

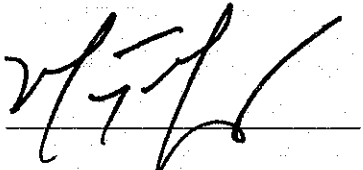
# Oregon Department of Transportation Federal-Aid Highway Program Stewardship and Oversight Agreement

April 2010

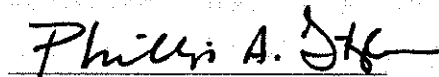
*This agreement supersedes all previous Stewardship and Oversight Agreements  
between the ODOT and Oregon Division of the FHWA.*

Developed in partnership between the Federal Highway Administration, Oregon Division  
and the Oregon Department of Transportation

*We support the concept of this Stewardship Agreement and hereby direct that the  
stewardship and oversight of the Federal-Aid Highway Program be carried out in the spirit  
of a true partnership, as described herein.*



**Matthew L. Garrett**  
Director  
Oregon Department of Transportation



**Phillip A. Ditzler**  
Division Administrator  
Federal Highway Administration



**Executed on: April 5, 2010**

# Table of Contents

<b>1.0 Introduction</b>	<b>3</b>
1.1 Purpose	3
1.2 Background	3
1.3 Terminology	3
1.4 Scope	4
<b>2.0 Stewardship Project Level</b>	<b>5</b>
2.1 Oversight Screening Criteria	5
2.2 Delegated Program and Project Responsibilities	5
2.2.1 ODOT Responsibilities (State Administered Projects)	5
2.2.2 FHWA Responsibilities (Full Federal Oversight Projects)	6
2.3 Conflict Resolution Process	7
2.4 Oversight Authority and Stipulations	8
2.5 Implementation of Oversight Agreement	9
<b>3.0 Roles and Responsibilities by Program Area</b>	<b>11</b>
3.1 Planning and Air Quality	11
3.2 Environment	14
3.3 Right of Way	17
3.4 Traffic Safety	19
3.5 Project Delivery (Design and Construction)	21
3.6 Pavement Design and Materials	25
3.7 Structures	26
3.8 Maintenance and Operations	27
3.9 Transportation System Management and Operations (TSMO) Program	28
3.10 Financial Management	30
3.11 Civil Rights	32
3.12 Research	34
<b>4.0 Glossary</b>	<b>35</b>
<b>Appendix A- Oversight Screening Criteria</b>	<b>37</b>
<b>Appendix B- Critical Performance indicators</b>	<b>38</b>

# Table of Contents

<b>1.0 Introduction</b>	<b>3</b>
1.1 Purpose	3
1.2 Background	3
1.3 Terminology	3
1.4 Scope	4
<b>2.0 Stewardship Project Level</b>	<b>5</b>
2.1 Oversight Screening Criteria	5
2.2 Delegated Program and Project Responsibilities	5
2.2.1 ODOT Responsibilities (State Administered Projects)	5
2.2.2 FHWA Responsibilities (Full Federal Oversight Projects)	6
2.3 Conflict Resolution Process	7
2.4 Oversight Authority and Stipulations	8
2.5 Implementation of Oversight Agreement	9
<b>3.0 Roles and Responsibilities by Program Area</b>	<b>11</b>
3.1 Planning and Air Quality	11
3.2 Environment	14
3.3 Right of Way	17
3.4 Traffic Safety	19
3.5 Project Delivery (Design and Construction)	21
3.6 Pavement Design and Materials	25
3.7 Structures	26
3.8 Maintenance and Operations	27
3.9 Transportation System Management and Operations (TSMO) Program	28
3.10 Financial Management	30
3.11 Civil Rights	32
3.12 Research	34
<b>4.0 Glossary</b>	<b>35</b>
<b>Appendix A- Oversight Screening Criteria</b>	<b>37</b>
<b>Appendix B- Critical Performance indicators</b>	<b>38</b>

# 1.0 Introduction

## 1.1 Purpose

The purpose of this Stewardship Agreement is to formalize the roles and responsibilities of the Federal Highway Administration, Oregon Division (referred to as FHWA), and the Oregon Department of Transportation (ODOT) in administering the Federal-Aid Highway Program.

This Stewardship Agreement outlines a consistent risk-based approach for the FHWA and the ODOT to effectively and efficiently manage public funds and to ensure the Federal-Aid Highway Program is delivered in accordance with applicable laws, regulations, and policies, and consistent with good business practices.

This Agreement outlines the framework by which the FHWA and the ODOT will administer the Federal-Aid Highway Program to maintain Oregon's National Highway network, improve operation, improve safety, provide for national security, and protect and improve our environment, while delivering quality services and transportation products to the traveling public and taxpayers of Oregon.

## 1.2 Background

Federal funding is provided to assist states to provide transportation services through the Federal-Aid Highway Program (FAHP). Many of the programs within the FAHP provide federal assistance for state administered programs.

The flexibility afforded in: ISTEA, the Intermodal Surface Transportation Efficiency Act of 1991; TEA-21, *the Transportation Equity Act for the 21<sup>st</sup> Century of 1998*; and SAFETEA-LU, *the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005* has allowed states to assume the U.S. Department of Transportation Secretary's responsibilities for design, plans, specifications, estimates, contract awards, and inspection of Federal-aid projects.

Section 106 of Title 23, United States Code (USC), requires the FHWA and the ODOT to enter into an agreement that documents the delegation of those responsibilities.

- SAFETEA-LU further defined the requirements of stewardship and oversight responsibilities including increased efforts pertaining to major projects. SAFETEA-LU builds on the foundation of the two previous transportation laws that brought surface transportation into the 21st century, ISTEA and TEA-21.
- SAFETEA-LU promotes more efficient and effective federal surface transportation programs by focusing on transportation issues of national significance while giving state and local transportation decision makers the ability to enhance transportation systems and implement innovative solutions to transportation challenges.
- Section 1016 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 gave the states the option to 'exempt' the FHWA from its traditional review and approval functions for the design and construction of certain Federal-aid projects.

The Stewardship Agreement between FHWA and ODOT is intended to be a living document and supersedes all previous oversight agreements. In order to ensure that the Agreement stays current; a team from the ODOT and the FHWA Oregon Division will review the document on an annual basis. Each organization has the opportunity to make a change to the document at any time when there is mutual agreement that the change(s) is necessary. This document will also be modified to reflect changes in authorization or regulations.

## 1.3 Terminology

In order to ensure that the Stewardship Agreement is consistently interpreted, the following definitions have been established:

**Stewardship:** *The efficient and effective management of the public funds that have been entrusted to the Federal Highway Administration to deliver the Federal-Aid Highway Program (FAHP) as well as those public funds entrusted in the ODOT for a safe and efficient transportation system.*

Stewardship reflects the FHWA's responsibility for the development and implementation of the FAHP. It involves all FHWA activities in delivering the Program, such as leadership, technology deployment, technical assistance, problem solving, program administration, and oversight. ODOT acting on FHWA behalf is considered Stewardship.

**Oversight** means the act of ensuring that the Federal-Aid Highway Program is delivered consistent with laws, regulations and policies.

Oversight is the compliance or verification component of FHWA stewardship activities that in turn ensures high-quality transportation projects. Narrowly focused, oversight activities ensure that the implementation of the FAHP is done in accordance with the applicable laws, regulations, and policies. More broadly focused oversight activities enable the ODOT and FHWA to ensure the effective delivery and operation of the transportation system envisioned in the base statutes of both organizations.

**FHWA project level approval - Oversight** means that FHWA will participate in the project development and construction process at specific milestones to assure compliance with federal regulations, policies, procedures, and standards and that federal dollar are being spent appropriately.

**ODOT project level approval - Stewardship** includes taking over FHWA responsibilities for all reviews and approvals associated with the design and construction, including final inspection, of Federal-aid projects.

**Risk-based Approach** means a joint FHWA/ODOT Risk Management Process is a tool for focusing limited resources to efficiently manage our programs through improved communication. Risk is a future event that may or may not occur and has a direct impact on the program either to its benefit or detriment. Applying the principles of risk management to look at decisions being made about delivery of the FHWA programs makes it possible to identify threats and opportunities, assess and prioritize those threats and opportunities, and determine strategies so that we can decide how to deal with future issues affecting the Federal-Aid Highway Program.

## 1.4 Scope

This Stewardship Agreement outlines the project approval and oversight activities for Federal-aid projects that ODOT has assumed within ISTEA, TEA-21, and SAFETEA-LU. These Transportation Bills have transferred responsibility to the states for the design, plans, specifications, estimates, contract awards and inspection of many Federal-aid projects.

The Stewardship Agreement outlines the mechanisms that ODOT will use to establish roles, responsibilities, and processes to ensure that all project and program actions will be carried out according to the appropriate laws, regulations, and policies. These responsibilities also apply to projects administered by local agencies.

The FHWA and the ODOT administer the FAHP through continuous program and project evaluation, and utilize a number of management tools to monitor the health of the FAHP. Program level performance indicators/measures and other strategies such as the Risk Management Framework and the Program Delivery Improvement Tool (PDIT), ODOT/FHWA Process Review program, and FHWA's Financial Integrity Review and Evaluation (FIRE) Program, are utilized to evaluate the health of Oregon's FAHP. The ODOT and FHWA will jointly conduct annual process reviews of selected areas of the ODOT programs, as agreed to by both the ODOT and FHWA.

FHWA and/or ODOT will provide oversight and stewardship on the following Federal-aid projects and programs:

- Planning and Air Quality
- Environment
- Right of Way
- Safety
- Design and Construction
- Pavements and Materials
- Structures
- Maintenance and Operations
- Transportation System Management and Operations (TSMO)
- Financial Management

- Civil Rights
- Research

*Notwithstanding any provision of this Stewardship Agreement, FHWA retains overall responsibility for all aspects of Federal-aid programs and this Stewardship Agreement does not preclude FHWA access to, and review of, any Federal-aid project at any time and does not replace the provisions of Title 23, USC.*

## 2.0 Stewardship Agreement

Under Title 23, FHWA is ultimately accountable for all programs under the Federal-Aid Highway Program; however, the State will assume responsibility for project-level activities associated with 23 USC 106 as described in Section 2.

### 2.1 Oversight Screening Criteria

All projects detailed below will be subject to a risk assessment to determine oversight responsibility. Risk assessment documentation will become part of the permanent record of each project.

Section 2.2 defines State and FHWA administered projects. The Oversight Screening Criteria will be determined within six months of execution of this agreement. See section 2.5. These screening criteria will be used to determine the agency responsible for oversight of each project. FHWA and ODOT will meet quarterly to review the list of upcoming projects and assign oversight. Reassessment will be conducted at Environmental Document Approval.

The agency responsible for oversight will review and approve project designs, special contract provisions, addenda, changes in contract, change orders, time extensions, claims, etc. and conduct project inspections. Projects must comply with all Federal-aid requirements contained in Title 23.

### 2.2 Delegated Program and Project Responsibilities

#### 2.2.1 State Administered Projects- ODOT

As a condition to accepting Federal-aid highway funds, ODOT agrees to follow all applicable FAHP project and program requirements. Oversight will be performed in the same manner as if it is done by FHWA. ODOT will assume responsibility for project-level activities associated with section 106 of 23 U.S.C. On these projects, ODOT will be responsible to assure compliance with the current accepted design standards.

*ODOT's responsibilities for the following types of projects are as follows:*

##### 2.2.1.1 Projects on Non-NHS Federal-aid highways and projects on public roads which are not Federal-aid highways

The ODOT assumes the responsibilities of the FHWA for all reviews and approvals associated with the design, construction, award, and final inspection of Federal-aid projects off the NHS except as noted in Section 2.2.2.5 and Section 2.4.2.

##### 2.2.1.2 Projects on the NHS including the Interstate System

If a project is designated as State Administered, the ODOT will assume the responsibilities of the FHWA for all reviews and approvals associated with the design and construction, including final inspection, of Federal-aid projects except as noted in Section 2.2.2.5 and Section 2.4.2.

##### 2.2.1.3 Local Transportation Facilities

The ODOT may, pursuant to 23CFR 1.11 and 635.105, further delegate certain Federal-aid project authorities to a well-qualified and suitably equipped local public agency. The ODOT is responsible for ensuring that appropriate procedures and guidelines are in place to facilitate the compliance of local public agency administered Federal-aid projects. FHWA will review and approve these practices and procedures for Federal-aid projects.

The ODOT will determine if the local agency is well qualified and adequately staffed to be certified to administer projects before delegation of any activities. The ODOT will review the local agency's ability to administer Federal-aid projects or specific activities on a case-by-case basis, and the extent of delegation will be dependent on their current staffing level and experience, and past performance. A Certified Local Agency Oversight Plan will be executed between ODOT and the local agency to outline the responsibilities of both ODOT and the local agency.

The ODOT retains responsibility under Federal law and regulations for all delegated activities. The ODOT will have written procedures (Local Agency Guide) established for the local agency that provide the necessary processes, approvals, oversight and review that ensures the delegated projects receive adequate supervision and inspection, and are completed in conformance with approved plans and specifications and applicable federal requirements. While ODOT will offer any training, advice, or other assistance as may be needed by a local agency to aid it in successfully completing its Federal-aid project, it is understood that the project is controlled in the specific certified areas by the local agency. As such, if the local agency is not following prescribed requirements, ODOT, at its discretion, may request the local agency to take the corrective action(s) or to remove Federal-aid funds from the project.

The following program elements will not be delegated to local agencies:

- NEPA approval
- Sole Source Approval
- Approval of Force Accounts
- Design Exception approval
- Approval of Right of Way certification
- Approval of Engineering Plans
- Approval of DBE Goals
- Approval and Audit of Labor compliance
- Final Inspection
- Project Acceptance

The language of Section §1904 of SAFETEA-LU is clear in its assignment of responsibility for locally administered projects to the States. Section §1904 states that the States shall be responsible for determining that sub-recipients of Federal funds have adequate project delivery systems for projects approved under this section; and sufficient accounting controls to properly manage such Federal funds. ODOT will commit sufficient staff and other resources to project and program administration to ensure that all applicable state and Federal requirements are met and the work is accomplished efficiently. The same Section also states that FHWA shall periodically review the monitoring of sub-recipients by the States.

#### **2.2.1.4 Compliance with Federal Requirements**

Certain Title 23 requirements dealing with transportation planning, procurement of professional services, disadvantaged business enterprise, wage rates, advertising and award of bids, convict produced materials, Buy America provisions and all non-Title 23 requirements as shown in Section 2.2.2.5 apply to all Federal-aid projects.

#### **2.2.1.5 ODOT may invite FHWA to be involved in ODOT oversight projects.**

### **2.2.2 Full Federal Oversight Projects- FHWA**

**2.2.2.1 The FHWA will assume full oversight** on projects on the NHS in accordance with the risk analysis set forth in this agreement. This will generally include the following:

- Addition of capacity to existing corridor
- Roadway relocation
- Major widening

- Reconstruction of bridges, interchanges, and overcrossings
- All projects using emergency relief funds (unless project level oversight authority is specifically waived by FHWA and projects on major bridges)
- Projects of regional or national significance

The FHWA will continue to be responsible for the oversight of all Title 23 aspects of those projects selected for oversight and will review and approve project designs, approve Plans, Specifications and Estimates, concur in award, approve changes in contract (change orders, supplemental agreements, time extensions, claims, etc.).

**2.2.2.2 State Administered Projects-** The FHWA will monitor project compliance through program reviews, process improvement studies and verifications.

**2.2.2.3 Other Project Involvement** - The FHWA in consultation with the ODOT may become actively involved with any Federal-aid transportation project, including those for which the ODOT has assumed FHWA's responsibilities, when unique circumstances arise or when program or process reviews are being conducted.

**2.2.2.4 Technical Assistance** - The FHWA is prepared to provide technical assistance to the ODOT or local agencies on any aspect of an eligible Title 23 project including intermodal transportation projects. Technical assistance activities will be decided on a case-by-case basis in consultation with the ODOT, other partners and the FHWA. The FHWA will continue to focus their time and effort on improving processes and procedures, in cooperation with the ODOT.

**2.2.2.5 Non-Title 23 Responsibility** – The FHWA will continue to assume responsibility for Federal actions for all projects required under laws outside of Title 23, including, but not limited to:

- Activities for compliance with Section 102 (2)(c) of the National Environmental Policy Act (NEPA) of 1969
- Activities for compliance with Section 4 (f) of the Department of Transportation Act of 1966
- Civil Rights Act of 1964
- Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 Part 24.
- Disadvantaged Business Enterprise Program (DBE)
- Clean Air Act Amendments
- Requirements of the Americans with Disabilities Act (ADA)

## 2.3 Conflict Resolution Process

Both the ODOT and the FHWA encourage all disagreements that involve any process or procedure involved in stewarding the FAHP to be resolved at the lowest possible level of the organization. If disagreements emerge the impasse shall be escalated as shown below. Table 2.3-1 represents the hierarchy that shall be used to reach a decision in the event of a disagreement between the ODOT and the FHWA. The cells within the same row represent equivalent levels within the organizations. Any of the bulleted positions within the cells below can participate in the discussion at their level. If other agencies are involved, personnel from equivalent organizational levels will be included in the conflict resolution process.

ODOT	FHWA
<ul style="list-style-type: none"> <li>▪ Project Manager</li> <li>▪ Environmental Program Manager</li> </ul>	<ul style="list-style-type: none"> <li>▪ FHWA Operations Engineer</li> <li>▪ FHWA Program Manager</li> </ul>
<ul style="list-style-type: none"> <li>▪ Geo-Environmental Section Manager</li> <li>▪ Regional Manager</li> <li>▪ Maintenance &amp; Operations Engineer</li> <li>▪ ODOT State Construction Engineer</li> <li>▪ Highway Finance Manager</li> <li>▪ Chief Financial Officer</li> </ul>	<ul style="list-style-type: none"> <li>▪ FHWA Planning &amp; Program Development Team Leader</li> <li>▪ FHWA Field Operations Team Leader</li> <li>▪ FHWA Financial Manager</li> </ul>

Chief Engineer	Assistant Division Administrator
Director/ Deputy Director	Division Administrator

**Table 2.3-1; Conflict Resolution Process**

When both parties at the lowest organizational level of the agencies have agreed to escalate, a meeting date will be established within 5 working days. At that time, the second organizational level, as appropriate, will meet with the appropriate FHWA Team Leader to discuss the issues and come up with a resolution. If an agreement cannot be reached, then the issue will be escalated to the next level and a meeting date established within 3 working days. At that time, ODOT's Chief Engineer will meet with the FHWA Assistant Division Administrator to discuss the issues and come to a resolution. If an agreement cannot be reached, the issue will be escalated to the highest level, the ODOT Director/ Deputy Director and the FHWA Division Administrator, and a meeting date established within 2 days. At that time, the agencies will come to resolution.

Mediation and facilitation may be used at any level to help expedite resolution. Mediation will be at agreement between FHWA and ODOT executive staff as needed. Documentation of all disagreements and resolutions shall be furnished to all involved agencies and included in the project file.

FHWA seeks to assist ODOT in spending Federal-aid funds appropriately in the public interest. Toward that end, the Division will make use of available regulatory flexibility when in the public interest. The Division commits that it will provide an explanation of the rationale and decision-making process when flexibility does not exist.

## 2.4 Oversight Authority and Miscellaneous Stipulations

The ODOT recognizes its responsibility and accepts authority for managing Federal-aid funds. Inherent in this assumption is that the ODOT, accepts the additional risk commensurate with its authority. Non-compliance with federal requirements can have consequences in terms of Federal-aid participation. These consequences are usually determined on a case-by-case basis. Federal reimbursement is only allowable under authority provided by Congress. This authority is expressed through legislation and implementing regulations. When conditions, legislation, or regulations are not satisfied on a particular project or program, the authority to use Federal-aid funding is lost. Non-participation is not a punitive action.

### 2.4.1 FHWA Full Oversight Authority

FHWA retains authority for the following actions on full oversight projects:

- Plan, Specifications, and Estimates Approval
- Approval of Design Exceptions;
- Contract Addenda;
- Contract Concurrence in Award;
- Contract Change Order Approval
- Approval of Contract Claims Settlement;
- Final Inspection;
- Project Acceptance.

### 2.4.2 Exceptions

The following actions require the approval of the FHWA regardless of project funding and/or delegation of project oversight to ODOT:

- Addition of access points on the Interstate System (IJR);
- Use of Interstate airspace for non-highway related purposes;
- Disposal of Interstate Right of Way;
- Design exceptions affecting Interstate highways (13 controlling criteria);
- Changes in Interstate Land Use or Operations;

- All Federal responsibilities for planning and programming oversight specified in 23 USC 134 and 135;
- Federal air quality conformity determinations required by the Clean Air Act;
- Obligation of Federal-aid funds;
- Waivers to Buy America requirements;
- Civil Rights program approvals;
- Environmental approvals except those specifically delegated under Sections 6004 and 6005 of SAFETEA-LU;
- Hardship acquisition and protective buying;
- Modifications to project agreements;
- Final vouchers.

### **2.4.3 Advance Construction**

Use of Advance Construction procedures to ensure future federal reimbursement of funds for a project is considered use of Federal-aid funds.

### **2.4.4 Bonding**

If a project is financed with bond proceeds, and debt service is anticipated to be paid using federal funds, it shall be considered a Federal-aid project.

### **2.4.5 Special Experimental Projects (SEP-14/SEP-15) Approval**

FHWA Headquarters' SEP-14/SEP-15 approval is necessary for any non-traditional construction contracting technique that deviates from accepted operational practices approved under current statutes. Any contract which utilizes a method of award other than the lowest responsive bid or force account as defined in 23 CFR 635B should be evaluated under SEP-14.

## **2.5 Implementation of Oversight Agreement**

Upon executing this agreement, ODOT and the FHWA agree to manage the implementation of this agreement by development of a joint Stewardship and Oversight Committee (SOC) which will oversee the Federal-Aid Program in its entirety. The SOC is the responsibility of the State, with joint representation by ODOT and FHWA. At a minimum, the SOC will:

- Within six months of executing this agreement, develop a final listing of the performance critical performance/ compliance indicators that will be used to monitor trends and gage the overall health of Oregon's Federal-Aid Highway Program and the effectiveness of delegated responsibilities.
- Within six months of executing of this agreement, develop a Performance Indicators Dashboard comprised of the critical performance and compliance indicators identified by the SOC, and any additional measures deemed appropriate to meet State mandates. They will conduct an assessment no less than annually, and facilitate actions to address program weaknesses.
- Within six months of executing the agreement, develop the Oversight Screening Criteria. These screening criteria will be used to determine the agency responsible for oversight of each project.
- Review/Revise the Stewardship and Oversight Agreement annually, based on program health throughout the year.
- Meet quarterly, rotating focus topics based on the oversight functions and Strategic Planning Cycle.
- Annually conduct a joint Program Assessment/Risk Assessment, and define needed Program Reviews for the following year.

### **2.5.1 Stewardship and Oversight Committee Membership**

The Stewardship and Oversight Committee (SOC) membership will include, at a minimum, the FHWA Assistant Division Administrator, the FHWA Field Operations Team Leader, the FHWA Planning and Program Development Team Leader, the FHWA Financial Manager, the ODOT Chief Engineer, the ODOT State Construction Engineer, ODOT Transportation Development Division Administrator, ODOT Maintenance and Operations Engineer, ODOT Highway Finance Manager or ODOT Chief Financial Officer, as appropriate, and a representative of at least two of the Regional Managers. Ad hoc membership will be at the discretion of the SOC based on results from oversight activities.

## 2.5.2 Methodology

**2.5.2.1 Define/Redefine Stewardship & Oversight Agreement w/Critical Performance Indicators, and update annually** – Based on FAHP Stewardship/Oversight Agreement Guidance, dated April 14, 2006, and Information Memorandum: Section 1904 of SAFETEA-LU Oversight Program Implementing Guidance, dated December 19, 2006, the FHWA Division Office, in agreement with the ODOT, will develop an Agreement with outlined performance/compliance indicators that periodically gauge the health (effectiveness) of the delegated responsibilities.

**2.5.2.2 Define Dashboard that incorporates Stewardship & Oversight Critical Performance Indicators** – Develop a dashboard based on the Critical Performance Indicators outlined within the Stewardship and Oversight Agreement. At the discretion of the FHWA, if the state meets or improves the Critical Performance Indicators, this may allow the State to request increased levels of Oversight Authority. Not meeting any or all of the Critical Performance Indicators allows the FHWA to rescind certain levels of State Oversight Authority. While the ability to request increased levels of Oversight Authority may be requested by the State, it is still the ultimate authority of FHWA to make the determination of appropriateness. Appendix B of this document provides a comprehensive list of Proposed Critical Performance Indicators. At a minimum the performance indicators on the dashboard will be updated quarterly.

**2.5.2.3 Monitor success of meeting/ improving Performance Indicators** – On a quarterly basis, the Dashboard will be reviewed for compliance to established performance levels. Any performance indicator that is out-of-compliance will be addressed, with the ODOT and FHWA mutually developing and approving improvement actions to further the efficiency and effectiveness of the Federal-Aid Program in Oregon.

**2.5.2.4 Review Critical Performance Indicators for appropriateness** – Part of the annual Program Assessment/Risk Assessment will provide the information to determine if the Critical Performance Indicators are still the “best representation of program health” and enable true monitoring of the program, or if they need to be redefined.

**2.5.2.5 Conduct Program Assessment/ Risk Assessment** – Based on FHWA Memorandum: Risk Management Planning for 2007, dated May 10, 2007 and Risk Management techniques, the FHWA and State will conduct annual joint Risk Assessments of each functional area to prioritize oversight initiatives and focus reviews where needed. The result of these assessments will determine:

- If coordination between the ODOT and the FHWA ensured that ‘State Administered’ projects are conducted in accordance with 23 C.F.R. and related regulations; and that the State will be allowed to maintain, increase or decrease Oversight Authority levels.
- If the Stewardship and Oversight Agreement requires revision and/or updates.
- Program Areas that are high risk and require a focused Program Review to determine a corrective plan of action.
- If the Critical Performance Indicators are still the “best representation of program health” and enable true monitoring of the program, or if they need to be redefined.
- If the current Quality Assurance Review Process provides appropriate infrastructure and monitoring of the FAHP.

**2.5.2.6 Define Program Reviews and monitor completion** – The SOC will: 1) define Program Reviews that will be undertaken for the year; 2) provide oversight to the Program Review Program (i.e. Scope of Work development, team formation, reporting); and 3) follow-up on implementation of Program Review recommendations and resolutions, agreeing to take appropriate actions on specific projects, regardless of the previous assignment of project authority, to ensure the effective implementation of the Federal highway programs.

**2.5.2.7 Review of Project phases and records** - The ODOT will grant FHWA at any time access to and review of project phases and records under this agreement. Regulations require that records be retained for a minimum of 3 years after project close or until litigation, claims, or audit findings initiated before the expiration of the 3-year period have been resolved.

## 3.0 Responsibilities by Program Area

The following subsections of Section 3 describe the functional/program stewardship and oversight areas that are subject to this Stewardship Agreement. This section provides information on how ODOT and FHWA are organized and will address required reviews, specific working relationships, and efforts relating to management systems.

A "FHWA Required Actions List" has been included in the FHWA Organization subheading of each subsection. This will help to delineate the actions that are required through the 23 Code of Federal Regulations (CFR) and Federal-Aid Policy Guide (FAPG).

Under this Stewardship/Oversight Agreement, the ODOT is responsible for facilitating the preparation of statewide policy and procedural directives, providing technical assistance, conducting continual technical training, and providing quality assurance (QA) in all program areas. The ODOT Regional offices are responsible for preparing the complete construction packages including; project scoping, schedules, estimates, all certification documents, agreements, plans and specifications, supplemental specifications, addenda, notice to contractors, local entity agreements, and overall management of the individual projects.

### 3.1 Planning and Air Quality

#### 3.1.1 Planning and Air Quality Method of Operation

The ODOT and FHWA Stewardship Agreement objectives will be met through:

- Semiannual meetings that will be held between ODOT Planning Staff and FHWA to review ODOT's progress in meeting work objectives contained in the State Planning and Research (SP&R) work program. Accomplishment reports will also be reviewed.
- Technical Assistance to MPOs and RPOs as necessary.

Coordination, oversight, and stewardship are maintained through meetings, program reviews, and routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contacts are normally between the FHWA Planning staff, ODOT Planning staff, and MPO staff.

**Table 3.1-1: FHWA Planning Required Actions List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
PL Planning						
1.	20 yr Statewide Transportation plan	23 CFR 450.214	Prepare and forward	Review for Compliance w/ FTA. Used as basis for STIP Approval.	As updated	Division Administrator
2.	Statewide Transportation Improvement Program (STIP) and amendments	23 CFR 450.216, 220	Submit	Joint Approval w/ FTA	As requested by State	Senior Planner
3.	SPR and PL funded work programs	23 CFR 420	Prepare and submit	Approve	Annually by June 30	Senior Planner
4.	SPR/PL program performance/expenditure reports	23 CFR 420.117(b)(1) & (c)	Develop	Review for Compliance	At least Annually by Sept. 30 or as requested by State	Assistant Planner
5.	State PL funds formula	23 CFR 420.109(a)	Submit	Approve	As needed or as revised by State	Senior Planner
6.	State certification of their planning process	23 CFR 450.220(a)	Review and certify process	Approve w/ FTA	In conjunction with STIP approval	Senior Planner
7.	Public involvement for State planning process	23 CFR 450.212	Develop	Review for Compliance	As needed or as revised by State	Planning & Programs Team leader
8.	Functional classification of highways/streets	23 CFR 105(b)	Provide	Approve	As needed or as revised by State	Senior Planner
9.	Urban area boundaries	23 CFR 470.105(a)	Develop	Approve	As needed or as revised by State	Senior Planner

10.	Interstate additions & revisions	23 CFR 470.111, 115(a)	Develop	Review & Recommend action to HQ	As requested by State	Senior Planner
11.	NHS revisions	23 CFR 470.113, 115(a)	Develop	Review & Recommend action to HQ	As requested by State	Senior Planner
12.	Public Lands discretionary funds application	HQ memo soliciting applications	Develop	Review & Recommend action to HQ	Periodic (usually annually, date varies)	Planning & Program Development Team leader
13.	Transportation Community Systems Preservation Program Applications	Federal Register soliciting applications	Apply for Funds and administer projects	Review applications & Recommend action to HQ Provide ODOT a list of funded projects. Authorized projects and obligate funds	Annual	Assistant Planner
14.	Border/Corridor Program Applications	Federal Register soliciting applications	Develop	Review & Recommend action to HQ	Annual	Assistant Planner
15.	Unified Planning Work Program for Metropolitan Planning Organizations (MPO)	23 CFR 450.314	Cooperate with MPO in plan preparation, review and adopt plan and forward to FHWA	Review and make determination	Annually by June 30	Senior Planner
16.	Transportation plan for non-attainment or maintenance metropolitan areas	23 CFR 450.322	Provide	Review for Compliance	Every 4 yrs	Assistant Planner
17.	Transportation plan for attainment metropolitan areas	23 CFR 450.322	Provide	Review for Compliance	Every 5 yrs	Assistant Planner
18.	Transportation Improvement Plan (TIP) and corollary STIP amendments	23 CFR 450.324-330(a) (b)	Develop	Approve	As requested by State – at least every 4 years	Assistant Planner
19.	FHWA/FTA TMA planning certification	23 CFR 450.334	Participate and provide information for joint FHWA/FTA review	Conduct w/FTA	Every 4 yrs	Senior Planner
20.	Metro planning area boundary changes	23 CFR 450.308	Prepare request and submit	Review and coordinate with MPO and ODOT to ensure boundaries meet statutory requirements	As needed/ revised by MPO/State	Senior Planner
21.	MPO/State certification of MPO planning process	23 CFR 450.334	Review and recommend approval when UPWP submitted to FHWA	Review and concur with ODOT recommendation of self certification.	In conjunction with UPWP approval) (annually)	Senior Planner
22.	Motor Fuel Tax (MFT) Evasion Project funds request	HQ memo soliciting applications	Provide	Approve	Periodic (usually annually)	Assistant Planner
23.	Vehicle Size & Weight enforcement plan and certification	23 CFR 657.11-13	Develop	Approve w/evaluation report	Annually by July 1 w/approval by Oct 1	Senior Planner
24.	National Truck Network Modifications	23 CFR 658.11	Develop	Review & recommend action to HQ	As requested by State	Assistant Planner

**Table 3.1-2: FHWA Air Quality & Highway Information Required Actions List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	Delegated To:
<b>AQ Air Quality</b>						
1.	Transportation plan conformity determination for non-attainment areas	23 CFR 93.104(b)3	Develop	Review & Approve w/FTA	At least every 4 years	Division Administrator
2.	TIP conformity determination for non-attainment areas	23 CFR 93.104(c)3	Approve in rural areas	Review & Approve with FTA	At least every 4 years	Division Administrator
3.	CMAQ funds report	10/20/08 CMAQ guidance memo	Provide	Review for Compliance and send to HQ	Annually by Feb 1	Senior Planner

4.	CMAQ funds eligibility determination	10/20/08 HQ CMAQ guidance memo	Determine	Approve	As requested by State (prior to STIP approval)	Senior Planner
5.	MPO/state air quality agency agreements	23 CFR 450.314	Develop	Review for Compliance	As needed or revised by MPO/State	Division Administrator
HI	Highway Information					
1.	Interstate system traffic volume review	11/12/99 HQ Memo	none	Conduct w/HPMS data review	Annually by Nov.1	Assistant Planner
2.	HPMS data submission	FHWA HPMS Field Manual	Prepare and submit per HPMS field manual	Review for Compliance (State sends direct to HQ w/copy to Div.)	Annually by June 15	Assistant Planner
3.	HPMS data review	FHWA HPMS Field Manual	none	Conduct	Annually by Nov.1	Assistant Planner
4.	Highway statistics reports (various)	FHWA Guide to Reporting Highway Statistics	Provide	Review for Compliance (State sends direct to HQ w/copy to Div.)	Annually or biennially per FHWA guide	Assistant Planner
5.	Highway taxes and fees report	HQ memo of request	Provide	Review for Compliance and send to HQ	Periodic (usually biennially)	Assistant Planner
6.	Monthly fuel report (PR 511M)	Chapter 2 of FHWA Guide to Reporting Highway Statistics	Provide	Review for Compliance (State sends direct to HQ w/copy to Div.)	Monthly	Assistant Planner
7.	Public road mileage certification	23 CFR 460.3 & FAPG NS 23 CFR 460	Prepare and submit	Review for Compliance and send to HQ	Annually by Nov.1	Senior Planner
8.	Traffic Monitoring System	23 CFR 500.203	Provide	Review for Compliance	As needed or revised by State	Assistant Planner
9.	Heavy Vehicle Use Tax Payment Certification	23 CFR 669.7	Provide	Review for Compliance and send to HQ	Annually by July 1	Assistant Planner
10.	Heavy Vehicle Use Tax Payment Review	23 CFR 669.21 & FAPG NS 23 CFR 669	None	Conduct	Every 3 years	Assistant Planner

## 3.2 Environment

### 3.2.1 Environmental Program Method of Operation

For the environmental function, the FHWA maintains ultimate responsibility and approval authority for all activities requiring actions by the Federal Highway Administration. Interagency coordination and stewardship are maintained through routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contact normally occurs between the FHWA Environmental Program Manager, FHWA Operations Engineers, FHWA Planning and Program Development Team Lead and ODOT Geo- Environmental section and Regional Environmental personnel. The ODOT and FHWA staff assist in coordinating interagency approvals for various environmental resources impacted by projects.

Environmental considerations affect virtually all aspects of transportation. Coordination and interaction with other disciplines is necessary to administer the environmental program. Communication is essential to ensuring statewide consistency in intergovernmental working relationships. ODOT and FHWA personnel must communicate through appropriate channels within organizations and between organizations. Critical timing must sometimes be employed along these lines of communications when urgency may require detours from usual protocols or chain of command. Examples might be: public health, declared emergencies, critical safety issues, or violations of permits. Timely reactions by personnel are crucial to positive outcomes.

In the environmental functional area, there are several diverse factors that influence the quality of the products and services delivered:

First, the timely delivery of specific environmental activities is critical to advancing transportation projects toward successful completion. As early as practicable in a project's development, the ODOT and FHWA will collaborate on the proper environmental classification for a project. For ODOT staff, project compliance activities should be completed on or ahead of the established schedule date. All NEPA documents should be completed in time for review and approval by FHWA prior to the scheduled project advertisement date. FHWA should conduct review and approval activities on or ahead of timelines

Second, ODOT's public involvement procedures should conscientiously solicit the views of all affected public and should be implemented in accordance with Executive Order 12898 on Environmental Justice and Title VI of the Civil Rights Act. The effectiveness of this program can be measured by the number and general tone of both positive and negative public comments received on the environmental documents.

Third, FHWA and ODOT should constantly strive to improve the existing working relationships with the many resource protection agencies involved in the environmental functional area (the US Fish and Wildlife Service, NOAA Fisheries, the US Army Corps of Engineers, the Environmental Protection Agency, the State Historic Preservation Office, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Oregon Department of State Lands, Oregon Department of Land Conservation and Development.)

ODOT will maintain a training program, coordinated with FHWA, for environmental program managers and related personnel, which includes environmental procedures and ethics, and effective public involvement procedures which recognize community and neighborhood values. ODOT is responsible for environmental analysis, document preparation, quality control, and quality assurance.

**Table 3.2-1 FHWA Environmental Required Action List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
E	Environment					
1.	Environmental classification determination	23 CFR 771.111	Develop	Approve	As submitted by State	Environmental Program Manager
2.	Programmatic Approval for specific CE projects	Programmatic Categorical Exclusion Agreement (June 1999)	Approve	Annual Process review	As submitted	As indicated by Programmatic Agreement
3.	Documented Categorical exclusion	23 CFR 771.117	Prepare and submit to FHWA	Review and make determination	As submitted by State	Environmental Program Manager

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
4.	Environmental Assessment (EA)	23 CFR 771.119	Prepare and submit to FHWA	Review and make determination	As submitted by State	Environmental Program Manager
5.	Revised EA	23 CFR 771.121	Prepare and submit to FHWA	Review and make determination	As submitted by State	Division Administrator
6.	Finding of No Significant Impact (FONSI)	23 CFR 771.121	Prepare FONSI request and submit to FHWA including Public Hearing transcript	Review and make determination	As submitted by State	Division Administrator
7.	Draft Environmental Impact Statement (DEIS)	23 CFR 771.123	Prepare and submit to FHWA	Review and make determination	As submitted by State	Division Administrator
8.	Final Environmental Impact Statement (FEIS)	23 CFR 771.125	Prepare and submit to FHWA including Public Hearing transcript	Review and make determination	As submitted by State	Division Administrator
9.	Record of Decision (ROD)	23 CFR 771.127	Prepare draft ROD and submit	Review, Revise, and Issue ROD	30 days after publishing final EIS	Division Administrator
10.	Written re-evaluations	23 CFR 771.129	Prepare and submit to FHWA	Review and make determination for project re-evaluation	As submitted by State	Environmental Program Manager
11.	Section 4(f) programmatic	23 CFR 771.135	Prepare and submit to FHWA for approval	Approve	As submitted by State	Division Administrator
12.	Section 4(f) <i>de minimis</i>	23 CFR 774	Prepare and submit to FHWA	Approve Final Section 4 (f) Evaluation, including the <i>de minimis</i> determination; send to DOI	As submitted by State	Division Administrator
13.	Section 4(f) individual	23 CFR 771.135	Prepare and submit to FHWA	Review Draft Sec 4 (f) Evaluation. Distribute to Dept. of Interior for comment and submit for a Legal Sufficiency review. Approve Final Section 4 (f) Evaluation; send to DOI	As submitted by State	Division Administrator
14.	Section 106 adverse effect determination	23 CFR 800	Prepare and submit to FHWA	Make determination and forward to the Advisory Council on Historic Preservation	As submitted by State	Environmental Program Manager
15.	Section 106 Tribal Consultation	Programmatic agreement for Minor Transportation projects (Oct 2001)	Approve	Review for compliance	As needed	As indicated by Programmatic Agreement
16.	Section 106 DOE and FOE determinations	Programmatic agreement for Minor Transportation projects (Oct 2001)	Approve	Review for compliance	As needed	As indicated by Programmatic Agreement
17.	State public involvement program approval	23 CFR 771.111(h), 40 CFR 1500-150	Prepare and submit	Approve	As needed or requested by State	Division Administrator
18.	Certification of hearings	23 CFR 771.111	Prepare and submit	Review for Compliance	Project by project	Environmental Program Manager
19.	NEPA/404 Merger Agreement	NEPA & Clean Water Act Section 404	Prepare and submit	Approve	As needed or requested by State	Division Administrator
20.	Noise Policy	06/12/95 HQ memo	Prepare and submit	Approve	As needed or requested by State	Division Administrator
21.	Publication of Federal Register Notices, including NOIs and SOLs	40 CFR 1508.22 and 23 U.S.C. 139(l)(1)	Prepare and submit	Review and revise Notice and forward for publication in the Federal Register	As needed	Environmental Program Manager
22.	Cooperating Agency Invitations	23 CFR 771.105	Prepare and submit	Revise and distribute	As needed	Division Administrator
23.	SAFETEA-LU 6002 Invitations	23 CFR 771.105	Prepare and submit	Revise and distribute	As needed	Division Administrator

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
24.	Informal ESA consultation (Not likely to adversely effect)	50 CFR 402.08	Approve	Review	As needed	ODOT Biology staff and Environmental Managers
25.	Programmatic ESA Section 7 (a)(1) consultation	50 CFR 402.06	Approve	Review	As submitted	As indicated by Programmatic Agreement
26.	Development and implementation of Environmental Program procedures	23 CFR 771	Review and approve	Participate	As needed to improve protocols and procedures or for implementation of regulatory changes	ODOT Environmental Program Coordinators and Managers, in coordination with FHWA Environmental Program Manager

### 3.2.2 Environmental Program Implementation

FHWA and ODOT review all NEPA documents. FHWA attends public hearings and other project development meetings on a review-level and as-needed basis. ODOT is the primary project level administrator. In addition to internal coordination, ODOT and FHWA will work with other state and federal reviewing agencies, Native American entities, local and regional governments, and the general public to ensure that their views on the environmental function are considered in developing areas for quality improvement.

ODOT has been delegated programmatic approval authority for specific categorical exclusions. ODOT acts as FHWA's non-Federal representative for informal Section 7 ESA consultation. Outside of federal and tribal lands, ODOT acts as FHWA's agent for Section 106 consultation, identification of historic properties, and assessment of adverse effects.

Under the Stewardship Agreement, ODOT and FHWA personnel work together as partners to continually review, evaluate, and improve the environmental program. The main emphasis areas of the Agreement are strengthening the environmental function by sharing information and correcting identified weaknesses. The ODOT Geo-Environmental Section and the FHWA Environmental Program Manager will host routine meetings for Department, Division, and appropriate resource agency personnel to share information, improve the quality and consistency of the environmental documents, and instill an environmental ethic throughout the agency.

Information that documents the environmental program will be kept current as information sources permit. ODOT's Geo-Environmental procedures will be revised and improved on a resource-by-resource basis as necessary and appropriate. The MOU/MOA documents will be regularly reviewed and updated as necessary. FHWA's Environmental Guidance and Procedures and Programmatic Categorical Exclusions process agreement will be updated as FHWA HQ produces new materials.

### 3.3 Right-Of-Way

#### 3.3.1 Right-of-Way Method of Operation

The FHWA Oregon Division and ODOT Right-of-Way (ROW) program have a close working relationship that strives to identify best practices and training opportunities, and maintain good communications.

The operation from the agencies perspectives includes the maximum delegation of authority to ODOT. This offers the greatest possible innovation and flexibility to administer the ROW program. In this regard, the ODOT ROW Operations Manual is an important tool.

Local Public Agencies (LPAs), i.e. cities and counties, are required to comply with the Uniform Act and its governing regulations found in 49 CFR 24 in the same manner as ODOT. As stipulated in 23 CFR 710.201, ODOT is responsible for assuring that ROW acquisitions by LPAs are made in compliance with Federal and State laws and regulations. ODOT's ROW Manual provides guidance to LPAs on how to acquire right of way in accordance with Federal and State regulations. ODOT also provides training to LPAs on ROW program requirements.

Both ODOT and local agency right of way program activity, as well as ODOT's oversight of local public agency ROW activity is subject to review by FHWA at any time.

Coordination, oversight, and stewardship are maintained through meetings, program reviews, and routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contacts are normally between the ODOT ROW personnel and the FHWA ROW Program Manager.

**Table 3.2-1: FHWA Right-of-Way Required Action List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
R/W	Right-Of-Way					
1.	State R/W Manual/changes including R/W oversight agreement	23 CFR 710.201	Develop and submit manual or changes	Approve	As needed	Planning & Program Development Team leader
2.	Consolidated Annual Statistical Report	49 CFR 24.9(c) and Appendix B & FHWA Order 6540.1	Request	Review & submit to HQ	Annually by Nov. 15	Right of Way Program Manager
3.	Requests for waivers	49 CFR 24.7	Develop	Approve	As submitted by State	Planning & Program Development Team leader
4.	Local Public Agency Oversight	23 CFR 710.201(h)	Provides	Periodically Review for Compliance	As needed	Right of Way Program Manager
5.	Real Property Acquisition Authorizations and agreements	23 CFR 710.309	Request	Approve	Project by project	Right of Way Program Manager
6.	Use of R/W Air Space authorization request (on Interstate system)	23 CFR 710.405	Request	Approve	As requested by State	Right of Way Program Manager
7.	Use of R/W Air Space authorization request (non-NHS system)	23 CFR 710.405	Approve	Periodic review	As needed	Right of Way Program Manager
8.	Protective Buying and Hardship Acquisition	23 CFR 710.503	Prepare submission	Approve and authorize	As requested by State	Right of Way Program Manager

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
9.	Access Break / R/W Disposal authorization request (if on NHS system or fair market value not charged)	23 CFR 710.401,403 & 409	Request	Review and make determination	As requested by State	Right of Way Program Manager
10.	Access Break / R/W Disposal authorization request (non-NHS)	23 CFR 710.401,403 & 409	Approval	Periodic review	As needed	Right of Way Program Manager
11.	Reimbursement for Early Acquisitions	23 CFR 710.501	Prepare submission	Approve	As requested by State	Right of Way Program Manager
12.	Functional Replacement	23 CFR 710.509	Approve	Periodically Review for compliance	As requested by the State	Right of Way Program Manager
13.	Outdoor Advertising policies and procedures revisions	23 CFR 750.705(j)	Develop and submit manual or changes	Approve	As needed or submitted by State	Planning & Program Development Team leader
14.	Outdoor Advertising sign removal projects	23 CFR 750.307	Develop	Approve	Project by project	Right of Way Program Manager
15.	Federal Land Transfer	23 CFR 710.601	File application with FHWA if Federal agency lacks authority to grant real property interest.	Review and make determination	As requested by State	Right of Way Program Manager
16.	State and Local contributions and Donation Credits for real property	23 CFR 710.505 & 507	Prepare submission	Approve	As needed	Right of Way Program Manager

### 3.3.2 Right-of-Way Program Implementation

The ODOT Right of Way Section is responsible for oversight of all Department right of way activities including real property appraisal, property acquisition, occupant relocation and project-related property management. It is charged with ensuring compliance with federal and state laws and regulations and maintaining quality assurance. The Section also provides direct project support to the five ODOT Regions in the areas of project authorization and funding, appraisal and relocation review, settlement approval, Condemnation and mediation, title and escrow services, acquisition specialty services, utility relocation oversight, and access management/research. It functions as the liaison between FHWA and the five ODOT Regions. Quality assurance reviews of critical areas will be made on a rotational basis based on the risk assessment made by the ODOT ROW personnel and the FHWA Division ROW Manager.

The work activities listed below are covered in 23 CFR and do not require specific program or project approval, but are not exempted from FHWA oversight under Title 23 U.S.C:

- Direct eligible costs including administrative, legal and court settlements
- Real property donations

## 3.4 Traffic Safety

### 3.4.1 Traffic Safety Program Method of Operation

Safety has long been a central tenant of highway programs and projects and requires consideration during the planning, design, construction, operations, and maintenance stages. Both agencies share a common commitment to improving safety for all users of the transportation system. While there are a number of Federal-aid safety programs, safety should be an inherent part of all activities involving Federal-aid highway funds. Other sections of this agreement cover the roles and responsibilities of ODOT and FHWA relative to project approvals in planning, design, and construction. Safety considerations should be incorporated into each of those activities.

Coordination, oversight, and stewardship are maintained through meetings, and routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contacts are normally between the FHWA Safety Engineer and ODOT staff. The FHWA will monitor compliance with safety requirements both through project approval actions and through safety program approval and review actions. Additional compliance monitoring may be done on a program-wide basis using process reviews.

Activities consist of components of planning, implementation, evaluation and reporting of safety programs and projects. The ODOT is responsible for implementing and managing these programs. This involves safety program support for problem identification, design, construction, maintenance, and technical assistance for ODOT, FHWA, Federal Motor Carrier Safety Administration, National Highway Traffic Safety Administration, Federal Transit Administration, Federal Railroad Administration, and local governments.

**Table 3.4-1: FHWA Safety Required Action List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation to
S Safety						
1.	Highway Safety Improvement Program (including HES Program - 10% STP set aside for safety eligibility determinations)	23 CFR 924.15	Submit initial HSIP and major revisions. Prepare annual program report and submit to FHWA	Review and comment on the program and the annual report. Submit to HQ	Annually by Aug. 31	Safety Engineer
2.	402 Highway Safety Program Plan	FAPG 12/22/99 guidelines for 23 CFR 1200	Prepare and submit	Review	Annually by Sept. 1	Safety Engineer
3.	Work Zone Safety Process review of effectiveness	23 CFR 630.1010	Conduct process review every two years	Conduct review for compliance	Annually by Sept. 30	Safety Engineer
4.	Drug offender DL suspension law & enforcement certification	23 USC 159, 23 CFR 192.5	Prepare annual certification and submit to FHWA	Review certification and forward to HQ. Take appropriate action	Annually by Jan 1	Safety Engineer
6.	Minimum Penalties for Repeat Offenders; fund transfer penalty	23 USC 164	Prepare and submit	Approve	Annually by Sept 30	Safety Engineer
7.	Incentive Grant from 0.08 BAC	23 USC 163	Prepare and submit	Approve	Annually by July 15	Safety Engineer
8.	Section 154 Certification (Open Container Laws)	23 USC 154	Submit certification	Review for compliance	Annually by October 30	FHWA/NHTSA
9.	Section 157 (Seat Belt Use Incentives)	23 USC 157	Submit certification	Review for compliance	Annually	NHTSA
10.	Highway-Rail Grade Crossing	23 USC 148	Submit annual evaluation reports	Approve	Approve evaluation report annually (by August 31 <sup>st</sup> )	Safety Engineer

11.	High Risk Rural Roads	23 USC 148	Submit initial program guidance and major changes	Approve	As requested	Safety Engineer
12.	Safe Routes to School	SAFETEA-LU. Section 1404	Submit initial program guidance and major changes	Review	Upon funding request	Safety Engineer
13.	NCHRP 350 (Standards, Policies, and Standard Specifications)	FHWA Policy Memo July 25, 1997	Comply with NCHRP 350 and AASHTO/FHWA agreement	Review	Continuous	Safety Engineer
14.	MUTCD (Manual on Uniform Traffic Control Devices)	23 CFR 655 Subpart F	Submit State supplement and major changes	Approve	As needed (when supplemental amended)	Safety Engineer

## 3.5 Project Delivery (Design and Construction)

### 3.5.1 Project Delivery Method of Operation

The FHWA Field Operations Section and ODOT's Regional Offices and Construction Division have the primary responsibility for the stewardship and oversight for the design and construction programs for the Federal highway program in Oregon. These programs constitute a major portion of the federal funding that is distributed to the state.

ODOT is broken up into five geographical Regions:

- Region 1 – Portland
- Region 2 – Salem
- Region 3 – Roseburg
- Region 4 – Bend
- Region 5 – La Grande

Each Region is responsible for administering the construction and maintenance of all construction projects within its boundaries. They are also responsible to oversee the development of these projects.

Coordination, oversight, and stewardship are maintained through meetings, program reviews, and routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contacts are normally between the FHWA Operations Engineers and ODOT staff.

**Table 3.5-1 FHWA Project Delivery Required Action List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
DCM	Design and Construction					
1.	Projects Near Airports	23 CFR 620.103	Submit for state administered projects	Review	As requested	Operations Engineer
2.	Design Exception Request	23 CFR 625.3	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operations Engineer/ Field Operations Engineer
3.	Determination of cost effective methods (Force Account)	23 CFR 635.204 & 104	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operation Engineer
4.	Plans, Specifications, & Estimates (PS&E) and Addendum	23 CFR 630B, 23 CFR 633.102 23 USC 106	Approve for state administered projects	Approve for Full Federal oversight projects	Project by project	Operation Engineer
5.	Competitive Bidding SEP14	23 CFR 635.104, 23 USC 112	Submit	Review and submit to HQ for approval	As requested	Field Operations Engineer
6.	Approve advertising period of less than three weeks	23 CFR 635.112	Approve for state administered projects	Approve for Full Federal oversight projects	As requested	Field Operations Engineer
7.	Accept material certifications	23 CFR 637.207	Approve for state administered projects	Approve for Full Federal oversight projects	Project by project	Operation Engineer
8.	Use of Public Owned Equipment	23 CFR 635.106	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operation Engineer

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
9.	Material or product selection: proprietary products, recycled materials, public interest findings	23 CFR 635.411	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operation Engineer
10.	Changed Conditions	23 CFR 635.109	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operation Engineer
11.	Concurrence in Award	23 CFR 635.114, 23 USC 112(d)	Approve for state administered projects	Approve for Full Federal oversight projects	Project by project	Operation Engineer
12.	Changes and Extra Work (including extension of time)	23 CFR 635.120 23 CFR 635.121	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operation Engineer
13..	Claims	23 CFR 635.124	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operation Engineer
14.	Final Inspection/ Acceptance	23 USC 114a & 121	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operation Engineer
15.	Interstate Access Request	23 USC 109 & 111 23 CFR 624.5	Submit request	Approve w/ concurrence from HQ as needed	Project by project	Field Operations Engineer
16.	Public Agency Furnished Material	23 CFR 635.407	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Operation Engineer
17.	Termination of Contract (all projects)	23 CFR 635.125	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Field Operations Engineer
18.	Utility Agreement	23 CFR 645.113	Approve for state administered projects	Approve for Full Federal oversight projects	Project by project	Operation Engineer
19.	Railroad Agreement	23 CFR 646.216	Approve for state administered projects	Approve for Full Federal oversight projects	Project by project	Field Operations Engineer
20.	Construction Inspection	FAPG G 6042.8	Conduct inspection	Review for Compliance	As needed	Operation Engineer
21.	Project Agreements	23 CFR 630 Subpart C	Submit	Approve	As needed	Operation Engineer
22.	Convict Produced Material	23 CFR 635.417	Submit request	Approve	As needed	Operation Engineer
23.	Authorization to Advertise (including R/W and Utility certs)	23 CFR 635.309	Approve for state administered projects	Approve for Full Federal oversight projects	Project by project	Operation Engineer
24.	Project Authorizations	23 CFR 630.106	Approve for state administered projects	Approve for Full Federal oversight projects	Project by project	Operation Engineer
25.	Advanced Construction	23 CFR 630.705	Submit	Approve	As needed	Operation Engineer
26.	Payroll	23 CFR 635.118	Approve for state administered projects	Approve for Full Federal oversight projects	As needed	Field Operations Engineer
27.	Warranties	23 CFR 635.413	Submit	Approve	As needed	Operation Engineer
28.	Buy America waiver	23 CFR 635.410	Submit	Review and submit to HQ for approval	As needed	Design Engineer
29.	Value Engineering (NHS and \$25 million or more)	23 CFR 627 and P.L. 104-59 Sec 303	Perform VE study	Review for compliance	Project by project	Construction Engineer
30.	Bid Opening/ Tabulations	23 CFR 635.113	Open bids/review	Review for Compliance	Per letting	Operations Engineer

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
31.	Emergency Repair Projects	23 CFR 635.204	Perform damage surveys of affected sites	Determine eligibility of ER sites	As requested	ITS Engineer/Operations Engineers
<b>Non-Project Specific Activities</b>						
32.	Contracting Procedures/ Consultant Selection	23 CFR 172.5	Submit	Approve	As updated	Field Operations Engineer/ Financial Manager
33.	Design Standards/ Standard Specifications	23 CFR 625	Develop	Approve	When changes occur	Field Operations Engineer/ Design engineer
34.	Year-end Value Engineering Rpt	FAPG G 6011.9	Prepare annual report	Review & send to HQ	Annually by Nov. 30	Construction Engineer
35.	Local Public Agency Oversight Policies & procedures	FAPG 23 CFR 635.105	Develop procedures	Approve	As updated	Local program manager
36.	Utility Agreement Alternate Procedure	23 CFR 645.119	Develop procedures	Accept	One time	Construction Engineer
37.	Utility Accommodation Policy	23 CFR 645.215	Develop Policy	Approve	When changes occur	Construction Engineer
38.	Railroad Agreement Alternate Procedure Policy	23 CFR 646.220	Develop Policy	Approve	One time	Construction Engineer

### 3.5.2 Project Delivery Process Improvement Activities

The ODOT Project Managers, FHWA Operation Engineers, and ODOT will cooperate to ensure that process improvement activities are established and carried out for design and construction activities.

Following are some of the cooperative process improvement activities:

- FHWA will periodically review and assist in the development of Standard Operating Procedures.
- FHWA will evaluate the State and Local agencies' Transportation Construction Programs, including their procedures and controls for assuring transportation improvements are constructed in accordance with approved standards and acceptable contracting methods. Evaluation of local agencies requires joint ODOT and FHWA participation.
- FHWA will review and concur that the ODOT Construction Manual and associated modifications meet Federal standards.
- For other Federal-aid funded projects, FHWA may request documentation or conduct inspections, including finals, on a statewide basis to assure accountability and provide technical assistance.
- FHWA will conduct minimum of three construction inspections on FHWA full oversight projects.
- Each FHWA Operation Engineer evaluates their collateral duty program areas to assess risk to determine additional process improvement activities (i.e. process reviews and/or evaluative meetings).
- The *ODOT Highway Design Manual*, and any periodic updates, will be furnished to FHWA for review and approval.
- FHWA will monitor project design and will participate in plan-in-hand reviews on FHWA full oversight projects.

- ODOT will provide bid tabulation reports on their website.
- ODOT will invite FHWA to all pre-construction meetings on FHWA full oversight projects and FHWA will attend.

Since Title 23 U.S.C. recognizes ODOT as the direct recipient of Federal-aid funds, local agencies cannot take the place of ODOT in the administration of the Federal-Aid Highway Program. Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) reinforced this requirement by adding that the states shall be responsible for determining that sub-recipients of federal funds under Title 23 have adequate project delivery systems for projects and sufficient accounting controls to properly manage federal funds. Although ODOT cannot delegate its responsibilities, ODOT is permitted to delegate certain activities, under its supervision to local agencies, private organizations, or other state agencies under Federal Regulation 23 CFR 1.11 and 635.105. In those cases where activities are delegated to local agencies, those local agencies will be held accountable to ODOT. ODOT will review and assure that all requirements of state and federal laws, regulations, and policies have been met. FHWA may work in partnership with ODOT on these reviews and assurance actions.

By written agreement with the local agency, ODOT may delegate all or some project activities on Federal-aid projects to local agencies, regardless of whether or not Federal-aid is used for the specific activity. The specific procedures regarding delegated activities can be found in the LAG Manual. These activities may be limited by law or restricted by ODOT for various reasons including the local agency's qualifications or resources.

ODOT is responsible under federal law and regulations for all delegated activities. ODOT will provide the necessary processes, approvals, oversight, and review to ensure that delegated projects receive adequate supervision and inspection, and that they are completed in conformance with approved plans and specifications and applicable federal requirements.

## 3.6 Pavement Design and Materials

### 3.6.1 Pavement Design and Materials Method of Operation

The Oregon Department of Transportation Materials Quality Assurance Program (MQAP) is structured around 23 CFR 637. ODOT's Quality Assurance Program applies to all projects that ODOT constructs whether Federal-aid or non-Federal-aid. ODOT is responsible for development, implementation, and maintenance of its Materials Quality Assurance Program. FHWA oversees the MQAP for compliance to 23 CFR 637.

ODOT is responsible for ensuring the construction operations and the materials incorporated into the construction work are controlled by sampling and testing are in conformity with the approved plans and specifications. ODOT will also ensure adequate and qualified staff to maintain its Quality Assurance program.

ODOT uses the design procedure that is outlined in their ODOT Pavement Design Guide to ensure pavements are designed in accordance with current and predicted traffic needs in a safe, durable and cost effective manner. ODOT will design and approve pavement designs and ensure the pavement designs are built to specifications.

FHWA will promote improvements when deficiencies are identified or when new approaches or technologies are developed. FHWA will also provide oversight of construction materials, and compliance with federal requirements on a state-wide basis. As a member of the Quality Assurance Steering Committee, FHWA will have ongoing involvement in the development and implementation of the MQAP. FHWA will monitor the implementation and effectiveness of the MQAP through process reviews.

FHWA will review and approve updates to ODOT Pavement Design Guide as necessary. FHWA will monitor the implementation, operation, and effectiveness of ODOT's pavement design through process reviews. FHWA participates as a member of the Statewide Pavements Committee that oversees network pavement strategies.

Coordination, oversight, and stewardship are maintained through meetings, and routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contacts are normally between the FHWA Materials Engineer and ODOT Pavement and Materials staff.

**Table 3.6-1: FHWA Pavements and Materials Required Action List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	Delegated To
PM	Pavement & Materials					
1.	Materials Acceptance	FAPG 23 CFR 637B	Develop, implement, and maintain Materials Quality Assurance Program.	Conduct process review.	As needed.	Pavement Engineer
2.	Pavement Design Policy	23 CFR 626.3	Develop and implement	Review, comment, make recommendations for consideration, and Approve. Conduct process reviews.	As needed	Pavement Engineer
3.	Quality Assurance Program	23 CFR 637	Develop, implement, monitor, and revise	Approve	As needed	Pavement Engineer

## 3.7 Structures

### 3.7.1 Structures Method of Operation

ODOT will provide the FHWA Bridge Engineer the following on full oversight projects: scoping reports and type, size and location reports. ODOT design engineers shall provide pre-final and final PS&E plans for all of the above-referenced bridges to the FHWA for review and information.

The FHWA will provide comments on any bridge at their discretion. The ODOT will provide written responses to any written FHWA comments. Foundation and hydraulic reports will be made available to FHWA.

The National Bridge Inventory (NBI) program will be monitored on a continuing basis with an annual review of all phases of the program (inspections, bridge posting, consultant overview, etc.) and by random reviews as determined appropriate by the FHWA. Coordination, oversight, and stewardship are maintained through meetings, and routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contacts are normally between the FHWA Bridge Engineer and ODOT Bridge Engineer

**Table 3.7-1: FHWA Structures Required Action List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation to:
BR Bridge						
1.	NBIS Review Statewide report	23 CFR 650 Subpart C	Conduct inspections. Update inventory and send data to FHWA annually. Prioritize and make repairs.	Review for Compliance Process data and furnish error listing. Review error listing and resolve differences. Conduct review annually.	Annually (date determined by Division)	Bridge Engineer
2.	HBRRP Unit Cost submittal	23 CFR 650 Subpart D	Furnish unit cost data annually to FHWA.	Review unit cost data.	Annually by April 1	Bridge Engineer
3.	NBIS data submittal	FHWA memo	Furnish NBIS data annually to FHWA.	Review NBIS data.	Annually by April 1	Bridge Engineer
4.	HBRRP eligibility determinations	23 CFR 650 Subpart D	Select, design and construct projects. Request eligibility approval for candidates not on FHWA Selection list.	Approve Provide list of eligible projects, review full federal oversight projects, and resolve questions concerning eligibility. Technology Transfer	Project by project	Bridge Engineer
5.	HBRRP discretionary candidate submittals	23 CFR 650 Subpart D	Prepare application.	Approve/ forward to HQ as appropriate	Annually by July 1	Bridge Engineer
6.	TS & L and PS&E reviews (non-exempt projects)	23 CFR 630, 23 USC 106, and W.O. 11/13/98 memo	Prepare for full oversight projects	Make determination	Project by project	Bridge Engineer
7.	Innovative Bridge Research and Construction Program eligibility determination	23 USC 503(b)	Prepare application.	Approve and submit to HQ	Annually (date varies)	Bridge Engineer
8.	Construction inspections	FAPG G 6042.8	Conduct inspection	Review for Compliance	As needed	Bridge Engineer
9.	Exempt bridge from Coast Guard permit requirements	23 CFR 650.805	Prepare permit application and submit to Coast Guard	Review on Full Federal oversight projects	As needed	Bridge Engineer

## **3.8 Maintenance and Operations**

### **3.8.1 Maintenance and Operations Method of Operation**

The Office of Maintenance and Operations leads and supports highway maintenance and operations activities throughout the state by developing and implementing programs to ensure efficient, effective and consistent maintenance and operation of Oregon's transportation infrastructure.

There are 15 maintenance districts across the state. Each district is responsible for the day-to-day maintenance and operation of state highways in its geographic area.

The ODOT Office of Maintenance and Operations and FHWA will assure that available resources are utilized effectively to assure compliance with applicable federal requirements, and that adequate information is made available to the ODOT Planning Section for appropriate incorporation in plans.

## **3.9 Transportation System Management and Operations (TSMO) Program**

### **3.9.1 TSMO Method of Operation**

Continued growth in the urban areas on the Transportation System in Oregon has advanced to the degree that congestion, weather and traffic related incidents have impacted the operational efficiency of the system. The Oregon Department of Transportation (ODOT) and Federal Highway Administration (FHWA) are committed to maintaining an acceptable level of operation on the Interstate System. The ODOT will lead the effort to develop, deploy and operate Transportation System Management and Operations (TSMO) Strategies, including Intelligent Transportation Systems (ITS), congestion management processes (CMP) and incident management strategies and operations to maximize the efficiency of the transportation system.

Coordination, oversight, and stewardship are maintained through meetings, and routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contacts are normally between the FHWA ITS Engineer and ODOT.

The statewide and regional ITS architectures need to be updated as plans and priorities change. Procedures for maintenance are outlined in each of the ITS architecture documents. ODOT, in consultation with FHWA, is responsible for ensuring that the statewide and regional ITS architectures are maintained and updated.

ODOT shall prepare an annual TSMO work plan for the upcoming year. The work plan shall be due by May 15<sup>th</sup> of each year. The plan shall include a summary of the progress of the past year and identify the anticipated program for the coming year. The plan will incorporate ODOT's Operations Action plan and will include performance metrics related to the work plan.

ODOT and FHWA shall also conduct the FHWA Traffic Incident Management Self-Assessment annually, by the end of May, to identify opportunities for continuous improvement. These opportunities will be included in the following year's work plan.

ODOT shall develop performance indicators, measured on a quarterly basis, as part of the work plan which shall include the following:

1. TSMO development and deployment progress,
2. Effectiveness of the TSMO, and
3. Response time of the incident management operation.

23 CFR Section 940.11 requires that all federally funded ITS projects shall be developed using a systems engineering analysis. An ITS project is any project meeting the definition included in 23 CFR Section 940.3. The systems engineering analysis shall be commensurate with the size and scope of the project being developed. It is strongly recommended that the project sponsor use existing systems engineering analysis tools and guidance available from FHWA, which can be found at [www.ops.fhwa.dot.gov/int\\_its\\_deployment/sys\\_eng.htm](http://www.ops.fhwa.dot.gov/int_its_deployment/sys_eng.htm).

Prior to authorization of highway trust funds for construction or implementation of the ITS portion of projects with full oversight, the project sponsor shall provide the following; completed ITS Projects – Systems Engineering and Architecture Compliance (Rule 940) Checklist identifying the parts of the regional ITS architecture being implemented, anticipated systems engineering documentation, and rationale behind the procurement approach selected. Further documentation may be requested for high-risk projects, or if it is determined that an ITS project is not conforming to the requirements in 23 CFR Section 940.11.

The following examples of projects are not considered ITS projects and are not subject to the requirements in 23 CFR Section 940.11: installation of isolated rural traffic signals and signal re-timing projects.

FHWA has full oversight on the ITS portion of any Federal Aid project that meets the following criteria:

- Projects developing software,
- Projects developing new ITS and/or communications technologies,
- When the type of project or the systems engineering analysis process for conforming to 23 CFR Section 940.11 is new to the agency responsible for project development.

Projects not meeting the above requirements are not subject to full oversight, but must still conform to the requirements in 23 CFR Section 940.11. These projects will be subject to audit by FHWA.

FHWA will provide ongoing technical assistance on the use and maintenance of regional ITS architectures, systems engineering analysis, and ITS standards.

**Table 3.9-1: FHWA TSMO Required Actions List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
1.	Congestion management process	23 CFR 500.109	Prepare and submit	Review for Compliance	As needed/revised by MPO/State	Senior Planner and ITS Engineer
2.	Conformity with National ITS Architecture and Use of Systems Engineering Analysis for ITS Projects	23 CFR 940.9, 23 CFR 940.11 & 23 CFR 940.13	Prepare and approve ready for use	Concur	As needed w/PS&E submission (full oversight ITS projects)	ITS Engineer

## 3.10 Financial Management

### 3.10.1 Financial Method of Operation

FHWA and ODOT personnel maintain a cooperative working relationship in the administration and oversight of financial management. Communication and interaction between FHWA and ODOT occur routinely for the exchange of information, coordination of activities, and the resolution of issues in the financial management areas of Accounting, Budget, Audit, Obligation Control, Systems Integrity and Control and Process Reviews.

ISTEA and TEA-21 changed FHWA's role in the majority of Federal-aid highway projects from that of direct approval to a stewardship and oversight basis. Upon FHWA approval of projects, ODOT assumes the day-to-day process of managing and direct administration of the majority of projects.

ODOT recognizes that the accuracy and propriety of all Oregon Federal-aid claims are its primary responsibility whether the primary cost document originates within ODOT or is received from a third party. This responsibility is fulfilled by ODOT maintaining documented and tested operating policies and procedures to ensure a sound financial and accounting system utilizing proper internal controls. The system accuracy and integrity should be verified by suitable internal audit and review activities.

FHWA recognizes a need for complete understanding of all pertinent financial and operating policies and procedures of ODOT and to provide technical assistance and advice in funding and financial areas. FHWA has responsibility to continuously review and recommend process improvements regarding the obligation, billing and payment of funds to ODOT, to request corrective actions as necessary and report annually on the effectiveness of management controls.

FHWA will verify that internal and financial controls are in effect and followed through periodic contacts with ODOT personnel and reviews in accordance with FIRE. Reviews may encompass both ODOT and its sub-grantees. FHWA will provide guidance and technical assistance in such areas as fiscal document processing and requirements, financial management and reimbursement. FHWA will, to the maximum extent possible, utilize the work of Oregon Auditor of Public Accounts and External Auditors to limit the scope of FHWA reviews. Risk assessment techniques will be used to determine Grant Financial Management areas for review.

**Table 3.10-1: FHWA Financial Management Required Actions List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
FM	Financial Management					
1.	Fed-Aid billing reimbursement of eligible expenditures	23 CFR 140 and 635.122	Submits electronic request via RASPS for federal reimbursement	Review and Approve electronically	Weekly (as submitted)	Financial Manager
2.	Discretionary funding application for funds (IM)	Memo from HQ	Prepare application	Review and forward to HQ	Annually (date varies)	Financial Specialist/ Field Operations Engineer
3.	Transfer of funds as requested by State	23 USC 104 (c) and 119 (f)	Review and recommend approval of transfer request to FTA (or other agency.)	Review, approves, and forward fund transfer requests to HQ.	As needed	Financial Specialist
4.	SIB Biennial report	SIB Cooperative Agreement	Prepare biennial report within 90 days from end of Federal FY	Review and forward to HQ	Biennial	Financial Specialist
5.	Inactive Obligations	23 CFR 630	Review inactive projects for potential release of funds	Review balance of unexpended obligations on inactive projects	Quarterly	Financial Specialist
6.	Audit Findings	FIRE	Assure that audit findings related to transportation are resolved	Monitor activities to ensure that corrective actions are taken.	As needed	Financial Manager

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
7.	Improper Payments	FIRE	Assure that adequate controls are in place to detect improper payments	Conduct a billing transaction in accordance with the FIRE program	As needed	Financial Manager
8.	Major Projects	FHWA Major Project guidance	Submit annual financial plan for major projects (greater than \$500 million)	Review and forward financial plan to HQ for approval.	As needed	Financial Manager

## 3.11 Civil Rights

### 3.11.1 Civil Rights Method of Operation

The Civil Rights programs are non-exempt under SAFETEA-LU; therefore, FHWA maintains ultimate responsibility and approval authority for all activities. The FHWA is committed to effectively implementing and enforcing civil rights programs within the ODOT in planning, construction and management of the multimodal Oregon transportation system. Federal law establishes the State as responsible for nondiscrimination in all programs and activities and in the provisions of all services and benefits, as a basis for continued receipt of FHWA funds according to Title VI and VII of the Civil Rights Act. Federal law does not allow the delegation of FHWA Civil Rights federal responsibilities to ODOT at any project level.

The purpose of FHWA oversight is to monitor the implementation and effectiveness of ODOT Office of Civil Rights program areas that include internal affirmative action/equal employment opportunity, contract compliance, small business development, disadvantaged business enterprise (DBE), Title VI compliance programs, and Americans with Disabilities Act (ADA). FHWA will be an advocate of the civil rights program, providing training, technical assistance and active participation in ODOT initiated civil rights meetings and review activities. FHWA will review and approve ODOT's programs on an ongoing basis through annual updates, program reviews and through active participation in continuous program evaluation and improvements. Appropriate FHWA representatives will actively participate in ODOT initiated reviews, task forces and other civil rights initiatives upon request and to the extent feasible. Finally, FHWA will analyze civil rights reports submitted by ODOT to help identify trends and provide feedback and recommendations for improvements to ODOT.

Coordination, oversight, and stewardship are maintained through meetings, and routine contacts in person, by telephone, by electronic mail, and in writing, during the course of transacting normal business operations. Contacts are normally between the FHWA Civil Rights Manager and ODOT Office of Civil Rights.

**Table 3.11-1: FHWA Civil Rights Required Actions List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
CR	Civil Rights					
1.	Title VI Plan accomplishments and next year's goals	23 CFR 200.9	Prepare and Submit	Approve	Annually by Oct. 1	Civil Rights Program Manager
2.	Title VI Plan update	23 CFR 200.9	Prepare and Submit	Approve	As needed or requested by State	Civil Rights Program Manager
3.	State internal EEO affirmative action plan (Title VII) accomplishments and goals	23 CFR 230.311	Prepare and Submit (no later than October 31. External reports based on FFY. Internal reports based on SFY)	Approve	Annually by Oct. 1	Civil Rights Program Manager
4.	State internal EEO (Title VII) plan update	23 CFR 230.311	Prepare and Submit	Approve	Annually by Oct. 1	Civil Rights Program Manager
5.	EEO Contract Compliance review reports (form FHWA 86)	23 CFR 230.409, 230.413	Prepare and Submit	Review	As submitted by State	Civil Rights Program Manager
6.	State Employment Practices Report (EEO-4)	23 CFR 311	Prepare and Submit	Review for Compliance and send to HQ	Annually by Aug. 1	Civil Rights Program Manager
7.	Disadvantaged Business Enterprise (DBE) Program revisions	49 CFR 26.21(b)	Prepare and Submit when significant changes occur	Review and make determination. Submit to HQ.	As needed or as requested by State	Civil Rights Program Manager
8.	ODOT DBE program Goals and Methodology	49 CFR 26.41	Prepare and Submit	Review and make determination. Submit to HQ	Annually by Aug 1	Division Administrator

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
9.	Supportive services funds requests	23 CFR 230.113	Prepare and Submit	Review and Approve. Submit to FHWA HQ for funding approval. Advise ODOT of funding decision.	As requested by State	Civil Rights Program Manager
10.	Annual Contractor Employment Report (Construction Summary of Employment Data (form PR-1392))	23 CFR 230.121(a)	Prepare and Submit	Review and file. Submit to HQ when requested.	Annually by Sept 25	Civil Rights Program Manager
11.	OJT goals & accomplishments	23 CFR 230.111(b)	Prepare and Submit	Review and make a determination.	Annually by Jan 30	Civil Rights Program Manager
12.	Historically Black College & University (HBCU) Report	Pres. Exec. Order 12876, dated Nov. 1, 1993	Collaborate with FHWA. Prepare and Submit	Review, augment, and submit to FHWA HQ	Annually by Nov 15	Civil Rights Program Manager
13.	Americans with Disabilities Act Review complaint	Voluntary agreement with Justice Dept.	Provide support of Division office evaluation	Conduct evaluation & correct or recommend action to HQ	As requested by HQ	Civil Rights Program Manager
14.	Civil Rights Activity Report (Title VI, Limited English Proficiency, Persons with Disabilities)	President Executive Order 12250	Prepare and Submit	Prepare report & submit to HQ	April 15 <sup>th</sup> July 15 <sup>th</sup> October 15 <sup>th</sup> January 15 <sup>th</sup> (quarterly)	Civil Rights Program Manager
15.	Disadvantaged Business Enterprise (DBE) Awards & Commitment, Form 4630	49 CFR 26 Appendix B	Prepare and Submit	Forward report with recommendations to FHWA HQ for approval.	July 15 <sup>th</sup> January 15 <sup>th</sup> (semiannual)	Civil Rights Program Manager
16.	DBE and OJT Supportive Services Work Plan / Reports	49 CFR 26; 23 USC 140(c); 23 CFR 230.201-207	Prepare and Submit	Division forward to FHWA HQ for funding consideration.	Expiration of contract / August 15	Civil Rights Program Manager

## 3.12 Research

### 3.12.1 Research Method of Operation

The role of FHWA is to conduct research of a national focus and to transfer those technologies to state and local transportation agencies. The role of ODOT Research is to conduct research specific to state transportation needs and problems and to transfer technologies developed elsewhere into practice in Oregon.

**Table 3.12-1 FHWA Research Required Actions List**

#	Activity	Authority	ODOT Action	FHWA Action	Frequency	FHWA Delegation To
R	Research					
1.	SPR work program	23 CFR 420.111	Prepare certification statement with SPR Work Plan submittal	Review, Comment, and Approve with SPR Work Plan	Annually by June 30	Assistant Planner
2.	Experimental Project work plans	23 CFR 625.3(f); FAPG 6042.4	Prepare and Submit	Approve	Project by project	Assistant Planner
3.	LTAP centers work plan and budget	FHWA LTAP Field Manual	Prepare and Submit	Approve	Annually by January 1	Assistant Planner
4.	RD&T work program	23 CFR 420.209	Prepare and Submit	Approve	Annually by June 30	Assistant Planner
5.	Regional Pooled Fund billings	6/25/99 Memorandum (HRPD)	Prepare and Submit	Approve	As needed	Assistant Planner
6.	State Research Procedures Manual revisions	23 CFR 420.207	Prepare and Submit	Approve	As needed	Assistant Planner
7.	Conditions for grant approval	23 CFR 420.207	Prepare and Submit	Review for Compliance	Continuous	Assistant Planner

# Glossary

**3R Projects** - Resurfacing, Rehabilitation and Restoration

**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, Civil Rights, and Research.

**Delegated Projects** – Projects that do not 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.

**Emergency Relief Projects** – The Emergency Relief (ER) program assists State and local governments with the expense of repairing serious damage to Federal-aid highways and roads on Federal Lands resulting from natural disasters or catastrophic failures. In addition to the permanent authorization of \$100 million annually, SAFETEA-LU authorizes such sums as may be necessary to be made available by appropriation from the General Fund to supplement the permanent authorization in years when Emergency Relief allocations exceed \$100 million.

**FHWA project level oversight** means that FHWA will participate in the project development and construction process at specific milestones to assure compliance with federal regulations, policies, procedures, standards and those federal dollars are being spent appropriately.

**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.

**ISTEA, TEA-21, and SAFETEA-LU** - The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 was a six-year federal transportation funding law that took effect in 1991. ISTEA provided \$155 billion for highways, highway safety and transit for fiscal years 1992 through 1997. The Transportation Equity Act for the 21st Century (TEA-21) is a six-year extension of ISTEA providing a 40-percent increase in transportation funding for fiscal years 1998 through 2003. The Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users guaranteed \$244.1 billion for highways, highway safety, and public transportation. SAFETEA-LU represents the largest surface transportation investment in our Nation's history. These acts have given states increased flexibility in establishing the degree to which FHWA will be involved in the development of Federal-Aid Highway Program (FAHP).

**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.

**Major Bridges** - Major bridges are defined in the policy of FHWA Order 5520.1 "Preliminary Plan Review and Approval" and should have preliminary plan approval by FHWA. Examples of special features meeting major bridge project criteria are:

- Bridges with approximately (125,000 sq. ft.) deck area
- Bridges utilizing high-strength steel or concrete or special materials
- Unusual bridge types, e.g., arches and trusses
- Tunnels and unusually high cuts or high fills
- Major hydraulic structures

**National Highway System (NHS)** – All roadways currently identified as part of the Federal-Aid National Highway system in Oregon, inclusive of the interstate system.

**ODOT project level oversight** includes taking over FHWA responsibilities for all reviews and approvals associated with the design and construction, including final inspection, of Federal-aid projects.

**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.

**Reconstruction** – Any improvement that adds capacity to, or alters the vertical or horizontal geometry of, an existing roadway segment or facility. Any new alignment or facility. Typically these projects will be 4R projects.

**Rehabilitation** – Any improvement that does not change the vertical or horizontal geometry of an existing roadway segment. Inclusive of safety improvements. Typically these projects will be 2R and 3R projects.

**Risk-Based Approach** - A joint FHWA/ODOT Risk Management Process which is a tool for focusing limited resources to efficiently manage our programs through improved communication. Risk is a future event that may or may not occur and has a direct impact on the program either to the program's benefit or detriment. Applying the principles of risk management to look at decisions being made about delivery of the FHWA programs makes it possible to identify threats and opportunities; assess and prioritize those threats and opportunities; and determine strategies so that we can decide how to deal with future issues affecting the Federal-Aid Highway Program.

**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 Federal Highway Administration to deliver the Federal-Aid Highway Program as well as those public funds entrusted in the ODOT for a safe and efficient transportation system.

## APPENDIX A

### **FHWA Oregon Division and Oregon Department of Transportation Oversight Screening Criteria**

Within six months of executing the agreement, develop the Oversight Screening Criteria (per Section 2.5). These screening criteria will be used to determine the agency responsible for oversight of each project. A sample oversight screening criteria is included below:

A risk based approach to select oversight projects. The projects selected should be on the Federal-aid system to primarily include the Interstate and National Highway system routes, but non-NHS projects can be selected. The projects should be selected considering the following factors:

- Major projects as defined by FHWA's major project criteria
- Congressional interest projects
- Demonstration and pilot projects
- Interstate projects :
  - With design exceptions to the 13 controlling criteria
  - New or modified access points
  - Major reconstruction or widening
- Projects using innovative contracting methods
- Special Experimental projects (SEP) including projects requiring SEP-14 or SEP-15 approval
- Unusually complex or controversial projects
- Major unique or unusual structures
  - A desire to have a mix in project size, scope, and geographical location.

## Appendix B

### **FHWA Oregon Division and Oregon Department of Transportation Performance/Compliance Indicators**

Within six months of executing this agreement, develop a final listing of the performance critical performance/ compliance indicators that will be used to monitor trends and gage the health of Oregon's Federal Aid Highway program and the effectiveness of delegated responsibilities (per Section 2.5). Some sample indicators are listed below.

The following performance indicators will be used to assess the health of the Design and Construction Programs:

1. Amount of Federal-aid funds obligated versus total available per fiscal year.
2. Percent of projects with final construction costs > 10% above Engineers Estimate
3. Percent of projects with final construction costs > 20% above Engineers Estimate
4. Percent of projects with low bid within +/- 10% of Engineer's Estimate
5. Number of claims processed each year
6. Number of projects completed on time (based on approved construction schedule.)
7. Construction Project Completion Timeliness: Percent of projects with the construction phase completed within 90 days of original contract completion date.
8. Number of Change Orders by Type
9. Percent of projects advertised in the scheduled advertisement period.
10. Time for FHWA to review and take action on PS&E submittals (Goal is within 10 business days of the request.)
11. Time for FHWA to review, comment, and make an approval action upon design exceptions (Goal is within 15 business days of request.)
12. Time for FHWA to review and comment upon changes to the Minimum Design Standards or Standard Drawings (goal is within 15 business days of request.)
13. Time for FHWA to review and respond to contract addendums. (Goal is within 2 business days of receipt.)
14. Time for FHWA to review and respond to change orders. (Goal is within 5 business days of receipt.)
15. Time for FHWA to review and approve updates or supplements of the Standard Specifications and Procedural Manuals. (Goal is within 22 business days of receipt.)

