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**Section 8 – Certification and Federal-Aid Project Oversight**

# Certification

MoDOT certifies that the transportation planning process is being carried out in accordance with the following requirements in 23 CFR 450.218(a).

1. 23 U.S.C. 134 and 135, 49 U.S.C. 5303 and 5304, and this part;
2. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;
3. 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
4. Section 1101 (b) of the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;
5. 23 CFR part 230 regarding implementation of an equal opportunity program on Federal and Federal-aid highway construction contracts;
6. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR parts 27, 37, and 38;
7. In non-attainment and maintenance areas, sections 174 and 176 (c) and (d) of the 1990 Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;
8. The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
9. 23 U.S.C. 324 regarding the prohibition of discrimination based on gender; and
10. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

In addition to the above specifically stated requirements, 23 CFR 450.216 describes a number of requirements that MoDOT ensures are met with submission of the Statewide Transportation Improvement Program, or STIP. These requirements are as follows.

1. Public involvement was provided for in the STIP development as required by 23 CFR 450.210(a).
2. The metropolitan planning area Transportation Improvement Programs are included by reference, without modification, in the STIP and have been approved by the Governor of Missouri.
3. In non-attainment and maintenance areas, the STIP contains only transportation projects found to conform, or from programs that conform, to the air quality requirements.

4. The STIP contains only transportation projects consistent with the long-range statewide plan.
5. The STIP is financially constrained by year as required.
6. The STIP includes a descriptive list of priority transportation projects to be carried out in the first four years.
7. The STIP contains all capital and non-capital transportation projects or identified phases of transportation projects requiring action by FHWA or FTA.
8. The STIP contains all regionally significant projects requiring action by the FHWA and FTA.
9. The STIP was developed in consultation with local officials with responsibility for transportation and with Indian Tribal governments.

## **Federal-Aid Project Oversight Agreement**

### **Background and Purpose**

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) of 1998, the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) of 2005, the Moving Ahead for Progress in the 21<sup>st</sup> Century Act of 2012 (MAP-21) and the Fixing America's Surface Transportation (FAST) Act of 2015 allow States to assume certain responsibilities for the Federal Highway Administration in some National Environmental Policy Act approvals and in the design, construction, award and inspection of certain Federal-aid projects.

Section 106 of Title 23, Project Approval and Oversight, requires an agreement between the Secretary of Transportation and the State relating to the extent to which the State assumes nearly all FHWA responsibilities for projects under Title 23 for project development (plans, specifications, and estimates), contract awards, and inspections/final acceptance of Federal-aid highway projects. The FHWA Missouri Division and MoDOT updated the FHWA/MoDOT Stewardship and Oversight Agreement on April 15, 2015. The agreement outlines the basic oversight responsibilities and roles of the two agencies in administering the Federal-aid Program in Missouri. The following is a summation regarding oversight responsibilities.

### **Oversight Responsibilities**

Oversight Responsibilities can be identified through FHWA's Risk-Based Stewardship and Oversight model. Risk-Based Stewardship and Oversight has three main components: 1) data-driven compliance assurance, i.e., the Compliance Assessment Program (CAP), 2) risk-based stewardship and oversight of Projects of Division Interest (PoDI), and 3) Program Reviews (or annual reviews).

**Compliance Assessment Program (CAP)** – The purpose of the CAP is to provide reasonable assurance, at both the national and local level, that Federal-aid highway design and construction projects are in compliance with key federal requirements. This is accomplished through FHWA compliance reviews in the areas of Civil Rights, Contract Administration, Emergency Relief, Environment, Finance, Material Quality, Planning, Realty, and Work Zones. FHWA reviews will be coordinated with appropriate MoDOT staff, as necessary. Unless a CAP project is identified as a PoDI, MoDOT will assume oversight responsibility for all CAP projects.

**Projects of Division Interest (PoDI)** - FHWA's level of involvement (oversight) on PoDI's will vary by project, dependent upon identified risk elements specific to the individual projects. FHWA involvement on PoDI's will be developed based upon project specifics such as project complexity, cost, scope of work to be constructed, environmental constraints or commitments, impacts to traffic, additions or modification to interstate access, etc. On low risk projects, such as those of low complexity or with minimal traffic impacts, FHWA involvement may be limited to elements developed during preliminary design stages, while complex projects may require involvement throughout the design phase up to, and including, review and approval of the final Plans, Specifications, and Estimates. Construction risk will be assessed in much the same manner. Projects of low complexity or with minimal traffic impacts, may require a lesser level of FHWA involvement during construction, while complex projects may require involvement in all facets of the construction. FHWA involvement during both design and construction will be developed in coordination with MoDOT. A PoDI can be any project with Federal-aid whether administered by MoDOT or a Local Public Agency. MoDOT assumes oversight responsibility for all non-PoDI projects. A listing of programmed PoDI projects can be found in the Engineering Policy Guide at [http://epg.modot.org/files/4/43/PoDI\\_Matrix\\_MoDOT\\_2019FY.xlsx](http://epg.modot.org/files/4/43/PoDI_Matrix_MoDOT_2019FY.xlsx)

### **Identification of CAP and PoDI Projects**

**CAP** – Around April of each year, the project population for each FHWA Division Office will be randomly identified by FHWA HQ's Program Management Improvement Team and will include all Federal-aid projects authorized for construction or advance construction within the last 12 months.

**PoDI** – PoDI's are identified collaboratively by MoDOT and FHWA and have an elevated level of risk (threat or opportunity) to the agency's successful delivery of the federal highway program. In addition to regular amendments of MoDOT's Statewide Transportation Improvement Program (STIP), MoDOT and the FHWA will conduct an annual review of the MoDOT STIP to identify the projects that will be administered as PoDI by the FHWA. CAP projects are eligible to be identified as PoDI.

## **Authorization of Work and Obligation of Federal Funds**

MoDOT will not submit requests for the authorization of work and obligation of federal funds on any federal-aid construction project until the National Environmental Policy Act (NEPA) approval process has been completed, right of way, utility, and railroad clearance has been approved, and the project for which federal funds are being requested is listed in MoDOT Statewide Transportation Improvement Program, and, if necessary, in the appropriate Metropolitan Planning Organization's Transportation Improvement Program.

## **Other Oversight Agreement Provisions**

This agreement is made with the following understandings.

- MoDOT will administer all projects previously authorized prior to the effective date of this agreement under Certification Acceptance as though the projects were authorized under the provisions of this agreement.
- All non-Title 23 U.S.C. requirements will continue to be subject to the Federal Highway Administration project review, oversight, and approval.
- All projects on the National Highway System (interstate and non-interstate) will conform to MoDOT adopted design and construction standards as approved by the Federal Highway Administration. Amendments or revisions to these standards are subject to the Federal Highway Administration's review and approval.
- All non-National Highway System projects shall be designed, constructed, operated and maintained in accordance with state laws; regulations; directives; and safety, design and construction standards.
- Federal Highway Administration may complete a final inspection and final acceptance on the Federal Highway Administration identified PoDI projects. MoDOT assumes this responsibility for all other projects. MoDOT will take action to close projects in a timely manner.
- This agreement does not preclude the Federal Highway Administration from observing a federal-aid highway project under MoDOT responsibility, including those under a local public agency agreement, should the project contain unique features, if unusual circumstances arise, or should such projects be party to inclusion in joint agency MoDOT Quality Assurance Reviews or Federal Highway Administration Process Review and Evaluations.

- Federal Highway Administration and MoDOT enter into this agreement to conduct project oversight activities in accordance with the above stipulated agreement provisions. The effectiveness of these oversight responsibilities will be evaluated periodically and adjustments made upon mutual agreement.

### **Certification**

It is hereby certified that MoDOT will follow all federal and state laws, regulations and directives for the design, construction, operation and maintenance of all federal-aid projects.

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