

NDOR/FHWA
Stewardship & Oversight
Agreement



October 2006

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**NEBRASKA DEPARTMENT OF ROADS
FEDERAL HIGHWAY ADMINISTRATION - NEBRASKA DIVISION OFFICE
STEWARDSHIP AGREEMENT**

INTRODUCTION/BACKGROUND

This Stewardship Agreement clarifies the roles and responsibilities of both Federal Highway Administration (FHWA) and Nebraska Department of Roads (NDOR) in administering the Federal-aid Highway Program. In situations where NDOR has accepted the responsibility for project oversight through the exemptions provided in 23 USC 106, NDOR assumes and acts in the role of FHWA. The Stewardship Agreement is intended to result in the efficient and effective management of public funds and to ensure that the Federal-aid Highway Program is delivered consistent with laws, regulations, and policies. This Stewardship Agreement replaces the December 2001 Project Oversight Agreement between FHWA and NDOR.

Federal funding is provided to assist States and Federal Agencies in providing transportation services through the various FHWA programs. By law, the nature of the majority of these Federal programs is Federal assistance for State administered programs. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21) increased the role of State Transportation Agencies (STA) in project oversight. These changes did not alter the fact that the FHWA is the Federal agency responsible for ensuring compliance with Federal requirements in the delivery of the Federal-aid Highway Program. These changes did, however, affect how FHWA implements this responsibility. The flexibility afforded in ISTEA and TEA-21 and continued in SAFETEA-LU allows STA to assume the U.S. Secretary of Transportation's responsibilities for design, plans, specifications, estimates, contract awards and inspection of certain Federal-aid projects. While STA may assume certain project approval authorities in accordance with 23 USC 106, FHWA is ultimately accountable for ensuring that the Federal-aid Highway Program is delivered consistent with the established requirements.

On April 13, 1992, the FHWA - Nebraska Division Office and the (NDOR) entered into a Project Oversight/Exemption Agreement as allowed by Section 1016 of the Intermodal Surface Transportation Efficiency Act of 1991. This section established procedures to streamline the State-Federal partnership by reducing the degree of direct Federal involvement in project development and delivery. With the passage of the Transportation Equity Act for the 21st Century (TEA-21), the program efficiency provisions were amended and reenacted by Section 1305. These provisions permitted the STA to assume the responsibilities under Title 23 for projects that are on the National Highway System (NHS) but not on the Interstate System and to continue agreements currently in-place (such as State oversight of Interstate System projects with a construction cost of less than \$1 million). In addition, Section 1305 requires the STA to assume the responsibilities under Title 23 for projects that are not on the NHS system (unless the State determines that such acceptance of responsibility is not appropriate). The Project Oversight Agreement was subsequently updated in December 1998 and December 2001.

This Stewardship Agreement contains chapters on 18 broad program areas that address most of the Federal-aid Highway Program. These program area chapters are arranged in alphabetical order based on a representative name given to the program area. Most of these program names reflect common divisions of work related to highway projects.

Stewardship of the Federal-aid Highway Program will be accomplished through both Project Level and Program Level Oversight.

SUMMARY OF NDOR/FHWA PROJECT REQUIREMENTS AND AGREEMENTS

As permitted by Section 1904 of SAFETEA-LU, NDOR assumes the FHWA's responsibility for the oversight and approval for the design, plans, specifications, estimates, contract awards, and construction inspection for:

1. All projects not on the NHS, (except as determined by Item 6 below),
 2. Interstate construction projects estimated to have a total cost of \$5 million or less,
 3. NHS projects as defined by the NEPA document (other than Interstate) estimated to have a total cost of \$25 million or less,
 4. Interstate projects that are not new or reconstruction,
 5. NHS construction projects estimated to have a cost of \$5 million or less that are a part of larger corridor projects as defined by a NEPA document estimated to have a total cost over \$25 million, and
 6. Other projects as annually (in September) agreed to jointly between FHWA and NDOR.
- The termini for a "project" shall be as defined in the NEPA document. It is understood that in the case of large NEPA corridors that the corridor may be split into smaller projects for construction. These are termed "construction projects".
 - The initial determination concerning the \$5 million criteria for Interstate projects and the \$25 million criteria for non-Interstate NHS projects will be made by NDOR when the project is initially established. FHWA and NDOR will reconfirm and make final determination of the project status (FHWA Oversight or NDOR Oversight responsibility) at the time of Cost Update #1.
 - "FHWA Oversight" includes, but is not limited to, full FHWA involvement in project scoping, design reviews, plans, specifications, and estimates (PS&E) approval, concurrence in award, project inspections, and change order approval.
 - Delegation of FHWA oversight responsibilities to NDOR (NDOR Oversight) removes FHWA direct involvement from design approval activities, PS&E approval, concurrence in award, and construction activities. NDOR is to act on behalf of FHWA in ensuring that all Federal laws, regulations and national policies are met. In addition, FHWA reserves the right to conduct reviews, as appropriate, to confirm that the Federal-aid program is being administered in accordance with the applicable laws, regulations and policies.
 - In consultation with NDOR, FHWA may retain full oversight on any project on the NHS incorporating unusual designs or unique features. The FHWA recognizes the issues involved with making this determination late in a project's design phase and will limit reviews of past decisions to adherence to applicable Federal law, regulation and national policies.
 - Traffic Management, Intelligent Transportation Systems (ITS), and other special research projects may involve activities other than traditional design and construction. FHWA will retain Full Oversight of ITS Projects that exceed \$1 million and projects that incorporate ITS features with costs, for the ITS features, that exceed \$1 million.

- Modifications as defined in the CFR associated with interchanges on the Interstate, regardless of funding source (i.e., including projects with no Federal-aid funds), must be submitted to the FHWA Nebraska Division office for approval.
- On FHWA Oversight Projects, the Division office places increased emphasis on early project involvement. On these projects, NDOR will include the FHWA in all early project coordination and will notify FHWA of all scoping meetings, preliminary plan reviews, field inspections and pre-advertisement reviews. Process Review/Product Evaluation (PR/PE) will be undertaken as appropriate. The FHWA Division office and NDOR will periodically determine what areas will be the focus for review, with the main emphasis on quality improvement. The balance of Federal oversight will be accomplished by partnering efforts, participation on task forces, committees and teams.
- For NDOR Oversight Projects, NDOR will assure that all necessary actions have been taken prior to requesting construction authorization and advertising. Further details of those necessary actions are contained within the subsequent chapters of this agreement.

- **SUMMARY OF NDOR/FHWA PROGRAM OVERSIGHT REQUIREMENTS**

The following is a sample list of major program oversight requirements. Review the program area chapters for further details. FHWA review and approval action may be direct involvement within the committee action or may be a formal review as jointly agreed to by NDOR and FHWA.

- Annually, FHWA and NDOR will jointly conduct process and program reviews. The topic areas for these reviews will be determined by FHWA, in consultation with NDOR, based on an assessment of risk and potential for improvement.
- FHWA will review and approve NDOR Standard Specifications, Supplemental Specifications, and associated modifications.
- FHWA will review and concur that the NDOR Construction Procedures Manual and associated modifications meet applicable Federal law and standards.
- FHWA will review and approve NDOR Standard Plans.
- FHWA will review and concur that NDOR Roadway Design Manual meets applicable Federal law standards.
- FHWA will review and approve the Nebraska Minimum Design Standards for Highway Construction.
- FHWA will review and approve the NDOR Consultant Procurement Procedures.
- FHWA will review and approve NDOR's Public Involvement Procedures.
- FHWA has delegated programmatic approval authority for specific Categorical Exclusions.
- FHWA will review and approve the NDOR's Materials Quality Assurance Program.
- FHWA will approve, annually, planning programs such as Work Programs (SPR and UPWP), Statewide Transportation Planning, Metropolitan Transportation Planning, Highway Performance Monitoring System (HPMS), Safety Schedule of Improvements, Public Road Mileage and Enforcement of Heavy Use Tax.
- FHWA will review and approve the NDOR Right of Way Operations Manual.
- NDOR will adopt the national Manual on Uniform Traffic Control Devices (MUTCD). In conjunction, NDOR will submit the State supplement to FHWA for review and approval.

DISPUTE RESOLUTION

The FHWA Nebraska Division and NDOR work as partners in delivering the Federal-aid Transportation Program in Nebraska. It is recognized that there may be times when consensus cannot be achieved between the two agencies. Whenever these situations arise, the FHWA Nebraska Division and NDOR agree to work together to resolve disputes in a timely manner. In those cases where a resolution cannot be reached, NDOR and the FHWA Nebraska Division may elevate the issue to the next level in the "chain of command."

Only the NDOR Director or Deputies will present appeals to FHWA Headquarters' offices.

OBLIGATION OF FUNDS

Funds for all projects will be obligated on a project-by-project basis for all types and sizes of projects and for all classes of funds used. Funding obligations will only be performed for projects that are currently ready to be advanced and funding obligation are based upon reasonable estimates of the complete project's phase of work.

NDOR will enter all necessary information into the FHWA's Fiscal Management Information System (FMIS) for FHWA review and authorization.

FHWA FINAL INSPECTION/FINAL ACCEPTANCE

- No FHWA final inspection or final acceptance is required on NDOR Oversight Projects. NDOR is responsible for final inspection and acceptance of these projects.
- FHWA will perform final inspections and final acceptance of FHWA Oversight Projects.

MAINTENANCE

- The requirement for adequate maintenance of completed projects remains a part of all project agreements for construction.
- The FHWA's monitoring of maintenance will continue to be broad based and take into consideration all locations where Federal-aid Highway funds are expended. However, efforts will be focused primarily on the NHS. The FHWA will continue to emphasize compliance with National Bridge Inspection Standards (NBIS) requirements on all bridges in the State.

IMPLEMENTATION

The new "Stewardship Agreement" procedures will be implemented on the date of the latest signature below. PS&E approval will start with the November 2006 letting. Ongoing construction projects and design projects beyond cost update one will continue under their current oversight status until final acceptance.

PROCESS REVIEWS

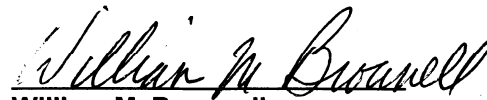
Annually (July), NDOR and FHWA shall meet and discuss the progress of process reviews from the previous year. In addition, NDOR and FHWA shall discuss and refine the identification of process reviews for the following FHWA fiscal year. This shall include the identification of resources and leadership direction.

AGREEMENT MODIFICATIONS

The parties agree that there will be annual reviews of this Agreement to reflect changes in State laws and Federal laws, regulations and policies.



John Craig, Director
Nebraska Department of Roads



William M. Brownell
Division Administrator
Federal Highway Administration

8/3/2006

1. BRIDGES, STRUCTURES, AND HYDRAULICS

a. Program Overview

The design of bridges, structures, and hydraulics is a phase of project development that can begin in the planning stage, occurs through the environmental stage and comes to completion in the final design stage. The FHWA-NDOR Stewardship Agreement provides for a mix of project-level and program-level involvement within this process.

To facilitate involvement and input in early project planning, FHWA participates in pre-concept field reviews for projects in which FHWA retains full oversight. This allows FHWA a better understanding of early conceptual project planning and design considerations, and participation in that transition zone between the transportation planning process and the earliest stage of plan development and then through the final design of the project. Coordination will be performed amongst other disciplines to assure a safe, cost-effective, and durable design.

A major component of the Bridge, Structures, and Hydraulics Program consists of the National Bridge Inspection Standards (NBIS). The NBIS program sets the national standard for safety inspection and evaluation of highway bridges in accordance with 23 USC 151.

b. Applicable Laws and Regulations

- Title 23 USC 144 Highway Bridge Replacement and Rehabilitation Program
- Title 23 USC 151 National Bridge Inspection Program
- 23 CFR 625 Design Standards for Highways
- 23 CFR 627 Value Engineering
- 23 CFR 645 Utilities
- 23 CFR 650 Bridges, Structures, and Hydraulics
- 23 CFR 652 Pedestrian and Bicycle Accommodations and Projects

c. Program Approval Actions

- NDOR will assure compliance with Federally approved design standards on the NHS and State approved design standards on all other Federally funded projects.
- NDOR will assure statewide compliance with current Federal and State laws, regulations, and policies.
- FHWA will review and approve Nebraska Minimum Design Standards for Highway Construction for conformance with recognized national standards.

d. Project Approval Actions (Full oversight projects)

- NDOR will submit design exceptions to FHWA for review and approval
- NDOR will submit to FHWA for review and approval, public interest letters for the use of proprietary products

e. Monitoring

- NDOR will provide FHWA copies of all completed Value Engineering Studies with recommendations. NDOR will assist in the collection and reporting of value engineering efficiency data.
- Other facets of design, including cost and cost growth, may be monitored on a programmatic basis.
- The NDOR Bridge Office Policies and Procedures will be furnished to FHWA for review and concurrence that it meets applicable Federal standards.
- FHWA will monitor project design and will participate in plan-in-hand reviews on full oversight projects.
- FHWA shall annually review and assure compliance of the NBIS.

f. Business Standards

- NDOR will submit type, size, and location, preliminary plans, and limits-of-construction plans to FHWA for review and comment on full oversight projects.
- NDOR will invite FHWA on full oversight project plan field reviews.
- NDOR will invite FHWA to design hearing dry-runs, public meetings and other project meetings as appropriate on full oversight projects.
- FHWA will review and comment on/approve design exceptions within 10 business days of request.
- FHWA will review and comment on/approve changes to the Minimum Design Standards for Highway Construction or Standard Plans within 22 business days of request.
- NDOR shall annually submit NBIS Data and Bridge Cost Data to FHWA as requested.
- Upon request, NDOR shall provide State and Local bridge inspection documentation to assure compliance with recognized national standards.
- NDOR shall submit an Annual State Summary Report of the Bridge Soft Match Program to FHWA.

g. Approved Procedures/Agreements/Manuals

- NDOR Minimum Design Standards for Highway Construction
- NDOR Standard Plans

2. CIVIL RIGHTS

a. Program Overview

The FHWA Division Office is committed to effectively implement and enforce civil rights programs within NDOR in its planning, construction, and management of the multimodal Nebraska transportation system. Federal law establishes the State as responsible for nondiscrimination as the recipient of Federal Aid, but does not allow the delegation of FHWA Civil Rights Federal responsibilities to NDOR at any project level. If projects are managed by a sub-recipient, NDOR must ensure that the sub-recipient is well qualified and suitably equipped to perform the work (23 CFR 1.11). If sub-recipients are involved, NDOR is obligated to ensure nondiscrimination in all programs and activities, and in the provisions of all services and benefits, as a basis for continued receipt of FHWA funds. NDOR can delegate the activity but cannot delegate their responsibility.

b. Applicable Laws, Regulations, and Orders

- Title VI of the Civil Rights Act of 1964 as amended
- Age Discrimination Act of 1975
- Americans with Disabilities Act of 1990
- Civil Rights Restoration Act of 1987
- Uniform Relocation Act of 1987
- 23 USC 140, 142, 324
- 49 CFR part 21 & 26
- 23 CFR part 200, 230, 633
- 29 CFR part 1, 3, 5, 6, 7

c. Program Approval Actions

PROGRAM ACTIVITIES		AGENCY RESPONSIBILITY		
Approval Action	Reference Document	Review	Approve	Remarks
Disadvantaged Business Enterprise Program and Supportive Service Plans	49 CFR part 26 Title VI of the Civil Rights Act of 1964 as amended <i>23 CFR part 230 subpart B</i>	FHWA	FHWA	Coordination of approval with Washington Office Review Team. Division Administrator approves program. Division office reviews DBE/SS work plan and approves.
State Highway Agency Affirmative Action (Internal) Plans	<i>23 USC 140 23 CFR part 230 subpart C Title VI of the Civil Rights Act of 1964 as amended Americans with Disabilities Act of 1990</i>	FHWA	FHWA	Programs are reviewed annually and approved by the Division Administrator
External EEO Contract Compliance Program	<i>Section 22(a.) 1968 Federal-aid Highway Act (23 USC 140) 23 CFR part 230 subparts A & D Title VI of the Civil Rights Act of 1964 as amended 23 CFR Part 633</i>	NDOR	FHWA	Federal-aid highway contracts of \$10,000 or more are monitored by NDOR. Contract compliance reviews/audits are conducted by NDOR. Reviews are audited by FHWA at annual review period.
EEO On-the-Job Training/ Supportive Services Programs	<i>23 USC 140 23 CFR part 230 subpart A & C Title VI of the Civil Rights Act of 1964 as amended Americans with Disabilities Act of 1990</i>	FHWA/ NDOR	FHWA	OJT Training Programs are reviewed and approved by NDOR and FHWA concurrence. FHWA reviews the Supportive Services work plan and approves each year.
Prevailing Wage Rates	29 CFR parts 1, 3, 5, 6 & 7	FHWA	FHWA	Forwarded to HQ
Title VI/ Non-discrimination	<i>Title VI of the Civil Rights Act of 1964 as amended 49 CFR part 21 23 CFR part 200 49 CFR Part 27 Age Discrimination Act of 1975 Civil Rights Restoration Act of 1987 Uniform Relocation Act of 1987 23 USC 142</i> 23 USC 324	FHWA	FHWA	Programs are developed by NDOR and reviewed and approved annually by FHWA Division Office

d. Project Approval Actions

Not applicable for Civil Rights Program.

e. Monitoring

FHWA will review and approve NDOR's programs on an ongoing basis through process and program reviews, and through active participation in continuous program evaluation and improvement. Appropriate FHWA representatives will actively participate in NDOR's 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 NDOR to help identify trends and provide feedback and recommendations to NDOR.

f. Business Standards

WORK ACTIVITY	NDOR ACTION	FHWA ACTION	REMARKS
DBE Program Plan Revisions	Prepare and Submit as Required	Review and Act On (20 Days)	Updates Accurately Reflect Appropriate Program Changes
Title VI Program Update	Prepare and Submit upon Completion	Review and Act Upon (20 Days)	Updates Accurately reflect NDOR's Title VI Program
State Internal AA/EEO and Contract Compliance Program Reports (Title VII) (Includes EEO-4 Report)	Prepare and Submit Within One Year From the Date of Approval of the Preceding Program	Review and Act Upon (20 Days)	Report is Accurate and Meets CFR Requirements
Annual Contractor Employment Report-PR1392	Prepare and Submit No Later Than September 25	Review and File. Submit to FHWA HQ	
External EEO Contractor Compliance Review Schedule and Reports	Prepare and Submit Upon Completion	Review and Act Upon (14 days)	
DBE and OJT Supportive Service Work Requests/ Reports	Prepare and Submit per Contract	Review and Act Upon (14 days)	
On-the-Job Training Accomplishments	Prepare and Submit (No Later Than November 30)	Review and Act Upon (14 days)	Previous year's accomplishments

g. Approved Procedures/Agreements/Manuals

- DBE Program Administration Document – March 2000
- Title VI Non-Discrimination Program – October 2000

3. CONSTRUCTION & CONTRACT ADMINISTRATION

a. Program Overview

The FHWA is required by law to assure compliance with Federal-aid contract provisions on all projects that utilize Federal-aid funds. Federal responsibility includes assurance that specific procedures are followed in the advertisement and award of Federal-aid contracts. The FHWA specific contract administration responsibilities in accordance with Federal law include (but are not limited to):

- Project Construction Authorization
- Competitive Bidding
- Advertising, Letting and Award of Contract
- Buy America Provisions
- Labor and Davis-Bacon
- Quality of Construction
- PS&E Approval

SAFETEA-LU continues to allow the delegation of FHWA construction review, oversight and administration responsibilities, except those based on non-Title 23 Federal requirements to the State DOT. The project approval activity chart identifies what activities have been delegated to the State.

b. Applicable Laws and Regulations

- 23 USC, 102, 106, 109(o), 112, 114, 117, 121
- 40 USC 276(a) Davis-Bacon Act
- 23 CFR 630 Preconstruction Procedures (all Federal-aid projects)
- 23 CFR 635 Construction and Maintenance (Federal-aid projects on Federal-aid routes)
- 23 CFR 637 Construction Inspection and Approval (Federal-aid projects on the NHS)
- 23 CFR 636 Design-Build Contracting

c. Program Approval Actions

- FHWA will review and approve NDOR Standard Specifications, Supplemental Specifications, and associated modifications.

d. Project Approval Actions (Full Oversight Projects)

- After the construction contract is signed, FHWA shall review and approve all major changes to the project prior to the start of that work. Major changes are defined in Appendix 1 following this chapter. When emergency or unusual conditions justify, FHWA may give advance verbal or email approval.
- For non-major changes and non-major extra work, FHWA formal approval is necessary, but such approval may be given retroactively at the discretion FHWA on full oversight projects.
- FHWA will conduct routine project and final inspections on FHWA full oversight projects.

- For all 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.

e. Monitoring

- NDOR shall provide FHWA cost tracking data such as the Annual Change Order Report and Price Index of Highway Construction Costs.
- NDOR shall provide Usage and Cost Benefit of Construction Value Engineering Proposals and other information as requested.
- 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 NDOR and FHWA participation.
- FHWA will review and concur that the NDOR 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.

f. Business Standards

- NDOR will provide bid tabulation reports on their website.
- NDOR will invite FHWA to all pre-construction meetings on FHWA full oversight projects and FHWA will attend.
- FHWA will review and approve PS&E packages within 2 weeks of receipt date. All modifications to the PS&E package will be coordinated through the Contracts Section of the NDOR Construction Division. FHWA may give conditional approval in cases where there are pending items of work to complete the PS&E package.
- FHWA will review and respond to addendums within 2 business days of receipt.
- FHWA will review and respond to change orders within 5 business days of receipt.
- FHWA will review and approve updates or supplements of the Standard Specifications and Procedural Manuals within 22 business days of receipt.
- NDOR will send Form FHWA 47 "Statement of Materials and Labor" to FHWA within 4 months of completion of the project and receipt of final records on NHS projects greater than \$1 million.
- NDOR will transmit Form FHWA 45 "Bid Price Data" to FHWA within 2 months of bid award of Federal-aid projects on the NHS that exceed \$500,000.
- FHWA will review and respond to Construction Value Engineering Proposals within 5 business days of receipt.
- FHWA will concur in contract awards within 2 business days of notification.

g. Approved Procedures/Agreements/Manuals

- NDOR Standard Specifications for Highway Construction
- NDOR Supplemental Specifications

PROJECT ACTIVITY APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE	
Approval Action	Reference Document	Full Federal Oversight Projects	All other Federal aid projects
Approve exceptions to competitive bidding	23 CFR 635.104 & 204	FHWA	NDOR
Approve advertising period of <3 weeks	23 CFR 635.112	FHWA	NDOR
Concur in award of contracts	23 CFR 635.114	FHWA	NDOR
Concur in rejection of bids	23 CFR 635.114	FHWA	NDOR
Approve change and extra work orders	23 CFR 635.120	FHWA	NDOR
Approve time extensions	23 CFR 635.121	FHWA	NDOR
Accept material certifications	23 CFR 637.207	FHWA	NDOR
Concur in settlement of claims	23 CFR 635.124	FHWA	NDOR
Concur in termination of contracts	23 CFR 635.125	FHWA	NDOR
Final Inspection/ Acceptance	23 USC 114a & 121	FHWA	NDOR
Construction inspections	FAPG G 6042.8	FHWA	NDOR
Determination of cost effective methods (Force Account)	23 CFR 635.204 & 104	FHWA	NDOR
Guarantee and Warranty Clause	23 CFR 635.413	FHWA	FHWA – NHS NDOR-Other
Material or product selection: proprietary products, recycled materials, public interest findings	23 CFR 635.411	FHWA	NDOR
Buy America	23 CFR 635.410	FHWA	FHWA
Local Public Agency Projects	23 CFR 635.105	NDOR	NDOR
Project/ Construction Authorization	23 CFR 635.106 (a)	FHWA	FHWA
FHWA Form 45	23 CFR 635.113	NDOR	NDOR
FHWA Form 47	23 CFR 635.126	NDOR	NDOR

Appendix 1 Major and Minor Changes

It is the policy of the Department to require prior approval of the Construction Division and the Federal Highway Administration on Federal full oversight projects, prior to a commitment for all major changes in the plans or contract provisions.

- A. Major change is considered to apply to any contract change that:
 - 1. Revises the alignment or typical section of the mainline roadway, ramps, frontage roads or crossing areas.
 - 2. Revises the access control (either temporary or permanent).
 - 3. Accelerates work on the project.
 - 4. Revises the staging of construction or the traffic control plan and reduces the number of lanes open to traffic or otherwise impacts traffic flow or traffic patterns.
 - 5. Changes the limits of the project or adds omitted work.
 - 6. Impacts a protected environmental resource or modifies an environmental commitment such that follow-up coordination is required with the affected entities.
 - 7. An extra work effort at contract unit prices, agreed unit prices or force account methods that exceeds a total cost of \$100,000.

- B. Minor change is considered to apply to any contract change that is:
 - 1. An adjustment in unit prices specifically covered by the Standard Specifications or a Special Provision (piling length adjustment is one example).
 - 2. An extra work effort that is to be accomplished at contract unit prices, agreed unit prices, force account or a combination thereof that does not classify as Major under Items A.1 through A.6 and will not exceed a total cost of \$100,000. (Adding a field entrance that was left out of the plans or cleaning the pavement prior to resurfacing are examples.) The \$100,000 limitation applies to the individual added extra work effort rather than the total additions of the authorization, which might include other added extra work efforts or adjustments.
 - 3. A contract change that adjusts contract quantities to final as-built quantities.

4. DESIGN

a. Program Overview

Design is a phase of project development that can begin in the planning stage, occurs through the environmental stage and comes to completion in the final design stage. The FHWA-NDOR Stewardship Agreement provides for a mix of project-level and program-level involvement.

To increase involvement and input in early project planning, FHWA participates in pre-concept field reviews for projects in which FHWA retains full oversight. This allows FHWA a better understanding of early conceptual project planning and design considerations, and to participate in that transition zone between the transportation planning process and the earliest stage of plan development to the final design of the project. The project approval activity chart at the end of this chapter identifies oversight responsibility.

b. Applicable Laws and Regulations

- Title 23 USC, Chapter 1, Subchapter I, Section 109 – Standards
- 23 CFR 620 Engineering
- 23 CFR 625 Design Standards for Highways
- 23 CFR 627 Value Engineering
- 23 CFR 630 Preconstruction Procedures (all Federal-aid projects)
- 23 CFR 635 Construction and Maintenance (Federal-aid projects on Federal-aid routes)
- 23 CFR 645 Utilities
- 23 CFR 470 Highway Systems
- 23 CFR 650 Bridges, Structures, and Hydraulics
- 23 CFR 652 Pedestrian and Bicycle Accommodations and Projects
- 23 CFR 655 Traffic Operations
- 23 CFR 710 Right-of-Way and Real Estate
- 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance

c. Program Approval Actions

- FHWA will review and approve NDOR Standard Plans for conformance with recognized national standards.
- FHWA will review and approve Nebraska Minimum Design Standards for conformance with recognized national standards.
- FHWA will review and approve NDOR Engineering and Design Related Service Contract Procedures Manual for conformance with Federal law, regulations and nationwide policies.
- NDOR will assure compliance with Federal and State approved design standards on all Federally funded projects and on all projects on the NHS.

d. Project Approval Actions (Full oversight projects)

- NDOR will submit design exceptions to FHWA for review and approval.
- NDOR will submit public interest letters for the use of proprietary products to FHWA for review and approval.
- As identified within the PS&E package, temporary construction Interstate access/Interchange modifications will be reviewed and approved concurrently with the FHWA PS&E review and approval.

e. Monitoring

- NDOR will provide FHWA copies of all completed Value Engineering Studies with recommendations. NDOR will assist in the collection and reporting of Value Engineering Efficiency data.
- Other facets of design, including cost and cost growth, may be monitored on a programmatic basis.
- The NDOR Roadway Design Manual will be furnished to FHWA for review and concurrence that it meets Federal standards.
- FHWA will monitor project design and will participate in plan-in-hand reviews on full oversight projects.

f. Business Standards

- NDOR will submit preliminary and limits-of-construction plans to FHWA for review and comment on full oversight projects.
- NDOR will invite FHWA on full oversight project plan field reviews.
- NDOR will invite FHWA to public hearing dry-runs, public meetings and other project meetings as appropriate on full oversight projects.
- FHWA will review and comment/approve design exceptions within 10 business days of request.
- FHWA will review and comment/approve changes to the Minimum Design Standards or Standard Plans within 22 business days of request.

g. Approved Procedures/Agreements/Manuals

- NDOR Minimum Design Standards
- NDOR Standard Plans

PROJECT ACTIVITY APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE	
Approval Action	Reference Document	Full Federal Oversight Projects	All other Federal aid projects
<i>Design standards and standard specifications, for applications to geometric and structural design</i>	23 CFR 625.1 & 2	FHWA	NDOR
<i>Design exceptions</i>	23 CFR 625.3(f)	FHWA	NDOR
<i>Value engineering</i>	23 CFR 627.5	NDOR	NDOR
<i>Monitoring Federal-aid highway design projects</i>	23 CFR 630.205	FHWA	NDOR
<i>Traffic phasing plans</i>	23 CFR 630.1002 23 CFR 655.601	FHWA	NDOR
<i>Interstate highway new, modified or temporary access</i>	23 CFR 470 23 CFR 710	FHWA	FHWA
<i>Material or product selection: proprietary products, recycled materials, public interest findings</i>	23 CFR 635.411	FHWA	NDOR
<i>Non-bridges hydraulic design, erosion and sediment control design</i>	23 CFR 650.115 23 CFR 650.211	FHWA	NDOR
<i>Pedestrian and bicycle accommodations and design</i>	23 CFR 652.13	FHWA	NDOR
<i>ADA criteria and design</i>	49 CFR 27	FHWA	NDOR

5. EMERGENCY RELIEF

a. Program Overview

Emergency Relief (ER) is a special program that uses non-formula funds for the repair or reconstruction of Federal-aid highways that have suffered serious damage as a result of (1) natural disasters or (2) catastrophic failures from an external cause. This program supplements the commitment of resources by States, their political subdivisions, or other Federal agencies to help pay for unusually high expenses resulting from extraordinary events.

ER funds are not intended to cover all damage repair costs nor interim emergency repair costs to restore the facility to a condition prior to the disaster. Disasters must be of a magnitude extraordinary enough to be considered for ER funding. To be considered extraordinary, the estimated Federal portion of the damage must meet a threshold of \$700,000. Individual sites must reach a threshold of \$5,000 in total cost to be eligible. This threshold is to distinguish a qualifying disaster site from maintenance.

See the attached flow chart for a graphic program overview.

b. Applicable Laws, Regulations, and Orders

- Title 23, Section 125
- 23 CFR 668

c. Program Approval Actions

- NDOR must request assistance from the FHWA Division under the ER program for each natural disaster or catastrophic event. A Letter of Intent to seek ER funds when there is eligible damage will initiate the process. Refer to the FHWA ER Manual for sequence of events.
- FHWA will acknowledge receipt of the request and provide instructions on how to proceed. Typically, the letter of acknowledgement establishes a beginning date of potential eligibility for immediate emergency repairs.
- Following a site-by-site inspection, the NDOR prepares a Damage Survey Summary Report, which is submitted to FHWA.
- FHWA will respond to the report with a Determination of ER Eligibility. The list of sites outlined in the report is required prior to authorization of permanent repairs.

d. Project Approval Actions

- FHWA's Acknowledgement Letter will establish a date of eligibility for those emergency repairs and protective measures that must be undertaken immediately. Contracts to do this type of emergency repair may be accomplished through abbreviated procedures, but need to include applicable Federal-aid requirements including proper documentation.
- FHWA's Determination of Eligibility letter will inform NDOR of which projects are to be considered full involvement by FHWA and which projects may proceed under delegated authority. Because of the nature of the ER program, the thresholds used for this purpose for regular Federal-Aid apportioned funds, may or may not be applicable for some sites.
- All ER projects falling outside a category where work needed immediately to protect the facility from further damage or keep the route open for the

safe flow of traffic (first response type work) will require environmental approval by FHWA. See Chapter 7, Environment.

e. Monitoring

- The FHWA will co-inspect with the NDOR damage sites during the development of the disaster estimate.
- FHWA will conduct final inspections of all ER projects that it determines to be full involvement.
- FHWA may conduct final inspection of ER projects.

f. Business Standards

- FHWA will respond to NDOR's Letter of Intent to seek ER funding within 3 working days.
- The NDOR is expected to complete a survey of the damage (Damage Survey Summary Report), including cost estimates within 4 to 6 weeks of the event. This time may vary depending on the area of impact of the disaster.
- FHWA will respond to NDOR requests for ER disaster eligibility supported by the Damage Survey Summary Report within 2 weeks with a Determination of Eligibility.

g. Approved Procedures/Agreements/Manuals

- FHWA Emergency Relief Manual (August 2003)

6. EMERGENCY/SECURITY

a. Program Overview

The purpose of this plan is to establish procedures to respond to national and local emergencies. These procedures are intended to address security, emergency preparedness, and response capability in the face of disaster and emergency situations.

One purpose of this program is to establish notification procedures to rapidly advise the Federal Highway Administrator, the Office of the Secretary of Transportation, the Office of Emergency Transportation, and the FHWA Regional Emergency Transportation Coordinators (RETCO's) of significant events affecting highway transportation, and to provide for follow-up reports, as appropriate.

The other purpose of this program is to share our policies and guidance and keep FHWA and NDOR at an acceptable level of readiness in the event of an emergency.

b. Applicable Laws, Regulations, and Orders

- Executive Order 12656
- FHWA Order 5181.1
- FHWA Order 1910.2C
- DOT Order 1900.9
- DOT Order 1910.8

c. Program Approval Actions

FHWA approval is not required. The Emergency/Security program is based on cooperation between FHWA and NDOR.

d. Project Approval Actions

The Emergency/Security program is not project related and is based on cooperation between FHWA and NDOR.

e. Monitoring

- FHWA relies on NDOR to report information regarding significant highway-related incidents. The incident types and reporting criteria are listed in FHWA Order 5181.1. These incidents should be reported to the FHWA at the earliest possible time. FHWA will maintain a list of contacts that are available during non-working hours. [See website for FHWA Order 5181.1.](#)

<http://www.fhwa.dot.gov/legsregs/directives/orders/51811.htm>

- FHWA will submit incident reports to the FHWA Emergency Coordinator based on the information supplied by the NDOR.

f. Business Standards

- FHWA will allow NDOR 3 weeks, from receipt date, to review FHWA's Continuity of Operations Plan (COOP).
- NDOR will allow FHWA 3 weeks, from receipt date, to review the NDOR Emergency Plan.
- Changes to the point of contact list will be shared between NDOR and FHWA in writing as soon as possible.

g. Approved Procedures/Agreements/Manuals

- FHWA COOP
- NDOR Emergency Plan

EMERGENCY/SECURITY ACTIVITY CHART

EMERGENCY/SECURITY ACTIVITIES		AGENCY RESPONSIBLE
Activity	Reference Document	
<i>Data collecting and reporting</i>	<i>FHWA Order 5181.1</i>	<i>NDOR</i>
<i>Submitting Alert Bulletins</i>	<i>FHWA Order 5181.1</i>	<i>FHWA</i>
<i>Maintain emergency contact list</i>	<i>FHWA Order 5181.1</i>	<i>FHWA</i>
<i>Emergency Communications</i>	<i>FHWA Order 1910.2C</i>	<i>FHWA</i>
<i>Maintain COOP</i>	<i>FHWA Order 1910.2C</i>	<i>FHWA</i>
<i>National Security Coordination</i>	<i>FHWA Order 1910.2C</i>	<i>FHWA</i>
<i>Federal Response Plan Participation</i>	<i>FHWA Order 1910.2C</i>	<i>FHWA</i>
<i>NDOR Emergency Plan</i>	<i>EO 12656</i>	<i>NDOR</i>
<i>Emergency Highway Traffic Regulation (EHTR) Plan</i>	<i>EO 12656</i>	<i>NDOR</i>

7. ENVIRONMENT

a. Program Overview

For projects using Federal Highway Trust funds, the FHWA is the lead Federal agency in integrating the full range of environmental requirements under a single, unified process that results in effective and sound transportation decisions.

Under current law and regulation, FHWA may delegate responsibility to the NDOR for activities to address the various environmental laws, executive orders, and regulations, and approval authority for certain categorical exclusions. All other environmental documents must be submitted for FHWA approval.

These documents include among others: draft and final Environmental Impact (EIS) Statements and a Record of Decision (ROD); draft and final Environmental Assessments (EA) and a Finding of No Significant Impact (FONSI); and Categorical Exclusion (CE) decisions for projects not specifically delegated to NDOR by agreement. An EIS is applicable to projects that significantly affect the environment. An EA is applicable to projects where the significance of the environmental impact is not clearly established. A CE is applicable to projects that do not have a significant environmental effect (excluded from the requirement to prepare an EIS or an EA).

b. Applicable Laws, Regulations, and Orders

- Title 1, Clean Air Act Amendments of 1990
- Section 404 of the Clean Water Act
- Section 7 of the Endangered Species Act
- 42 USC 4321-4347, National Environmental Policy Act as amended (P.L. 91-190)(P.L. 94-83)
- 49 USC 303 and 23 USC 138, Section 4(f) and 6(f)
- 23 USC 109(h), FHWA Environmental Guidelines
- 23 USC 128 and 23 CFR 140, Public Hearings/Public Involvement
- 23 CFR 771, 772, and 777, FHWA Environmental Regulations
- 36 CFR 800 Section 106 of the National Historic Preservation Act
- 40 CFR 1500, Council on Environmental Quality
- Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991
- Executive Order 11990, Protection of Wetlands
- Other Laws and Orders listed in the May 6, 2004, Federal Register by the Office of the Secretary of Transportation as applicable to Transportation Infrastructure Projects

c. Program Approval Actions

- NDOR has been delegated programmatic approval authority for specific categorical exclusions
- NDOR also acts as FHWA's non-Federal representative for informal Section 7 ESA consultation and Section 106 consultation
- NDOR public involvement procedures are to be approved by FHWA

d. Project Approval Actions

- As early as practicable in a project's development, the NDOR and FHWA will collaborate on the proper environmental (NEPA) classification for a project: Class I = EIS, Class II = CE, Class III = EA.
- For all projects that require an action be taken by FHWA, FHWA and NDOR will work together in the project pre-engineering phase to ensure compliance with NEPA and other applicable laws before an alternative is selected. The level of involvement is commensurate with the level of environmental impacts or project complexity.
- Projects that meet the approved Programmatic Categorical Exclusion agreement between FHWA and NDOR are documented in accordance with FHWA and NDOR agreements. Other Categorical Exclusions, EA, EIS, Programmatic Section 4(f) Evaluations and Section 4(f) Evaluations are prepared by NDOR and submitted to FHWA for review and approval.
- All documents requiring legal sufficiency review (Final EIS and Final Section 4(f) Evaluations) are sent to the Resource Center of the Office of Chief Counsel in Olympia Fields, Illinois, by the Division Office prior to approving these documents. The goal of the Resource Center Legal Staff is to provide legal sufficiency review comments to the Division Office within 30 days after receipt of the document. Environmental re-evaluations are conducted through informal consultation and formal written documentation, when appropriate.

e. Monitoring

- The FHWA will monitor compliance with environmental requirements through project-by-project approval actions. Additional monitoring may be done on a program-wide basis using process reviews.

f. Business Standards

See chart below.

Work Activity	NDOR Action	FHWA Action	Result
Programmatic Categorical Exclusion (PCE)	Prepare and Approve	Stewardship and Oversight	Approved CE
Threatened and Endangered Species Coordination with USFWS and Nebraska Game & Parks Commission	Prepare, review and transmit coordination documents to USFWS and NGP	Stewardship and Oversight	Coordination completed or mitigation measures implemented
Non-Programmatic CE	Prepare, approve and submit to FHWA for approval	Approve CE	Approved CE
NEPA/404 Merge letters for Purpose & Need; Alternative(s) Carried Forward; Selected Alternative(s); and Impact Minimization for EA and EISs	Prepare, approve and submit to FHWA	Send concurrence letters to NEPA merge agencies	Concurrence letters or comments by Merge agencies
Draft Environmental Assessment (EA)	Prepare, review and submit to FHWA for comment or approval	Review, comment or approve	Comments or approval
EA	Prepare, review and submit to FHWA for approval	Approve EA for circulation or return for revision	Approved EA or instructions for revision
Final EA and Finding of No Significant Impact (FONSI)	Prepare Final EA and FONSI and submit to FHWA	Prepare and Issue FONSI or notify NDOR of need for EIS	FONSI or consider NOI
Notice of Intent (NOI)	Prepare Draft Notice of Intent and forward to FHWA	Review and revise NOI and publish in the Federal Register	Published NOI in the Federal Register
Cooperating Agency Request Letters	None	Prepare and distribute request letters	Cooperating Agency identified
Preliminary Draft Environmental Impact Statement (DEIS)	Prepare and submit to FHWA for review	Review and comment	Written comments
DEIS	Prepare, approve, and submit to FHWA for approval	Approve DEIS or return for revision	DEIS approved for circulation and filed with EPA
Preliminary Final Environmental Impact Statement (FEIS)	Prepare and submit to FHWA for review	Review and comment	Written Comments
FEIS Legal Sufficiency	Prepare and submit to FHWA for review	Request Legal Sufficiency review	FEIS Legal Sufficiency
FEIS	Prepare, approve, and submit to FHWA for approval	Approve FEIS or return for revision	FEIS approved and filed with EPA
Record of Decision (ROD)	Prepare a Draft ROD and submit to FHWA	Review, Revise, and Issue ROD	ROD
Draft Programmatic Section 4(f) Evaluation	Prepare and submit for FHWA review	Review and comment	Comments
Programmatic Section 4(f) Evaluation	Prepare and submit for FHWA approval	Approve Programmatic Section 4(f) Evaluation or return for revision	Approved Section 4(f) Evaluation or instructions for revision
Draft Section 4(f) Evaluation	Prepare and submit to FHWA for review	Review and comment	Comments
Section 4(f) Legal Sufficiency	Prepare and submit to FHWA for review	Request Legal Sufficiency review	Section 4(f) Legal Sufficiency
Final Section 4(f) Evaluation	Prepare and submit for FHWA approval	Review and approve or return for revision	Final Section 4(f) Evaluation or instructions for revision
Section 106 Adverse Effect Determination	Prepare and submit to FHWA for Determination	Make determination and forward SHPO and notify the Advisory Council on Historic Preservation	Adverse Effect Determination
Section 106 Memorandum of Agreement	Negotiate Memorandum of Understanding (MOA), Acquire other approvals, approve, and submit the FHWA for approval	Sign MOA or return for revision	Approve Section 106 MOA and file with the Advisory Council
Draft written Re-evaluation of EA or FEIS/ROD	Prepare and submit to FHWA for review	Review and comment	Comments
Written Re-evaluation of EA or FEIS/ROD	Prepare and submit to FHWA for approval	Approve Re-evaluation or return for revision	Re-evaluation or instructions for revision

g. Approved Procedures/Agreements/Manuals

- NDOR Wetland Banking Procedures
- Programmatic Categorical Exclusions
- NEPA/404 Merge Agreement
- MOU on 106 Compliance
- Historic Bridge Programmatic Agreement

8. FINANCIAL MANAGEMENT

a. Program Overview

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. NDOR has assumed the day-to-day process of managing and approving the majority of projects directly.

NDOR recognizes that the accuracy and propriety of all Nebraska Federal-aid claims are its primary responsibility whether the primary cost document originates within NDOR or is received from a third party. This responsibility is fulfilled by NDOR 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 NDOR 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 NDOR, to request corrective actions as necessary and report annually on the effectiveness of management controls.

b. Applicable Laws, Regulations, Circulars and Orders

Federal

- Legislative – Public Laws
 - 109-59 - SAFETEA-LU
 - 101-453 – Cash Management Improvement Act of 1990
 - 101-576 - Chief Financial Officer Act of 1990
 - 97-225 - Federal Managers Financial Integrity Act of 1992
 - 23 USC
- Executive Agency
 - 23 CFR
 - 49 CFR Part 18 – USDOT Common Rule Application
 - OMB Circular A-133 - Single Audit Act of 1984
 - OMB Circular A-87 - Cost Principles for State & Local Governments
 - FHWA Order 4560.1 - Financial Integrity Review and Evaluation (FIRE)

State

- State of Nebraska Statutes - Chapters 39 & 81
- NDOR Rules, Regulations and Procedures

Optional Guidance

- 48 CFR – Federal Acquisition Regulation System (FARS)

c. Program Approval Actions

- FHWA has and will approve the accounting methods and process used to develop the payroll additive rates and indirect cost rates. At this time NDOR, has opted not to develop an indirect cost plan and, therefore, will not seek reimbursement for indirect costs.
- FHWA will approve the resolution of OIG and State audit findings.
- FHWA will approve the Federal-aid Current Billing.

d. Project Approval Actions

- NDOR will initiate a project-specific obligation or Advanced Construction (AC) request in FMIS. Prior to initiating a request NDOR will ensure:
 - Plans, Specifications and Estimates or other establishing documentation that satisfy State and Federal-aid requirements have been reviewed and approved.
 - Any matching State, local or other funds required will be in place prior to obligation and will be verified and approved by NDOR.
 - The project is ready and will proceed, within a reasonable time frame, upon approval by FHWA.
 - NDOR will develop and implement written processes and procedures, covering and integrating all NDOR areas involved in projects that will use Federal-aid funds.
- FHWA Financial Area will review and recommend approval of new projects and project changes in FMIS and forward to the appropriate Division Staff area for approval.
- FHWA will verify and notate Project Completion (DR91) documents received from NDOR in FMIS.

e. Monitoring

In accordance with FHWA Order 4560.1 (FIRE) FHWA will monitor Federal-aid through the following annual reviews:

- Grant Financial Management Process
 - Determined through Division Risk Assessment
 - If review has no material findings will be excluded from following years
 - Risk Assessment
- Federal-Aid Billing Transactions
 - Review period - April 1 previous year through March 31 year
 - Initiate April 1 of current year
 - Field work scheduled during April of current year
 - Report draft to NDOR for comment early May of current year
- Inactive Projects
 - Is ongoing throughout the year
 - Greater than \$500K – FMIS Q24 report
 - Greater than \$50k – FMIS Q16 report
- Single Audit Reports – Grantee and Sub-Grantee
 - Should be submitted to Federal Audit Clearing House by March 31
 - Grantee – FHWA review
 - Sub-Grantee – NDOR review

FHWA will verify that internal and financial controls are in effect and followed through periodic contacts with NDOR personnel and reviews in accordance with FIRE. Reviews may encompass both NDOR 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 Nebraska 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.

f. Business Standards

WORK ACTIVITY	NDOR ACTION	FHWA ACTION	REMARKS
Current Billing	Submit electronically as necessary and request FHWA approval via email or telephone	Act Upon within 24 hours of notification	Source documentation will be randomly sampled and reviewed by FHWA as part of the annual Transactions Billing Review
SIB Annual Report	Prepare annually within 90 days from the end of the Federal FY ending September 30th	Review and Forward to Finance Office in Washington, DC	
Inactive Obligations	Respond to any requests from FHWA on inactive projects and submit substantive justification for the project(s) to remain open or de-obligate project(s) within 10 working days	Review FMIS Q24 report monthly and FMIS Q16 reports quarterly and request NDOR provide substantive justification for any projects listed	The intent is to maximize the effectiveness of Federal-aid funding usage
NDOR Single Audit	Ensure audit is completed annually by the APA (or external auditor if applicable) as required and copies of audit report is submitted to Federal Audit Clearing House by March 31 st	Review, identify and work with NDOR to resolve findings, follow up on resolution and issue a management decision	In years that NDOR is sampled APA (or external auditor if appropriate) work papers will be reviewed by FHWA
NDOR Sub-Grantee Single Audits	Request from Sub-Grantees annually, review reports work with Sub-Grantees to resolve findings and submit summary listing to FHWA	Review annually for compliance and provide assistance to NDOR Audit Section personnel as requested	
Project Authorizations/Agreements, Modifications and Closeout	Prepare and submit by COB on Wednesday each week	Review and if appropriate, approve by COB the following Tuesday	
Monthly Financial Report	Prepare and submit	Review and monitor	
Consultant Audits	Annually provide a listing of all Consultant Contracts completed notating those for which post award audits were completed	Review listing and select a sample periodically to review for compliance.	Director of Office of Program Admin Dwight Horne's December 12, 2005 memorandum USC 112(b)(2)(B) 23 CFR 172.1 & 172.7
Project Financial Plans	Develop and submit a financial plan for each project greater than \$500 million. Develop and maintain a plan for each project greater than \$100 million and less than \$500 million. Plans for projects greater than \$100 million and less than \$500 million do not require FHWA approval.	Review and approve financial plans for projects greater than \$500 million. Review plans for projects greater than \$100 million and less than \$500 million that may be required as part of Stewardship and Oversight responsibilities.	Associate Administrator King Gee 12/8/05 memorandum

g. Approved Procedures/Agreements/Manuals

- Payroll Additive Rate Methodology – January 2005
- Federal-aid Policy Guide (FAPG) - See website for this guidance.
<http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm>
- FMIS 4.0 Users Manual
- NDOR Accounting Manual

- Government Auditing Standards (Yellow Book)

9. INTELLIGENT TRANSPORTATION SYSTEMS (ITS)

a. Program Overview

The goal of the ITS program in Nebraska is to improve transportation safety, efficiency and security. As the lead State agency for this program, NDOR works cooperatively with the FHWA in developing ITS initiatives.

The overall ITS program is guided by NDOR's multi-disciplinary ITS Policy and Program Team. FHWA is represented on the team.

Recent ITS program achievements have included the completion of the statewide and regional ITS architectures. Ongoing efforts include the deployment of dynamic message signs and cameras, and the development of District Operations Centers (DOC). Research and testing of ITS devices is also being pursued.

NDOR and FHWA also coordinate with the Omaha-Council Bluffs and Lincoln (Southeast Nebraska) Metropolitan Planning Organizations (MPO) to promote ITS planning, regional architecture use, and deployment at the regional level. ITS issues for a third MPO, which includes South Sioux City, Nebraska, are primarily coordinated in Iowa.

Current priorities include ensuring the use and maintenance of the statewide and regional ITS architectures, use of a systems engineering approach during project designs, and use of ITS standards.

b. Applicable Laws, Regulations, and Procedures

- 23 United States Code (USC) 101, 106, 109, 133, 315 and 508
- 23 Code of Federal Regulations (CFR) Part 940

c. Program Approval Actions

The statewide and regional ITS architectures need to be updated as plans and priorities change. Procedures for maintenance are outlined in the ITS architecture documents.

NDOR, in consultation with FHWA, is responsible for maintaining the statewide ITS architecture. Responsibility for updating the regional ITS architectures rests with the respective MPO's. However, NDOR must ensure that the statewide and regional ITS architectures remain consistent with each other. FHWA will provide guidance and technical assistance.

d. Project Approval Actions

- NDOR will prepare ITS Architecture Conformance Statements for State ITS projects or State projects with ITS elements. NDOR will review the same for such projects from MPO's and local agencies.
- In consultation with NDOR, FHWA will retain project approval responsibilities on ITS projects incorporating unusual designs or unique features.
- All ITS projects will be developed using a systems engineering approach. This will be documented in the ITS Architecture Conformance Statements.
- All ITS projects will use applicable ITS standards. This will be documented in the ITS Architecture Conformance Statements.
- NDOR will continue to submit congressionally designated statewide ITS deployment projects to FHWA for approval. Such projects designated for

local or other agencies will need NDOR approval as well as FHWA approval.

- NDOR and FHWA will work together in the development of ITS Operations Support Program (OSP) projects to support key national initiatives.

e. Monitoring

- FHWA may conduct inspections on a statewide sampling basis through annual reviews.
- FHWA will provide ongoing technical assistance on the use of regional ITS architectures, systems engineering analysis, and ITS standards.
- NDOR and FHWA will jointly participate in Nebraska's ITS Policy and Program Team Meetings and periodic ITS Coordination Meetings.

f. Business Standards

- FHWA and NDOR will follow prescribed processing requirements for congressionally designated projects as defined in the special instructions for such projects.
- NDOR will complete quarterly progress reports of ITS Deployment Program projects.
- NDOR will prepare local evaluation reports through the ITS Deployment Program self-evaluation progress system accessible at <http://www.itsevaluation.net>.
- NDOR will prepare final reports on completed ITS Deployment Program and OSP projects.

g. Approved Procedures/Agreements/Manuals

- Statewide and Regional ITS Architectures
- Systems Engineering Guidelines
- ITS Standards

10. LOCAL GOVERNMENTS

a. Program Overview

Since Title 23 U.S.C. does not recognize local entities as direct recipients of Federal-aid funds, local agencies cannot take the place of the NDOR in the administration of the Federal-aid Highway Program. Although the NDOR cannot delegate responsibility, activities can be delegated and the local entities held accountable to the NDOR. In those cases where activities are delegated to cities or counties, the NDOR will review and assure that all requirements of State and Federal laws, regulations, and policy have been met. The FHWA may work in partnership with the NDOR on these reviews and assurance actions.

NDOR is permitted to delegate certain activities, under its supervision, to local agencies (cities, counties, private organizations, or other State agencies) under Federal Regulation 23 CFR 1.11 and 635.105. Most transportation projects under the jurisdiction of local agencies are projects off the NHS. Projects on the NHS will follow the processes and procedures identified in the Stewardship Plan for NHS projects. Non-NHS projects will be designed, constructed, operated, and maintained in accordance with applicable laws, regulations, directives and standards.

By written agreement with the local agency, NDOR may delegate all or some project activities to local agencies, whether or not Federal-aid is used for the activity. Those activities include, but are not limited to:

- Environmental studies
- Procurement of consultant services
- Preliminary design
- Surveying
- Right-of-way acquisition
- Work by local forces or utility companies
- Preparation of plans, specifications and estimates
- Preparation of bid proposal package
- Advertisement for letting
- Contract administration
- Construction inspection

NDOR is responsible under Federal law and regulations for all delegated activities. NDOR 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.

The following activities will not be delegated to local agencies:

- NEPA review and approval
- Design exception approval
- Sole source justification approval
- Right-of-way certification
- Plan, specification, and estimate approval
- DBE Goals
- Labor compliance enforcement
- Final inspection and acceptance

b. Applicable Laws, Regulations, and Orders

- 23 U.S.C. 106(c)(2) & 109(o)
- 23 CFR 1.11
- 23 CFR 635

c. Program Approval Actions

- NDOR shall develop a Program Administration Manual that encompasses the requirements of local agencies to utilize Federal-aid funds on local projects. For example, this manual will include chapters describing the review and approval process of PS&E, consultant procurement, contract advertisement, contract letting, contract awards, design standards, construction inspection, NEPA process, MUTCD implementation, and other program elements that are necessary in administering the Federal-aid Highway Program to local agencies. FHWA will review and concur in/approve NDOR Program Administration Manual for local agencies.

d. Project Approval Action

NDOR shall assume the responsibility and represent the FHWA in behalf of administering the Federal-aid system to local governments. The following is a list of some specific project-related actions that shall be performed on projects that use Federal-aid; however, this list is not a comprehensive list and is subject to change due to Federal law, regulation, and policy modification.

- Environmental clearance must be obtained from FHWA or acquired through NDOR as been delegated prior to final design or right-of-way action.
- NDOR shall review and approve plans, specifications, and estimates of projects prior to construction authorization for compliance with applicable State and Federal law, regulations, and policy.
- NDOR shall concur on award of projects let and awarded by local agencies.
- NDOR shall review and approve design exceptions and sole sourcing requests by local agencies.
- NDOR shall review and approve conflict of interest disclosures for consultant selections.
- NDOR shall oversee the construction of projects administered by the local agency or their representative. This includes but is not limited to the following actions:
 - Review and approval of billings
 - Review and approval of Change Orders
 - Construction inspection and final project acceptance

e. Monitoring

- FHWA shall review and concur with NDOR Procedures Manual for the administration of the Federal-aid Program to local agencies (i.e. Guidelines for Transportation Program funds for Eligible Local Projects).
- NDOR shall, within two years of this agreement, write a procedures manual for the administration of the Federal-aid Program for County Roads and 2nd Class Cities.
- NDOR shall review and concur with procedures manuals owned and maintained by local agencies that administer Federal-aid projects within their local agency jurisdiction.
- FHWA may request data at any time to support the administration of the Federal-aid Program.
- FHWA and NDOR will perform process reviews to improve the efficiency and accountability of the program.

f. Business Standards

- FHWA will review and concur with NDOR's local government manuals within 22 business days of receipt.
- NDOR will involve FHWA in decisions involving special and unusual circumstances at the earliest reasonable time.
- See other applicable chapters for action specific details (i.e. environmental, design, construction and contract administration, right-of-way, planning).

g. Approved Procedures/Agreements/Manual

- NOR Standard Specifications for Highway Construction
- NDOR Standard Plans
- NDOR Materials Sampling and Testing Guide

11. MAINTENANCE / PREVENTIVE MAINTENANCE

a. Program Overview

Title 23 of the United State Code Sec 101 (a) (14) defines maintenance as, "...the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway." Title 23 further requires the NDOR to maintain each project constructed with Federal-aid funds until such time that it no longer constitutes a part of the Federal-aid System.

The responsibility imposed upon NDOR, pursuant to 23 U.S.C. 116, for the maintenance of projects shall be carried out in accordance with policies and procedures issued by the FHWA Administrator. The NDOR may provide for such maintenance by formal agreement with any adequately equipped county, municipality or other governmental instrumentality, but such an agreement shall not relieve NDOR of its responsibility for such maintenance.

Activities that are sometimes considered maintenance are sealing pavement joints, spot-repair of bridge coating systems, replacement of damaged highway signs, pavement patching, seismic retrofit, and scour protection. While these type activities were at one time universally considered ineligible for Federal-aid, changes in highway legislation since 1991 have made them eligible for Federal-aid under certain conditions as preventive maintenance activities.

b. Applicable Laws and Regulations

- 23 USC 116 & 119
- 23 CFR 1.27 & 140
- MUTCD

c. Project Approval Actions

FHWA approval is not required on a project level for maintenance. It shall be the duty of the NDOR to maintain, or cause to be maintained, any project constructed under the provisions of Title 23 USC Sec. 116. If the NDOR is without legal authority to maintain a project constructed on the Federal-aid System secondary or within a municipality, the NDOR shall enter into a formal agreement for its maintenance with the appropriate officials of the county or municipality in which such project is located.

d. Monitoring

As a condition of receipt of Federal funds, the NDOR is required to maintain or cause to be maintained the Federally funded roadways and associated appurtenances in the State. FHWA will review roadway maintenance through process reviews and program reviews as deemed necessary. Any specific instances of inadequate maintenance or concerns regarding NDOR's overall maintenance / preventive program will be brought to the attention of the NDOR by FHWA.

e. Business Standards

The level of review will be determined by the FHWA risk assessment process on a yearly basis; i.e., more extensive and detailed reviews are triggered by an indication of increased risk.

12. PAVEMENT AND MATERIALS

a. Program Overview

Pavement: 23 CFR 626 requires that pavements be designed in accordance with current and predicted traffic needs in a safe, durable and cost effective manner. The regulations do not specify the procedures to be followed to meet this requirement. NDOR is expected to use a design procedure that is appropriate for their conditions.

Materials: Subsection (a) of 23 U.S.C. 109 requires that the FHWA ensure that the plans and specifications for all proposed Federal-aid highway projects provide for facilities that will adequately serve the existing and planned future traffic in a manner that is conducive to safety, durability, and economy of maintenance. To fulfill this requirement for all Federal-aid highway projects, the FHWA Nebraska Division prime objectives are to:

- Maintain a close working relationship with NDOR materials and construction staff.
- Promote improvements when new approaches or technologies are developed and where deficiencies are identified.
- Ensure that the materials incorporated in the construction work and the construction operations controlled by sampling and testing are in conformity with the approved plans and specifications.

Furthermore, the FHWA is required, by means of an approved quality assurance program, to assure the quality of materials incorporated into Federal-aid highway projects on the National Highway System (NHS). For Federal-aid projects on the NHS, the primary objectives are to:

- Assure that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing are in conformity with the approved plans and specifications.
- Provide oversight of construction materials and compliance with Federal requirements on a statewide basis.
- Assure adequate and qualified staff to maintain NDOR's quality assurance responsibility as part of its Quality Control/Quality Assurance (QC/QA) program.

b. Applicable Laws, Regulations, and Orders

- Title 23 USC, 106, 109, 114
- 23 CFR 625.4 Standards, Policies, and Standard Specifications
- 23 CFR 626 Pavement Policy
- 23 CFR 635 Construction and Maintenance
- 23 CFR 637 B Quality Assurance Procedures for Construction

c. Program Approval Actions

- The NDOR Standard Specifications for Highway Construction and supplements thereto are reviewed and approved by FHWA on a program basis to facilitate project approvals.
- Special Provisions are reviewed and approved by FHWA as a component of full oversight PS&E review and approval.
- Each State must develop a Quality Assurance Program that will assure that materials and workmanship incorporated into each Federal-aid

highway construction project on the NHS are in conformity with the requirements of the approved plans and specifications. The program must be approved by FHWA. The NDOR's Quality Assurance Program was formally approved 01/30/2003.

- FHWA will review and approve the NDOR's Quality Assurance Manual and Program and associated modifications.

d. Monitoring

- FHWA will monitor NDOR's Quality Assurance Program through construction inspections on NHS full oversight (non-exempt) projects.
- FHWA will monitor the acceptance and testing of materials in accordance with NDOR's Standard Specifications for Road and Bridge Construction and the NDOR Field Sampling and Testing Manual on all Federal-aid projects through process reviews.

e. Business Standards

- NDOR will provide 30 days for FHWA to review and approve the NDOR Quality Assurance Manual and associated manual.
- See Quality Assurance Program Summary Table for more business standard detail.

f. Approved Procedures/Agreements/Manuals

- NDOR Standard Specifications for Road and Bridge Construction
- NDOR Field Sampling and Testing Manual
- AASHTO Pavement Design Guide

**Quality Assurance Program
Summary Table**

Activity/Item	All NHS Exemption Not Applicable		Non-NHS	
	NDOR Action	FHWA Action	NDOR Action	FHWA Action
Quality Assurance Program Materials test methods and updates, Field Sampling and Testing Manual	Maintain (on going)	Review and Approve	NDOR prepares and approves	<i>No action</i>
AASHTO accreditation inspection reports, use of outside testing facility	Maintain accreditation, submit inspection report, approve outside testing facility	Review and concur	Required by NDOR	<i>No action</i>

13. PLANNING

a. Program Overview

1. Work Programs

Title 23 CFR, Part 420, Planning and Research Program Administration contains the policies and procedures for administering activities and studies undertaken by States and Metropolitan Planning Organizations (MPOs) funded through their respective Work Program or as separate projects not included in a Work Program.

a. Statewide Planning and Research (SPR) Work Program

The NDOR prepares the Work Program annually. FHWA provides pre-program guidance and draft review comments, if any, approves the Work Program, and authorizes SPR funds. FHWA monitors the work throughout the year using day-to-day involvement as appropriate. NDOR submits monthly Expenditure Reports and an annual Accomplishments Report (as a part of the next Work Program) to FHWA.

b. MPO's Unified Planning Work Program (UPWP)

The UPWP is prepared annually by each MPO and reviewed by NDOR, FHWA and the Federal Transit Administration (FTA). FHWA and FTA comments are provided to the MPO jointly, or may be provided individually through the MPO's Technical Advisory Committee review process. FHWA authorizes Urban Planning funds upon joint FHWA/FTA approval of the UPWP's. These funds are traditionally referred to as "PL" funds. NDOR and FHWA monitor the Work Program through periodic status and expenditure reports, and by participation in MPO meetings.

2. Statewide Transportation Planning

Title 23 CFR, Part 450, Subpart B, addresses the requirements of the statewide transportation planning process.

a. Statewide Long Range Transportation Planning

NDOR develops a Statewide Long Range Transportation Plan which considers all modes of transportation. The plan covers at least a 20-year planning horizon (20 years into the future), considers the eight planning factors as outlined in the 23 USC 134, and provides an opportunity for public comment. These factors are outlined below:

- 1) Support the economic vitality of the metropolitan area (or State), especially by enabling global competitiveness, productivity and efficiency;
- 2) Increase the safety of the transportation system for motorized and non-motorized users;
- 3) Increase the security of the transportation system for motorized and non-motorized users;
- 4) Increase the accessibility and mobility options available to people and for freight;
- 5) Protect and enhance the environment, promote energy conservation, and improve quality of life;

- 6) Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
 - 7) Promote efficient system management and operation; and
 - 8) Emphasize the preservation of the existing transportation system.
- b. Statewide Transportation Improvement Program (STIP)

NDOR develops a STIP containing all projects to be funded by FHWA and FTA for a four (4) year period. The STIP is updated annually by NDOR and submitted to FHWA and FTA for approval every year. Projects contained in the STIP must be consistent with the Statewide Transportation Plan and the MPO TIPs, and must include public involvement and provide interested parties a reasonable opportunity to comment on the proposed program. Along with the STIP, NDOR will certify that the projects in the STIP are based on a planning process that meets the requirements of 23 U.S.C. 134 and 135, 49 U.S.C. 5303, and 23 CFR 450.

3. Metropolitan Transportation Planning

- a. MPO Long Range Transportation Plan
Title 23, CFR Part 450, Subpart C, addresses metropolitan planning requirements. Each MPO must update their Long Range Transportation Plan every 5 years which:
- 1) Covers at least a 20-year planning horizon.
 - 2) Includes long range and short range strategies which lead to an integrated intermodal plan.
 - 3) Includes a financial plan which compares estimated revenues with costs of construction, maintenance, capital purchases and operations.
 - 4) Considers the eight planning factors.
 - 5) Provide an opportunity for public comment.
- b. MPO Transportation Improvement Program (TIP)
Each MPO, in cooperation with the State and its public transit operators will prepare and update a TIP each year covering at least three (3) years currently (four years after July 2007). The TIP shall include all projects requiring FHWA and FTA approval; include a priority list of projects to be carried out in the first three/four (3/4) years; identify each project or phase; and be financially constrained. The TIP development process must provide a reasonable opportunity for public comment. Highway and transit projects must be selected in accordance with the specific funding programs.

4. Traffic Monitoring

Title 23 CFR, Part 500 provides the regulatory guidance for the development and operation of a traffic monitoring system for highways including traffic counting, vehicle classification, and weigh-in-motion programs. The system is guided by the FHWA "Traffic Monitoring Guide," "AASHTO Guidelines for Traffic Data Programs" and the "Highway Performance Monitoring System Field Manual."

5. Highway Performance Monitoring System (HPMS)

Title 23 CFR, Part 420 addresses the policy for States to provide data that support FHWA's responsibilities to the Congress and to the public. The Highway Performance Monitoring System Field Manual provides instructions for collecting and reporting quality and timely data in the condition and performance of the highways and streets.

6. Highway Statistics Reports (Submitted by NDOR Controller Division)

Title 23 CFR, Part 420 addresses the policy for States to provide data that supports FHWA's responsibilities to the Congress and to the public. The "Guide to Reporting Highway Statistics" Manual provides instructions for compiling and reporting: motor fuel consumption, motor fuel tax revenues, motor vehicle registrations and fees, driver's licenses and fees, highway income and expenditures, debt service, and highway capital outlay and maintenance expenditures which traditionally is referred to as the "500 Series Reports."

7. Certification of Public Road Mileage

Title 23 CFR, Part 460 addresses the policies and procedures for identifying and reporting public road mileage for utilization in the statutory formula for the apportionment of Highway Safety funds under 23 U.S.C. 402(c). By June 1 of each year, the Governor certifies the public road mileage in the State as of the end of the previous calendar year. In Nebraska, the NDOR Director has been selected as the Governor's designee.

b. Applicable Laws, Regulations, and Procedures

- Title 23 CFR, Part 420
- Title 23 CFR, Part 450, Subpart B
- Title 23 CFR Part 450, Subpart C
- Title 23 CFR, Part 460
- Title 23 CFR, Part 470
- Title 23 CFR, Part 500
- Title 23 CFR, Part 669

c. Program Approval Actions

FHWA approval is on a yearly basis for all the programs listed above and where noted on the following chart. As a condition for receipt of Federal funds, NDOR agrees to develop plans and work programs for statewide, metropolitan, and other transportation planning activities. FHWA will review these plans and programs to assure they meet applicable laws and regulations.

Programs requiring oversight include:

1. State and metropolitan planning sub-programs under the State Planning and Research Program (SPR).
2. Statewide Transportation Planning Process, including the STIP.
3. Metropolitan Planning Organization (MPO) Transportation Planning Process.

NDOR must also submit other planning related reports to FHWA. The reports include information on public road mileage for apportionment of Highway Safety funds; information collected from the Highway Performance Monitoring System; and information relating to the identification of Federal-aid highways, the functional classification of roads and streets, the designation of urban area

boundaries, and the designation of routes on the Federal-aid Highway Systems.

FHWA will serve on the MPO's Technical Advisory Committees as an advisor and not as a voting member. Through FHWA/NDOR's involvement with the MPOs, both agencies will continue to stress the importance of the public involvement process and will assist in applying appropriate levels of environmental consideration during the planning process to result in a more feasible, efficient, and acceptable transportation planning product.

d. Project Approval Action

Projects not originally included in an approved work program or TIP/STIP will require individual project approval from FHWA. An amendment to the appropriate planning document must also be processed.

e. Monitoring

NDOR will monitor all SPR activities, including those of sub-recipients (local governments including county, municipalities, etc.) to assure the work is being managed and performed satisfactorily and that time schedules are being met. NDOR will submit a report annually to FHWA documenting the results of its monitoring process.

NDOR will periodically review its Long Range Transportation Plan to assure it still meets the goals and objectives in the plan. If necessary, NDOR will update or rewrite the Long Range Transportation Plan.

FHWA and NDOR periodically monitor MPO plans and activities to ensure they are in conformance with all applicable Federal and State guidelines.

f. Business Standards

NDOR will provide FHWA at least 45 days to review and comment on the draft and final Statewide Transportation Improvement Program (STIP), Metropolitan TIP's, State Planning and Research (SPR) Work Program, the MPO UPWP's and the Statewide and Metropolitan Long Range Transportation Plans.

NDOR will involve FHWA in decisions involving special and unusual circumstances at the earliest reasonable time to ensure thorough and appropriate decisions can be made collectively.

g. Approved Procedures/Agreements/Manual

At least every three years (four years after July 2007), NDOR is required to submit to FHWA and FTA, for joint approval, a Statewide Transportation Improvement Program (STIP). NDOR has decided to update the STIP annually, as stated in Section 2.b, and submit for approval to FHWA and FTA.

NDOR and the MPOs shall annually certify to FHWA that the planning process is addressing the major issues facing the area and is being conducted in accordance with all applicable requirements.

PROGRAM APPROVAL CHART

PROGRAM ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	Ref. Source	Review	Approve	Remarks
20-YR Statewide Transportation Plan	23 CFR 450.214	FHWA	NDOR	FHWA reviews and comments on LRTP but no official approval action is taken.
Statewide Transportation Improvement Prog. (STIP)	23 CFR 450.216	FHWA	FHWA/FTA	Minimum 4 year period; update required every 4 years, but NDOR traditionally updates annually.
State Planning & Research (SPR) Work Program	23 CFR 420.11	FHWA	FHWA	NDOR annually develops work program.
Highway Performance Monitoring System (HPMS) Annual Data Submittal from State and Field Verification Review and Report	23 U.S.C. 307 (h)	FHWA	None	FHWA HQ required Field Verification review to be conducted by the Division Office. Based on this review, the Division Office recommends the acceptance of the HPMS data for funding apportionment and allocation purposes.
Certification of Public Road Mileage	23 CFR 460.3	FHWA	None	Due by June 1 st of each year.
Heavy Vehicle Use Tax Annual Certification by State & Triennial Division Office Review	23 CFR 669.21	FHWA	None	State Department of Motor Vehicles required to certify that HVUT is being collected. FHWA HQ recommends a review be completed every 3 years.
Highway Statistics: 500 Series Reports	23 CFR 420.105	FHWA	None	NDOR is required to submit several Highway Statistics forms annually.
Traffic volume Monthly Automated Traffic Recorder Data	23 CFR 1.5	FHWA	None	NDOR submits required ATR data reports directly to FHWA HQ.
Annual Truck Weight Characteristics Data	23 CFR 1.5	FHWA	None	NDOR annually submits required data directly to FHWA HQ.
Metropolitan 20-Year Long Range Transportation Plan (LRTP) (Omaha, Lincoln, & South Sioux City)	23 CFR 450.322	FHWA & NDOR	MPO	FHWA & NDOR reviews and comments on Metropolitan LRTP's but no official approval action is taken by FHWA.
Metropolitan Transportation Improvement Program (TIP) (Omaha, Lincoln & South Sioux City)	23 CFR 450.324	FHWA & NDOR	Governor or Designee	Minimum 4 year period; updated at least every 4 years. FHWA reviews and comments on TIP's. All TIP's are developed by the MPO and included in the STIP by reference which is approved by FHWA.
Metropolitan Unified Planning Work Program (Omaha, Lincoln & South Sioux City)	23 CFR 450.314	FHWA & NDOR	FHWA/NDOR	MPO's annually develop and submit work program. FHWA & NDOR review and comment on UPWP's from each MPO.
Transportation Planning Process Reviews in MPO's less than 200,000.	Not required	FHWA & NDOR	None	Planning process reviews in South Sioux City is completed on 3-year cycle.
Vehicle (Truck) Size and Weight Enforcement Certification	23 CFR Part 657	FHWA	FHWA	State is responsible for enforcing vehicle size and weight laws. State is required to develop a plan for maintenance of an effective enforcement process. Each State plan is approved by FHWA and will then serve as a basis by which the annual State certification of enforcement will be judged. In Nebraska, this Certification is completed by the Carrier Enforcement Division of the State Patrol.

14. RESEARCH, DEVELOPMENT AND TECHNOLOGY

a. Program Overview

The purpose of the program is to implement the provisions of 23 U.S.C. 504 and 505 for research, development, technology transfer, programs, and studies undertaken with FHWA Planning and Research funds.

1. State Planning and Research (SPR) Program

The main requirements under 23 CFR 420 are to create a SPR Work Program, monitor planning and research activities, submit performance and expenditure reports, conduct peer exchanges, develop and maintain an FHWA approved research and development management process, and maintain program certification.

The SPR Work Program consists of two parts: (1) Part I, Planning, which is prepared by NDOR's Planning and Project Development Division and (2) Part II, Research, which is prepared by NDOR's Materials and Research Division. The NDOR is responsible for preparation and overall coordination of the Work Program in accordance with 23 CFR 420. The SPR Program operates on a calendar year basis with program approval every 2 years. Amendments and revisions are submitted annually for approval.

2. Local Technical Assistance Program (LTAP)

LTAP was created to provide educational training, technical assistance and related support services for rural, small urban, tribal governments, consultants and contractors that do work for local agencies on roads, bridges, and public transportation. The LTAP is regulated under 23 U.S.C. 504(b). The Nebraska University, Civil Engineering Department was established as the Nebraska LTAP Center in 1984.

The LTAP Center Advisory Committee determines the direction for the Nebraska LTAP. The Committee, consisting of Federal, State and local government officials and other interested representatives, typically meets once a year. The Advisory Committee reviews program progress and provides direction on program needs and strategies.

Nebraska University coordinates with NDOR and the FHWA to draft an LTAP Work Plan based on a calendar year. NDOR and FHWA review a draft LTAP Work Plan. Comments from both parties are incorporated into the draft and the final version is approved by FHWA.

b. Applicable Laws, Regulations, and Procedures

- 23 USC applies to all research and technology transfer activities
- Title 23, CFR, Part 420 and 450 apply to State Planning and Research Program Administration
- NDOR, State Research, Development and Technology Transfer Program Manual

c. Program Approval Actions

NDOR will administer the research program in accordance with the NDOR State Research, Development and Technology Transfer Program Manual, which has been reviewed and approved by the Division Office. Significant changes to this manual shall be submitted to the FHWA Division Office for approval.

The research work program is submitted to the Division Office as Part II of the NDOR's Planning and Research Work Program. Currently, the Division Office approves the research work program on an annual basis. The NDOR's research work program shall meet the requirements of 23 CFR, Part 420.209(a)-(c).

d. Project Approval Action

NDOR will identify and implement research projects that address high priority transportation issues. An interactive process involving NDOR management and Research Advisory Committee (RAC) members as described in the NDOR State Research, Development, and Technology Transfer Program Manual shall be used for the identification and prioritization of projects to be included in the research work program. The NDOR shall determine the funding level at which the identified and prioritized projects will be supported with FHWA research funds.

Other types of projects, including Experimental Features, Demonstration Projects, Application Projects, Test and Evaluation Projects and Special Projects, will be approved by the FHWA Division Office.

The LTAP project is funded annually on the basis of an annual work plan approved by the Division Office based on funds allocated to the NDOR.

e. Monitoring

The NDOR will submit, annually, to the FHWA Division Office performance and expenditure reports that meet the requirements of 23 CFR, Part 420.117, (a)-(c).

The NDOR will host a peer exchange and report their findings to the FHWA Division Office in accordance with 23 CFR, Part 420.209. The interval between peer reviews will not exceed ten years.

FHWA participates in the NDOR RAC process which reviews research program progress and provides recommendations on program priorities and projects.

FHWA provides oversight to the LTAP project through review of the annual work plan and work plan amendments and participation in the LTAP Advisory Committee and LTAP peer exchanges.

f. Business Standards

NDOR will provide FHWA at least 30 days to review and comment on the draft and final State Planning and Research (SPR) Work Program.

NDOR will involve FHWA in decisions involving special and unusual circumstances at the earliest reasonable time to ensure thorough and appropriate decisions can be made collectively.

NDOR, in cooperation with the LTAP Center, will provide FHWA at least 30 days to review and approve the LTAP annual work plan.

g. Approved Procedures/Agreements/Manual

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

The NDOR State Research, Development, and Technology Transfer Program Manual was developed and approved in July, 2001. The manual serves as guidance for the program.

PROGRAM APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE		
Approval Action	Ref. Source	Review	Approve	Remarks
State Planning & Research (SPR) Work Program Part II	23 CFR 422.09	FHWA	FHWA	Annually developed work program
LTAP	23 USC 504(b)(1) and (2)	FHWA	FHWA	Annually developed work plan.

15. RIGHT-OF-WAY

a. Program Overview

The purpose of this section is to address the Right-of-Way (ROW) functional areas of appraisal, acquisition and relocation, the principal activities used to acquire space for highway projects. These right-of-way activities are covered under Title 49 CFR (24), which has no provision for exemptions under Title 23 U.S.C. Therefore, the rules of Title 49 and Title 23 apply in the situation where Federal-aid is being used to fund the right-of-way activity and/or if Federal-aid is being used to fund the project.

The work activities listed below are covered under 23 CFR and require specific approval and/or oversight by FHWA:

- ROW certification
- State ROW operations manual
- ROW authorization
- Temporary and permanent changes in access control on the Interstate System
- Air rights on the Interstate
- Airspace leases/joint use agreements
- Sale/transfer of excess ROW
- Early acquisition, protective buying, and hardship
- Functional replacement
- Highway beautification

b. Applicable Laws, Regulations, and Orders

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

c. Program Approval Actions

The approval of the NDOR Right-of-Way Operations Manual is a program approval action required by 23 CFR 710.201(c).

d. Project Approval Actions

FHWA project-level approval actions include authorization of Federally Aided ROW activities, early acquisition approval, acceptance of project ROW certifications, etc. See the Project Activity Approval Chart for more detail.

e. Monitoring

- Even though there are no exemptions from FHWA oversight under the law for any functions covered in 49 CFR 24, for practical purposes there are two levels of review of those elements. One level depends on whether the project involves ROW acquisition and has Federal-aid in the ROW project phases. Although the ROW regulations must be followed under both levels, the reasonableness of the actual dollar expenditures made for ROW activities on those projects where there is no Federal-aid in the ROW activities is considered an NDOR responsibility while the procedures followed will be monitored by FHWA.
- For the second level of projects, there is a dual concern for the rights of property owners and displaced persons and the stewardship of the Federal dollars. Continuous review of the State's activities has proven to be an effective means of assuring that the rights of owners and displaced persons are protected, as well as monitoring the expenditure of Federal funds. A high level of FHWA involvement will be continued under this stewardship plan on projects that have Federal-aid in the ROW activities.
- Local Public Agencies (LPA's), 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 NDOR. As stipulated in 23 CFR 710.201(b), NDOR is responsible for assuring that ROW acquisitions by local public agencies are made in compliance with Federal and State laws and regulations. Furthermore, NDOR is responsible for assuring that costs are in accordance with approved procedures when Federal funds are authorized for acquisition of right-of-way.
- FHWA is responsible for process reviews of NDOR's program for appraisal, acquisition, relocation and other functions. Review of the ROW activities will be conducted through periodic joint FHWA/NDOR process reviews, peer reviews and/or spot-checking reviews accomplished jointly by FHWA's ROW personnel and NDOR as determined through a risk assessment process. The purpose of the reviews is to address known problems; assist in complying with State and Federal requirements; and to assure adequacy of program oversight and accountability of public resources. State and local agency ROW program activity, as well as the NDOR's oversight of local agency ROW activity is subject to review at any time.
- Review and technical assistance in the Highway Beautification Program are also provided by FHWA.
- Right-of-Way Operations Manual
 - NDOR is responsible for full compliance with FHWA requirements.
 - Future changes to a manual, because of new FHWA requirements or changes in State law, etc., will be submitted to FHWA for approval.
 - In accordance with 23 CFR 710.201(c), NDOR shall certify to the FHWA every five years that the ROW Operations Manual is current and in compliance with Federal and State laws and regulations.

f. Approved Procedures/Agreements/Manuals

NDOR ROW Operations Manual
NDOR Local Public Agency ROW Manual

Work Activity	NDOR Action	FHWA Action	Result
Appraisals	Review, Certification, and Approval – All Projects	Authorization & Oversight– For projects with Federal funds in ROW) Oversight– All Federal-aid projects	Appraisal Reports
Acquisitions	Performance and Approval – All Projects	Authorization & Oversight – For projects with Federal funds in ROW Oversight– All Federal-aid projects	Property Ownership/Title, Easements
Relocations	Performance and Approval – All Projects	Authorization & Oversight – For projects with Federal funds in ROW Oversight– All Federal-aid projects	Relocations
ROW Authorizations – Local projects with Federal funds in ROW	Approves Plans and Estimates and submits Request	Authorize	Authorization & funds Obligated
ROW Certification	Approve All	Approve Public Interest finding if Relocation is not complete	Certificates and Public Interest Findings
ROW Costs Billed to Federal funds	Review and Approve	Stewardship & Oversight	Federal funds Expended
Functional Replacement	Approval and Oversight	Concur	Functional Replacement of Real Property
Air Rights – Interstate	Request	Review and Approve	Airspace Agreement
Airspace Leases/Joint Use Agreements	Approval & Oversight Non-Interstate	Stewardship & Oversight	Leases/Agreements
Disposal of Excess ROW	Approve Non-Interstate	Review and Approve Interstate & Less than Fair Market Value	Property Sale & Revenue to Transportation Fund
Federal Land Transfer	Prepare Request	Review and Approve	Transfer Deeds
Early Acquisition, Hardship, Protective Buying	Prepare Submission	Review, Approve, and Authorize	Property Ownership
ROW Operations Manual	Prepare Manual	Review and Approve	Manual
Highway Beautification Rules & Regulations	Prepare Rules & Regulations	Review and Approve	State Regulations
Administrative, Legal, and Court Awards	Approve	Stewardship & Oversight	Property Acquisition
Access Control – Disposal and Changes	Request or approve as per NDOR Policy	Review and Approve all Interstate plus Stewardship & Oversight of others	Disposition/Change
Early Acquisition Cost	Approve	Concur	Reimbursement/Matching Credit

16. SAFETY

a. Program Overview

1. Highway Safety Improvement Program (HSIP)

The HSIP is a core program under Title 23 of the United States Code (USC) Section 148. Its purpose is to achieve a significant reduction in traffic fatalities and serious injuries on public roads. The HSIP includes planning, implementation, evaluation and reporting components. In addition to the Hazard Elimination Program, set-aside programs under the HSIP include the Railway-Highway Crossings Program and the High Risk Rural Roads Program.

NDOR is the administering State agency for the HSIP. FHWA is involved in all aspects of the program, including the monthly NDOR Safety Committee Meetings and periodic Railway-Highway Crossing Diagnostic Reviews.

2. State Strategic Highway Safety Plan (SHSP)

Per 23 USC Section 148, States are required to have in effect a SHSP by fiscal year 2007. The SHSP is an annual document that identifies and analyzes highway safety problems and opportunities. It sets strategic and performance-based goals for the State's Highway Safety Programs. NDOR is the lead agency in its development and maintenance. FHWA is involved with the Leadership Team and the Interagency Safety Working Group for the SHSP.

3. Safe Routes to School (SRTS) Program

The SRTS Program is a highway safety initiative intended for the benefit of children in primary and middle schools. Its purpose is to: 1) enable and encourage children, including those with disabilities, to walk and bicycle to school; 2) to make walking and bicycling to school a safer and more appealing alternative, thereby encouraging a healthy and active lifestyle from an early age; and 3) to facilitate the planning, development and implementation of projects that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

The SRTS Program funds both infrastructure-related projects and non-infrastructure related activities. Infrastructure-related projects may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools. Ten to thirty percent of the funds shall be used for non-infrastructure activities.

NDOR is the administering State agency for the SRTS Program. For this purpose, NDOR shall hire and fund a full-time SRTS coordinator. FHWA is involved in all aspects of the program.

4. Section 402 Highway Safety Program

Section 402 of Title 23, USC establishes a program area for roadway safety that is non-construction oriented. The National Highway Traffic Safety Administration (NHTSA) is the Federal agency that administers this program. FHWA Section 402 funds are transferred to NHTSA at the National level for further distribution to the States. In Nebraska these funds are administered by the Nebraska Office of Highway Safety (NOHS). NDOR may submit proposed 402 projects to NOHS for inclusion in Nebraska's Performance-Based Strategic Traffic Safety Plan.

b. Applicable Laws and Regulations

- 23 USC Sections 109, 114, 130, 148, 159, 217, 315 and 402
- 23 Code of Federal Regulations (CFR) Parts 192, 630, 655, 924 and 1200
- 49 CFR Part 1

c. Program Approval Actions

- NDOR will annually submit a Safety Schedule of Improvements of HSIP projects per 23 USC Section 148. These include the Hazard Elimination, Railway-Highway Crossings, and High Risk Rural Roads projects. FHWA will review and approve, as appropriate, the schedule and any revisions to the same.
- NDOR will submit an annual report for the HSIP per 23 USC Section 148. The report will address the progress being made to implement the program and its effectiveness. FHWA will formally request the report each year and include guidance for the same.
- NDOR will annually submit a Schedule of SRTS Projects per Section 1404 of SAFETEA-LU. FHWA will review and approve, as appropriate, the schedule and any revisions to the same.
- NDOR will assist the National SRTS Clearinghouse in gathering evaluation information for the program's annual report to Congress.
- NDOR will submit an annual Governor's certification to FHWA indicating either opposition to or enforcement of a law requiring the revocation or suspension of drivers' licenses of individuals convicted of drug offenses per 23 USC Section 159.
- Nebraska will adopt the National Manual on Uniform Traffic Control Devices (MUTCD) within two years of issuance per 23 USC Section 655. In conjunction with this, NDOR will submit the updated State supplement to the National MUTCD to FHWA for review and approval.
- NDOR will systematically consider the safety and mobility impacts of work zones across project development, and the implementation of strategies that help manage these impacts during project delivery. This will be done in accordance with the Final Rule on Work Zone Safety and Mobility no later than October 12, 2007. FHWA will participate in this process.

d. Project Approval Actions

- In consultation with NDOR, FHWA will retain approval responsibilities on safety projects incorporating unusual designs or unique features.
- FHWA will review and approve NDOR's Interchange Justification Reports (IJR). The IJR shall contain an overview of analysis of safety in respect to the alternatives presented.
 - NDOR will make available to FHWA the complete safety analysis compiled under 23 USC 409

e. Monitoring

- FHWA may conduct inspections on a statewide sampling basis through annual reviews.
- FHWA will provide ongoing technical assistance in the planning, implementation and evaluation components of the HSIP and SRTS programs.
- FHWA will include the safety program as an area of consideration in risk assessment evaluations.
- FHWA will work with NDOR to use process review techniques to assess and improve safety program procedures.

f. Business Standards

- NDOR will update the State HSIP process document to reflect changes in the HSIP and in State procedures within one year of the changes. FHWA will review the updated process document within 30 days of request.
- NDOR will submit the Safety Schedule of Improvements and the Schedule of SRTS Projects by October 1st each year. FHWA will take action on the submittals within two weeks of receipt.
- NDOR will submit revisions to the Safety Schedule of Improvements and the Schedule of SRTS Projects within 30 days of programming new projects. FHWA will take action on the submittals within two weeks of receipt.
- NDOR will submit the HSIP and SRTS Annual Reports to FHWA by August 31st and a date to be determined each year, respectively.
- In conjunction with other agencies, NDOR will annually update the Nebraska SHSP and submit a report of the 5 percent of locations with the most severe safety needs.
- FHWA will complete reviews of updates to the State supplement to the MUTCD within 30 days of receipt.

g. Approved Procedures/Agreements/Manuals

- NDOR HSIP Process Document
- Nebraska SHSP
- State of Nebraska Supplement to the MUTCD

17. TRAFFIC OPERATIONS

a. Program Overview

Traffic Operations contributes heavily to project development through engineering analysis of vehicle and pedestrian movement that are needed to produce sound project level decisions affecting safe and efficient transportation facilities. It is also an area that contributes heavily to the operations and physical maintenance of facilities by providing techniques, procedures, management practices/systems and inventory tools.

Examples of traffic operations studies and analyses that are inherent to project development include:

- Traffic signal warranting and operational studies
- Capacity, traffic operations and geometric modeling and analysis
- Lighting studies
- Pedestrian and bicycle facility studies
- Crash analysis and countermeasure development

Examples of traffic operations areas contributing to operations and maintenance of highways include:

- Device (such as signs, signal systems, pavement marking, etc.) and system inventory/management
- Incident management systems
- Construction and maintenance work zone operations
- Traffic signal timing and operation
- Monitoring and surveillance of conditions and operations

b. Applicable Laws and Regulations

- 23 USC Sections 101, 104, 109, 111, 114, 116, 217, 315, and 402
- 23 CFR 500 Subpart B – Traffic Monitoring System
- 23 CFR 625 – Design Standards for Highways
- 23 CFR 630 Subpart J – Traffic Safety in Highway and Street Work Zones

c. Project Approval Actions

- FHWA will review and approve NDOR's Interchange Justification Reports (IJR). The IJR shall contain a traffic analysis to evaluate alternatives for modifying or providing additional Interstate access. The analysis method may be identified as either a systems or segmental analysis based on the complexity of the IJR.
- FHWA's specific approval of traffic operations elements of project development and plans will occur concurrently with FHWA full oversight project development and ultimate PS&E approval.

d. Monitoring

- FHWA may request traffic data, analysis (system and segment) data as needed.
- FHWA and NDOR will perform process reviews to improve the efficiency and accountability of traffic operations.

e. Business Standards

FHWA will review and respond to all NDOR Interstate Access Justification Reports within 2 weeks of receipt.

NDOR will respond to FHWA comments within 2 week of request.

f. Approved Procedures/Agreements/Manuals

ITS Regional Architectures and Strategic Plans

NDOR Standard Specifications for Highway Construction

MUTCD

18. GOVERNMENT-TO-GOVERNMENT RELATIONS WITH NATIVE AMERICAN TRIBAL GOVERNMENTS

- NDOR in conjunction with FHWA will seek the input of and will consult with Tribal Governments in the selection, development, and construction of projects on or near Reservations.
 - A Memorandum of Understanding (MOU) between NDOR and Tribal Governments will be developed for each Federal-aid project, on State maintained roads, on or partially on and near the Reservation. Terms and conditions of the MOU will be included in contract documents (i.e., TERO special provisions, etc.). NDOR will assure compliance with the conditions of the MOU.
 - NDOR may require contractors to work with the Tribal Employment Rights Office (TERO) for hiring non-core workers on all projects that are located on or provide access to an Indian reservation or other Indian lands as defined under the term “Indian Reservation Roads” in Section 101 of Title 23, USC and regulations issued pursuant thereto. NDOR will negotiate with Tribal officials to identify the agreed upon Indian Preference Goals and associated TERO tax.
- a. Applicable Laws, Regulations, and Orders**
- SAFETEA-LU Section(s): 1119
 - 23 U.S.C 202, 203, 204, 140
 - 23 CFR 635 Construction and Maintenance
 - FHWA Notice 4720.7