

 U.S. Department of Transportation Federal Highway Administration  <b>New Jersey Division</b>		<b>Standard Operating Procedure (SOP)</b>	
		Issued: <b>October 1, 2021</b> (date)	Updated: <b>10/19/2023</b> (date)
<b>Subject:</b>	<b>Identifying Risk Based Project Involvement to comply with 23 USC 106</b>		
		Approved: <u><i>Robert J Clark</i></u> (signature)  <b>Robert J Clark</b> Division Administrator	

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## II. REFERENCES

PUBLIC LAW, U.S. CODE, REGULATIONS, CIRCULARS, MEMORANDUMS/GUIDANCE:

- 23 U.S.C. 106
- Section 1316(a) the Fixing America's Surface Transportation (FAST) Act
- Risk Based Project Involvement Guidance, September 2020
- New Jersey Stewardship and Oversight Agreement

## III. DEFINITIONS

Capital Project Screening Committee (CPSC): NJDOT's CPSC provides recommendations for advancement to the next phase of project development to the Project Manager and forwards their recommendation to the Capital Program Committee (CPC) for approval.

Capital Program Committee (CPC): NJDOT's CPC provides approval to advance the proposed project to the next phase of project development.

Concept Development: The Concept Development (CD) Phase may begin with a Problem Statement approved by the Capital Program Committee (CPC) and provided to the Division of Project Management (DPM). The major objectives of the CD Phase are to identify and compare reasonable alternatives and strategies that address the Purpose and Need Statement and select a PPA. The CD Phase will provide the information to determine whether, or not the study can be advanced to the next phase of the Project Delivery Process

Construction: project-related activities subsequent to construction contract award such as contract administration (Buy America and Labor/Davis-Bacon), materials quality control and improvement, contract claims, contract change orders, and payments to contractors.

Interagency Review Committee (IRC): For local projects, once a concept development report is completed, an IRC will determine whether, or not the project can be advanced to the next phase of project development. sponsors will identify and compare reasonable alternatives and strategies that address the purpose and need statement and select a preliminary preferred alternative (PPA).

National Environmental Policy Act (NEPA): Requires Federal agencies to consider environment effects that include, among others, impacts on social, cultural, and economic resources, as well as natural resources. The investigations of potential environmental impacts will determine the environmental process [i.e. Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS)] to be followed and to assist in the preparation of the environmental document.

Preliminary Engineering (PE): Preliminary Engineering is the location, design, and related work preparatory to the advancement of a project to physical construction. Preliminary engineering includes preliminary and final design, both defined in 23 CFR 636.103, and other project-related work leading to physical construction. This includes costs to perform studies needed to address requirements of the National Environmental Policy Act (NEPA) and other environmental laws. It may include advertising and other pre-award work such as bid analysis, although it is also acceptable to include this work as construction engineering costs. For NJDOT, PE includes two Phases. 1) The Preliminary Engineering (PE) Phase formally begins once the Capital Program Committee (CPC) approves and advances the Concept Development (CD) Study, PE Phase funding is authorized and an in-house designer is selected or a consultant designer is under contract for the PE Phase. The PE Phase further develops and refines the PPA with the detail necessary to secure the approval of the environmental document and concludes with completion of the PE submission. 2) The Final Design (FD) Phase formally begins once Federal Highway Administration (FHWA) approves the FD Phase funding and the FD Addendum is executed. The FD phase concludes in the completion of construction contract documents (i.e., project plans, specifications, construction schedule and construction estimate).

Project: An undertaking by a State highway department for highway construction, including preliminary engineering, acquisition of rights-of-way and actual construction, or for highway planning and research, or for any other work or activity to carry out the provisions of the Federal laws for the administration of Federal aid for highways.

Right-of-Way (ROW): Real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.

State Transportation Improvement Program (STIP) - A staged, multi-year, statewide, intermodal program of transportation projects, consistent with the statewide transportation plan and planning processes as well as metropolitan plans, TIPS, and processes.

Transportation Engineer (TE): Area Engineer, (or Safety Engineer, Structural Engineer, Planner etc. if assigned as Division Project Lead/POC)

#### **IV. BACKGROUND**

The FHWA uses a risk-based stewardship and oversight (RBSO) approach to determine, consistent with statutes, regulations, Executive orders, and administrative and financial controls, how and when the FHWA is involved in programs and projects. RBSO integrates risk management into the FHWA performance planning process to identify agency-wide S&O initiatives. S&O initiatives span both the national and unit (division) level.

Section 106 of title 23 of the United States Code (U.S.C.) provides statutory requirements for certain project approval actions and establishes minimum oversight requirements for the Federal-aid highway program (FAHP). Attachment A, project action responsibility matrix, of the NJ Division/ NJDOT S&O Agreement includes project approvals that are within the scope of the assumption provisions in 23 U.S.C. 106(c). Attachment A is used, in part, to document whether assumable actions are retained by FHWA or assumed by the NJDOT.

Section 1316(a) the Fixing America's Surface Transportation (FAST) Act (P.L. 114-94, December 4, 2015) provides: In General - The Secretary shall use the authority under section 106(c) of title 23, United States Code, to the maximum extent practicable, to allow a State to assume the responsibilities of the Secretary for project design, plans, specifications, estimates, contract awards, and inspection of projects, on both a project-specific and programmatic basis.

## **V. PURPOSE / OBJECTIVE**

This SOP establishes the policy and procedure for determining, documenting, and reporting on risk-based project involvement. The SOP also establishes procedures to document the process used to select projects for risk-based project involvement, including the project-specific, program-based activities performed in response to identified risks (i.e., threats and opportunities). Selecting risk-based projects for involvement, and deciding on the level of involvement in the selected projects.

## **VI. PROCEDURE**

The Risk Based Project Involvement determination process will be conducted by FHWA as part of New Jersey's Risk Assessment process to assist in the identification, determination and oversight of projects. The NJ Division will maintain an effective risk management process that is systematic, structured, timely, and based on the best available information. It will continually assess current risk and identify any new risks.

*The NJ Division will not reassume project approval actions that the State assumed under the Stewardship and Oversight Agreement unless there are elevated risks and the Division Administrator approves the resumption of the project approval action. The Division Administrator may not delegate this determination within the Division office. This NJ Division (DA determination) process will take place during the Division Management Team Meetings and if the topic at hand is on a critical path then an email and/or a MS teams meeting with all supervisors and applicable team members will be scheduled as soon as possible.*

Utilizing the Project Involvement Identification Process (noted below), New Jersey projects that contain one or more of the identified Performance Year (PY) Risks may require FHWA New Jersey Division (NJ Division) oversight. Projects will be chosen and reassessed based on how each projects risk contribute to the overall State risks for that given PY. The proposed PY Risks will be evaluated during the NJ Divisions Annual Risk Assessment and determined on an annual basis. When many of the same risks are identified among various projects, the NJ Division may use this information as a basis for a program level process, focused and /or spot check review.

## **NJDOTs Pre-Construction Project Programming Process (CD, PE, FD)**

The New Jersey Department of Transportation (NJDOT) utilizes the Capital Program Committee / Capital Program Screening Committee (CPC/CPSC) Process to determine and recommend the advancement of the projects from the current project phase to the next phase (i.e. Concept Development to PE, PE to FD, etc.). It is the NJ Division's understanding that **all** project delivery units within NJDOT advance projects through the CPC/CPSC with the exception of Local Aid projects which advance through the Interagency Review Committee (IRC) process as applicable.

The NJ Division and NJDOT have agreed to utilize the CPC/CPSC process when determining what projects will include Federal Involvement. After many years of coordination, it has been mutually agreed upon that this is the most effective and efficient way to proceed. During each CPSC meeting, a NJ Division representative will coordinate with the Committee in determining the designation of each project. Final determinations will be noted in the minutes of respective CPSC and the subsequent CPC meeting. This process is further detailed below.

## **New Jersey's 3 Step Process - Identifying Risk Based Project Involvement**

The NJ Division uses a Risk Based Stewardship and Oversight (RBSO) approach to determine the roles and responsibilities of Federally funded projects and programs. This determination is consistent with Federal statutes, Regulations, Executive Orders, and administrative and financial controls. RBSO integrates risk management into the NJ Division performance planning process to align with agency-wide S&O initiatives.

The NJ Division will utilize a three-step process in identifying risk based project involvement:

#1 Screening, #2 Risk Based Assessment, and #3 Stewardship and Oversight Project Involvement Plan.

- **Step #1 Screening** - the NJ Division will identify projects by Screening the State's program of projects (detailed below).
- **Step #2 - Risk Based Assessment** – the NJ Division will conduct a Risk Based Assessment on the projects identified from the screening process. Based on the results of the assessment, the NJ Division will identify projects including activities for risk based project involvement (detailed below).
- **Step #3 Stewardship and Oversight Project Plan** – Once the NJ Division and NJDOT complete the screening and assessment steps (noted above), they will document FHWA's involvement within selected projects through the development of Stewardship and Oversight Project Involvement Plan.

### **Step #1 – Screening Process**

The first step in the risk-based project involvement identification process is Screening. Prior to advancing projects to CD or a Design Phase through the CPSC/CPC process, NJDOT (Capital Investment and Program Coordination) will send the Project and Program Delivery Manager and each NJ Division Transportation Engineer (TE), a copy of the CPSC Agenda. This should be submitted to the NJ Division at least 15 days prior to the scheduled CPSC meeting. TEs will Screen the submission to assess risks in accordance with the Screening Criteria noted within Appendix A and determine project oversight designation within 5 days of the upcoming CPSC meeting (ultimately deciding which project should advance to Step 2). The TEs will complete the PoDI Identification Log for their respective Area of Responsibility.

Screening information ("*Short listed projects*") for Federal Oversight will be sent from the TEs (via email) to the Project and Program Delivery Manager at least 5 days before the upcoming CPSC meeting. All coordination and all comment resolution between the TE and NJDOT PM, will also be required to take place before 5 days prior to the upcoming CPSC meeting. If additional time is required TE will coordinate with the Project and Program Delivery Manager.

Coordination with NJ Division's Subject Matter Experts (Bridge, Safety, ITS, Environmental, ROW, Freight, etc.) will take place to evaluate any technical risks that may result from program specific needs. To ensure this is captured, the TEs (where applicable) will request input from NJ Division SMEs when making the initial oversight determination. The TEs will provide questions or comments to the NJDOT PM for consideration. Comments relevant to oversight determination or eligibility will need to be resolved prior to advancing to CPSC/CPC. Once this advance coordination is complete, the project can be included in the next scheduled CPSC meeting. Comment resolution should only be applicable to screen and determine the initial oversight of the project. Any comments beyond that specific need should be coordinated programmatically by the TE, SME and/or NJDOT outside of this process.

**For Phases of work (Projects) Advancing to Concept Development** - Since a project's scope and/or Preliminary Preferred Alternative (PPA) is not known at this phase, Steps 2 and 3 will not be performed and a project oversight designation will not be determined until the CD is completed and the project advances to the design phase at the next CPC/CPSC action. At that point, Step #1 will be updated based on the finalized CD (project scope) and Steps 2 and 3 will be completed to identify the recommended oversight determination followed by the development of the Stewardship and Oversight Project Plan for subsequent project phases that apply.

For significant projects that could require FHWA's involvement prior to the PE phase, the FHWA Division representative that attends the CPSC meetings will provide cursory screenings of these projects when reviewing agendas and attending CPSC meetings. In addition, The NJ Division Planning Team will support NJ Division's Project Involvement Identification Process by notifying the Engineering Team about risks and challenges stated in the regional long range and sub-regional short-term transportation plans, particularly the Statewide Transportation Improvement Plan (STIP) and the Metropolitan Regional Transportation Plans (MRTPs).

**For Local Phases of Work (Projects) Advancing to Concept Development** – The NJDOT PM and NJ Division TE will coordinate as noted above.

**For Local Projects Completing CD/Advancing to Design Phases** - In order to complete the Project Involvement Identification Process ( 3 Step Process), at least 20 days in advance of an upcoming IRC meeting, the NJDOT PM or the NJDOT Local Aid Director, will submit the CD Report to the assigned NJ Division TE for information. The NJ Division will not reassume project approval actions that the State has assumed under the Stewardship and Oversight Agreement unless there are elevated risks and the Division Administrator approves the resumption of the project approval action.

**For Non-State DOT Discretionary Grants Awarded in the State of New Jersey** – The New Jersey Division will administer Non-State DOT Discretionary Grants in agreement with the Guidance Memo Issued by FHWA's Executive Director on February 2, 2023 - [\*Policy on FHWA's Approach to Administering Discretionary Grants\*](#) and with the Guidance Memo issued on August 23, 2023 - [\*Implementation of FHWA's Stewardship and Oversight Framework for non-State DOT recipients of discretionary grants administered under Title 23\*](#). The "Discretionary Grant Manager" will complete the Grant Agreement and the "Assigned SME" will provide oversight of the project once the Grant Agreement is complete. The Assigned SME can be the Discretionary Grant Manager or any SME/AE in the NJ Division. The signature of the Grant Agreement is the official "handoff" from the Discretionary Manager to the Assigned SME. During the Grant Agreement development process, the Discretionary Grant Manager will initiate the screening process for Division oversight, and it will be finalized by the Assigned SME. All screening processes and determination of oversight must take place prior the signature / execution of the Grant Agreement.

The Discretionary Grant Manager and the Assigned SME will be required to coordinate proactively. The Discretionary Grant Manager will initially screen the projects with a similar 3 step approach as defined within, and when applicable will utilize the Measure of Stewardship Tool (MoST) to initiate the screening process. Once it has been determined, by the MoST process, that oversight is required, the screening process (MoST) will be transferred, in draft form, to the Assigned SME. If the Grant Program is not available (or not required) in the MoST Program, then the Assigned SME will use the NJ Division Risk assessment process as defined within. The MoST Screening process will provide one of two determinations:

1. Base S&O Guidelines apply, and therefore a Risk Assessment is optional. The NJ Division can elect to perform a Risk Assessment, if conditions warrant. OR
2. Risk Assessment process and oversight will be required.

The Assigned SME will receive a *Project Specific Guideline and Requirement Matrix Output* MS Word document after completing the MoST screening process. The Assigned SME, in coordination with their Team Lead can revise as appropriate, based on project details. If oversight is required, the Assigned SME will utilize the Title 23 Applicability Dashboard. *Note the Title 23 Applicability Dashboard is only applicable to non-State DOT recipients of Discretionary Grants directly from FHWA.*

If oversight is determined to be required, a Project Specific Stewardship and Oversight Plan (see Appendix C) will be developed and the output from MoST and Title 23 Applicability Dashboard should also be attached to that S&O Plan.

## **Step #2 – Risk Based Assessment**

The second step in the risk-based project involvement identification process is Risk Based Assessment. A risk-based project assessment identifies elevated program and project risks which support the risk based project involvement designation:

After the screening process is complete, the NJ Division Project and Program Delivery Manager will receive a copy of the CPSC agenda from NJDOT 5 days prior to the upcoming meeting. The NJ Division Project and Program Delivery Manager will coordinate internally with the TEs and any screening information provided, to confirm the proposed determination from Step1. For all projects that were screened to include Federal Oversight, the NJ Division Project and Program Delivery Manager will perform a risk based assessment utilizing the criteria noted in Appendix B. The NJ Division Project and Program Delivery Manager, will attend the CPSC meeting and coordinate all determinations, as noted within Step #1 and Step #2, jointly with the Committee. For projects that require additional time on oversight determinations, the Project and Program Delivery Manager will bring that to the attention of the CPSC and follow up with FHWA's oversight determination prior to the corresponding CPC meeting. The Project and Program Delivery Manager will complete the PoDI Identification Log when applicable.

## **Step #3 – Stewardship and Oversight Project Plan (S&O Plan)**

The third and final step in the risk based project involvement process is the development of the S&O Project Plan (Appendix C). Once the NJ Division and NJDOT complete the screening and assessment steps, the NJ Division (in coordination with NJDOT and after the CPSC/CPC approval process is completed) will develop the S&O Project Plan noting the Federal Involvement for applicable projects. Reference Appendix D to assist in the development of the plan. The S&O Project Plan will further discuss project involvement and identify specific elements in each project phase which FHWA will expend its resources. It will include the type of oversight that will be conducted on each project phase, specific elements for review and the risk justification for oversight. This will be coordinated amongst the NJ Division Management Team and NJDOT, while corresponding to the overall Stewardship Agreement oversight categories.

It is understood while project risks are an ongoing assessment, risk will be based on the best available information at the time of evaluation. The Division will reassess each project as follows:

- Each TE should re-evaluate project risk assessments within their assigned S&O Project Plans and account for changes as the project progresses.
- Each TE should re-evaluate project risk at the completion of a project phase and account for how risks were mitigated and/or the need to be carried into the next set of PY Risks.
- The Project and Program Delivery Team will also perform an internal annual review. The annual review will take place prior to the NJ Divisions Risk Assessment process. Individual project risks will be presented and assessed as part of the NJ Divisions Risk Assessment. This will ensure re-evaluation of existing risks and review any potential new risk carry into the overall PY Risks. Such criteria, not limited to but could be factors prompted by design changes, the development of significant safety or quality issues during construction, etc.

When reassessing the S&O Project Plan and risks anytime during the life of the project, whether within the projects lifecycle or at the completion of a project, the TE will note within the S&O Project Plan how each risk was mitigated and/or continue to exist. When risks are determined to still exist, they will be discussed and noted for inclusion during the NJ Divisions Annual Risk Assessment as noted above.



### **Construction Projects**

For a construction phase of work, the NJ Division will move forward with two possible directions: 1) assess projects currently with federal involvement moving to construction and 2) obtain a copy of NJDOT's monthly construction advertising schedule, a quarterly Project Management and Reporting System (PMRS) report, construction awards report and/or an annual list of construction projects provided by the Program Management Office (PMO) office **for all NJDOT Divisions**. These two possibilities will be the mechanism to assist in the 3-step identification process (as noted above) for the construction phase of a project. As with preconstruction phases of work, the criteria noted within Appendix A will be utilized for determining the oversight of each construction project. Once agreed on the specific project oversight determination, the NJ Division will begin to develop the S&O Project Plan in coordination with NJDOT's assigned Project Manager and Resident Engineer. The S&O plan for each specific project will also define the oversight role of the FHWA.

### **Quality Assurance / Quality Control**

If any phase of work of a project is identified by the NJDOT not utilizing the 3-step / CPSC process noted above, the NJDOT PM and/or Project Delivery Unit Director will notify the NJ Division and the project will be reviewed by the appropriate NJ Division and NJDOT staff to identify its risks and whether it needs to be appended as a Project with Federal Involvement. In addition, the Project and Program Delivery Manager is scheduled to attend every CPSC meeting which advances all phases of design and planning work.

### **Projects of Division Involvement (PoDI)**

Once a phase of work is identified to require federal involvement, it will be incorporated into a list for that specific PY and then compiled into an all-inclusive list.

### **Monitoring and Reporting**

Division offices are expected to develop one or more activities for selected risk-based project involvement in the annual unit performance plan in INPUT to document, monitor, evaluate and adjust their activities. Division offices need to summarize the value-added and risk response activities (result statements) executed in accordance with the project S&O plans. Division offices may use and refer to program assessment reports, risk assessment reports, or project reports for detailed information. This will be an agenda item and worked through during the first NJ Division Annual PY Risks meeting during the month of May.

A focus area will be to describe risk mitigation, closeout timing and expectations of the S&O Plan (Appendix C). The statement should note how the Division's oversight actions provide FHWA management the ability to ensure that its involvement is adding value - a core principle of its risk-based stewardship and oversight framework.

**Section VII: Appendices**

**Appendix A**

**STEP#1 - NJ Projects with Federal Involvement Screening Risk Criteria**

<b>Required Criteria</b>	<b>Condition for Project to Advance to Step 2</b>
Discretionary Grants and Financing	<p>Any project funded or financed through discretionary programs or by statutory direction which aligns with the top risk(s) identified by the division office from their program involvement findings.</p> <p>OR</p> <p>Any Non-State DOT Discretionary Grant Awarded in the State of New Jersey funded or financed through discretionary programs or by statutory direction which HQ determined to screen with the Measure of Stewardship Tool (MoST). The outcome of MoST will determine oversight, along with the Title 23 Applicability Dashboard.</p> <p>These include, but are not limited to, sources such as:</p> <ul style="list-style-type: none"> <li>• All Tier 1, Tier 2, Tier 3 Grants</li> <li>• Education and Capacity Building Programs</li> <li>• Transportation Infrastructure Finance and Innovation Act (TIFIA).</li> </ul>
Major Projects	All major projects as defined by 23 U.S.C. 106(h)
Public Private Partnerships (PPP)	Any project that includes private financing.
Unusual Bridges and Structures	All projects that meet the criteria described in the 1998 memorandum on Project Oversight Unusual Bridges and Structures (Complex Bridge/Tunnel (i.e., precast segmental, cable-stay, tunnels, suspension, movable)
Program Involvement Findings / NJ Division's Focused Areas	Any project that aligns with the top risk(s) identified by the division office from their program involvement findings (I-Bank, Rock Fall Mitigation Program / Projects, Utility & Railroad Agreements)



## **New Jersey – PY Risks – Additional Division Screening Criteria to Consider**

In addition to the screening criteria listed above, below are additional screening criteria provided by FHWA HQ and further defined by FHWA New Jersey Division. This information can be utilized to assist in documenting the screening step from the program-level and the overall conditions specific in the State of New Jersey. The following are additional risk-based screening criteria:

1. **Cost:** Is this an unusually costly project for the administering agency (i.e., among the largest construction contracts ever awarded)?
2. **Schedule:** Does the project include an unusual delivery schedule such as accelerated completion requirements or phasing that is unique or unusual for the administering agency?
3. **Scope:** Does the project scope include work that is either unusual or considerable in extent for the administering agency (i.e. numerous or extensive project scope changes, Elevated Risk Recipient, Hard Shoulder Running, Constructability)?
4. **Location:** Is the project located on the National Highway System or Interstate Highway System? Is the highway segment a higher volume route or one with operational deficiencies compared to other segments on the State's NHS? (Major Access Impact Interstate / NHS)
5. **Significance:** Is the project nationally or regionally significant? Are there other States relying upon the delivery of this project? Does the project affect a major trade port (High Freight Traffic Volume)? What is the project's potential for significant impacts? (NEPA Classification EA or EIS, Significant Natural/Cultural Resource Involvement, Other Significant Environmental Mitigation)
6. **Interest:** Is there unusual or heightened interest in the development and delivery of the project from organizations or individuals (e.g. congressional members, State officials, local community leaders/organizations, Projects High Political Involvement, Projects High Community Interests, Pending or Anticipated Legal Concerns, ROW Impacts)?
7. **Innovation or unusual features:** Does the project include innovative or experimental features or contracting methods (e.g. Special Experimental Project 14, 15, 16, Design Build) that are new, or nearly so, to the administering agency? Does the project include unusual structures, operations, or design elements?
8. **Administration:** Is the project being delivered by an entity other than the State DOT? How experienced is the project owner with delivering a federally-funded project? What is the capacity of the delivering agency to administer the project? (Contract Administration)

## Appendix B

### STEP#2 - Risk Based Project Assessment Criteria

Date \_\_\_\_\_

Capital Program Screening Committee meeting will be held on \_\_\_\_\_

Project Name: \_\_\_\_\_

UPC: \_\_\_\_\_ DB: \_\_\_\_\_ Federal Project Number: \_\_\_\_\_

Initiating Project Delivery Unit: \_\_\_\_\_

Counties: \_\_\_\_\_ Municipality: \_\_\_\_\_

Project Status: \_\_\_\_\_

Federal Involvement / Oversight: \_\_\_\_\_

The New Jersey Division must document its risk-based project assessment. Further, its risk-based project assessment must consider the following six risk areas, for all short-listed projects:

- Project Delivery Systems (e.g. management, administration, scheduling, experience)
- Financial Management Considerations (e.g. cost thresholds, cost controls, funding source, a competitive grant award, PPP, TIFIA10, major projects)
- Complexity (e.g. design/construction features, unusual structure, urgency of restoring a critical facility, etc.)
- Environmental considerations (e.g. public involvement and interest, significance, impacts, stakeholders involved, )
- National or Regional Significance, (e.g. serves regional/national transportation needs, expected corporate involvement, high-level of interest, Projects High Political Involvement, Projects High Community Interests, Pending or Anticipated Legal Concerns)
- Other State-specific considerations (e.g. geographic coverage, Adequate Region Balance, State DOT elevated risks).

FHWA NJ Division may tailor the risk-based assessment process by adding to, or further defining the risk areas identified above. Include an explanation of why the risks were assigned.

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**Additional Guidance:** In addition to the consideration of the results of the risk-based assessment (above), the New Jersey Division may consider additional factors in making decisions about risk-based project involvement such as:

- Program involvement findings and program risks
- Consultations with subject-matter experts and technical specialists
- Availability of resources
- Consistency with FHWA objectives and risk policies
- Consistency with the division office's S&O objectives
- Unit performance planning activities
- Other

## Appendix C

### <Insert Project Name> NJ Division Stewardship and Oversight Plan

#### **PURPOSE**

The purpose of this FHWA document is to establish the parameters for the New Jersey Division Office to provide oversight with the establishment of a management strategy based on the risks associated with the successful delivery of the <Insert Project Name> Project. This is a living document and will be modified as needed as the project is progressed.

#### **PROJECT BACKGROUND**

- **Project Scope (Project Cost Estimate, Project Complexity)**
  - *<The list below are potential areas that add complexity as seen on past major projects, which should be modified (add or delete) to include specific complexities for the project.>*
    - Project Location
    - Contract Delivery Method
    - Environmental Classification
    - Unique Structure Type(s)
    - Other
- **Primary PoDI Type (Select One)**
  - Major Project (>\$500M); 23 USC 106(h)
  - TIGER Discretionary Grant Project
  - NHS Projects with Retained FHWA Project Approval; 23 USC 106(c)(1)
  - Non-NHS with Retained Actions; 23 USC 106(c)(2)(as requested by State)
  - Projects Selected for Risk-Based Stewardship & Oversight; 23 USC 106(g)
- **Federal Investment**
  - *<Provide Federal-aid project financial details – apportioned funds, TIFLA, GARVEE, etc. Also, this information may need to be reflected in the Project Risk Section>*
- **Project Management Organization Structure**
  - *<Add >*
- **Schedule**
  - PE
  - FD
  - PS&E
  - Construction Start
  - Construction Substantial Completion
  - Construction Final Completion
  - FMIS Project End Date

**SCREENING CRITERIA:** “What minimum screening criteria were met” - See Appendix A, attached.

**RISK BASED PROJECT ASSESSMENT:** “What are the applicable risk areas identified, during the risk-based project assessment, associated with the project selected for risk-based project involvement” – See Appendix B, attached.

**PROJECT ELEMENTS OF REVIEW** - Provide a specific description of the elements that will be reviewed and the element’s linkage to the risk area identified through the project risk assessment (per Appendix A and B):

**Preconstruction (Design)** – This will include oversight of the following design elements that apply *(delete or add specific oversight elements in the list below as specifically applicable to this PoDI)*:

- Design Standards
- Design Exceptions
- Structural Design
- Consultant Management
- Context Sensitive Solutions (CSS)
- Environmental Mitigation and Commitments / NEPA Clearances
- ITS Project development Standards & Systems Engineering
- Interstate Access Requests/Interstate Justification Reports
- Pavement Design
- Other project elements as per coordination between FHWA and NJDOT responsible parties.

The Reviews during this phase will include (but not limited to) the following, *(delete or add specific reviews for the list below as specifically applicable to this PoDI)*:

- Constructability
- Preliminary Design Submission
- Final Design Submission
- Road Safety Audits
- Roadside Hardware
- Traffic Analysis,
- Traffic Control Plan / Work Zone Traffic Mgmt
- Value Engineering (VE)
- PIF – Airspace clearance FAA (23 CFR 620.104)
- PIF– Proprietary items
- PIF – Publicly furnished materials
- Project Management and Financial plans
- ROW encroachments
- Experimental Features
- Utility Agreements/Utility Agreement Modifications
- Other project reviews as per coordination between FHWA and NJDOT responsible parties.

**Preconstruction (PS&E Approval, Advertising, & Award)** – This will include oversight of the following design elements that apply *(delete or add design elements for the list below as specifically applicable to this PoDI)*:

- Plans, Specifications, and Estimates (PS&E)
- DBE
- OJT
- Contract Provisions (FHWA1273, Buy America(n), Changed conditions clauses, Incentive/Disincentives
- Partnering
- Warranties
- ROW Clearances
- Project Authorization and Project Agreements
- Advertisement
- Addenda
- Pre-bid meetings
- Bid Analysis and Award Concurrence
- Innovative contracting
- State contracting procedures
- Utility agreements/Utility Agreement Modifications
- Railroad agreements
- Other project elements as per coordination between FHWA and NJDOT responsible parties.

**Project Construction & Contract Administration** – This will include oversight of the following construction elements as they apply *(delete or add construction elements for the list below as specifically applicable to this PoDI)*:

- Preconstruction Meetings
- Initial Inspections
- Intermediate Inspections
- In-Depth Inspections, Final Inspections
- Work Zone Inspections
- Project Meetings
- Buy America
- Materials testing / certifications
- Change orders
- COPs
- Contractor claims
- Pay Estimate Reviews
- Time extensions/Suspensions of Work
- Value Engineering Change Proposals
- Liquidated damages
- DBE commercial useful functions
- Labor Compliance
- Default/Termination of Contract
- Final Acceptance

**Other project elements and reviews as per coordination between FHWA and NJDOT responsible parties.**

- Project Authorization and Project Agreement
- Project Planning and Programming
- Project Financing

## **EHWA S&O ACTIVITIES**

What are the general S&O activities (include project inspections, compliance reviews, opportunities for innovation, technical assistance and guidance, or post-approval reviews) that the Division will conduct in response to risk. Ensure to include a specific description and scope for planned risk response activities; describe the relationship of each planned activity to the risks:

Select One:

- a. *Federal Involvement* - FHWA-NJ will review and approve all applicable elements in each phase listed above, mainly for significant projects.
- b. *Detailed Design/Contract Document Review and Approval only* – FHWA-NJ will only review the applicable elements in the Preconstruction Design and Preconstruction-PS&E Approval, Advertising, & Award listed below.
- c. *Spot Check Construction Review* – FHWA-NJ will conduct an initial spot check review during construction and pending findings will conduct subsequent follow up construction reviews on specific elements as necessary.
- d. *Element Specific Review* – FHWA-NJ will review necessary contract documentation and/or conduct construction inspection/review explicit to an identified area of specific interest.
- e. *Other:*  
(Project/Technical Meetings, CAP Review, Special Review, etc.) Describe.

- **Resource Needs**

*<What resources are needed to address the Focus Areas identified? These may include resource support from Headquarters, Resource Center, SMEs, or other specialized expertise.>*

- **Additional Project Specific Oversight (if applicable)**

*<Based on the Focus Areas identified in Section, what involvement should FHWA have with the project that is not already covered in the NJDOT/FHWA Stewardship Agreement? Are there specific activities needing FHWA direct involvement such as submittal reviews we normally would not see for a typical project or are there any activities we can delegate to NJDOT? Establish project specific milestones and agreed upon submittal review timeframes.>*

## **PROJECT RISK MITIGATION / CLOSE OUT - (See Appendix D as an Example)**

1. What were the results of the Division's involvement in the project?
2. Were the risks associated with this project mitigated and if so how?
3. If the Risks were not mitigated, should they be carried to the Annual PY Risk mitigation meeting for possible inclusion in next year's PY Risks?

## Appendix D

### FHWA HQ Sample S&O Project Plan

**\*\*\*For Reference only and should be removed prior to completing a S&O plan for a New Jersey Division Project\*\*\***

*Example Risk-based Project S&O Plan: Job Aid*

<i>Project Involvement S&amp;O Plan</i>						
<i>State</i>	<i>County</i>	<i>Project Name</i>	<i>Federal-aid Number</i>	<i>State ID Number</i>	<i>Key Dates</i>	<i>FHWA Point of contact(s)</i>
<i>HQ</i>	<i>Canyon</i>	<i>I-181, Car Interchange to Truck Interchange</i>	<i>A20(315)</i>	<i>20310</i>	<i>Initial plan: mo/day/year</i>  <i>Re-evaluated:</i>  <i>Plan closed:</i>	

*Project Description:* *Reconstruct Southwest Blvd. interchanges and expand I-181 between the Kar interchange and the Truck Road interchange on the highest volume corridor in the state*  
*Background:* *The Division reported "Utility impacts on the design and construction phases" as a top program risk in 2019 and in response completed a program review of the State DOT's Utility program in the summer of 2020. For additional information, reference the program review report and related annual unit risk assessment results. Based on the program review, FHWA views utility impacts during project delivery as an elevated program and project risk and as such will be involved in selected projects based on this risk. The Division's involvement focuses on SDOT management of utilities in project design and construction.*

*Overall scope of risk-based involvement to better understand the project-related utility impacts:*

- *Review the results of the Subsurface Utility Exploration (SUE).*
- *Observe how the results of the SUE data are communicated in the contract plans, along with a site visit to observe the project site.*
- *Review the Utility Conflict Matrix (UCM) and Risk Level of each utility within project limits.*
- *Monitor and observe developments and progress through utility coordination meetings.*
- *Review the draft Utility Agreement(s): including utility cost estimates, relocation schedules and eligibility determinations.*
- *Perform 3-4 construction site visits during utility relocation. Observe State DOT's methods of quality assurance of utility relocations.*
- *Review proposed change orders for eligibility determinations on the project directly related to utility relocation (if any).*
- *Summarize observations and action items (if any) in project inspection or program-related reports.*



1. What minimum screening criteria were met?

*Program Involvement Findings (top risks): Project delivery related utility impacts during design and construction.*

2. What are the applicable risk areas identified during the risk-based project assessment, associated with the project selected for risk-based project involvement:

*Other State-specific considerations (e.g. geographic coverage, State DOT elevated risks): The specific risk area for this project selection is the risk of utility impacts during design and construction. The project's likely utility impacts are a risk due to the number and significance of multiple underground and overhead utilities within the project corridor. The project risk assessment determined the likelihood of a utility related impact may be medium to high, and the impact (to the project and travelling public) of utility related project risk occurrence could be significant. If a utility related impact occurs then a significant project completion delay, impact to traveling public, and increase in cost are likely.*

3. General project elements for review including a specific description of each element, and each element's linkage to the risk area identified through the project risk assessment:

*Plan, Specification, & Estimate Development: Review the preliminary design package to determine if the utility impacts risks are appropriately identified with mitigating strategies in the plans and contract (i.e. review 60% PS&E). Review of the PS&E to ensure the utility relocation construction notes, relocation procedures, and state methods are applied in the design and construction phase.*

*Contract Administration: Utility impact risk is high during project construction and mitigating strategies that can help prevent delays include review of utility related risk determinations, review of utility agreements, and review of utility related change orders. The purpose of reviewing the utility related risk determinations is to inform the Division of how the SDOT is considers the various utility related risks.*

*Construction Inspection & Quality: Construction inspections will be performed during the utility relocation work to view how PSE, construction specifications, utility related procedures are implemented for utility relocation work items. Site inspections will monitor the utility relocations during construction and minimize the potential for delay.*

4. What are the S&O activities (include project inspections, compliance reviews, opportunities for innovation, technical assistance and guidance, or post-approval reviews) that the division will conduct in response to risk:

*Document/Plan Review: FHWA will review the preliminary PS&E with a focus on the utility relocation work. FHWA will use the 60% PSE checklist, apply knowledge of State procedures, and consider best management practices for utility impacts during construction. Review of utility-related activities and project development reports during the design phase will ensure requirements are developed for construction, and minimize potential cost and schedule impacts to the utility relocation work during construction*

*Contract Administration: Review the UCM risk level determination and the draft utility agreements for the cost, schedule, and eligibility considerations. The division will also review utility-related project change orders, including time extensions, proposed during the project construction phase. Utility related change order reviews will examine the extent of utility impacts not anticipated during design and construction to mitigate utility impacts to the project's cost and schedule.*

*Field Review/Inspection & Report: FHWA will complete quarterly inspections during active*

construction for the duration of the utility clearance and construction using the division's standard procedures. The inspections will monitor and assess substantial conformance with requirements for sequencing and relocation of utilities, determining whether utility contractors/crews are cooperating to meet scheduled relocation milestones.

5. What were the results of the Division's involvement in the project?

*Results:* On this project, the Division reviewed the preliminary PS&E with a focus on the utility relocation work, reviewed six utility related change orders and performed 8 quarterly construction inspections during utility clearance work. As a result of involvement in the project, the Division found the State DOT applied and implemented its procedures and specification, including best management practices to minimize the risk of utility impacts on this project. During the preliminary PS&E (60%) review, FHWA worked with the State DOT to add a supplemental specification and a PSE construction note for the contractor to establish a weekly meeting with utility contractors to coordinate relocation work (when multiple utility contractors are involved). The weekly meetings resulted in regular meetings to coordinate and communicate utility work to minimize utility related impacts during the construction phase. The SDOT has administratively assumed the determinations for contract change orders and the enhanced risk-based project involvement finds this assumption for this project appropriately administered. Our review of the six utility related change orders and determined eligibility acceptable, including one change order for a two-week time extension. The change orders resulted in no additional cost to the contract and found the State DOT, contractor and utility owners relied on the weekly coordination meetings to communicate scheduling impacts and no unanticipated utility relocation issues were encountered during construction that resulted in significant cost overruns.

*Based on our observations on this project and the other two projects selected for involvement based on this risk the Division will likely not select additional projects for review of utility impacts next year since completing this enhanced involvement.*