	Approve and Sign letter to USFWS	Prepare Letter	Review	Approve and Sign letter to USFWS
Formal Written Re-evaluation	Prepare Re-evaluation	Review	Review and Issue decision on Re-evaluation	Prepare Re-evaluation	Review	Review and Issue decision on Re-evaluation
Draft Supplemental Environmental Impact Statement	Prepare Draft SEIS	Review	Review Draft SEIS	Prepare Draft SEIS	Review	Review Draft SEIS
Final Supplementary Environmental Impact Statement	Prepare Final SEIS and Sign	Review and Sign	Review and Sign SEIS	Prepare Final SEIS and Sign	Review and Sign	Review and Sign SEIS

### **MONITORING**

Environment: Monitoring will be accomplished by the FHWA through project-by-project monitoring and environmental document approvals.

## SECTION 4.3 - RIGHT-OF-WAY

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- Constitution of the United States of America, Article V, the Fifth Amendment.
- Constitution of the United States of America, Article XIV, the Fourteenth Amendment.
- Constitution of the United States of America, Decisions of The United States Supreme Court.
- Title 23 U.S.C. – Highways.
- Title 42 U.S.C. (The Public Health), Chapter 51 (Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs) – The *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, Public Law 91-646, 84 Stat. 1894-1907, 91<sup>st</sup> Congress, S.1, January 2, 1971 [Uniform Act; Uniform Relocation Act or URA], as amended.
- Title 49 U.S.C. – Transportation.
- 23 CFR Section 635.309 – Authorization
- 23 CFR Part 710 – Right-of-Way and Real Estate
- 23 CFR Part 750 – Highway Beautification
- 23 CFR Part 751 – Junkyard Control and Acquisition
- 23 CFR Part 752 – Landscape and Roadside Development
- 23 CFR Part 771 – Environmental Impact and Related Procedures
- 23 CFR Part 772 – Procedures for Abatement of Highway Traffic Noise and Construction Noise
- 23 CFR Part 777 – Mitigation of Environmental Impacts to Privately Owned Wetlands
- 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs
- Federal-Aid Policy Guide, December 9, 1991 (FAPG), as revised.
- Right-of-Way Project Development Guide, FHWA-PD-92-020, September 1992 (Revised May 18, 2000).
- Constitution of the State of Hawaii Section 20 (Eminent Domain), Article I (Bill of Rights).
- Chapter 101, HRS -- Eminent Domain.
- Chapter 171, HRS -- Management and Disposition of Public Lands.
- Chapter 264, HRS --Highways.
- Departmental Staff Manual, Department of Transportation, State of Hawaii, July 30, 1993 (DSM), as revised.
- Procedures Manual, Highways Division, Department of Transportation, State of Hawaii, March 1969 (HDPM -- Outdated).
- Right-of-Way Manual, Right-of-Way Branch, Highways Division, Department of Transportation, State of Hawaii, December 2005 (ROW Manual – Revised and submitted to FHWA by January 1, 2006).

## **PROGRAM APPROVAL ACTIONS**

<b>Program Activity</b>	<b>Local Agency Action</b>	<b>HDOT Action</b>	<b>FHWA Action</b>	<b>Notes</b>
Develop Right of Way Manual	Prepare and submit/adopt	Review and Concur-LPA Prepare – HDOT	Approve	5 year update/as required
Annual ROW Report		Prepare and Submit	Forward to HQ	Annual

## **PROJECT APPROVAL ACTIONS – HDOT PROJECTS**

<b>Project Activity</b>	<b>Full Federal Oversight</b>		<b>State Administered</b>	
	<b>HDOT Action</b>	<b>FHWA Action</b>	<b>HDOT Action</b>	<b>FHWA Action</b>
Appraisals	Review, Certify, Approve, and Authorize		Review, Certify, Approve, and Authorize	
Acquisitions	Perform and Authorize		Perform and Authorize	
Abstract (Title Search)	Review, Certify, Approve, and Authorize		Review, Certify, Approve, and Authorize	
Relocations	Perform and Authorize		Perform and Authorize	
ROW Authorizations and Agreements	Request and Approve		Request and Approve	
ROW Certification	Write Certification Letter with "Request for Authorization to Advertise" and public interest finding	Approve PS&E	Write Certification Letter and public interest finding	
Functional Replacement (Public Involvements)	Approve		Approve	
Any Change in Access, Use or Occupancy (Interstate)	Request and Review	Approve	Request and Review	Approve
Air Rights, Leases/joint use Agreements, Change in Access Control (Non-Interstate)	Review		Review	

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Disposal of Excess ROW	Review & Approve. Review less than Fair Market Value	Approve less than Fair Market Value	Review and Approve. Review less than Fair Market Value	Approve less than Fair Market Value
Early Acquisition, Hardship, Protective Buying	Request	Approve	Request	Approve
Administrative, Legal & Court Awards	Approve		Approve	
Early Acquisition Cost	Request	Approve Reimbursement/Matching Credit	Request	Approve Reimbursement/ Matching Credit

#### **PROJECT APPROVAL ACTIONS – County and Other Local Agency Projects**

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Appraisals	Review, Certify, and Approve	Review and Authorize		Review, Certify, and Approve	Review and Authorize	
Acquisitions	Review, Certify, and Approve	Review and Authorize		Review, Certify, and Approve	Review and Authorize	
Abstract (Title Search)	Perform and Approve	Review and Authorize		Perform and Approve	Review and Authorize	
Relocations	Perform and Approve	Review and Authorize		Perform and Approve	Review and Authorize	
ROW Authorizations and Agreements	Request	Approve		Request	Approve	
ROW Certification	Write Certification Letter with "Request for Authorization to Advertise"	Review and prior to advertisement, public interest findings on all Federal-aid projects	Approve PS&E	Write Certification Letter with "Request for Authorization to Advertise"	Review and prior to advertisement, public interest findings on all Federal-aid	

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Functional Replacement (Public Involvements)	Approve	Concur		Approve	Concur	
Any Change in Access, Use or Occupancy (Interstate)	Request	Review	Approve	Request	Review	Approve
Air Rights, Leases/joint use Agreements, Change in Access Control (Non-Interstate)	Review and Approve			Review and Approve		
Disposal of Excess ROW	Approve (Non Interstate)	Review and Approve Interstate. Review less than Fair Market Value	Approve less than Fair Market Value	Approve (Non-Interstate)	Review and Approve Interstate. Review less than Fair Market Value	Approve less than Fair Market Value
Early Acquisition, Hardship, Protective Buying	Prepare Submission	Review and Authorize	Approve	Prepare Submission	Review and Authorize	Approve
Administrative, Legal & Court Awards	Approve			Approve		
Early Acquisition Cost	Request	Concur	Approve Reimbursement/ Matching Credit	Request	Concur	Approve Reimbursement/ Matching Credit

## **MONITORING**

Although there are no exemptions under the law for any functions covered in 49 CFR 24, there is a dual concern (a) to protect the rights of property owners and displaced persons and (b) the stewardship of the federal dollars. Continuous review of the State's activities has proven to be an effective means of assuring that the rights of owners and displaced persons are protected as well as monitoring the expenditure of federal funds. This will be continued under this stewardship plan.

Process reviews and program evaluations conducted jointly with HDOT personnel whenever possible will be the method for evaluating compliance and effectiveness of the program areas, activities, approving action and products.

Certain ROW activities are not covered specifically by either 49 or 23 CFR but are a combination of sound business practice and the occasional national emphasis areas, which affect the ROW program. Joint reviews of these topics and their application will be conducted as needed.

Local Public Agencies (LPA), i.e. counties, are required to comply with the Uniform Act and its governing regulations found in 49 CFR 24 in the same manner as HDOT. As stipulated in 23 CFR 710.201(b), State Transportation Agencies are responsible for assuring that ROW acquisition programs and projects by LPAs are made in compliance with Federal and State laws and regulations.

HDOT has ultimate responsibility for assessing, ensuring and assuring LPA adherence to and conformance with applicable Federal, and State, regulations. HDOT exercises its oversight responsibilities of LPAs by scheduling annual, or more frequent, visits to conduct process reviews and provide technical assistance and overall guidance.

## SECTION 4.4 - CONSULTANT SERVICES

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- Title 23 –United States Code (U.S.C.) Highways and non-Title 23 U.S.C. requirements.
- Title 23 - Code of Federal Regulations (CFR), applies to all NHS projects, regardless of oversight responsibilities.
- Section 103D-304, Hawaii Revised Statutes (HRS), as amended
- Chapter 3-122, Subchapter 7, Hawaii Administrative Rules
- Department Staff Manual (DSM) Part 7 Procurement, Chapter 17 Professional Service

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
HDOT Consultant Selection Procedures		Prepare	FHWA approve	Approved Consultant Selection Procedures
Local Agency Consultant Selection Procedures	Prepare	Review	FHWA approve	Approved Consultant Selection Procedures

### PROJECT APPROVAL ACTIONS – HDOT PROJECTS

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Request for Use of Consultant and Approval of Estimate Fee	Prepare and approve	None	Prepare and approve	None
Posting of Request for Proposal Advertisement on Internet	Prepare and approve	Receive on E-mail Copy	Prepare and approve	Receive on E-mail Copy
Request for Approval of Selection Committee	Prepare and approve	None	Prepare and approve	None
Approval of Selected Consultant	Prepare and Approve	Approve	Prepare and Approve	None

	Full Federal Oversight		State Administered	
Project Activity	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Selection Letter	Prepare and Approve	None	Prepare and Approve	None
Negotiated Consultant Fee	Prepare and Approve	Approve	Prepare and Approve	None
Executed Contract	Prepare and Approve	Receive a Copy	Prepare and Approve	Receive a Copy
Notice to Proceed	Prepare and Approve	None	Prepare and Approve	None
Contract Change Order or Contract Amendment	Prepare and Approve	Approve	Prepare and Approve	Receive a Copy
Consultant Performance Evaluation	Prepare and Concur	Receive an E-mail Copy	Prepare and Concur	None

**PROJECT APPROVAL ACTIONS – County and Other Local Agency Projects**

	Full Federal Oversight			State Administered		
Work Activity	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Approval of Selected Consultant	Prepare and Approve	Approve	Approve	Prepare and Approve	None	None
Selection Letter	Prepare and Approve	None	None	Prepare and Approve	None	None
Negotiated Consultant Fee	Prepare and Approve	Approve	Approve	Prepare and Approve	None	None
Executed Contract	Prepare and Approve	Receive a Copy	Receive a Copy	Prepare and Approve	Receive a Copy	Receive a Copy
Notice to Proceed	Prepare and Approve	None	None	Prepare and Approve	None	None



<b>Work Activity</b>	<b>Full Federal Oversight</b>			<b>State Administered</b>		
	<b>Local Agency Action</b>	<b>HDOT Action</b>	<b>FHWA Action</b>	<b>Local Agency Action</b>	<b>HDOT Action</b>	<b>FHWA Action</b>
Contract Change Order or Contract Amendment	Prepare and Approve	Approve	Approve	Prepare and Approve	Receive a Copy	Receive a Copy
Consultant Performance Evaluation	Prepare and Concur	Receive an E-mail Copy	Receive an E-mail Copy	Prepare and Concur	None	None

### **MONITORING**

The monitoring of consultant procedures for all Federal-Aid projects will be reviewed by FHWA and HDOT on an annual basis in compliance with applicable manuals, processes, and procedures.

## SECTION 4.5 -DESIGN

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- Title 23 –United States Code (U.S.C.) Highways and non-Title 23 U.S.C. requirements.
- Title 23 - Code of Federal Regulations (CFR), applies to all NHS projects, regardless of oversight responsibilities.
- A Policy on Geometric Design of Highways and Streets, AASHTO, as amended.
- Project Development Manual, Highways Division, Design Branch, as amended.
- Design Criteria for Highway Drainage, Highways Division, as amended.
- Design Exception Procedures.
- FHWA Checklist and Guidelines for Review of Geotechnical Reports and Preliminary Plans and Specifications, as amended
- Pavement Design Manual, Highways Division, Materials Testing and Research Branch, as amended
- Pavement Preventive Maintenance Guidelines, Highways Division, Materials Testing and Research Branch, as amended

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Context Sensitive Solutions	Prepare or Adopt	Prepare	Approve	Approved Procedures

### PROJECT APPROVAL ACTIONS – HDOT PROJECTS

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Interstate Access	Prepare and approve	Approve	Prepare and concur	Approve
Design Exceptions	Prepare	Approve	Prepare and approve	None
Plan Sheets (60%)	Prepare and approve	Comment	Prepare and approve	None

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Plan Sheets (90%)	Prepare and approve	Comment	Prepare and approve	None
Experimental Work	Prepare	Approve	Prepare and approve	None
Value Engineering	Prepare and recommend	Participate	Not required	None
Proprietary Materials	Prepare	Approve	Prepare and approve	None
Soils Engineering and Structure Foundation Investigation Report	Prepare and approve	Review	Prepare and approve	None
Pavement Justification Report	Prepare and approve	Review	Prepare and approve	None
Bridge Calculations	Prepare and submit to FHWA upon request	Review if FHWA requests	Prepare and approve	None
Traffic Signal Warrants	Prepare and approve	Review	Prepare and approve	None
Hydraulic Report	Prepare and approve	Review	Prepare and approve	None
Justification for Contract Time	Prepare and approve	Review	Prepare and approve	None
Traffic Management Plan	Prepare and approve	Review	Prepare and approve	None
Bridge Scour Report	Prepare and approve	Review	Prepare and approve	None
Basis of Design Report	Prepare and approve	Review	Prepare and approve	None
PS&E Approval	Prepare	Approve	Prepare and approve	None
Unusual Bridge Projects	Prepare	Approve	Prepare and approve	None
Permits – Section 404, SMA, etc.	Prepare and obtain approvals	Review	Prepare and obtain approvals	None

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Concurrence on Contract Award	Recommend	Concur	Prepare and concur	None
Project Assessment Report	Prepare and approve	Participate	Prepare and approve	None

**PROJECT APPROVAL ACTIONS – County and Other Local Agency Projects**

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Design Exceptions	Prepare	Review and recommend	Approve	Prepare	Approve	None
Plan Sheets (60%)	Prepare	Review and approve	Comment	Prepare	Comment	None
Plan Sheets (90%)	Prepare	Review and approve	Comment	Prepare	Comment	None
Experimental Work	Prepare	Review and recommend	Approve	Prepare	Approve	None
Value Engineering	Prepare and recommend	Participate	Participate	Prepare and recommend	Participate	None
Proprietary Materials	Prepare	Review and recommend	Approve	Prepare	Approve	None
Soils Engineering and Structure Foundation Investigation Report	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None
Pavement Justification Report	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None
Bridge Calculations	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None
Traffic Signal Warrants	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Hydraulic Report	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None
Justification for Contract Time	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None
Traffic Management Plan	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None
Bridge Scour Report	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None
Basis of Design Report	Prepare	Review and approve	Review (Optional)	Prepare	Approve	None
PS&E Approval	Prepare	Review and approve	Approve	Prepare	Approve	None
Unusual Bridge Projects	Prepare	Review and approve	Approve	Prepare	Review	None
Permits – Section 404, SMA, etc.	Prepare and obtain approval	Review and approve	Review	Prepare and obtain approval	Review	None
Concurrence on Contract Award	Prepare	Review and approve	Concur	Prepare	Concur	None
Project Assessment Report	Prepare and approve	Review and approve	None	Prepare and approve	None	None

## **MONITORING**

### **DESIGN:**

- 1) Design monitoring of all Federal-aid projects will be accomplished by the FHWA through the project-by-project monitoring of eligibility determinations and environmental document approvals.
- 2) Design monitoring of all Federal-aid projects will be through either periodic project status meetings (monthly status reports and/or quarterly over-the-shoulder reviews).

## SECTION 4.6 - CONSTRUCTION

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- Title 23 –United States Code (U.S.C.) Highways and non-Title 23 U.S.C. requirements
- Title 23 - Code of Federal Regulations (CFR)
- 49 USC
- Highways Division Procedures Manual Volume 10 – Construction
- Hawaii Standard Specifications for Road, Bridge, and Public Works Construction (“Standard Specifications”)
- Hawaii Revised Statutes (HRS)
- Administrative Rules, Title 19, Highways Division

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
None				

### PROJECT APPROVAL ACTIONS – HDOT PROJECTS

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Contract Award	Prepare	Concur	Prepare	Information
Form FHWA-45	Prepare	Need/Require	Prepare	Need/Require
Contract Execution	Prepare	Information	Prepare	
Preconstruction Meeting	Lead/Conduct	Information	Lead/Conduct	
Notice to Proceed	Prepare	Information	Prepare	Information

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Value Engineering Cost Proposals	Evaluate & Approve	Evaluate & Approve	Evaluate & Approve	Information
Contract Change Orders	Prepare	Approve	Prepare & Approve	
Time Extensions	Prepare	Approve	Prepare & Approve	
Work Suspensions	Prepare	Concur	Prepare	
Contract Termination	Prepare	Concur	Prepare	Concur
Contract Amendments	Prepare	Approve	Prepare	
Claims	Evaluate & Recommend	Evaluate & Concur	Evaluate & Recommend	Evaluate & Concur
Form FHWA-1391	Prepare	Need/Require	Prepare	Need/Require
Form FHWA-1392	Prepare	Need/Require	Prepare	Need/Require
Prefinal Inspection	Lead/Conduct	Information	Lead/Conduct	Information
Final Inspection	Lead/Conduct	Approve	Lead/Conduct	Information
Acceptance Letter	Prepare	Need/Require	Prepare	Need/Require
Material Certification	Prepare	Need/Require	Prepare	Need/Require
Form FHWA-47	Prepare	Need/Require	Prepare	Need/Require

**PROJECT APPROVAL ACTIONS – County and Other Local Agency Projects**

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Contract Award	Prepare	Recommend	Concur	Prepare	Concur	Information
Form FHWA-45	Prepare	Process	Need/Require	Prepare	Need/Require	Need/Require
Contract Execution	Prepare	Information	Information	Prepare	Information	
Preconstruction Meeting	Lead/Conduct	Information	Information	Lead/Conduct	Information	
Notice to Proceed	Prepare	Information	Information	Prepare	Information	Information
Value Engineering Cost Proposals	Evaluate & Approve	Evaluate & Recommend	Evaluate & Approve	Evaluate & Approve	Evaluate & Approve	Information
Contract Change Orders	Prepare	Recommend	Approve	Prepare	Approve	
Time Extensions	Prepare	Recommend	Approve	Prepare	Approve	
Work Suspensions	Prepare	Recommend	Concur	Prepare	Concur	
Contract Termination	Prepare	Recommend	Concur	Prepare	Recommend	Concur
Contract Amendments	Prepare	Recommend	Approve	Prepare	Approve	
Claims	Evaluate & Recommend	Evaluate & Recommend	Evaluate & Concur	Evaluate & Recommend	Evaluate & Concur	Evaluate & Concur
Form FHWA-1391	Prepare	Process	Need/Require	Prepare	Process	Need/Require
Form FHWA-1392	Prepare	Process	Need/Require	Prepare	Process	Need/Require
Prefinal Inspection	Lead/Conduct	Information	Information	Lead/Conduct	Information	Information



Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Final Inspection	Lead/Conduct	Recommend	Approve	Lead/Conduct	Approve	Information
Acceptance Letter	Prepare	Process	Need/Require	Prepare	Process	Need/Require
Material Certification	Prepare	Process	Need/Require	Prepare	Process	Need/Require
Form FHWA-47	Prepare	Process	Need/Require	Prepare	Process	Need/Require

### **MONITORING**

FHWA in conjunction with the HDOT will do construction documentation reviews and construction site inspections including prefinal and final inspections on a statewide sampling basis.

## SECTION 4.7 - MAINTENANCE

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- Title 23 –United States Code (U.S.C.) Part 116

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Routine Maintenance of Federal-aid highways.	Adequately maintain highways.	Adequately maintain highways.	Conduct windshield and in-depth inspections.	Division will provide all findings to appropriate HIDOT personnel.

## SECTION 4.8 - MATERIALS

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- 23 CFR Section 637 – Construction Inspection and Approval for all Federal-aid projects on the National Highway System (NHS)

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Materials Acceptance Program <ul style="list-style-type: none"><li>• Sampling and Testing Frequency Guide</li></ul>		Develop, update and implement	Approve	
Qualified Technician Program (includes Field Sampling and Testing Personnel)		Develop, update and implement	Approve	
Qualified Laboratory Program		Develop, update and implement	Approve	
Independent Assurance Program (System based)		Develop, update and implement	Approve	
Independent Assurance Program (System based)		Prepare annual report	Review, comment, recommend	
Materials Certification Program		Develop and update	Approve	
Materials Certification Program		Submit Letter of Certification		
AASHTO Accreditation		Maintain Accreditation	Review, comment (as necessary)	

## **MONITORING**

FHWA will review and approve HDOT's Materials Quality Assurance Program on an on-going basis. The Materials Quality Assurance Program includes the Materials Acceptance Program, Qualified Technician Program, Qualified Laboratory Program, Independent Assurance Program, Materials Certification Program, and AASHTO Accreditation.

In general, FHWA will monitor the implementation and effectiveness of the Materials Quality Assurance Program through Process reviews.

## SECTION - 4.9 STRUCTURES

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- 23 CFR Part 650 – Bridges, Structures, and Hydraulics
  - Subpart B – Erosion and Sediment Control on Highway Construction Projects
  - Subpart C – National Bridge Inspection Standards
  - Subpart D – Highway Bridge Replacement and Rehabilitation Program
- 23 USC 144, Highway Bridge Replacement and Rehabilitation Program
- 23 USC 151, National Bridge Inspection Program
- 23 USC 116(d), Preventive Maintenance
- FHWA Hawaii Division and Hawaii Department of Transportation, Bridge Preservation Program Guidelines, January 2005
- Hawaii Department of Transportation, Bridge Inspection Program (To be developed)
- FHWA Hydraulic Engineer Circulars #18, #20, and #23

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Bridge Inspection Program (State)		Conduct inspections. Update inventory and send data to FHWA annually.	Conduct annual review of each district and prepare report. Process data, furnish error listing and resolve differences.	
Bridge Inspection Program (Counties)	Conduct inspections.	Monitor NBIS compliance and maintain inventory. Conduct annual review of each County with FHWA.	Conduct annual review of each County and prepare report.	
Bridge Replacement & Rehabilitation Program (HBRRP) (State)		Select, design and construct projects. Furnish unit cost data to FHWA annually.	Review full federal oversight projects and resolve eligibility concerns. Review unit cost data.	

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Bridge Replacement & Rehabilitation Program (HBRRP) (Counties)	Select, design and construct projects.	Review all County HBRRP projects.	Review full federal oversight projects and resolve eligibility concerns.	
Bridge Preservation Program		Select, design and construct projects. Prepare prioritized list of preventive maintenance (PM) projects using BMS for annual submittal to FHWA for approval. Update NBI and element level inspection data after PM work completed.	Review and approve projects meeting eligibility requirements.	
National Bridge Scour Evaluation Program (NBSE) (State)		Conduct annual inspections and update NBSE inventory. Prepare Plan of Action *	Conduct annual review of each District.	* Consultant to prepare Plan of Action, scheduled for FY07-09.
National Bridge Scour Evaluation Program (NBSE) (Counties)	Conduct inspections; update NBSE inventory and prepare Plan of Action	Conduct annual review. Monitor NBSE of each County.	Conduct annual review of each County.	

### **MONITORING**

- FHWA will perform an annual review, supplemented by other special reviews of specific program elements as appropriate, to evaluate State and each County's compliance with the National Bridge Inspection Standards (NBIS).
- The selection of State bridges for replacement, rehabilitation or preventive maintenance activities will be reviewed by FHWA and HDOT prior to programming.
- The selection of each County's bridges for replacement or rehabilitation will be reviewed by FHWA and HDOT prior to programming.
- FHWA and HDOT will perform an annual review to evaluate each County's compliance with the National Bridge Scour Evaluation Program (NBSE).

## SECTION 4.10 - SAFETY

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- 23 USC 130 - Railway-Highway Crossing Program
- 23 USC 152 - Hazard Elimination Program (replaced by 23 USC 148)
- 23 CFR 924 - Highway Safety Improvement Program (elevated to core program; 23 USC 148)
- 23 USC 148 - HSIP, High-Risk Rural Roads Program (HRRR), Strategic Highway Safety Plan (SHSP)

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
HSIP Report (Highway Safety Improvement Program)	N/A	Prepare program report, and recommend	Review and comment	Record document
Annual HSIP Evaluation Report 23 USC 152 and 23 USC 130	N/A	Prepare annual report, and recommend	Review and comment on annual report	Record document
5 Percent Report	N/A	Prepare annual report, and recommend	Receive	Posted on USDOT web site
Strategic Highway Safety Plan (SHSP)	N/A	Develop and approve, and recommend	Acceptance	Approved document
High-Risk Rural Roads Program (HRRR)	N/A	Prepare annual report, and recommend	Review and comment on annual report	Record document

### PROJECT APPROVAL ACTIONS

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
See Monitoring Below						

## **MONITORING**

Individual project related approval actions are included in the Design and Construction sections of this plan. HDOT will evaluate and submit an annual HSIP report and evaluation by August 31 of each year.



## SECTION 4.11 TRAFFIC ENGINEERING AND INTELLIGENT TRANSPORTATION SYSTEMS

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- 23 CFR Part 630, Subpart J –Work Zone Safety and Mobility
- 23 CFR Part 655 – Traffic Operations
- 23 CFR Part 940 – Intelligent Transportation System (ITS) Architecture and Standards
- Manual on Uniform Traffic Control Devices (MUTCD)
- National ITS Architecture and Standards
- National ITS Program Plan
- Regional ITS Architectures
- Work Zone Safety and Mobility Policy, Processes and Procedures (to be developed)
- FHWA Policy Memorandum: Program Guidance on High Occupancy Vehicle (HOV) Lanes, March 28, 2001
- Hawaii Administrative Rules, Title 19, Subtitle 5, Chapter 128 Design, Placement, and Maintenance of Traffic Control Devices
- Hawaii Administrative Rules, Title 19, Subtitle 5, Chapter 129 Use of Traffic Control Devices at Work Sites on or Adjacent to Public Streets and Highways

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Update of ITS Regional Architecture		Prepare and submit	Approve	
NCHRP 350 Compliance		Prepare and submit acceptance letter	Approve	
Adoption of latest MUTCD		Prepare and submit letter	No action	
MUTCD Interim Approval		Prepare and submit request letter	Approve	
Use of Proprietary Traffic Products		Prepare and submit	Review and approve	

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Update of Work Zone and Mobility Policy, Processes, and Procedures		Prepare and submit	Approve	
Work Zone Review		Conduct biennial review and submit results to FHWA	Review and approve	

### **PROJECT APPROVAL ACTIONS – HDOT PROJECTS**

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
MUTCD Experimentation	Prepare and submit request letter and work plan	Approve		
HOV Lane (Significant Operational Changes)	Prepare and submit report	No Action or Approve		
Project Level ITS Architecture	Prepare and submit	Approve		
ITS Operational Work Plan	Prepare and submit	Approve		
System Engineering Analysis	Prepare and submit report	Approve		

### **MONITORING**

- DESIGN:
- 1) Design monitoring of all Federal-aid projects will be accomplished by the FHWA through the project-by-project monitoring of eligibility determinations and environmental document approvals.
  - 2) Design monitoring of all Federal-aid projects will be through either periodic project status meetings (monthly status reports and/or quarterly over-the-shoulder reviews).

## SECTION 4.12 - FINANCIAL MANAGEMENT AND ACCOUNTING

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- Title 23 USC 302 State Transportation Department
- Title 23 CFR Section 1.36 – Compliance with federal laws and regulations
- Title 49 CFR Part 18 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments [Office of Management and Budget (OMB) Circular A-102]
- Title 23 CFR Section 630.106 – Authorization to Proceed and Project Monitoring
- OMB Circular A-87 – Cost Principles for State, Local, and Indian Tribal Governments
- OMB Circular A-123 – Management's Responsibility for Internal Control
- OMB Circular A-133 – Audits of States, Local Governments, and Non-Profit Organizations
- Hawaii Revised Statutes
- Session Laws of Hawaii, Regular and Special Sessions
- State of Hawaii Accounting Manual
- Financial Accounting and Management Information System (FAMIS) Procedures Manual
- Departmental Staff Manual (DSM)
- Department of Transportation, Highways Division Procedures Manual

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Inactive Projects Review, 23 CFR 630	Not Apply	Review inactive projects; prepare Form 1240.2 as required	Monitor activity; implement actions required under 23 CFR 1.36	
Implement quality program/internal audit program	Participate in State's Program	Review operations for economy and efficiency	Participate in State's program	
Inactive Projects Review, 23 CFR 630	Not Apply	Review inactive projects; prepare Form 1240.2 as required	Monitor Highways Division activity; implement actions required under 23 CFR 1.36	
Implement quality program/internal audit program	Participate in State's Program	Review operations for economy and efficiency	Participate in State's program	

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Inactive Projects Review, 23 CFR 630	Not Apply	Review inactive projects; prepare Form 1240.2 as required	Monitor activity; implement actions required under 23 CFR 1.36	
Implement quality program/internal audit program	Participate in State's Program	Review operations for economy and efficiency	Participate in State's program	
Inactive Projects Review, 23 CFR 630	Not Apply	Review inactive projects; prepare Form 1240.2 as required	Monitor Highways Division activity; implement actions required under 23 CFR 1.36	

#### **PROJECT APPROVAL ACTIONS – HDOT PROJECTS**

Project Activity	Full Federal Oversight		State Administered	
	HDOT Action	FHWA Action	HDOT Action	FHWA Action
Form 1240.2, Project agreement, authorization, modification, processing	Prepare Engineer's Estimate; forward to HWY-SM. Prepare Form 1240.2; enter into FMIS	Prepare Form 1240.2; enter into FMIS	Prepare Engineer's Estimate; forward to HWY-SM. Prepare Form 1240.2; enter into FMIS	Prepare Form 1240.2; enter into FMIS
State reimbursement – Rapid Approval & State Payment System (RASPS)	Upload HWYAC to RASPS; notify FHWA. Perform twice a month.	Approve RASPS. Perform Improper Payments Review	Upload HWYAC to RASPS; notify FHWA. Perform twice a month.	Approve RASPS. Perform Improper Payments Review
Project closing; Final Voucher (PR20) or equivalent	Reconcile actual costs to HWYAC, FMIS. Verify required documents available; prepare and process final voucher.	Approve final voucher; close project in FMIS	Reconcile actual costs to HWYAC, FMIS. Verify required documents available; prepare and process final voucher.	Approve final voucher; close project in FMIS

**PROJECT APPROVAL ACTIONS – County and Other Local Agency Projects**

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Form 1240.2, Project agreement, authorization, modification , processing	Prepare Engineer's Estimate; forward to HWY-SM; enter into FMIS	Perform subgrantee monitoring; Prepare Form 1240.2; enter into FMIS	Approve FMIS Entry	Prepare Engineer's Estimate; forward to HWY-SM; enter into FMIS	Perform subgrantee monitoring; Prepare Form 1240.2; enter into FMIS	Approve FMIS Entry
State reimbursement – Rapid Approval & State Payment System (RASPS)	Prepare reimbursement request forms to HWY-SF	Perform subgrantee monitoring; enter Counties requests into HWYAC; upload HWYAC to RASPS; notify FHWA. Perform twice a month.	Approve RASPS. Perform Improper Payments Review	Prepare reimbursement request forms to HWY-SF	Perform subgrantee monitoring; enter Counties requests into HWYAC; upload HWYAC to RASPS; notify FHWA. Perform twice a month.	Approve RASPS. Perform Improper Payments Review

Project Activity	Full Federal Oversight			State Administered		
	Local Agency Action	HDOT Action	FHWA Action	Local Agency Action	HDOT Action	FHWA Action
Project closing; Final Voucher (PR20) or equivalent	Prepare final project accounting and submit to HWY-SF	Perform subgrantee monitoring; Reconcile actual costs to HWYAC, FMIS. Verify required documents available; prepare and process final voucher.	Approve final voucher; close project in FMIS	Prepare final project accounting and submit to HWY-SF	Reconcile actual costs to HWYAC, FMIS. Verify required documents available; prepare and process final voucher.	Approve final voucher; close project in FMIS

### **MONITORING**

FHWA provides guidance and financial management technical assistance to alleviate issues and concerns in the administration of the federal-aid program through daily contact with HDOT personnel. The FHWA will continue to monitor or perform all financial management activities including:

1. risk assessment;
2. financial management review;
3. improper payments review;
4. inactive federal-aid project review;
5. administrative reviews;
6. single audit review, including sub-grantee reviews.

## SECTION 4.13 - RESEARCH AND TECHNOLOGY TRANSFER

### **APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES**

- 23 USC 307 –
- 23 CFR Part 420 – Planning and Research Program Administration
- 23 USC Part 501-508
- FHWA Transportation Pooled Fund Program Procedures (<http://www.tfhr.gov/site/procedures.pdf> )
- FHWA Policy Memo of 11/3/1994 – “State Planning and Research Administration; Guidelines”
- FHWA Policy Memo of 1/16/1997 – “Use of State Planning and Research (SPR) Funds for Tech Certification Program Course Development”
- FHWA Policy Memo of 1/26/2001 – “FHWA Development and Coordination of the Research and Technology Program”
- FHWA Order of 9/19/2001 – “Processing Research Projects Under TEA-21 Section 5001”
- HDOT Research, Development & Technology Transfer Program Manual, December 2004
- FHWA Guidelines for Projects Using Experimental Features
- A Guide to Federal-Aid Programs and Projects, FHWA-IF-99-006, Local Technical Assistance Program (LTAP) [formerly: Rural Technical Assistance Program (RTAP)]
- LTAP Handbook
- Administration of FHWA Planning and Research Funds, FHWA-PD-98-053
- LTAP Handbook
- 49 CFR 18
- Guidance on Use of FHWA Planning and Research Funds for Travel and Training
- FHWA, State DOT, and MPO Rights to Copyrighted and Patented Items Developed with FHWA Planning and Research Funds
- Procurement Rules; Chapter 103D, HRS
- Departmental Staff Manual
- Administrative Rules
- HDOT Research, Development & Technology Transfer Program Manual, December 2004
- Procurement Rules; Chapter 103D, HRS
- Departmental Staff Manual
- Administrative Rules
- HDOT Research, Development & Technology Transfer Program Manual, December 2004

## **PROGRAM APPROVAL ACTIONS**

<b>Program Activity</b>	<b>Local Agency Action</b>	<b>HDOT Action</b>	<b>FHWA Action</b>	<b>Notes</b>
Peer Exchange		Sponsor event or participate in other States' peer exchange	Participate and support	
Draft SRP Part II Research Work Program (Annual work plan & budget)		Prepare draft work plan & budget. (Submit by the third Monday in June of each year.)	Review and approve	FHWA, HWY-S, and HWY-L meet to discuss draft in mid-July of each year. FHWA approve as revised during the discussions.
Final SRP Program (Annual work plan & budget)		Prepare and submit	Review and Approve	September 31 of each year.
SPR Work Program Amendments to Annual work plan & budget		Prepare and submit	Review and approve.	
HDOT Research Manual		Prepare, revise and submit	Review and approve	
Certification of SPR Program		Prepare	Review and Approve	Certified compliance with 23 CFR 420.
LTAP Draft Work Plan	<ol style="list-style-type: none"> <li>1. Participate in the development of the work plan.</li> <li>2. Request workshops.</li> <li>3. Prioritize workshops.</li> </ol>	Participate on the LTAP Advisory Board. Review and approve.	Participate on the LTAP Advisory Board, Review, and approve	Due no later than April 30 of each year.
LTAP Final Work Plan		Review and approve	Review and approve	Due no later than June 01 of each year.



## **PROJECT APPROVAL ACTIONS – HDOT PROJECTS**

<b>Project Activity</b>	<b>Full Federal Oversight</b>		<b>State Administered</b>	
	<b>HDOT Action</b>	<b>FHWA Action</b>	<b>HDOT Action</b>	<b>FHWA Action</b>
Individual Research Project Work Plan – (Projects that conduct the research)	Obtains work plan and budget from project manager. Submit and approve.	Review and comment	None	None

## **MONITORING**

### **SPR**

FHWA exercises its oversight responsibilities through review of the annual program prior to approval actions, review of SPR Work Program amendments prior to approval, and ongoing participation of its technical specialists in pooled fund study technical panels. As appropriate, FHWA personnel participate in peer exchange reviews.

The FHWA Division Research and Technology Engineer oversee the administrative aspects and coordinates with the Division Office specialists for technical aspects.

FHWA reviews and approves an updated version of the manual when there are significant changes in the management process or new Federal regulation/policy are enacted.

### **LTAP**

FHWA & HDOT exercises their oversight responsibilities through review of the annual work plan prior to approval actions, review of work plan amendments prior to approval, participation in the Advisory Board, and participation or planning of various LTAP-related activities.

## SECTION 4.14 - CIVIL RIGHTS

### APPLICABLE LAWS, REGULATIONS, POLICIES AND PROCEDURES

- Title VI Program: Title VI of the Civil Rights Act of 1964, Executive Order 12898 (Environmental Justice in Minority & Low Income Populations).
- DBE Program: U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 26
- ADA Program: Americans with Disabilities Act of 1990, Title II; Section 504 of the Rehabilitation Act of 1973.
- EEO Program: Title VI of the Civil Rights Act of 1964; Title I of the Americans with Disabilities Act of 1990.
- Other related Civil Rights laws, rules and regulations.

### PROGRAM APPROVAL ACTIONS

Program Activity	Local Agency Action	HDOT Action	FHWA Action	Notes
Title VI Annual Report and Work Plan	Prepare & submit Title VI activities to HDOT	Review/Approve Prepare	Approve	
DBE Annual Participation Goal		Develop Goal		Goal on August 1 of each year
Uniform Report of DBE Awards or Commitments and Payments Report		Prepare		June 1 and December 1
EEO Affirmative Action Plan		Prepare upon request by FHWA		

### MONITORING

Monitoring will include: reviewing of reports and program updates prepared by HDOT; analyzing such reports and updates to help identify trends, providing feedback and recommendations to HDOT; and participating, as appropriate, in HDOT task forces pertaining to civil rights initiatives. Additional monitoring activities include: review and recommendations to the counties regarding Title VI.

## **SECTION 4.15 - RISK MANAGEMENT**

### **MONITORING**

FHWA will employ a risk assessment process in consultation with HDOT to review and evaluate program areas that endeavor to balance risk with consideration of limited staffing resources, funding, and highway needs within the state. It will be the function of the Management Team to mutually endorse the results, agree to the recommendations, identify the necessary resources needed, and make resources available, either through administrative or legislative action, as soon as practical to address the recommendations from the program/process evaluations. The formal Risk Assessment will take place every two years (the odd number years). The Management Team will review the Risk Assessment every year to confirm its applicability.

## **SECTION 5 – GLOSSARY**

**Control Document** – Applicable standards, policies and standard specifications that are acceptable to FHWA for application in the geometric and structural design of highways.

**Core Functions** – Activities that make up the main elements of the Division's Federal-aid oversight responsibilities based on regulations and national policies. Core functions in the Division Office are Planning, Environment, Right-of-Way, Design, Construction, Finance, Operations, System Preservation, Safety and Civil Rights.

**Delegated Projects** – Projects that do not require FHWA review and approve actions pertaining to design, plans, specifications, estimates, right-of-way certification statements, contract awards, inspections and final acceptance of Federal-aid projects on a project by project basis.

**Full Oversight Projects** - Projects that require FHWA to review and approve actions pertaining to design, plans, specifications, estimates, right-of-way certification statements, contract awards, inspections and final acceptance of Federal-aid projects on a project by project basis.

**Major Projects** – Projects with an estimated total cost greater than \$500 million, or projects approaching \$500 million with a high level of interest by the public, Congress, or the Administration.

**Oversight** – The act of ensuring that the Federal highway program is delivered consistent with laws, regulations and policies.

**Performance/Compliance Indicators** – These indicators track performance trends, health of the Federal-aid Highway Program and compliance with Federal requirements.

**Risk Management** – The systematic identification, assessment, planning and management of threats and opportunities faced by FHWA projects and programs.

**Stewardship** – The efficient and effective management of the public funds that have been entrusted to the FHWA.

## **SECTION 6 – ACRONYMS**

### **Laws and Regulations**

C.F.R.	Code of Federal Regulations
FAPG	Federal-Aid Policy Guide, December 9, 1991
HRS	Hawaii Revised Statutes
U.S.C.	United States Code
ISTEA	Intermodal Surface Transportation Efficient Act of 1991, Public Law 102-240, December 18, 1991
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005, Public Law 105-59, August 10, 2005
TEA-21	Transportation Equity Act for the 21 <sup>st</sup> Century of 1998, Public Law 105-18, June 9, 1998
23 U.S.C.	Title 23 United States Code -- Highways
23 C.F.R.	Title 23, CFR – Highways
42 U.S.C.	Title 42 (The Public Health and Welfare), Chapter 51 (Uniform Relocation
URA	The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894-1907, 91 <sup>st</sup> Congress, S.1, January 2, 1971, as amended
49 U.S.C.	Title 49, United States Code – Transportation
49 C.F.R.	Title 49, Code of Federal Regulations – Transportation

### **Plans, Programs, Projects and Systems**

ADA	American with Disabilities Act
BMS	Bridge Management System
CMAQ	Congestion Mitigation and Air Quality Improvement Program
CPI	Continuous Process Improvement
DBE	Disadvantage Business Enterprise
EEO	Equal Employment Opportunity
FA	Federal-Aid
FAHP	Federal-Aid Highway Program
FMIS	Fiscal Management Information System
HBRRP	Highway Bridge Replacement and Rehabilitation Program
HPMS	Highway Performance Monitoring System
HPPP	High Priority Projects Program
IM	Interstate Maintenance Program
IS	Interstate System
LRTP	Long-Range Transportation Plan
NHS	National Highway System
Non-NHS	Non-NHS

NBI	National Bridge Inspection
NBIS	National Bridge Inspection Standards
NBSE	National Bridge Scour Evaluation, National Bridge Scour Evaluation Program
OFW	Official Work Program
ORTP	Oahu Regional Transportation Plan
PM	Preventive Maintenance
PR/PE	Process Review/Product Evaluation
ROW	Right-of-Way
SPR	Statewide Planning & Research Program
STIP	Statewide Transportation Improvement Program
STP	Surface Transportation Program; <u>or</u> Statewide Transportation Plan
TIP	Transportation Improvement Program
TMA	Transportation Management Areas
TTP	Transportation Planning Program

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## **Appendix B: Memorandum of Agreement between HDOT & Counties**

This is the version that was sent to the counties for signature. A signed version should be available with the next update of this manual.

**STATE-COUNTY MEMORANDUM OF AGREEMENT  
IMPLEMENTATION OF COUNTY FEDERAL-AID HIGHWAY PROJECTS AND  
PROGRAMS**

This AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the State of Hawaii Department of Transportation hereinafter referred to as the "STATE", and the City and County of Honolulu, the County of Hawaii, the County of Maui, and the County of Kauai, each individually hereinafter referred to as the "COUNTY", with the STATE and the COUNTY hereinafter collectively referred to as the "PARTIES."

**WITNESSETH THAT:**

WHEREAS, Title 23, United States Code ("Title 23") and other related federal laws authorize federal funds to carry out Federal-aid highway programs for COUNTY Federal-aid roads; and

WHEREAS, the STATE, as the grantee of federal transportation funds for the State of Hawaii ("SOH"), is responsible for ensuring that all such federal transportation funds are expended in accordance with applicable laws and regulations; and

WHEREAS, when the STATE passes federal transportation funds through to a subgrantee COUNTY to carry out a federal-aid road project, it is the responsibility of the STATE to ensure that the subgrantee is aware of all federal and state laws and regulations that apply to the project and that the subgrantee complies with them in order not to jeopardize federal and/or local funding; and

WHEREAS, the PARTIES to this AGREEMENT deem it desirable to use such funds to undertake improvements on such COUNTY roads; and

WHEREAS, the COUNTY recognizes the benefits that the Federal-aid highway programs will provide; and

WHEREAS, the COUNTY recognizes that to be eligible to receive such federal transportation funds from the STATE as a subgrantee, it must comply with all federal and state laws and is subject to complying with such conditions and requirements that may be placed upon it by the STATE; and

WHEREAS, the PARTIES recognize the benefits of this AGREEMENT which provides: consistent guidelines, procedures, and processes; identification of requirements; and defines the roles and responsibilities of each party.



NOW, THEREFORE, in consideration of the benefits to be obtained from the various Federal-aid highway programs, the PARTIES do hereby mutually agree as follows:

**SECTION 1 - AGREEMENT.** The PARTIES agree to enter into this AGREEMENT to proceed in full accord with its provisions in the implementation of COUNTY Federal-aid projects for eligible roads and activities. The provisions of this AGREEMENT shall apply to eligible COUNTY projects or activities financed with Federal-aid funds under Title 23, or non-Title 23 projects financed with federal discretionary (earmarked) funds.

**SECTION 2 – COUNTY’S RESPONSIBILITY.** The COUNTY is responsible to provide administrative personnel and technical supervision to insure that the initiation, development, implementation, and performance reporting of all eligible activities financed by federal transportation funds under this AGREEMENT are done in conformance with: all applicable federal laws, regulations, policies, circulars and standards prescribed by the Federal Highway Administration (“FHWA”) or the United States government; all applicable SOH laws, rules, policies and standards; all applicable COUNTY ordinances and regulations; and all procedures, specifications or other documents approved by the STATE and/or FHWA. Eligible activities include, but are not limited to the following activities of COUNTY federal-aid projects: planning, environmental, design, rights-of-way (“ROW”), utility adjustments and accommodations, equal employment opportunity, labor provisions, accounting procedures, public hearings, and construction administration.

**SECTION 3 – STATE’S RESPONSIBILITY.** The STATE is responsible to the federal government for the administration of Federal-aid projects and programs and will review, advise, approve, and assist the COUNTY with conformance to STATE and FHWA procedures. The STATE may provide technical support to the COUNTY in the form of training, reviews and procedures, and will process approval requests in a reasonably timely manner as to not unreasonably delay COUNTY projects as required on behalf of the COUNTY.

Delegation of certain Title 23 approval actions to the STATE are specified in the LETTER OF AGREEMENT AND STEWARDSHIP PLAN (STEWARDSHIP AGREEMENT) between the STATE and FHWA attached in APPENDIX J for reference. COUNTY projects or activities may fall under the oversight of the STATE and/or FHWA, depending on the scope, size, financing method, contracting method, risk, or unusual circumstances and will be subject to the appropriate approval actions by the STATE and/or FHWA.

Interim procedures to implement this AGREEMENT are provided in the attached appendices to this AGREEMENT during the interim period when the Local Public Agency Manual ("LPA Manual") is being developed by the STATE.<sup>1</sup> Such interim procedures shall apply until replaced by written agreement of the PARTIES to replace the same by the LPA Manual.

**SECTION 4 – POINTS OF CONTACT.** The COUNTY shall designate a qualified full-time public employee to be responsible and serve as the overall Point of Contact ("POC") for federal undertakings conducted under this AGREEMENT. The designated COUNTY POC shall coordinate project development and implementation activities with the appropriate STATE POCs listed in APPENDIX A. The POC list in APPENDIX A shall be updated periodically as required due to changes in personnel or functions as required.

**SECTION 5 – FEDERAL FUNDING LEVELS.** The STATE, based upon anticipated annual apportionment of federal funds to the SOH and based on prevailing federal laws or regulations as applicable, shall establish a multi-year budgetary estimate of federal funds to be made available to the COUNTY. Federal funding levels will also consider historical amounts provided to the COUNTY; the COUNTY's past performance, current capacity, and ability to effectively deliver projects; and the COUNTY's priorities and needs. Based on the estimated federal funding levels and the COUNTY's ability to provide the local matching funds, the COUNTY will develop and submit a multi-year prioritized program of its needs. The PARTIES shall work collaboratively to develop a program that includes the COUNTY's prioritized projects into the fiscally constrained Statewide Transportation Improvement Program ("STIP") and/or Transportation Improvement Plan ("TIP") as described in SECTION 6 below.

To avoid lapsing of obligation authority and to provide the STATE adequate time to plan for and utilize such funds, the COUNTY shall strive to submit all projects for obligation no later than May 31<sup>st</sup> of any given Federal fiscal year. In the event the COUNTY is unable to submit all 100% plans, specifications or estimates ("PS&Es") by May 31<sup>st</sup> to fully obligate its share of funds for that Federal fiscal year, the STATE may reallocate, at its sole discretion, such anticipated unobligated amounts after consultation with the COUNTY to other projects. The COUNTY shall endeavor to notify the STATE as early as possible regarding the possibility or certainty that the COUNTY will be unable to obligate its share of Federal funds.

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<sup>1</sup> The LPA Manual developed by the STATE will provide detailed: instructions, procedures, samples and timelines for COUNTY to use and follow in implementing Federal-aid projects and ensuring that federal requirements are fulfilled.

**SECTION 6 – PLANNING AND PROGRAMMING OF PROJECTS.** With the exception of SOH planning and research<sup>2</sup> activities or emergency relief projects<sup>3</sup>, all projects and/or programs must be listed on the STIP and/or TIP to be eligible to receive federal funds and before federal funds can be obligated.

In response to the STATE's call for projects in preparing the STIP, the COUNTY shall submit a multi-year prioritized program to the STATE identifying the proposed project(s) and/or programs being requested to be placed into the STIP.

For the island of Oahu, appropriate coordination shall be made through the Oahu Metropolitan Planning Organization. The PARTIES understand that the establishment of a Maui Metropolitan Planning Organization along with the development of its operational procedures and processes is currently ongoing. For the island of Maui, if and when such a metropolitan planning organization is established and operational, appropriate coordination shall be made through such metropolitan planning organization.

Prior to requesting inclusion of a project and/or program onto the STIP and/or TIP, the COUNTY shall ensure that the project and/or program is consistent with appropriate planning documents and that roadways are functionally classified as appropriate to be eligible for federal funds.<sup>4</sup> Requests to include projects on roadways not yet functionally classified, but with active ongoing classification activities will be reviewed individually by the STATE and FHWA on a case-by-case basis.

Requests to include a new or modify, amend, delete or replace an existing project or program on the STIP and/or TIP shall be submitted to the STATE within the deadlines and format specified by the STATE (and to be specified in the LPA Manual). In addition, appropriate coordination for Oahu project modifications, amendments, deletion or replacement shall be made through OMPO. The PARTIES understand that the establishment of a Maui Metropolitan Planning Organization along with the development of its operational procedures and processes is currently ongoing. For the island of Maui, if and when such a metropolitan planning organization is established and operational, appropriate

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<sup>2</sup> SOH planning and research ("SPR") activities is a program to research new knowledge areas; adapt findings to practical applications by developing new technologies; and transfer these technologies, including the process of dissemination, demonstration, training, and adoption of innovations by users. The use of SPR funds by States and subrecipients is regulated by Title 23 Code of Federal Regulations, Part 420.

<sup>3</sup> Emergency relief projects are unplanned projects typically caused by natural disasters or sometimes man-made causes requiring immediate response, clean-up and restoration of affected roadways and highways. Some typical causes for emergency relief projects are: flooding events, earthquakes, rockfalls, or overpass damage by overheight freight movements.

<sup>4</sup> Federal earmarking for projects by the U.S. Senate Appropriations Committee may sometimes waive certain Title 23 eligibility requirements such as functional classification. The STATE may assist the COUNTY in determining eligibility requirements.

coordination to include a new or modify, amend, delete or replace existing projects shall be made through such metropolitan planning organization.

For the development, update, or modifications to the STIP and/or TIP, the COUNTY shall work within federal funding levels provided for its program as described in SECTION 5 to maintain financial constraint. The COUNTY may elect to utilize Advance Construction described in APPENDIX B to maximize the use of funds, with the understanding of associated risks.

**SECTION 7 – OBLIGATION OF FEDERAL FUNDS.** Upon inclusion of applicable projects or programs in the STIP/TIP, the COUNTY will submit a request to the STATE to obligate federal funds. Obligation requests shall be submitted by the COUNTY, then received and processed by the STATE in accordance with APPENDIX C. The obligation amount represents FHWA's estimated share of eligible cost for the project (or program) and will be reflected in a Federal Project Agreement between the STATE and FHWA. To provide flexibility and to maximize the use of federal funds, if permitted by County ordinances or policies, the COUNTY may request the use of advance construction as described in APPENDIX B.

All COUNTY Federal-aid projects must be authorized by FHWA by means of a signed project agreement before any costs incurred can become eligible federal participating activities. Costs incurred before authorization to proceed are not eligible for federal reimbursement.

Federal project agreement modification requests to obligate additional funds or deobligate (decrease) federal funds will be submitted by the COUNTY, then received and processed by the STATE in accordance with APPENDIX D.

**SECTION 8 – PROJECT MANAGEMENT, CONSTRUCTION ADMINISTRATION, AND QUALITY ASSURANCE.** For each project undertaken under this AGREEMENT, the COUNTY shall assign a qualified full-time COUNTY employee serving as project POC and responsible for the project overall on behalf of the County. The project POC shall be responsible for managing and monitoring the project to completion and closeout. The project POC shall report on the status of each phase of work to the STATE on a periodic basis as identified in accordance with APPENDIX E.

The COUNTY shall provide adequate resources to provide supervision, inspection, and materials sampling and testing for all construction projects under this AGREEMENT. Such activities may be performed by COUNTY forces or consultant services and shall be in accordance with APPENDIX J.

**SECTION 9 – FEDERAL REIMBURSEMENTS.** In an effort to ensure the expenditure of federal funds in a timely manner, the COUNTY shall submit requests for reimbursements in accordance with APPENDIX F.

**SECTION 10 – PROJECT CANCELLATIONS, WITHDRAWALS, “10-YEAR RULE”.** If the COUNTY, during the course of implementing a project, elects to withdraw or cancel the project, the COUNTY shall reimburse all federal funds expended on that project. COUNTY reimbursements for cancelled or withdrawn projects shall be made in accordance with the process outlined in APPENDIX F. If the COUNTY elects to withdraw from further federal participation, but the County intends to complete the project using non-federal funds, a meeting shall be held between the COUNTY, STATE and FHWA in a timely manner to determine COUNTY reimbursement requirements.

In accordance with 23 Code of Federal Regulations (“CFR”) 630.112(c)(2), in the event that right-of-way acquisition or actual construction of the project has not started by the close of the tenth (10<sup>th</sup>) fiscal year from which a project has been authorized for preliminary engineering, the COUNTY may be required by the STATE and/or FHWA to repay FHWA any reimbursed funds.

**SECTION 11 – STATE’S REVIEW COSTS.** The cost of services rendered by the STATE for the review of the COUNTY’s construction plans, specifications, estimates, environmental documentation, or other preconstruction work shall be reimbursed to the STATE by the COUNTY within 45 days upon receipt of invoice from the STATE. In addition to preconstruction work, the COUNTY shall reimburse the STATE for review and oversight administration of construction projects. Such reimbursements from the COUNTY will be processed in accordance with APPENDIX F.

**SECTION 12 – DESIGN, CONSTRUCTION ADVERTISEMENT, AWARD AND NOTICE TO PROCEED.** The COUNTY shall expeditiously undertake all design activities to meet schedules and goals in accordance with APPENDIX G.

Upon completion of design, obligation of federal funds, and authorization to advertise and receive bids, the COUNTY shall expeditiously advertise, receive bids, evaluate bids and award the construction projects. These activities shall occur as soon as possible and within timelines specified in any FHWA imposed conditions for obligation of funds. The COUNTY shall submit bid, bid evaluation and related documents to the STATE for review and concurrence. Upon receiving the STATE’s concurrence, the COUNTY shall expeditiously award and issue notice to proceed to the contractor. See APPENDIX J for interim procedures.



**SECTION 13 – UTILITIES AND RIGHT OF WAY (“ROW”).** Utility relocations and accommodations shall be in accordance with Hawaii Revised Statutes 264-33 and 264-33.5, and with Title 19, Subtitle 4, Chapter 105 - Accommodation and Installation of Utilities on State Highways and Federal-Aid County Highways, State of Hawaii dated May 30, 1981. Utility agreements, memorandum of agreements, memorandum of understanding, or letter of agreement, or other similar instruments as appropriate, shall be executed with the respective utility owners during the course of constructing, relocating, or removing utilities within the right-of-way and shall specify the terms of construction, use, occupancy and cost sharing.

ROW acquisitions, management, disposals and transfers shall be performed in accordance with 23 CFR Part 710 and 49 CFR Part 24 as outlined in APPENDIX I.

**SECTION 14 – MAINTENANCE OF FEDERAL AID ROADWAYS.** Projects constructed with Federal-aid funds shall be maintained by the COUNTY in accordance with Section 116 of Title 23 and 23 CFR Section 1.27. Preservation and use of these highway rights-of-way, including new utility installations, shall be in accordance with 23 CFR Section 1.23, and with the Accommodation and Installation of Utilities on State Highways and Federal-Aid County Highways described above. Such roadways shall meet standards and performance targets established under the new authorization act, Moving Ahead for Progress in the 21<sup>st</sup> Century (“MAP-21”).

**SECTION 15 – RECONCILIATION OF EXPENDITURES AND REIMBURSEMENTS.** Upon completion of all programmed phases of a project using Federal-aid funds and final acceptance of work issued by the COUNTY, the COUNTY shall render a final financial statement to the STATE showing the final cost of planning, design, right-of-way acquisition, construction, and other incidental costs incurred and paid by the COUNTY and federal funds reimbursed to the COUNTY. The final financial statement shall clearly show the total cost, federal share, COUNTY’s share, and any other’s share of funds.

**SECTION 16 – AUDITS, INDIRECT COST AND RECORDS RETAINAGE.** The COUNTY shall ensure that the single audit requirement for each fiscal year is met under the 2 CFR Part 200. A copy of the audit report and associated Management Letter<sup>5</sup> comments (auditor to the COUNTY) shall be provided to the STATE. The COUNTY shall issue a management plan of action to address each Federal audit finding which requires corrective action or other response within six

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<sup>5</sup> A Management Letter is a letter from the auditor to the auditee that highlights observations, findings and may provide recommendations. This letter typically accompanies the audit report.

months after receipt of the audit report and ensure that appropriate and timely corrective action is taken. See APPENDIX F for interim procedures.

**SECTION 17 – COMPLIANCE WITH LAWS.** All PARTIES shall observe and comply with all laws, ordinances, rules, and regulations now or hereafter made by the federal, state, and local governments with respect to actions performed in connection with this AGREEMENT. The PARTIES may voluntarily set more stringent requirements than those specified by laws, however it is understood that such *voluntary* goals, thresholds or requirements may not be legally binding or enforceable.

**SECTION 18– INDEMNIFICATION.** The STATE shall be responsible to the extent permitted by law, for damages or injury caused by the STATE’S officers and employees in the course of their employment related to this AGREEMENT to the extent that the STATE’S liability for such damage or injury has been determined by a court or otherwise agreed to by the STATE, and the STATE shall pay for such damage and injury to the extent permitted by law, provided that funds are appropriated and allotted for that purpose.

The COUNTY shall cause its contractor and/or consultant to indemnify, defend, and hold harmless the STATE and its officers, employees, and agents from and against actions, liabilities, claims, suits, damages, liens, judgments, attorney fees and costs arising out of or resulting from the acts or omissions of the COUNTY’s contractor and/or consultant occurring during or in connection with the performance of services and obligations under this AGREEMENT provided that the COUNTY’s contractor and/or consultant shall not be required to indemnify, defend, or hold harmless, the STATE, its officers, employees, and agents, from any actions, liabilities, claims, suits, damages, liens, judgments, attorney fees and costs when such arises out of the action or omission of the STATE and/or its officers, employees, and agents in conjunction with this AGREEMENT.

For activities not performed by the COUNTY’s contractor and/or consultant, the COUNTY shall indemnify, defend, and hold harmless the STATE and its officers, employees, and agents from and against actions, liabilities, claims, suits, damages, liens, judgments, attorney fees and costs arising out of or resulting from the acts or omissions of the COUNTY, its officers, employees, or agents occurring during or in connection with the performance of services and obligations under this AGREEMENT provided that the COUNTY shall not be required to indemnify, defend, or hold harmless, the STATE, its officers, employees, and agents, from any actions, liabilities, claims, suits, damages, liens, judgments, attorney fees and costs when such arises out of the action or omission of the STATE and/or its officers, employees, and agents in conjunction with this AGREEMENT.

**SECTION 19 – SEVERABILITY.** If any provision of this AGREEMENT is judged by a court of competent jurisdiction to be void, invalid, illegal or unenforceable for any reason, the same shall in no way affect, to the maximum extent permissible by law, other provisions of this AGREEMENT, or the application of such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this AGREEMENT as a whole; and to the extent necessary, this AGREEMENT shall be construed as if the void, invalid, illegal or unenforceable provision had never been contained herein.

**SECTION 20 – WAIVERS AND REVISIONS.** Any waiver of the terms, conditions, or provisions of this AGREEMENT, or a party's right or remedies under this AGREEMENT, must be in writing to be effective. Waiver requests shall be by letter from the COUNTY's Transportation Director (or equivalent) to the STATE's Director of Transportation.

Failure, neglect, or delay by a party to enforce the terms, conditions or provisions of this AGREEMENT or such party's rights or remedies at any time will not be construed as a waiver of such party's rights under this AGREEMENT and will not in any way affect the validity of the whole or any part of this AGREEMENT or prejudice such party's right to any subsequent action. No exercise or enforcement by any party of that party's rights or remedies under this AGREEMENT will preclude the enforcement by such party of any of its other rights or remedies available under this AGREEMENT or by law.

PARTIES may request proposed changes or updates to the various provisions contained in this AGREEMENT in writing. The STATE will review and consult with all other PARTIES as required, and if all PARTIES support and agree that such changes will result in mutual benefits to everyone, the PARTIES will amend this AGREEMENT in writing, with signature by all PARTIES, to reflect such changes.

**SECTION 21 – DISPUTE RESOLUTION.** In the event any dispute arises between the COUNTY and the STATE concerning any aspect of this AGREEMENT, the COUNTY and the STATE will use their best efforts to address and resolve such disputes and the parties in dispute agree to negotiate within twenty-eight (28) calendar days of receipt of a letter describing the nature of the dispute and referencing the applicable paragraph of this AGREEMENT. The meeting will be held at a mutually agreed location, or if desired, by videoconference between the applicable program managers with the COUNTY and the STATE. In the event the matter is not resolved by such negotiations within twenty-eight (28) calendar days of this initial meeting, the parties in dispute agree to submit the matter to the COUNTY's Chief Engineer (for City and County



of Honolulu, the Director of Transportation Services) and the State Highways Administrator. If the matter is not resolvable within twenty-eight ( 28) days from submittal, the parties in dispute further agree to submit the matter to the COUNTY's Director of Public Works (or Director of Transportation Services, as applicable) and the STATE's Director of Transportation for resolution.

**SECTION 22 – TERM OF AGREEMENT.** Unless otherwise terminated in writing by the PARTIES, this AGREEMENT shall be effective for a period of ten (10) calendar years from the date of this AGREEMENT. The PARTIES may agree to extend the term of this AGREEMENT by written amendment of this AGREEMENT.

**SIGNATORIES ARE AS FOLLOWS:**

**COUNTY OF HAWAII**

By \_\_\_\_\_

**RECOMMEND APPROVAL:**

\_\_\_\_\_  
Director of Public Works

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Hawaii

Date: \_\_\_\_\_

**COUNTY OF KAUAI**

By \_\_\_\_\_

RECOMMEND APPROVAL:

\_\_\_\_\_  
County Engineer

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Kauai

Date: \_\_\_\_\_

**COUNTY OF MAUI**

By \_\_\_\_\_

RECOMMEND APPROVAL:

\_\_\_\_\_  
Director of Public Works

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Maui

Date: \_\_\_\_\_

**CITY & COUNTY OF HONOLULU**

APPROVED:

\_\_\_\_\_  
Kirk Caldwell  
Mayor

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Corporation Counsel  
City and County of Honolulu

Date: \_\_\_\_\_

**STATE OF HAWAII**

Recommended by:

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Ford Fuchigami  
Interim Director of Transportation

Approved:

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David Ige  
Governor

Approved as to form:

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Deputy Attorney General

Date: \_\_\_\_\_

December 29, 2014

## APPENDIX A – STATE & COUNTY POINT OF CONTACTS (POCS)

### STATE OF HAWAII

Type of Activity	Contact	Phone Number and email address
Overall Local Public Agency Agreement	<b>Robert Miyasaki</b> , HWY-A (Project Coord & Tech Services Branch Head)	(808) 587-2347 <a href="mailto:Robert.Miyasaki@hawaii.gov">Robert.Miyasaki@hawaii.gov</a>
LPA Manual	<b>Mike Medeiros</b> , HWY-AP (Section Head)	(808)587-2336 <a href="mailto:Mike.Medeiros@hawaii.gov">Mike.Medeiros@hawaii.gov</a>
Statewide Transportation Improvement Program (TIP/STIP)	<b>Patrick Tom</b> , HWY-PA (STIP Manager)	(808)587-6355 <a href="mailto:Patrick.Tom@hawaii.gov">Patrick.Tom@hawaii.gov</a>
Obligation of Federal Funds City & County of Honolulu Kauai, Maui, Hawaii	<b>Kam Kin Sin</b> , HWY-SM  <b>Scot Urada</b> , HWY-SM (Federal Program Engineers)	(808)587-2226 <a href="mailto:Kam.Kin.Sin@hawaii.gov">Kam.Kin.Sin@hawaii.gov</a>  (808)587-2222 <a href="mailto:Scot.T.Urada@hawaii.gov">Scot.T.Urada@hawaii.gov</a>
Submission of Single Audit & Related Documents	<b>Cathy Hiranaka</b> , HWY-SF (Federal Aid Accountant)	(808)587-2196 <a href="mailto:Cathy.Hiranaka@hawaii.gov">Cathy.Hiranaka@hawaii.gov</a>
Design Procedures and Project Reviews  Consultant Procurement	<b>Marshall Ando</b> , HWY-D (Design Branch Head)	(808)692-7559 <a href="mailto:Marshall.Ando@hawaii.gov">Marshall.Ando@hawaii.gov</a>
Right of Way	<u>(vacant)</u> , HWY-R (Rights of Way Manager)	(808)692-7325
Roadway Jurisdiction and Maintenance	<b>Jamie Ho</b> , HWY-C (Construction & Maintenance Branch Head)	(808)587-2185 <a href="mailto:Jamie.Ho@hawaii.gov">Jamie.Ho@hawaii.gov</a>
Construction Administration Hawaii Maui Kauai Oahu	<b>Sal Panem</b> , HWY-H (Hawaii District Engineer) <b>Ferdinand Cajigal</b> , HWY-M (Maui District Engineer) <b>Ray McCormick</b> , HWY-K (Kauai District Engineer) <b>Pratt Kinimaka</b> , HWY-O (Oahu District Engineer)	(808)933-8620 <a href="mailto:Sal.Panem@hawaii.gov">Sal.Panem@hawaii.gov</a> (808)873-3535 <a href="mailto:Ferdinand.Cajigal@hawaii.gov">Ferdinand.Cajigal@hawaii.gov</a> (808)241-3006 <a href="mailto:Raymond.J.McCormick@hawaii.gov">Raymond.J.McCormick@hawaii.gov</a> (808)831-6703 <a href="mailto:Pratt.Kinimaka@hawaii.gov">Pratt.Kinimaka@hawaii.gov</a>

Construction Procedures	<b>Blaine Kawamura</b> , HWY-CC (Construction Engineer)	(808)587-2630
Materials Testing & Certification	<b>Casey Abe</b> , HWY-L (Materials Testing Branch Head)	(808)483-2515

COUNTY MAIN POINT OF CONTACT	Contact	Phone Number and email address
County of Hawaii	<b>Ben Ishii</b> (Division Chief Engineer)	(808)961-8423 <a href="mailto:bishii@co.hawaii.hi.us">bishii@co.hawaii.hi.us</a>
County of Maui	<b>Cary Yamashita</b> (Division Chief Engineer)	(808)270-7430 <a href="mailto:Cary.Yamashita@co.maui.hi.us">Cary.Yamashita@co.maui.hi.us</a>
City & County of Honolulu	Deputy Director	(808)768-8304
County of Kauai	<b>Larry Dill</b> (County Engineer)	(808)241-4996 <a href="mailto:ldill@kauai.gov">ldill@kauai.gov</a>



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## **APPENDIX B –ADVANCE CONSTRUCTION**

To maximize the use of funds and to maintain financial constraint in the STIP and/or TIP, the COUNTY may consider using the benefits of advance construction, with the understanding of the associated risks. Attention is directed to 23 CFR Part 630.106(c).

Unless otherwise specified by the COUNTY, the STATE may convert advance construction balances to regular obligation and give this a higher priority over other new or unfunded projects shown in the COUNTY's program during the current working fiscal year.

## **APPENDIX C – INTERIM PROCEDURES FOR OBLIGATION OF FEDERAL FUNDS**

Upon receipt of the COUNTY's request, the STATE will prepare and process REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT, AND/OR MODIFICATION ("PR-1240") for FHWA's approval and authorization for the obligation of federal funds for the project or program. Upon authorization and approval by FHWA, the STATE will transmit an advance copy of the authorized and approved PR-1240 by email to the applicable contacts listed below, followed by the final hard copy through the mail.

Receipt of an advance copy of the approved PR-1240 for construction obligation of federal funds does not automatically imply or represent an approval to advertise the project. In addition to the satisfactory completion of PS&E, the COUNTY may advertise the project for bids only after receipt of the original hard copy of the STATE's transmittal of the FHWA approved PR-1240 with a cover letter containing and listing any applicable conditions that must be satisfied prior to project advertisement.

With the exception of advance construction or other items stated in 23 CFR 630.106 (c)(1) – (4), the execution of a PR-1240 with FHWA's authorization to proceed as evidenced by appropriate FHWA signatures on the PR-1240 shall be considered as contractual obligation of the Federal government under Title 23 Section 106 for federal funding and reimbursements. For exceptions listed in 23 CFR 630.106 (c)(1) – (4), the federal authorization to proceed is not a commitment or obligation to provide federal funds for that portion of the undertaking not fully funded in accordance with 23 CFR 630.106(d).

The COUNTY may request consideration of (flexible) soft matching of previously purchased or donated lands, consultant services, materials or funds in accordance with 23 U.S.C. Section 120 and Section 323. Such requests shall be substantiated by proper appraisal and accounting documentation and will be reviewed by the STATE and approved by FHWA. All approvals of soft (flexible) match shall be provided by letter. Refer to APPENDIX H for additional information on consultant service fees and soft matching.

For the obligation of project planning funds, aside from the project phase shown in the approved TIP or the STIP, there is no prerequisite for the COUNTY to complete prior project phases or project activities that are approved by the STATE or FHWA. Requests to obligate project planning funds shall be submitted to the STATE's Federal Program Engineer at the Highways Division Staff Services Office ("HWY-SM") along with the necessary documents specified by the STATE.

For the obligation of design funds where the design work scope includes; preliminary engineering, environmental coordination and consultation, preparing environmental clearance documents, and performing final design, the obligation of such project activities requires the project design phase to be shown in the approved TIP or the STIP. Typical projects are those with anticipated federal categorical exclusion environmental clearance.

For typically larger or more complex projects where a planning phase resulting in an environmental impact statement or a 'major' environmental assessment is performed, the obligation of *final project design* funds will occur upon the completion of the federal environmental requirements such as the National Environmental Policy Act ("NEPA") in accordance with 23 CFR Part 771, Section 106 of the National Historic Preservation Act, Section 4(f) of the Department of Transportation Act, Section 6(f) of the Land and Water Conservation Act, Section 7 of the Endangered Species Act, and Hawaii Revised Statutes (HRS) Chapter 343 and 6E, as applicable, and the design phase of the project must be on the approved TIP and/or STIP.

Requests to obligate project design funds shall be submitted to the STATE's Federal Program Engineer at HWY-SM along with the documents specified by the STATE.

Obligation of Right of Way ("ROW") funds may occur in 2 phases: pre-ROW and final acquisition.

- Federal funds for pre-ROW may be used for any ROW acquisition activities with the exception of negotiating and making offers to property owners or negotiating and making offers for relocations. Obligation of Pre-ROW funds is not contingent upon completion of NEPA.
- Federal funds for final acquisition may be used for the purchase of property interest (easement, license, title, access), or for the payment of relocations. Obligation of funds to be used for final acquisition will occur upon completion of NEPA.

Additionally, the pre-ROW and/or ROW phase of the project must be shown in an approved TIP and/or STIP. Requests to obligate ROW funds shall be submitted to the STATE's Federal Program Engineer at HWY-SM along with the documents specified by the STATE.

Obligation of construction funds for design-bid-build or design-build projects may be requested upon completion of the following items:

- Listing the project phase on the approved TIP and/or STIP,
- Appropriate environmental clearances for the project in accordance with 23 CFR Part 771 and HRS 343, and written approval by FHWA,
- ROW certification prepared in accordance with 23 CFR 710.311 for acquisitions as required by 23 CFR 636.309. For design-build projects (23 CFR 710.313) a ROW certification in accordance with 23 CFR 309(p),

- PS&E, design exceptions, project checklists, reports, Request for Proposals ("RFP"), and other applicable documents have been reviewed and approved by the STATE and/or FHWA.

Obligation of design and/or construction funds for Emergency Relief ("ER") projects may be requested upon completion of the following items:

- Preparation of Detailed Damage Inspection Reports ("DDIR") by the COUNTY and submitted to the STATE and FHWA,
- Completion of site visit with STATE and FHWA,
- FHWA acknowledgement of emergency event,
- FHWA approval of submitted DDIRs,
- Agreement and understanding of 100% immediate work items and 80% permanent work items appropriately documented in the DDIR.
- ER construction projects competitively bid (in most cases for permanent repairs) shall be subject to the same requirements described in the preceding paragraph for appropriate environmental clearances, ROW certification, and approved PS&Es.

Requests to obligate construction funds shall be submitted to the STATE's Federal Program Engineer at HWY-SM along with the documents specified by the STATE.

### **DISTRIBUTION OF PR-1240s (ADVANCE COPIES)**

<b>County</b>	<b>Contact</b>	<b>Email address</b>
City & County of Honolulu	Primary: Deputy Director Secondary: <b>Merle Loui-Sakamoto</b>	<a href="mailto:mgarrity@honolulu.gov">mgarrity@honolulu.gov</a> <a href="mailto:mloui@honolulu.gov">mloui@honolulu.gov</a>
County of Hawaii	Primary: <b>Ben Ishii</b> Secondary: <b>Alan Simeon</b>	<a href="mailto:bishii@co.hawaii.hi.us">bishii@co.hawaii.hi.us</a> <a href="mailto:asimeon@co.hawaii.hi.us">asimeon@co.hawaii.hi.us</a>
County of Maui	Primary: <b>Cary Yamashita</b> Secondary: <b>Rodrigo Rabara</b>	<a href="mailto:Cary.Yamashita@co.maui.hi.us">Cary.Yamashita@co.maui.hi.us</a> <a href="mailto:Rodrigo.Rabara@co.maui.hi.us">Rodrigo.Rabara@co.maui.hi.us</a>
County of Kauai	Primary: <b>Larry Dill</b> Secondary: <b>Lyle Tabata</b>	<a href="mailto:ldill@kauai.gov">ldill@kauai.gov</a> <a href="mailto:ltabata@kauai.gov">ltabata@kauai.gov</a>

## **APPENDIX D – INTERIM PROCEDURES FOR PROJECT AGREEMENT MODIFICATIONS**

For agreement modifications involving the obligation of additional or the reduction of Federal funds, the COUNTY shall provide the following to the STATE in writing:

- Requested amount,
- Reason for the cost change,
- For project cost increases, confirmation that the increase is for the original project purpose and need. For project cost decreases, reason(s) for decrease along with a revised project estimate,
- For modification to a construction project, a revised Detail Estimate Summary Sheet,
- Schedule when adjustments to funds must be completed,
- Confirmation that any cost increase will not be applied to any previously completed work already paid for by the FHWA and thus considered as double payment,
- STATE's District Construction Engineer's approval (for construction change orders), and
- FHWA's approval, when required.

For COUNTY design project requests will be submitted to the STATE's Project Manager overseeing the COUNTY's Federal Aid project. For COUNTY construction projects, requests will be submitted to the STATE's construction engineer overseeing the COUNTY's construction program.

For cost increases to previously obligated and ongoing projects, the funds to be added to the project do not need to be shown on the STIP if the project scope is not expanded beyond the original purpose and need, and the amount is within established thresholds for administrative STIP amendments. Provided that funds are for eligible purposes, the obligation of funds under these circumstances does not require any prior STIP amendments.

If the additional funds expands the project beyond the original purpose and need (example: adding ¼ mile of paving beyond the original limits, or adding a traffic signal for safety or operational improvements that was not part of the original scope), or if the amount of funds to be added exceeds established thresholds for administrative STIP amendments, the STIP shall be amended to show the additional funds to be added. A non-administrative STIP amendment shall be completed and approved by FHWA and Federal Transit Administration ("FTA") before additional funds can be obligated for the project.

Upon determination by the STATE that the COUNTY's request is justified, the STATE will process a modification to the project agreement for FHWA's

authorization and obligation of the requested funds. The STATE may request additional justification of documentation as required to support the COUNTY's request.

For project agreement modifications involving the deobligation of excess funds related to low bid opening, less than anticipated project needs, or closing of projects, such deobligations will occur within the timelines specified in 23 CFR 630.106, or within ninety (90) calendar days after a determination of funding needs have been made by the COUNTY. If the COUNTY desires to use deobligated funds for another eligible and ready Federal-aid project shown on the TIP or STIP, the obligation of released funds must occur within the same federal fiscal year when the deobligations take place. If the COUNTY does not have an eligible project that is ready to use all or a portion of the deobligated funds, to avoid the possible lapsing of formula obligation authority, the STATE may use those released funds for the STATE's own projects.



## **APPENDIX E –INTERIM PROCEDURES FOR PROJECT MONITORING AND TRACKING**

The COUNTY shall monitor all projects with federal obligations and track the implementation of the project to its completion. Monitoring shall include but not be limited to:

- Maintaining a system to set and track project milestone dates. This may include developing and maintaining a project schedule with sufficient details that shows all major activities and milestones, and clearly show all activities occurring concurrently or sequentially.
- Reviewing fiscal activity on a monthly basis. If no expenditure of funds have occurred, the appropriate COUNTY personnel shall provide documentation explaining the reasons for the inactivity from the Project Manager,
- Participating in the STATE's project status meetings and quarterly "over the shoulder" meetings.
- If requested by the STATE with reasonable notice, meeting with the STATE to discuss progress of specific Federal-aid projects on an as-needed basis.
- The STATE may request monthly status updates in the event there are no project status meetings or "over the shoulder" meetings scheduled. Typically information for such project status requests will be submitted to the STATE on the last working day of the month.
- In addition to project level monitoring, the COUNTY shall maintain a list of all ongoing Federal-aid projects with a summary of project status. The STATE may request for an updated list on a monthly basis.

The STATE will monitor the COUNTY reimbursement activity and if no activity has been noted for a pre-determined period established by the STATE, the STATE will notify the COUNTY. The COUNTY will investigate the reasons for inactivity and will provide a remediation plan to the STATE within one week, or other mutually agreed timeframe, if required.

In accordance with 23 CFR Section 630.106(a)(5), all projects will be monitored for inactivity (no claims for reimbursements). FHWA is anticipated to initiate the formal rulemaking process to revise this section of 23 CFR to define inactive tiers as follows:

- unexpended balances \$150,000 or more and inactive for 12 months or more, and
- new project obligations inactive for 12 months or more since project authorization, regardless of amount

During this interim period where the formal rulemaking process to modify this section of the CFR is being conducted by FHWA, the STATE and the COUNTY will comply with the above proposed tiers of inactivity.

It should be noted that a project may initially reside in a lower tier based on the initial amount of funds obligated. However when additional funds are obligated (example: an obligation adding construction funds to a project that had only design funds previously obligated) to a project, this activity may move the project beyond the \$150,000 threshold for inactivity.

If the COUNTY is unable to provide reasonable justification for inactivity to the STATE, or the COUNTY does not take timely action to resolve inactivity, the STATE or FHWA may deobligate funds from the inactive project. To avoid inactivity, for any time spent on the project, the COUNTY shall bill to and claim Federal reimbursements on a timely basis as described in APPENDIX F.



**APPENDIX F –INTERIM PROCEDURES FOR FINANCIAL  
MANAGEMENT, REIMBURSEMENTS AND  
RECORDS RETAINAGE**

Indirect Cost: The COUNTY shall provide documentation of its fringe and indirect cost rates computation and approval for use in accordance with 2 CFR 225 – Cost Principles for State, Local, and Indian Tribal Government to the STATE.

Records Retention: All project documents shall be kept for a minimum of 3 years from the date the final voucher is submitted to FHWA. When requested by the STATE or FHWA, such records shall be made available for review or audits.

Federal Reimbursement Claims: If anticipated claim(s) for reimbursement by the COUNTY is expected to exceed \$50,000.00, or if the project or activity is funded by any economic stimulus related funds, the COUNTY shall submit semi-monthly requests for reimbursements. If processing of semi-monthly federal reimbursement requests will create severe hardship to the COUNTY, the STATE, FHWA and the COUNTY shall meet to discuss the circumstances and agree on a mutually determined billing frequency.

The COUNTY shall prepare monthly requests for federal reimbursements for amounts from \$10,000.00 to \$50,000.00.

For amounts less than \$10,000.00, the COUNTY will be provided the option to accumulate such amounts from one month to the next. A reimbursement request shall be submitted to the STATE upon reaching this \$10,000.00 threshold, or within a time period of three consecutive months has elapsed from the last billing, whichever is first.

In the event there are no reimbursement requests from the COUNTY for a period of three consecutive months, the COUNTY shall provide to the STATE the reason(s) for not claiming any federal reimbursements.

COUNTY reimbursement requests will be reviewed and processed by the STATE and will be submitted to FHWA for approval and reimbursement. Request for reimbursements shall not exceed the amounts and participation rates shown in the original PR-1240 and subsequent approved modifications. All reimbursement requests shall clearly show the total funds expended by the COUNTY during the reimbursement period and the amount of federal funds requested, the amount paid and reimbursed to date, and all documents to support the reimbursement request. Supporting documents may include: paid invoices, receipts, copies of agreements, timesheets, certified payrolls, and other documents as necessary. The STATE may specify a standard reimbursement format to increase efficiency in the processing of federal reimbursements to the COUNTY.

**Return of funds to FHWA:** All costs and expenditures properly recorded to a project but ruled ineligible for financing with federal funds shall be borne by the COUNTY. For retroactive adjustments of reimbursed federal funds, such ineligible amounts may be deducted from future COUNTY reimbursement requests for the project in question, or from other COUNTY Federal-aid projects if necessary. If deduction(s) from future COUNTY reimbursements is not feasible, the COUNTY shall provide cash reimbursement to the STATE within sixty (60) days. In the event such payment(s) from the COUNTY creates severe financial hardship, the COUNTY may request an extension to the repayment period, subject to approval by FHWA and the STATE.

Cancelled or withdrawn projects with federal reimbursements may require a return of funds to FHWA. If it is determined that a reimbursement from the COUNTY to FHWA is due, such COUNTY reimbursement shall be processed as described in the preceding paragraph.

**STATE review costs:** If programmed for federal-aid, preconstruction and construction costs furnished by the STATE may be considered a part of the normal project cost and included in the COUNTY's project estimate and budget. If these costs are not programmed for federal-aid, such services rendered by the STATE on COUNTY projects shall be reimbursed by the COUNTY using non-federal funds.

An accounts receivable will be established by the STATE that will describe the services furnished by the STATE to the COUNTY, and whether such services are federal participating or not. The COUNTY shall provide a purchase order to the STATE, when requested by the STATE, within thirty (30) calendar days. In the event a purchase order is not received from the COUNTY and the STATE begins to incur review or other support costs, the STATE will notify the COUNTY of its intent to stop supporting services until a purchase order is received by the STATE. The STATE's direct labor charges will be based on the STATE's personnel providing such services to the COUNTY and the STATE's prevailing indirect cost rate. The STATE will maintain timesheets and accounting to support review or administrative costs billed to the COUNTY.

## **APPENDIX G –INTERIM PROCEDURES FOR DESIGN**

In accordance with 23 CFR 625.3, project design shall comply with all applicable federal laws, regulations, policies, standards and guidelines applicable to Title 23, American Association of State Highway and Transportation Officials (“AASHTO”); adopted STATE standards and policies, and COUNTY design standards, ordinances, and policies.

Construction PS&Es shall be submitted to the STATE at the 60%, 90% and 100% design stages for review. For low risk projects with routine and straightforward work scope, the COUNTY may request the STATE to require submittals at the 90% and 100% design stages for review. Such requests shall be made in writing by the COUNTY at the time a request is made to place the proposed project on the TIP or the STIP. The written request shall be accompanied by a detailed description of the proposed work scope, a map identifying the project location, and the project schedule. The STATE will have sole discretion to approve or disapprove the request.

In addition to PS&Es, the COUNTY shall provide copies of all correspondence, consultation letters or other documents to support NEPA environmental clearances, ROW, and a completed PS&E checklist for review.

For design-build projects or other competitive sealed proposals [such as Request for Proposals (“RFP”)], the following shall be submitted to the STATE: a clear description of the project scope, scoring and award process incorporated into the initial draft document; an intermediate submittal that addresses any STATE or FHWA comments received on the initial submittal; and a final submittal (100%) for review. Similar to design-bid-build construction PS&E, the COUNTY shall provide copies of all correspondence, consultation letters or other documents to support NEPA environmental clearances, ROW certification, and a completed PS&E checklist.

Submittal of 100% PS&Es and/or RFPs along with supporting documents from the COUNTY will be made to the STATE no later than May 31<sup>st</sup> of any given year to ensure review and processing by the STATE personnel in time for federal obligation of funds that same federal fiscal year. In the event the COUNTY submits incomplete PS&Es and/or documentation that requires resubmittals after May 31<sup>st</sup>, or submits 100% PS&E’s to the STATE after May 31<sup>st</sup>, it is understood that the STATE will work to review and process such COUNTY PS&Es but may give such projects a lower priority in review and processing due to the STATE’s own workload requirements.

For planning studies, master planning documents, or other similar undertakings that will not directly result into a construction project(s), the COUNTY shall submit all deliverables specified in the consultant contract for STATE review.

## **APPENDIX H –INTERIM PROCEDURES FOR CONSULTANT PROCUREMENT**

To be eligible for Federal-aid funds, all consultant procurements shall be made in accordance with 23 CFR Part 172 and the Brooks Act (23 U.S.C. §112 (b)(2)(A)). The COUNTY may elect to adopt the STATE's consultant procurement procedures or develop its own consultant procurement procedures that shall be approved by the STATE and FHWA in accordance with 23 CFR 172.9(a).

Alternatively, the COUNTY may elect to procure consultant services using non-FHWA approved procedures and utilize all COUNTY funds. This route eliminates the option of utilizing such expended COUNTY funds for soft-matching in future project phases.

COUNTY's submittals for consultant selection and approvals will be processed and approved by the FHWA and/or the STATE (if such authority is delegated in accordance with 23 CFR 172.9).

In the event the STATE becomes aware of changes to federal consultant procurement requirements, the STATE will notify the COUNTY of such changed requirements.

**APPENDIX I –INTERIM PROCEDURES FOR RIGHTS-OF-WAY  
ACQUISITIONS, MANAGEMENT, DISPOSALS,  
AND TRANSFERS**

The COUNTY shall acquire, manage, relocate, or dispose of ROW in accordance with 23 CFR Part 710 and 49 CFR Part 24. Alternatively the COUNTY may elect to utilize ROW procedures developed and used by the STATE.

In addition to purchasing ROW, the COUNTY may receive land donations in accordance with 23 CFR 710.505 that may be used as credits for the COUNTY's matching share based on fair market value. Eligibility and application of soft matching for donated land shall be in accordance with 23 U.S.C. Section 120. The STATE will give the COUNTY authorization to proceed with ROW activities when federal funds are used in the acquisition of ROW.

The COUNTY may request the STATE's assistance in the appraisal or acquisition of ROW by STATE personnel. The STATE will notify the COUNTY of its ability to assist given the current circumstances at the time of request and if such assistance by the STATE is provided, the COUNTY agrees to reimburse such costs incurred by the STATE. Reimbursement of such costs to the STATE will be processed in accordance with accounts receivable provisions contained in APPENDIX F.

In the event the COUNTY and the STATE agrees that jurisdiction and/or ownership of a particular route should be transferred to either party, the COUNTY shall coordinate such transfer activities with the STATE Highways' Construction and Maintenance Branch ("HWY-C"). The transferring party shall be responsible and bear all costs to prepare all land transaction documents, including any legal costs, notification costs, escrow, filing fees, or any other costs related to transfer of property. All record plans, property descriptions, ROW maps, easement documents, licenses or other documents that describe title, encumbrances, ownership and/or jurisdiction shall be provided to the receiving party in paper (2 copies) and electronic format.

**APPENDIX J –INTERIM PROCEDURES FOR CONSTRUCTION  
ADVERTISEMENT, AWARD, NOTICE-TO-  
PROCEED, AND CONSTRUCTION  
ADMINISTRATION**

Upon completion of design, obligation of federal funds, and authorization to advertise and receive bids by FHWA as shown on the approved PR-1240, the COUNTY shall expeditiously advertise, receive bids, evaluate bids and award the construction projects. These activities shall occur as soon as possible and within timelines specified in any FHWA imposed conditions for obligation of funds. The COUNTY shall submit bid, bid evaluation and related documents to the STATE for review and concurrence.

When required, the PR-1240 will be modified to reflect award amount by the STATE for FHWA approval. Upon FHWA approval, the STATE will furnish a copy of the modified PR-1240 to the COUNTY, and the COUNTY will expeditiously award and execute the construction contract. The COUNTY shall provide to the STATE the date when the project was advertised and a copy of the award letter to the contractor. Construction Notice to Proceed ("NTP") shall be issued by the COUNTY to its contractor within the timeframes specified in the construction specifications. The COUNTY will provide a copy of the NTP letter to the STATE for its records. Copies of each letter shall be submitted to the STATE in accordance with the STATE's Construction Procedures Manual - Volume 10.

All Federal-aid projects are subject to the goals of: awarding the project within 120 calendar days, and issuing NTP within 180 calendar days from the time construction funds are obligated.

Construction administration shall comply with the STATE's Construction Procedures Manual - Volume 10, STATE/SOH's Quality Assurance Manual, and the STATE/SOH Highways Testing Laboratory's guidelines and procedures for the Quality Assurance for Materials. Alternatively, the COUNTY may develop its own construction administration procedures in compliance with 23 CFR 635 that is submitted to and approved by the STATE and FHWA. Similarly the COUNTY may develop its own Quality Assurance Program in accordance with 23 CFR 637 that is submitted to and approved by the STATE and FHWA.

The STATE's District Engineer or assigned representative may participate in preconstruction meetings, field inspections, reviews, or final inspections as specified in the STATE's Construction Procedures Manual - Volume 10.

All construction and material records shall be made available for inspection by STATE or FHWA personnel. The STATE or FHWA may perform periodic process reviews or audits of ongoing COUNTY construction projects to verify

conformance with approved construction administration procedures and contract requirements.

Upon completion of construction work, the COUNTY shall endeavor to settle all costs with the contractor, the STATE, utility companies and other parties as required in a timely manner, and proceed to close out the project so that the project does not appear on any inactive list described in SECTION 9 and unused federal funds can be released for use in other Federal-aid projects in a timely fashion. Actual release (deobligation) of federal funds will be coordinated with the STATE Federal Program Engineer. Final project close-out shall be in accordance with the STATE's Construction Procedures Manual - Volume 10, Section 10-2-22.



December 29, 2014

**APPENDIX K –LETTER OF AGREEMENT AND STEWARDSHIP  
PLAN (“STEWARDSHIP AGREEMENT”)**

The STEWARDSHIP AGREEMENT contained in this appendix is provided for reference only.