



# Stewardship & Oversight Report – FY 2017

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Federal Highway Administration,  
Texas Division

December 1, 2017

## **Stewardship & Oversight Agreement**

On December 8, 2015, the Federal Highway Administration, Texas Division (FHWA Texas Division) and the Texas Department of Transportation (TxDOT) executed a Stewardship & Oversight Agreement on Project Assumption and Program Oversight (S&O Agreement). This agreement sets forth the roles and responsibilities of the FHWA, Texas Division and TxDOT with respect to Title 23 project approvals and related responsibilities and Federal-aid Highway Program (FAHP) oversight activities. In early 2016, in accordance with the agreement, new TxDOT Executive Director James Bass affirmed his endorsement of the agreement by letter.

Section XI, Subsection A, of the S&O Agreement describes the TxDOT oversight and reporting requirements, including submission of a summary report within two months of the end of the federal fiscal year of all significant stewardship and oversight activities conducting during the previous fiscal year. This report is the second of the annual reports under the S&O Agreement and provides summary information on TxDOT's Fiscal Year 2017 stewardship and oversight activities. It provides data related to all TxDOT activities during the FY and not only activities within which FHWA is participating.

In summary:

- TxDOT let \$6.226 billion in Fiscal Year 2017 for 989 projects.
  - 779 statewide lets (\$4.775 billion)
  - 58 Local Public Agencies (LPAs) lets (\$400.9 million)
  - 152 other lets (\$1.050 billion)
- TxDOT managed approximately 1,600 active construction projects during Fiscal Year 2017

### Local Public Agencies (LPAs)

Section XI, Subsection B, of the S&O Agreement also requires that TxDOT provide an annual report documenting its fulfillment of responsibilities as a pass-through entity of FHWA funds on projects performed by local public agencies (subrecipients). The final update of that report, entitled "FY2016 Annual Report to FHWA-Texas - Local Government Projects Program (Local Public Agencies)" was submitted to FHWA-Texas on November 30, 2017. In accordance with federal regulations, TxDOT is ultimately responsible for local public agency compliance with applicable federal laws, rules and regulations on these projects. Additional information on TxDOT's oversight of this program is included in the Subsection B report (found in Attachment A). In summary:

- a) TxDOT provided oversight to approximately 650 LG projects with subrecipients, with total funding in the amount of approximately \$3.8 billion (including approximately \$1.9 billion in federal funds).
- b) Entering FY 2017, 56 projects with federal funds were scheduled for letting by LGs during FY 2017 with estimated total funding of \$129 million. LPAs actually let 46 projects (82%) with federal funds in FY 2017 and awarded 42 projects (75%), totalling \$173 million in construction cost. During FY 2017, TxDOT provided concurrence-in-award on 57 LPA-let projects totalling \$215 million in construction

cost (28 of those projects had letting dates in late FY 2016 and concurrence in early FY 2017).

- c) During FY 2017, LGs were reimbursed approximately \$161 million in FHWA funds on highway planning and construction projects.

## **Key Aspects of TxDOT's Stewardship & Oversight of the Federal-Aid Highway System in Texas**

### *Overview*

During Fiscal Year 2017, TxDOT has provided effective stewardship of the Federal-aid Highway System in Texas and responsible oversight of the project delivery programs that affect the condition and performance of that system across the state.

- At the end of the fiscal year, the percentage of pavements on the Interstate System in Texas in good condition (International Roughness Index < 95) was 70.59%; while the percentage of pavements on the Interstate System in Texas in poor condition was only 1.61%. Meanwhile, TxDOT maintained the pavements on the rest of the National Highway System (NHS) in Texas at 84.04% in good condition (using TxDOT's "good or better" pavement measure), with only 5.6% of the non-Interstate NHS in Texas falling in the poor condition category.
- For FY 2017, the number of structurally deficient bridges on the NHS in Texas was only 85, while the percent deck area of structurally deficient NHS bridges in Texas was less than 1% (0.91%).

TxDOT presents these and other performance indicators for the Stewardship & Oversight Agreement in the [Stewardship and Oversight Indicators section](#) of this report. TxDOT will continue to work with the FHWA Texas Division to ensure that these performance indicators provide meaningful information on our efforts to effectively and responsibly manage the Federal-aid Highway Program in Texas.

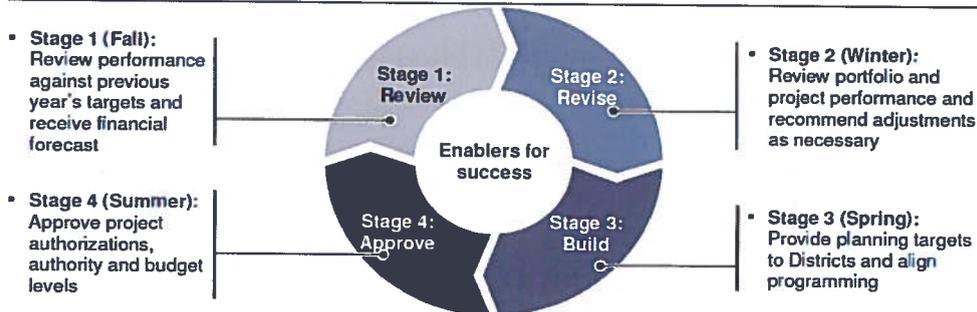
### *Quarterly Review Process*

TxDOT initiated a portfolio management process and key performance measures to comply with Federal and State legislation. A major element is the Quarterly Review Process (QRP), a rigorous four stage process involving monthly data collection, data analysis and quarterly meetings between TxDOT Divisions and Districts to monitor the agency's performance in terms of budgeting, planning, and programming the department's project portfolio within a 10 year window (See Figure 1.) The objective of the QRP is to develop a healthy statewide portfolio supported by the right projects, developed in individual districts, and given resources provided by divisions to meet TxDOT's strategic initiatives. Specifically, the QRP aims to ensure:

- Portfolio health - Deliver TxDOT's strategic initiatives per latest financial forecast through building the right volume and mix of projects with cleared milestones;
- Project health - Monitor progress towards clearing milestones to ensure letting projects on time; and
- Resource health - Coordinate resource budgets and future staffing needs.

The

#### Phases of Quarterly Review Process



process facilitates the timely request and accurate planning for centralized resources; provides early guidance and approved strategic guidance to districts on their volume and mix of projects, enabling improved planning; used to engage stakeholders, including Metropolitan Planning Organizations (MPOs), and provides transparency to TxDOT leadership on their role and required decisions.

### *Alternative Project Delivery and Financing Programs*

The Project Finance, Debt and Strategic Contracts Division (PFD) is responsible for managing and administering the financing and debt programs, leading the procurement of Comprehensive Development Agreements (CDA) and Design-Build (DB) contracts, providing programmatic support to the districts, and administration of the alternative delivery program to ensure contract commercial terms are met. TxDOT districts lead the implementation of the CDA and DB contracts as they enter the design, construction and maintenance phases. PFD provides oversight during implementation ensuring the contractual compliance of change orders, amendments, financial plans, project management plans, and other submittals in accordance with federal requirements

### Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan Program

In FY 2017, TxDOT submitted various construction progress, traffic and operating, and financial update reports on behalf of the Grand Parkway Transportation Corporation and in accordance with TIFIA requirements. In addition, TxDOT has been working on TIFIA loan applications for the SH 99 Grand Parkway Segments H&I and SH 183 Midtown Express projects.

### State Infrastructure Bank (SIB) Loan Program

For year ending 12/31/2016, TxDOT submitted an annual report which included information about the number and dollar amount of total loans disbursed, loans outstanding and loans repaid as well as information about loan defaults (none) and the cost of all the projects the SIB has contributed to. TxDOT will submit another annual report on 12/31/2017.

### Comprehensive Development Agreements (CDAs) and Design Build (DB)

In FY 2017, TxDOT executed two Design-Build contracts and is coordinating with districts to plan future design-build projects. The 85<sup>th</sup> Legislative Session, 2017, did not extend or expand TxDOT's authority for CDAs; therefore, TxDOT's future alternative delivery projects for the next biennium will primarily be developed through design-build contracts.

### Alternative Delivery Support Tool

TxDOT continues to work across the state to drive improvements. TxDOT continues to utilize the Alternative Delivery Support tool to support decisions for use of design-build as a project delivery method. The tool, developed by The University of Texas Center for Transportation Research, is qualitative and quantitative, transparent and flexible. It uses a rigorous and repeatable decision support process to determine design-build delivery method suitability. Reviewing and implementing new tools and technologies to deliver efficiency is crucial in TxDOT's project selection, prioritization and programming.

### Programmatic Resources and Documents

PFD, in coordination with other divisions and district staff, has published programmatic resource documents to the department's [website](#). The documents are based on TxDOT's continued partnership with the FHWA and the Associated General Contractors of Texas and are summarized below:

#### Programmatic Procurement Resource Documents

A CDA/Design-Build Procurement Manual is published and provides a high-level overview of TxDOT's procurement process and is intended to guide TxDOT personnel, proposers, consultants, and other parties involved through the process. Additionally, a Design-Build Agreement Template, General Conditions and Standard Specifications is also published and available. PFD is currently working to standardize procurement documents (Request for Qualifications, Instructions to proposers and Request for Proposals). These programmatic documents will help streamline the procurement process and allow for administrative efficiencies. PFD continues to collaborate with other divisions, districts and members of the industry to continuously improve and is currently working on other programmatic documents relating to the Request for Qualifications and Request for Proposals.

#### Quality Assurance Program for CDA/DB Projects

An enhanced TxDOT Quality Assurance Program (QAP) for CDA / Design-Build Projects with a Capital Maintenance Agreement with three optional five-year terms has been approved by the FHWA and has been published to the TxDOT website. The program consists of quality control, acceptance, owner verification and independent assurance programs that ensure materials and workmanship incorporated into the highway construction project are in reasonable conformance with the approved plans and specifications, including any approved changes.

### Section 129 General Tolling Program

PFD has taken the lead in reporting specific to FHWA's Section 129 General Tolling Program. TxDOT, as required by Section 129, serves both as a public authority with jurisdiction over a toll facility and as an intermediary for coordinating other toll entities' compliance with Section 129 to the FHWA. To provide a state-wide programmatic approach, PFD has formalized TxDOT's process for gathering and reporting Section 129 requirements through an electronic content management system. The submissions must show evidence of compliance with specific limitations related to the use of toll revenues, maintenance of the toll facility, and audits of toll facility records to verify compliance with the Section 129 requirements (financial statements). PFD verifies that all documents are submitted annually

and performs an audit for completeness and general compliance with the Section 129 requirements. FHWA has approved this program.

Training- Because projects were moved to District management in the Design Build phase and Operations and Maintenance phase, training programs have been developed to teach procedures, the program and quality. Also because districts have become more involved in procurement we have developed Procurement training and the Cost Estimating Tool training.

### **PS&E Packages**

All TxDOT district offices submit their plans, specifications, and estimate (PS&E) packages for all state-let projects to the Design Division for final processing prior to letting. These PS&E packages are submitted electronically through a PDF Portfolio process (ePS&E). The submitted PS&E package includes plan sheets, standard drawings, specifications, engineer's project estimate, general notes, and supporting documentation certifying the completion or conditional completion of right of way acquisition, utility work, relocation work, and railroad work. The Design Division has been sharing the above described project oversight information with the FHWA regional office since April 2016 to assist in their project authorization process.

In addition, FHWA develops a list of selected TxDOT projects for their review annually. The Projects of Division Interest (PODI) represent a selected group of TxDOT projects in which FHWA requests, from the appropriate district office, project specific information in order to perform a compliance review. The Design Division, upon receipt from FHWA, coordinates the list with the respective district offices (see list in Attachment B).

### Railroad Agreements in PS&E Packages

The Rail Division is responsible for providing information to the districts regarding the status of the execution of the railroad agreements, which are required in the PS&E packet. This certification is done by the District and submitted to the Design Division. The districts prepare railroad certification letters for the PS&E packet, which are required for each project, whether there is a railroad within the project limits or not. There are four (4) possible Railroad certification types: 1 *No Railroad Work*, 2 *Agreement Executed-Work prior to Construction*, 3 *Agreement Executed- work during construction* and 4 *Agreement not Executed- work during construction*. In Fiscal Year 2017, TxDOT executed a total of 195 railroad agreements in support of construction and maintenance projects.

Under Item 4 in the certification letter, "Agreement not Executed- Work during Construction," the Rail Division will determine how quickly the railroad agreement can be executed, and the district engineer will confirm that the contractor can work outside of railroad right of way until the agreement is executed without any delay to the contractor. For situations when the estimated execution date of the Railroad agreement is beyond the 3 months after letting the district works with the Design Division and a management plan is prepared and submitted to TxDOT's Administration for approval to proceed to letting with the unexecuted agreement. This standard operating procedure will confirm approval with administration prior letting the projects and issuing a notice to proceed.

Of the 195 projects that TxDOT certified last year, TxDOT let eight (8) projects without associated agreements. The status of these eight projects is included below:

CSJ	Road Name	Expected Agreement Execution Date	Actual Agreement Execution Date
0027-06-046	SH 36/US 90	6/30/2017	Executed 8/21/2017
1477-01-040	FM 1516	1/31/2018	Executed 8-23-2017
8170-12-001	Hempstead	6/30/2017	Executed 6/2/2017
0018-01-076	FM 133 Widening	4/1/2017	Executed 6/15/2017
0353-06-057	Signature Bridge	6/7/2017	Executed 7/11/2017
0910-12-066	CR-1824	7/31/2017	Executed 8/29/2017
0134-07-070	US 380	9/1/2017	Executed 8/25/2017
0111-01-092	FM 521	7/21/2017	Executed 9/21/2017

### Construction Oversight and Inspections

As part of TxDOT's oversight duties, the Construction Division conducts reviews of district operations and provides for the Quality Assurance Program for TxDOT.

#### *Construction Oversight*

As an example, the Construction Division conducts quarterly in-depth reviews of randomly selected change orders on construction projects representing all districts. Attachment C is a summary of findings from one of those reviews.

#### *Quality Assurance*

The Construction Division, Materials and Pavements Section reports to FHWA annually on the Independent Assurance Program, a component of the Quality Assurance Program used by districts to test and approve materials at the district level. Attachment D is the annual report for 2016 (the most current) and an email from FHWA indicating their approval of this report.

The Materials and Pavements Section also maintains the Quality Assurance Program document for Design-Bid-Build projects (the quality program used for all but CDA projects). This document can be found at: [http://ftp.dot.state.tx.us/pub/txdot-info/cst/qap\\_dbb.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/cst/qap_dbb.pdf)

The Materials and Pavements Section also maintains the Quality Assurance Program document for Design-Build projects (the quality program used for all CDA projects). This document can be found at: [http://ftp.dot.state.tx.us/pub/txdot-info/cst/qap\\_db.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/cst/qap_db.pdf)

## Right-of-way Acquisition; Business, Residential, and Utility Relocation

The Right of Way Division continues to further its mission: Proactively engage and collaborate with our district partners to provide all of our stakeholders and customers with timely and professionally delivered right of way solutions for TxDOT and the citizens of Texas.

The delivery of right of way is carried forward by 209 employees in the Right of Way Division and in the TxDOT districts across the State of Texas. The Right of Way Division has established protocols for training and taken measures to ensure compliance with state and federal laws and regulations, including the Uniform Relocation Assistance and Real Property Acquisition Act (Uniform Act). Local Government Agencies and consultants engaged in right of way acquisitions are routinely monitored and counselled concerning the importance of compliance with the Uniform Act in acquisitions, relocations, and eminent domain.

During Fiscal Year 2017, the ROW Division accomplished the following:

- 1,623 parcels acquired, with 1,224 acquired by negotiation and 399 acquired by condemnation (25% eminent domain rate)
- 266 relocations: 129 residential and 137 Business/Farm/Non-Profit Organization
- 29 personal property moves
- 16 off-premise advertising sign relocation permits
- 234 Utility Agreements executed

### **ROW Audits**

An internal Audit was conducted to evaluate whether selected Right of Way Acquisition Professional Services providers adequately protect TxDOT interests and whether associated funds were spent in accordance with contract terms and conditions. The Audit was in the Execution Phase in Q3 of FY17.

Moreover, there was a 2016 Audit on Right of Way Acquisition - Appraisal Oversight to determine the effectiveness and timeliness of the right of way acquisition process, as it relates to monitoring for third party appraisals. This Audit is in the Close-out Phase. These audits are referenced in the [Chief Audit and Compliance Officer Third Quarter Report Fiscal Year 2017](#).

### **Contract Awards for the Procurement of Professional and Other Consultant Services and Construction-related Services**

The Professional Engineering Procurement Services (PEPS) Division awarded 335 contracts for a grand total of \$1,367,872,776 in four procurement waves over state Fiscal Year 2017. The total expenditures for consultant services were \$654,087,444 for Fiscal Year 2017. The total for all Professional and Other Consultant Services programs outsourced was 79.61% for Fiscal Year 2017. The total for all Construction-related Services programs

outsourced was 61.00% for Fiscal Year 2017. These totals are inclusive of all pre-engineering and construction engineering activities for the Department.

\*NOTE\* Percentages derived from associated costs for consultant services that included non-PEPS related variables.

### Environmental Compliance

TxDOT is in its third year working under the Memorandum of Understanding (MOU) between the FHWA and the department concerning State of Texas' participation in the Project Delivery Program pursuant to 23 U.S.C. 327.

Fiscal Year (FY) 2017 Federal Environmental Approvals Included	
Categorical Exclusions	1,426
Environmental Assessment/FONSI	16
Environmental Impact Statement/ROD	1

**Key Assignment Metric:** Key to the foundation of the assignment program is streamlining and shortening the environmental review and approval process for federal aid projects while assuring projects are environmentally compliant. Since the effective date of Assignment (December 16, 2014), the days to complete EAs has decreased significantly. To date, there are not enough completed EISs to determine a trend.

Assigned Federal Projects	Avg time to completion pre-assignment (2009 – Dec 2014) (days) (Baseline) *	Avg time to completion post-assignment (Dec 2014 – Oct. 2017) (days)	Time Savings (days)
EA	903	803**	100
EA (beginning to completion during Assignment)	903	580 ***	323
EIS	3,337	3,762	425

\*Baseline data derived from reviewing projects completed between 2009 and December 2014

\*\* This includes projects that were begun both before and after Assignment was effective; therefore, projects that were begun before Assignment had FHWA involvement

\*\*\* This includes projects that both began and were completed during the Assignment period beginning December 2014 and going forward to present

Note: In determining data, outliers were removed from data set.

The Environmental Affairs Division (ENV) calculated the average number of days prior to Assignment (baseline) and post Assignment to complete environmental assessments (EA) with a project decision of a Finding of No Significant Impact (FONSI) and environmental impact statements (EIS) with a project decision of a Record of Decision (ROD). The reduction

in time to develop and complete an environmental document is a direct result of recent improved efficiencies, guidance, training, and the authority assigned to TxDOT to make project decisions on assigned federally funded projects (NEPA Assignment).

Training: ENV provides training to department staff as well as local government, consultant, and other agency staff. In fiscal year 2017 (FY17) ENV provided training to 2,084 persons through classes such as Irrigation and Historic Preservation, Section 7 – ESA and Interagency Cooperation, Air Quality, and Maintaining Project Consistency. In addition to the broad range of training classes offered, ENV hosts an annual Environmental Conference every September, drawing staff from TxDOT, other Texas state agencies, federal agencies, local governments, MPOs, Oklahoma DOT, and private consultants. The September 2017 conference had 474 participants.

Staffing: ENV has a total of 63 technical subject matter experts and 14 business operations staff who guide overall program activities and assist district personnel on federal aid projects.

Projects in active litigation on the basis of NEPA determination: The department is currently in active litigation on two separate lawsuits involving project delivery; however, only one of the lawsuits is on the basis of NEPA determination.

## Changes or Enhancements to TxDOT's Organizational Structure

### December 2016

- Merged Real Estate Management and Delivery Division (RMD) business functions into the Right-of-Way (ROW) Division. RMD no longer exists as a stand-alone division and their functions will continue to be performed within the ROW Division.

### April 2017

- Created the Transportation Program Division

Note: Although the transfer did not take place in FY 2017, the Rail Safety Section of the Traffic Operations Division moved to the Rail Division in November 2017. This section provided railroad clearance and agreement information in this report.

See current TxDOT organizational chart reflecting these changes [here](#).

## Changes or Enhancements to Financial Management Systems

### *Enhancements to TxDOT's Oracle PeopleSoft Financial Supply Chain Management System (FSCM) Application*

Through TxDOT's internal application request (AR) process, TxDOT implemented enhancements to the FSCM through a total of 45 ARs during 2017.

Module	Number of ARs
Accounts Payable	11
Purchasing	5
General Ledger	1
Security	5
Inventory	5
Project Costing	5
Asset Billing	2
Contracts	1
Accounts Receivable	4
FSCM	6
<b>Total</b>	<b>45</b>

### *Enhancements to Federal Authorization Funding Obligation System (FAFOS)*

FAFOS is an internal TxDOT application that serves as platform to facilitate electronic data sharing (EDS) efforts between TxDOT and FHWA's Financial Management Information System (FMIS) 5.0. There were a total of 9 application requests during FY 2017. These enhancements to FAFOS during 2017 have increased system effectiveness and increased communication capabilities with FMIS 5.0.

### *Enhancements to TxDOT Project Close-Outs*

The Financial Management Division's Accounting Section has increased the resources dedicated to project close-out efforts, and improved internal processes through increased automation and refinements of the business process.

### *Responding to Quarterly Audits of Inactive Projects*

TxDOT has made the following changes/enhancements to the process for responding to the quarterly audits of inactive projects:

- Included staff from the Financial Management Division's (FMD) Ledgers Group in meetings on the inactive projects;
- created standardized text to be used in the justifications for actions taken on those projects;
- Provided additional information and detail in the lists sent to the responsible offices, so that interested parties can more easily identify and research specific projects;
- Provided the responsible offices with their previous responses for use in researching and updating their justifications for prior actions taken on those projects;
- Added earlier and more thorough review by FMD of the justifications submitted by responsible offices (This has helped the responsible offices understand what information is needed for a complete and valid justification); and

- Revised the criteria for assigning separate project numbers to subordinate projects to be let as a single contract—with the goal being to reduce the number of federal project numbers, the dollar amount of inactive projects, and the percentage of inactive federal funds.

## Key Findings Related to Delivery of the FAHP from Internal, State, or Federal Audits and Any Related Action Plans to Ensure Compliance

The following audit reports and related action plans relevant to the delivery of the FAHP are available online at the locations listed below.

### Texas State Auditor's Office Audits

**Report 17-314, State of Texas Federal Portion of the Statewide Single Audit Report for the Fiscal Year Ended August 31, 2016** <http://www.sao.texas.gov/reports/main/17-314.pdf>

### TxDOT Internal Audits Completed in Fiscal Year 2016

**TxDOT Internal Audit of Construction Contract Management – Pre-award and Liquidated Damages – Issued August 2017** [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/construction\\_contract\\_mgmt\\_audit\\_final\\_report.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/construction_contract_mgmt_audit_final_report.pdf)

**TxDOT Internal Audit of Construction Inspection Program – Issued May 2017** [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/construction\\_inspection\\_program\\_audit\\_final\\_report.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/construction_inspection_program_audit_final_report.pdf)

**TxDOT Internal Audit of Grant Management Closeout Reporting – Issued August 2017** [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/grant\\_management\\_closeout\\_reporting\\_final\\_report.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/grant_management_closeout_reporting_final_report.pdf)

**TxDOT Internal Audit of NEPA Environmental Process – Issued May 2017** [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/nepa\\_environmental\\_process\\_audit\\_final\\_report.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/nepa_environmental_process_audit_final_report.pdf)

**TxDOT Internal Audit of Public Transportation Grants Indirect and Direct Cost Monitoring – Issued July 2017** [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/ptn\\_grants\\_indirect\\_and\\_direct\\_cost\\_monitoring\\_audit\\_report.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/ptn_grants_indirect_and_direct_cost_monitoring_audit_report.pdf)

**TxDOT Internal Audit State Highway 183 Managed Lanes Project – Issued December 2016** [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/sh183\\_managed\\_lanes\\_project\\_audit\\_final\\_report.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/sh183_managed_lanes_project_audit_final_report.pdf)

### TxDOT External Audits Completed in Fiscal Year 2016

**Central Texas Regional Mobility Authority - Issued August 2017** [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/central\\_texas\\_regional\\_mobility\\_authority.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/central_texas_regional_mobility_authority.pdf)

Texas State Railroad Authority - Issued June 2017 [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/texas\\_state\\_railroad\\_authority.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/texas_state_railroad_authority.pdf)

Hidalgo County Regional Mobility Authority - Issued March 2017 [http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/hidalgo\\_county\\_regional\\_mobility\\_authority.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/hidalgo_county_regional_mobility_authority.pdf)

## Stewardship and Oversight Indicators

This section provides performance indicator information as it pertains to the Stewardship and Oversight Agreement between the Texas Department of Transportation and the Federal Highway Administration. In coordination with FHWA Texas Division, TxDOT will review these performance indicators on an annual basis both to ensure that this annual report provides the appropriate indicators and that TxDOT is delivering FAHP projects in an effective manner.

### *Bridge Program Performance Indicators*

Indicators* for FY2017	Value
Number and % of deck area of structurally deficient NHS bridges	85 / 0.91%
Number and % of deck area of structurally deficient non-NHS bridges	787 / 1.36%
Number of load posted NHS bridges	34

**\*Explanatory Notes:**

1. These numbers do not include railroad, pedestrian, or utility bridges, federally-owned bridges, or bridges that have not yet been placed in service.
2. The percentage of deck area of structurally deficient NHS bridges is based on the total deck area of all NHS bridges.
3. The percentage of deck area of structurally deficient non-NHS bridges is based on the total deck area of all non-NHS bridges.

### *Civil Rights Performance Indicators*

Indicators for FY2017	Value
Fiscal Year Disadvantaged Business Enterprise (DBE) participation rate	\$519 M; \$4,798 M
Percent of Disadvantaged Business Enterprise (DBE) goal achieved	10.83% achieved; 12.6% goal

Overall Participation (Prime and Subcontractor)	Percent of DBE Goal Achieved	FY 17 DBE Goal
All (Prime) Participation \$4,798,670,286	Overall Goal: 10.83%	Overall Goal: 12.6%
All (DBE) Participation \$519,731,773	Race Conscious: 4.47%	Race Conscious: 6.8%
DBE Prime Participation \$112,179,407	Race Neutral: 6.36%	Race Neutral: 5.8%
DBE Subcontractor Participation \$407,552,366		

**Construction Contract Administration Performance Indicators**

Indicators for FY2017	Value
Total number of active construction projects	1,569
Percent of projects with low bid within +/- 10% of engineer's estimate	44.90%
Percent of construction projects completed on budget (on or under awarded amount)	80.90%
Percent of construction projects completed on time (within +/- 10% of the total construction project estimated time)	62.73%
Number of projects with ROW/utility delay based on the Ready To Let* Definition	ROW Only – 9 (4 req. MP); Utility Only – 98 (21 req. MP); Both – 25 (10 req. MP)
Average number of bidders per small, medium, and large projects (Small – Below \$1M; Medium – In Between; Large - \$10M and Above)	Small – 5.21; Medium – 5.24; Large – 5.44

\*Part of the Ready To Let definition requires that the right of way and utilities should be cleared within 90 days of the letting date. If they are not, then the project is not eligible to

let, unless the district submits a Management Plan (MP) indicating how the right of way or utility could be completed without interfering with the construction of the project.

***Consultant Services Performance Indicators***

Indicators for FY2017	Value
% of Design Program outsourced	79.61%
Percentage of Construction Management Program outsourced	61.00%

***Design Performance Indicators***

Indicators for FY2017	Value
Percent of design projects delivered on time	83.0%
Total costs of change orders due to design errors	\$61.1M

***Emergency Relief Performance Indicators***

Indicators for FY2017	Value
Projects eligible for ER funding	12
Federal funds obligated for ER projects	\$820,857
Federal funds reimbursed on ER projects	\$0

***Environmental Program Performance Indicators***

Indicator as of November 13, 2017	Value
Number of projects in active litigation on the basis of NEPA determination	2

***Right-of-Way Program Performance Indicators***

Indicator for Period (September 2016 – August 2017)	Value
Number of projects with conditional ROW certifications	134 out of 767 (17.0%)

**Background:** There are four separate right-of-way certifications required for each project letting with each certification being executed by the district engineer and in some cases additionally by the district design engineer. The four right-of-way certifications consist of:

- Right of Way Certification – Certifies that all right-of way has been acquired in accordance with the current FHWA directive(s) covering the acquisition of real property, except those listed parcels and that those listed parcels will be acquired in accordance with the current FHWA directive(s).
- Right of Way Encroachment Certification – Certifies that no right-of-way encroachments existed within the limits of the project or that all removal of encroachments has been completed.
- Relocation Assistance Program Certification – Certifies that this project did not cause any displacements and the steps relative to relocation advisory assistance and payments under the current FHWA directive(s) covering the administration of the Highway Relocation Assistance Program were not required.
- Utility Adjustment Certification – Certifies that utility adjustments were not required or have been completed for this project.

TxDOT's ultimate goal as a department has always been to deliver and complete transportation improvements for the people of Texas in the most efficient and expeditious manner possible. TxDOT has put into place processes and procedures such as the portfolio funnel, dashboards, and other tools utilized by all district offices. Through communication among districts, divisions and the Administration, TxDOT has improved the ability to gauge and better understand this new project development process and subsequently improved the letting process.

Through this process TxDOT has managed to be better informed on the status of projects to help TxDOT identify project needs such as right-of-way acquisition, utility adjustments, PS&E, schematic design, environmental and railroad coordination. TxDOT has begun to make better informed decisions in scheduling projects for letting that meet the 'Ready to Let' definition:

- ENV cleared and ENV mitigation complete (cleared sufficiently to proceed into construction without delays)
- ENV permits secured (cleared sufficiently to proceed into construction without delays)
- ROW cleared (cleared sufficiently to proceed into construction without delays)
  - 100% PS&E (includes completed and approved schematic)
- Project agreements in place (includes local funding being received or an amount sufficiently received to proceed into construction without delays)
- Railroad coordination complete and agreement in place
- Utility agreements in place and relocations in progress (cleared sufficiently to proceed into construction without delays)
  - The above and any other remaining issues to be cleared in <3 months

Even though we are still letting projects with unclear ROW and utilities the process we have developed and implemented allows us to minimize the risk of these unclear ROW and Utility

negatively affecting contractor operations and thus claims. We will continue to work on these issues and improving our project delivery.

***Railroad Highway Performance Indicators***

Indicator for Period (September 2016 – August 2017)	Value
Number of projects with railroad agreement not executed, work during construction certifications	8 out of 189 (4.0%)

Note: Railroad Certification – Certifies that this project required no railroad work

***Finance Program Performance Indicators***

Indicators for FY2016	Value
Percentage of inactive projects based on dollar amount	Q1 – 1.9% Q2 – 1.8% Q3 – 1.4% Q4 – 1.9%
Number of inactive projects for the local program	Q1 – 43 Q2 – 48 Q3 – 65 Q4 – 65
Number of inactive projects	Q1 – 208 Q2 – 231 Q3 – 222 Q4 – 307
Average number of days between project final acceptance by state DOT and project close out in FMIS	180 calendar days

***Pavement Program Performance Indicators***

Indicators for FY2017	Value
Percentage of pavements on the Interstate System in good condition (IRI < 95)	70.59%
Percentage of pavements on the Interstate System in poor condition	1.61%
Percentage of pavements on the NHS (excluding the Interstate System) in good condition; and Percentage of pavements on the NHS (excluding the Interstate System) in poor condition	84.04% / 5.60%

**Safety Program Performance Indicators**

Indicators for Calendar Year 2016*	Value
Number of fatalities (5-year average)	3,543
Number of serious injuries (5-year average)	16,952
Fatality rate (per HMVMT)(5-year average)	1.42
Serious injury rate (per HMVMT)(5-year average)	6.81
Total number of crashes	552,632
Percent of crash reports filed electronically	88.70%
Percent of run-off the road fatal crashes	35.47%
Percent intersection fatal crashes	21.87%
Percent of pedestrian fatal crashes (5-year average)	17.00%
Percent of bicycle fatal crashes (5-year average)	2.00%
Percent of work zone fatal crashes (5-year average)	4.00%
Percent of rail-highway grade crossing fatal crashes	0.50%
Percent of fatal wrong-way crashes on freeways	1.56%

*\*Traffic safety program information is reported on a Calendar Year basis; CY 2016 represents the most recent available data.*

**Traffic Operations Performance Indicators**

Indicator for Calendar Year 2016*	Value
Average per person annual hours of delay for the NHS	33.9 hrs

*\*Traffic operations performance information is reported on a Calendar Year basis; CY 2016 represents the most recent available data.*

### *Commission (CMM) Level Dashboard*

TxDOT has undertaken an extensive effort that started in 2016 to develop more meaningful performance measures and metrics for use by the Commission and TxDOT Administration to guide, lead, and manage the department. While these measures and metrics may differ from the information provided to FHWA today (at both the Texas Division level and nationally), TxDOT anticipates that this information will lead to a more effective stewardship of the state's transportation system, which is of interest to FHWA.

TxDOT staff is in the final stages of delivering a Commission-level Dashboard. The dashboard is produced in Tableau, a software visualization tool recently acquired by TxDOT. The Strategic Planning Division (STR) developed the CMM Dashboard to provide the Commissioners with performance insights to assist in policy making decisions. These metrics support TxDOT's Values, Vision, Mission, Goals, and Objectives (VVMGO) adopted by the Texas Transportation Commission in February 2016, and address requirements of House Bill 20 (HB20) from the 84<sup>th</sup> Texas Legislature, which calls for a performance-based planning and programming process towards attainment of goals and objectives.

The dashboard includes:

- 1) Key Performance Measures (KPMs):
  - a) Agency-level performance measures and metrics
  - b) Tied to the specific goals and objectives of the agency
- 2) System Performance Measures:
  - a) Transportation system performance measures and targets
  - b) Align with National Transportation Performance Management Program of the USDOT
  - c) Considered by the Commission in setting funding levels of categories of projects in the Unified Transportation Plan (UTP)
  - d) Considered by planning organizations in making local funding decisions

### *Integration into the Planning Process*

The CMM Dashboard is designed to be an integral part of the agency planning process in all facets from Strategic Direction to Evaluation. The Strategic Direction begins with the VVMGO, and each proposed KPM directly ties back to one of the seven individual goals for the agency. The KPMs are represented in the CMM Dashboard and provide indications of the agency's progress toward our goals, creating opportunities for the Commission to discuss what policies, priorities, and decisions they can make to improve progress. Based upon the Commission's actions, the agency can develop and execute corresponding plans and activities to achieve new targets for each KPM. The process is cyclical, where KPM results are regularly compared to those targets and subsequent Commission analyses and decisions will direct new plans and activities.

### *Reporting Cadence*

At this time, the CMM Dashboard is scheduled to be reviewed with the Commission by the end of the calendar year 2017, and then TxDOT will begin an official performance reporting cadence. TxDOT is also on schedule to report Commission level KPMs publicly on TxDOT.gov in early 2018.

STR will report a semi-annual CMM Dashboard, reported in October (to include data and/or reported results from March – August) and in April (to include data and/or reported results from September – February). The reporting cadence will also include an annual update (or Annual Report) of the Commission level KPMs on TxDOT.gov, which will include the CMM Dashboard results and additional qualitative information that highlights programs, initiatives, explanations, and concerns around each of the reported KPMs. The timing would be by the end of each calendar year, following the first scheduled report in early 2018. The Annual Report will be posted to TxDOT.gov for transparency.

### ***KPMs***

STR is reporting KPM(s) for each of the seven TxDOT goals. The KPM(s) may change over time, as TxDOT becomes better able to collect information and analyze it. At the Commission level, the KPMs are purposefully at a higher level (typically state wide) to provide insights into the overall performance toward addressing the agency goals and subsequently objectives within those goals. The intent is to provide the Commission with measures that will assist policy decisions. The TxDOT Administration will regularly review the CMM Dashboard and will examine deeper layers of data that inform those KPMs, to see the further context, drivers, and issues behind the higher level measures. The Commission may also periodically want to examine those deeper layers on certain issues.

### **Deliver the Right Projects**

- # and % of Highway Infrastructure Contracts Completed On Time and On Budget

### **Focus on the Customer / Value Our Employees**

- Employee Engagement Score

### **Foster Stewardship**

- Direct Transportation Funding
- HUB and DBE Attainment

### **Optimize System Performance**

- Congestion / Reliability Indices
- Vehicle Miles Traveled
- Average Annual Delay Per Person

### **Preserve Our Assets**

- % of Lane Miles in Good or Better Condition
- Bridge Condition Score

### **Promote Safety**

- Annual Fatalities and Fatality Rate
- Annual Serious Injuries and Serious Injury Rate
- Fatality Emphasis Areas

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## Attachment A:

# Local Government Projects Program Annual Report

\*Please note that we have found an error on the report that has been submitted to FHWA. On page 25 of this report the title reads "FY 2016 LG Activities" and it should read "FY 2017 LG Activities".



# FY 2017 Annual Report to FHWA-Texas

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## Local Government Projects Program (Local Public Agencies)

November 30, 2017

Local Government Projects Section  
Transportation Planning & Programming Division

## Introduction

This report has been prepared to fulfil requirements in the “Stewardship and Oversight Agreement on Project Assumption and Program Oversight by and between Federal Highway Administration, Texas Division and the State of Texas Department of Transportation,” dated Dec. 8, 2015. Federal government laws, rules and regulations refer to local government entities as local public agencies (LPAs). TxDOT refers to LPAs as local governments (LGs) since the state of Texas laws related to LG entities are codified in the Texas Local Government Code. For the purpose of this report, the use of LGs is to be considered interchangeable with LPAs. TxDOT defines a LG project as a transportation project for which at least one phase of project development (environmental, design, right of way, utility relocation or construction) or the program is managed by a LG entity and is reimbursed with FHWA or TxDOT funds. Even though projects being reimbursed with FHWA or TxDOT funds are considered LG projects by TxDOT, only projects that include reimbursement with FHWA funds are included in this report.

- At the start of TxDOT’s fiscal year 2017 (Sept. 1, 2016), 656 LG projects with total funding in the amount \$3.83 billion were identified in TxDOT’s list of active LG projects with federal funds. The total amount of federal funds committed to these projects was \$1.93 billion (51.5 percent).
- At the start of FY 2018 (Sept. 1, 2017), 678 active LG projects with total funding in the amount of \$4.55 billion were identified. The total amount of federal funds committed to these projects was \$2.44 billion (53.6 percent).
- Entering FY 2017, 56 projects with federal funds were scheduled for letting by LGs during FY 2017 with estimated total funding of \$129 million. LGs actually let 46 projects (82%) with federal funds in FY 2017 and awarded 42 (75%) of those projects totalling \$173 million in construction cost. During FY 2017, TxDOT provided concurrence-in-award on 57 LG-let projects totalling \$215 million in construction cost (28 of those projects were actually let in late FY 2016 and received TxDOT concurrence in early FY 2017).
- During FY 2016, LGs were reimbursed approximately \$161 million in FHWA funds on highway planning and construction projects.

In accordance with federal regulations, TxDOT is ultimately responsible for LG compliance with applicable federal laws, rules and regulations on LG projects. FHWA issues a Federal Project Authorization Agreement (FPAA) for each project to TxDOT. TxDOT has a funding agreement with a LG for each project. FHWA has no agreement with each LG. Therefore, FHWA holds TxDOT accountable for LG compliance with all applicable federal regulations.

## FY 2016 LG Activities

The following paragraphs of this document report TxDOT's LG Project Program activities during TxDOT's FY 2017 (September 2016-August 2017).

- Training of LG and TxDOT personnel administering LG projects:

During FY 2016, TxDOT provided 33 Local Government Project Procedures (LGPP) classes in 15 districts with 574 students (129 TxDOT employees, 258 LG employees, 184 LG consultant employees, 2 FHWA employees, and one future course instructor). At the end of FY 2017, there were 1,146 qualified persons (TxDOT) and 2,345 (other agency and consultant) qualified persons. Since July 1, 2016, qualified persons are required to re-take the 12-hour LGPP training class and pass the exam at least once every three years to remain qualified. Anyone qualified prior to July 1, 2016 has until July 1, 2019 to re-take the class to remain qualified for an additional three years.

During FY 2017, additional training for LG project personnel has been developed by the following TxDOT divisions:

Civil Rights Division – full-day workshop for LG entity contract administration personnel in the areas of Title VI and DBE compliance. The initial workshop was held in the Austin area on November 17, 2017. Additional workshops will be held at additional locations during FY 2018.

Environmental Affairs Division – half-day training class for NEPA document preparation for LG entity and consultant personnel. The initial classes are scheduled to be held in multiple locations throughout the state starting in January 2018.

- TxDOT's verification process that LGs have adequate project delivery systems and sufficient accounting controls to properly manage federal-aid funds:

Effective Aug. 1, 2016, prior to submitting a draft funding agreement to TxDOT's Contract Services Division for legal review and approval, district personnel must complete a LG Risk Assessment, a Special Approval form, and submit a recommendation to the deputy executive director for approval. This Special Approval form includes obtaining a qualifications statement from the LG for the proposed project and the district's completion of an evaluation of the LG's capabilities to manage one or more elements of project delivery. It also includes a commitment from the TxDOT district to provide a specified minimum level of oversight for the LG performed project elements. As part of this procedure:

For entities that have previously submitted a single audit to TxDOT, the department's External Audit section furnishes a summary of relevant findings or observations to the district for use during its evaluation of the LG's qualifications.

Entities that have not previously submitted a single audit to TxDOT are required to submit an audited financial statement to the district as part of their qualifications statement for district review during its evaluation of the LG's qualifications.

The review of the single audit or an audited financial statement for the LG and TxDOT's completion of the evaluation portion of the Special Approval form are TxDOT's procedure to determine if the LG has adequate project delivery systems and sufficient accounting controls to properly manage federal-aid funds. LG Risk Assessments are required to be updated either once per year or once every two years depending upon the rating score on their most recent previous Risk Assessment. All existing projects are required to have a Project Update form completed within 90 days after an entity's Risk Assessment is created or updated. The Project Update form evaluates the LG's project performance to-date and commits the district to providing a certain minimum level of oversight for the future.

As of August 31, 2017, TxDOT has completed Risk Assessments for 145 local government entities and has Special Approval forms or Project Update forms for 318 individual projects for these entities. Copies of the standard forms are included in the Appendix.

- TxDOT's oversight structure, resources and program elements that provide effective oversight of LG projects

Predominantly, TxDOT assigns responsibility to oversee LG projects to the district where the project is located. In some instances, a division is assigned this responsibility for overseeing the LG subrecipient. Based upon the quantity of LG projects and other demands on district/division resources, each district/division assigns personnel to oversee the LG project activities. In many districts, the environmental, right-of-way, design and letting activities are overseen by personnel within the Transportation Planning and Development Office and the construction phase of the LG project is monitored by Area Office or District Construction Office personnel. In a few districts, dedicated district resources have been established to oversee and monitor the LG project throughout the project development life cycle. In divisions, LG projects are predominantly managed by the same group throughout the duration of the project.

In 2012, TxDOT established a Local Government Projects (LGP) Office to dedicate additional resources to oversight of LG projects. In the Department reorganization

in February 2016, LGP became a section within the Transportation Planning and Programming Division. The responsibilities of the LGP are to:

- develop policy and standardized LG project processes;
- provide training to TxDOT and LG personnel;
- provide guidance, advice and support to districts;
- monitor district performance of overseeing LGs; and
- serve as the primary point of contact with FHWA on LG projects.

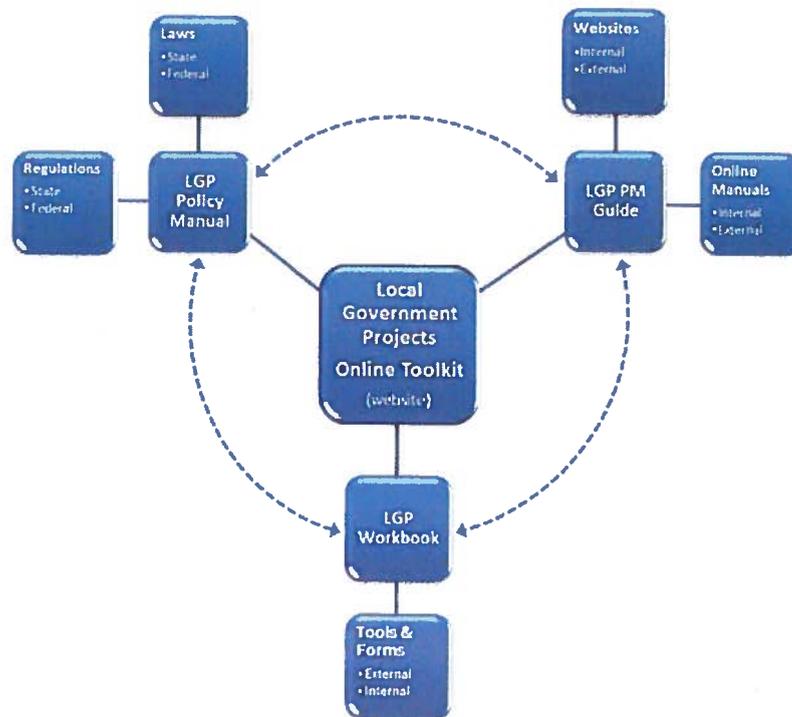
LGP personnel co-teach the training classes, provide direct support to the districts/divisions managing LG projects, and make regular visits to district/area offices and project worksites to observe project activities, records and documentation. Throughout FY 2017, every district was visited at least once. Districts with a significant number of LG projects were visited by LGP personnel 10 or more times during the fiscal year. LGP personnel made more than 100 district visits throughout FY 2017.

In June 2015, TxDOT released its LG Online Toolkit that includes the following:

- Interactive website (<http://www.txdot.gov/government/processes-procedures/lgp-toolkit.html>)
- User-friendly, project development process-based format that leads the user to requirements and guidance for each phase within the project development process.



- Links to training resources and the documents below.



- Local Government Projects Policy Manual
  - General discussion of each phase of the project development process.
  - Itemized listing of applicable federal and state laws and regulations.
  - Links to federal and state laws and regulations.
- Local Government Project Management Guide
  - Discussion of required practices for each phase of the project development process.
  - Definition of LG responsibilities for each phase.
  - Definition of TxDOT responsibilities for each phase.
  - Links to internal and external websites (including FHWA Federal-aid Essentials).
- Links to internal and external manuals
- Local Government Best Practices Workbook
  - Project specific workbook to be completed by project personnel.
  - Links to internal and external forms and tools.

- o Each document has links to other documents and additional resources. Use of the Toolkit is integrated within and provides the curriculum for the LGPP training class.

Effective Aug. 1, 2016, the LG Risk Assessment process described above was implemented to ensure a uniform, consistent procedure is in place to properly evaluate LG capabilities prior to execution of funding agreements and to establish minimum levels of TxDOT oversight of subrecipient performance throughout the project development process. The Risk Assessment Guidance document and forms are available online (<http://www.txdot.gov/government/programs/local-government-projects.html>).

- Quality control performed by TxDOT in its day-to-day oversight of LG projects to assure they comply with the following requirements

As discussed above, district/division personnel perform direct oversight of LG performance on active projects through site visits, meetings with LG personnel, review and approval of LG reimbursement requests, review of LG project records and documentation, and project acceptance/close-out. District/division personnel also reach out to receive technical expertise from TxDOT division personnel in the areas of roadway and bridge design, traffic operations and intelligent transportation system (ITS), environmental, transportation, construction, transportation planning, funding, safety, rail, aviation and other areas when the need arises. A summary of the quality control activities included within the LG Online Toolkit and documents that are implemented on projects by TxDOT personnel are as follows:

- Applicable environmental requirements

The district environmental coordinator is the primary point of contact on LG-performed environmental activities. The LG and TxDOT work collaboratively to develop a project scope that defines a mutual understanding of:

- o applicable requirements;
- o expectations for completed environmental work; and
- o plan and schedule for addressing environmental requirements.

Environmental concerns need to be identified early in the project so that any mitigation may be addressed in the environmental document and permits as well as accurately reflected in the design documents using the Environmental Permits, Issues and Commitments (EPIC) sheet. These may include: sole source aquifer coordination; wetland permits; storm water permits; traffic noise abatement; threatened or

endangered species coordination; archaeological permits; and any mitigation or other environmental commitments.

Prior to obtaining the FPAA for construction from FHWA or TxDOT issuing the State Letter of Authority (SLOA) to the LG, Environmental Affairs Division staff verify the appropriate environmental document has been approved, and district staff review and approve the construction plans and specifications (including the EPIC sheet). Prior to approving significant change orders, the district checks the environmental document to ensure the changed work is part of the approved environmental document.

As part of its monitoring of the LG performance during construction site visits, TxDOT reviews LG documentation of maintenance of storm water pollution prevention plans and implementation of items identified on the EPIC sheet, including monitoring compliance during the project and for a defined period of time after construction completion (if required).

- Uniform Act for right-of-way acquisitions and relocations

Projects may involve the use of local, state or federal funds for the purchase of right of way and may be subject to the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amendments thereto. Even projects entirely locally funded require TxDOT oversight if the project impacts the State Highway System. The completion of the Environmental Compliance phase and the subsequent issuances of the FPAA for right of way by FHWA and the second SLOA by TxDOT allow the LG to proceed with right-of-way acquisition or utility accommodations. During FY 2016, TxDOT transferred many right-of-way personnel from the Right of Way Division to the districts. These personnel are responsible to ensure the LG uses TxDOT's procurement process, policies and forms to acquire title to the property and complies with the requirements of the federal and state funding program that is the source of the funds. Prior to issuance of the SLOA for construction, district personnel review LG right-of-way acquisition and relocation documentation, receive right-of-way certification from the LG indicating if all right of way is clear or not clear, verify compliance with relocation assistance requirements, and the status of utility accommodations/relocations.

- Applicable federal consultant and contractor selection procedures

For all projects with state or federal funds, and all projects on the state highway system, the district performs the following.

- Review the LG's professional services provider selection process. The district contacts TxDOT's Professional Engineering Procurement Services (PEPS) Division or LGP for assistance as needed. During this review, the TxDOT district submits the proposed scope of services to the Civil Rights Division in order for a Disadvantaged Business Enterprise goal to be assigned. The TxDOT district grants approval of the proposed procurement process if it complies with applicable federal and state rules and regulations.
- Review proposed agreements between the LG and the professional services provider. This may include providing the agreement to the Civil Rights Division for review for confirmation the required language from Title VI of the Civil Rights Act of 1964 is included. TxDOT grants approval of the proposed agreements if the approved procedures in the consultant selection process were followed and required federal and state requirements are included in the agreement.

During FY 2017, LGP and PEPS conducted half-day workshops for LG subrecipients in the Laredo District and also in the Pharr District to present details on acceptable practices for professional services provider selection.

- Designed in accordance with applicable federal and state design criteria and standards

TxDOT oversight during preliminary engineering and plans, specifications and estimates (PS&E) development includes verification that the design criteria selected by the LG follows federal and state guidelines when state or federal funds are used or if the project is on the State Highway System. For all projects where TxDOT will review and approve the final PS&E, the districts review and approve the plans to assure the plans either meet the required criteria or have an approved exception. During the design process, district/division personnel review the progress drawings prepared by the LG or its consultant to assure the following areas comply with applicable federal and state design criteria and standards: level of service; hydraulics; longitudinal barriers; pavement; road closure/detours; specifications/special provisions; traffic engineering; illumination/electrical; ITS; pavement

markings; railroad crossings; signing and signals; design speed; temporary and permanent traffic control; bridges and structures; etc. These interim reviews of the LG-produced plans and specifications and final approval of the bid documents occur prior to TxDOT requesting issuance of a FPAA for construction from FHWA and prior to TxDOT issuance of a SLOA for the LG to advertise the project for bids.

- Received adequate inspection to ensure they were completed in conformance with approved plans and specifications

District personnel provide periodic site visits by Area Office, District Construction Office or dedicated LG project personnel during the construction phase. The frequency of visits can vary based upon the level of activity on the LG project site at various stages of construction. As part of the new LG Risk Assessment process, the district commits to a certain minimum level of oversight during the construction phase as indicated in the following chart.

TxDOT District Oversight Activity <sup>1</sup>	Minimum Frequency <sup>2</sup>		
	Level of Oversight		
	1	2	3
LG submit and TxDOT review project reports	Quarterly	Monthly	Monthly
TxDOT host project review/coordination meetings with LG	Quarterly	Monthly	Semi-monthly
TxDOT conduct worksite/project site visits	Annually <sup>3</sup>	Monthly	Weekly
TxDOT review LG project documentation/records	Annually <sup>3</sup>	Monthly	Monthly
LG submit and TxDOT review and approve reimbursement requests	Monthly	Monthly	Monthly

<sup>1</sup> Refer to TxDOT LG Project Management Guide for additional detail on oversight activities

<sup>2</sup> Greater frequency may be at District discretion

<sup>3</sup> Minimum of two times

District personnel document their site visits in their daily diary or in project records. Personnel from LGP provide support to districts in this activity by making periodic district visits including accompanying district personnel to project sites during the construction phase.

- Performed proper contract administration to comply with applicable federal and state rules, requirements and regulations

District personnel review some LG contract administration documentation on a monthly basis along with review and approval of reimbursement requests. The specific items reviewed each month vary by district and by type of project. Additional documentation is reviewed at key stages of the project development process. The new LG Risk

Assessment process also includes a commitment by the district engineer for personnel to perform a minimum level of oversight (including review of project documentation) as indicated in the table above. The culmination of these reviews is the audit of project records upon completion of the project prior to TxDOT payment of the final reimbursement request to the LG. Personnel from LGP also provide support to districts in this activity by spot-checking project documentation and accompanying district personnel on reviews of project records during the construction phase.

- Quality Assurance performed through development and implementation of a risk-based audit program for LG projects

The Internal Audit Division of TxDOT conducts independent appraisals and reports on internal TxDOT operations and procedures that are guided by a philosophy of adding value to improve the operations of TxDOT. The division employs a systematic and disciplined approach to evaluate and improve the effectiveness of TxDOT's risk management, control and governance processes. Each fiscal year, a department-wide audit plan is prepared based upon perceived risk to the department. In FY 2015, Internal Audit conducted an audit of the local letting process within TxDOT, including TxDOT oversight of federally funded projects being let by LGs. This audit was published in August 2015 and addressed the following LG project process items:

- organizational tone;
- policies/procedure development and maintenance;
- supporting evidence/records availability;
- segregation of duties;
- safeguarding assets; and
- information processing.

All items received a "satisfactory" rating. In addition, the summary assessment for the LG-letting process was "satisfactory."

In FY 2016, the state of Texas hired an independent firm to perform an audit of multiple state agencies, including TxDOT, for FY 2015. The audit included many areas within the FHWA "highway planning and construction cluster." The audit issued a finding of "significant deficiency and non-compliance" in the area of "subrecipient monitoring" and provided four recommendations which were listed in last year's version of this report. As this FY 2017 report is being written, the independent firm is performing its follow-up audit of the previously issued findings. TxDOT has provided documentation to the auditors demonstrating the actions taken to achieve full compliance and anticipate that upon completion of

the follow up audit, the FY 2015 State Agency Audit findings will be considered closed.

During federal planning year 2016 (June 1, 2015 through May 31, 2016), FHWA's nationwide Compliance Assessment Program (CAP) was focused on local public agency projects. The purpose of the CAP was to help provide reasonable assurance that Federal-aid Highway construction projects performed by LG subrecipients are in compliance with key Federal requirements. As part of this effort, FHWA-Texas completed field and desk reviews of 31 LG projects throughout the state of Texas. The final report was issued by FHWA-Texas in December 2016 (within TxDOT's FY 2017).

The conclusion of the report states:

“FHWA found that Local Public Agency construction projects were delivered with acceptable quality and conformance with the Federal requirements and State policies. Our findings in few areas were isolated occurrences; however, there are several areas within the Federal-aid program that requires improvement to reach full compliance in key Federal requirements.”

A summarization of other items in the CAP report follows:

Zero findings were discovered when assessing compliance with the 7 key Federal requirements related to financial integrity. Review for compliance with the Core requirements and the Contract Administration requirements showed high level of compliance in 11 of the 21 key Federal requirements. The following 10 areas were found to have compliance levels at or below 90% and identified as needing improvement:

- ROW/Utility/Railroad Certifications (10%)
- Subcontract Authorization (42%)
- Disadvantaged Business Enterprise (DBE) Approval (71%)
- Change Order Documentation (74%)
- Buy America Compliance (77%)
- Work Quantities (77%)
- Erosion and Sediment Control (84%)
- Cost Estimate Documentation (90%)
- Bid Evaluation (90%)
- Time Extension Justification (90%)

In addition to the 28 key Federal requirements evaluated on a nationwide basis, FHWA-Texas evaluated for compliance with 23 CFR 630.1010 for documenting if a project is determined to be significant. Documented compliance with this requirement was found in 61% of the projects. The nationwide evaluation item related to this (having the appropriate Transportation Management Plan in the project plan set) was found to be compliant in 97% of the projects.

TxDOT has currently or has previously initiated process improvements related to each of these areas identified as needing improvement. All 31 of the projects reviewed received its FPAA for construction prior to March 31, 2015. Since that time, TxDOT has initiated the following:

- June 2015 – Release of LG Projects Online Toolkit
  - Frequently Used Forms and Documents
  - Project Policy Manual
  - Project Management Guide
  - Best Practices Workbook
- June 2015 – Local Government Standard Specifications and Special Provisions
- August 2016 – LG Risk Assessment Process
- LGP Newsletters with guidance to TXDOT personnel (June 2015, June 2016, December 2016, February 2017)

In addition, TxDOT has added emphasis on these items in the LG Qualifications training class which was held throughout the state 31 times in FY 2016 and 33 times in FY 2017.

# APPENDIX



# LG Risk Assessment and Participation/Responsibilities in AFAs

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June 1, 2016

## Local Government Participation and Responsibilities In Advance Funding Agreements

The Negotiated Contracts Policy Manual, developed by the Contract Services Office, presents statutory authority and policies for negotiated contract management. Negotiated contracts involve services whose authorizing statute requires TxDOT to select a performing entity using a process other than competitive bids. An Advance Funding Agreement (AFA) between TxDOT and a local government, another state agency, or another state where both parties agree to a funding arrangement to contribute funds, labor, raw materials, or land in order to develop or maintain a highway project is a negotiated contract. In an AFA, TxDOT and a local government will conduct separate "typical" procurements for each of the tasks assigned to them (if any) by the AFA. It is each party's responsibility to fulfill all of its respective obligations under the AFA and applicable laws, rules and regulations.

Texas Administrative Code, Title 43, Part 1, Chapter 15, Subchapter E defines available methods for federal, state, and local cost participation in highway improvement projects. In addition to identifying the scope of the transportation project and the amount of funding provided by each party, two major decisions must be made by TxDOT and the local government prior to execution of an AFA:

1. Which party is responsible for performing the various phases of the project development process?
2. Which method of funding participation is appropriate: fixed price, specified percentage, or periodic payments?

This document includes guidance on how to address these topics consistently throughout the state. It is based upon a review of applicable laws and regulations and discussion with many districts, divisions, and the Administration.

### Responsibility for Performing Project Development Phases:

**Title 23 United States Code (USC) 106(g)(4) states:**

Responsibility of the States -

(A) In general - The States shall be responsible for determining that subrecipients of Federal funds under this title have:

- (i) adequate project delivery systems for projects approved under this section; and
- (ii) sufficient accounting controls to properly manage such Federal funds.

(B) Periodic review - The Secretary shall periodically review the monitoring of subrecipients by the States.

**Title 23 Code of Federal Regulations (CFR), Chapter I, Subchapter A, Part 1 §1.11 (b) states:**

Governmental engineering organizations - The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of other governmental instrumentalities for making surveys, preparing plans, specifications and estimates, and for supervising the construction of any project.

**23 CFR, Subpart A §635.105 states:**

Supervising agency -

(a) The State Transportation Department (STD) has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by a local public agency or other Federal agency. The STD shall be responsible for insuring that such projects receive adequate supervision and inspection to ensure that projects are completed in conformance with approved plans and specifications.

(b) Although the STD may employ a consultant to provide construction engineering services, such as inspection or survey work on a project, the STD shall provide a full-time employed State engineer to be in responsible charge of the project.

(c) When a project is located on a street or highway over which the STD does not have legal jurisdiction, or when special conditions warrant, the STD, while not relieved of overall project responsibility, may arrange for the local public agency having jurisdiction over such street or highway to perform the work with its own forces or by contract; provided the following conditions are met and the Division Administrator approves the arrangements in advance.

(1) In the case of force account work, there is full compliance with subpart B of this part.

(2) When the work is to be performed under a contract awarded by a local public agency, all Federal requirements including those prescribed in this subpart shall be met.

(3) The local public agency is adequately staffed and suitably equipped to undertake and satisfactorily complete the work; and

(4) In those instances where a local public agency elects to use consultants for construction engineering services, the local public agency shall provide a full-time employee of the agency to be in responsible charge of the project.

**Paragraph 15.52 (8)(D) of Texas Administrative Code (TAC), Title 43, Part 1, Chapter 15, Subchapter E states:**

Approval: ...In determining its approval or disapproval of local government's request to manage one or more elements of performance and management of a project, the Department will evaluate the following criteria:

- (i) previous experience of the local government in performing the type of work proposed;
- (ii) the capability of the local government to perform the type of work proposed or to award and manage a contract for that work in a timely manner, consistent with federal, state, and department regulations, standards, and specifications;
- (iii) the need for accelerated project delivery;
- (iv) Department resources available to perform or manage the highway improvement project in an efficient and timely manner;
- (v) cost effectiveness of local performance of the work as compared to awarding the highway improvement project through the competitive bidding process; and
- (vi) any other considerations relating to the benefit of the state, the traveling public, and the operations of the Department.

As clearly stated in federal law, federal regulations, and state regulations, TxDOT has a responsibility to determine each local government is qualified and has adequate resources and controls to perform the project work, prior to authorizing it to perform any element of the project development process.

#### LG Risk Assessment and Qualifications Review Process

In order to fulfil this requirement, and as good business practice, TxDOT has developed a standardized process and a series of forms to evaluate each local government's qualifications for performance of one or more elements of the project development process. The process includes the following forms:

1. LG Agency Risk Assessment,
2. Special Approval per TAC 15.52, Parts A & B, and
3. TxDOT Project Update Evaluation of LG Qualifications.

The LG Agency Risk Assessment is to be completed by the District in coordination with TxDOT's Local Government Projects Section (LGP). TxDOT's LGP Section will work with the Districts to develop a schedule to review the overall risk of each LG on a regular basis. This LG Agency Risk Assessment form uses multiple evaluation criteria to evaluate the overall risk to TxDOT if the LG is allowed to manage one or more elements of the project development process. This form assigns one of the following risk levels to the LG:

- A – Low level of risk to TxDOT
- B – Moderate level of risk to TxDOT
- C – High level of risk to TxDOT
- D – Unacceptable level of risk to TxDOT

This overall agency level of risk is a component used in the other forms. If the LG agency is rated A or B, the agency will be re-evaluated every two years. If the LG agency is rated C or D, they will be re-evaluated annually. It is recommended that a group of individuals within the district familiar with the LG agency's capabilities work together to complete the form for acknowledgement by the District Engineer. District Engineers have the option of requesting that the evaluation for one or more LG agencies within their district be evaluated by a peer group of TxDOT individuals from other districts who manage LG projects. If this is requested, LGP will assemble a peer group and lead the LG agency evaluation process of completing the form for acknowledgement by the District Engineer.

For AFAs Executed on or after the effective date of this guidance:

"Special Approval per TAC 15.52, Parts A" is to be completed by the local government requesting approval to perform or manage one or more elements of the project development process. The district may assist the local government in preparation of this form. As indicated at the end of page four of the form, it must be signed and dated by a local government representative. It should then be submitted to the local district office to initiate the evaluation process. Upon receipt of the local government provided information form, the district will review the information furnished by the local government and complete its evaluation using "Part B - TxDOT Evaluation of LG Qualifications" of the Special Approval per TAC 15.52 form. The TxDOT risk rating (A, B, C, or D) from the LG Agency Risk Assessment Form is entered as one factor to be considered under evaluation criteria #1 on the "TxDOT Evaluation of LG Qualifications" form. Upon completion of its evaluation, the District Engineer is to recommend which elements, if any, be performed or managed by the local government. This recommendation will be signed and dated by the District Engineer and submitted to the Deputy Executive Director for review and concurrence. Upon receipt of concurrence from the Deputy Executive Director, the district and local government may complete negotiation of all Advance Funding Agreement terms and Contract Services is authorized to execute the AFA on behalf of the Department.

#### For Projects with Existing AFAs

As stated above, TxDOT's LGP Section will work with the Districts to develop a schedule to review the overall risk of each LG on a regular basis. The LGP Section and Districts will endeavour to complete the initial risk assessment of all local governments with active AFAs (approximately 200) prior to August 31, 2017. Within 90 calendar days after completion of the LG Agency Risk Assessment for a local agency, each district will complete a TxDOT Update Evaluation of LG Qualifications form for each active project which does not have a Special Approval per TAC 15.52, Parts A & B on file. For projects with AFAs executed on or after the effective date of this guidance, each District may

complete "TxDOT Project Update Evaluation of LG Qualification" forms at any time deemed appropriate by the District Engineer.

The Districts will coordinate these efforts with the LGP Section and will submit an electronic copy of all LG Agency Risk Assessment forms, Special Approval per TAC 15.52, Parts A & B forms, and TxDOT Project Update Evaluation of LG Qualification forms to the LGP Section within 30 days of execution.

Guidance on Method of Funding Participation:

Definitions:

**Fixed Price** - Costs will be allocated based on applicable Federal funding, State funding, and a fixed amount of Local Government funding until Local Government funding reaches the maximum obligated amount. The State (using State or Federal funds, as applicable) will then be responsible for 100% of the costs.

**Specified Percentage** - Costs will be allocated based on applicable percentages of Federal funding, State funding, and Local Government funding until Federal and State funding reach the maximum obligated amount. The Local Government will then be responsible for 100% of the costs. The following costs may be a fixed price with District Engineer approval:

- Environmental Direct State Costs
- Right of Way Direct State Costs
- Engineering Direct State Costs
- Utility Direct State Costs
- Construction Direct State Costs
- Non-Construction Direct State Costs
- Indirect State Costs

**Periodic** - The local government proposes a schedule to pay its allocated project costs that differs from the normal pre-payment schedule.

The standard funding arrangement on projects with a combination of local plus state and/or federal funds is Fixed Price according to T.A.C. §15.52 of Texas Administrative Code (TAC), Title 43, Part 1, Chapter 15, Subchapter E. This method of funding does not require final reconciliation of actual Department costs versus local government contributions on projects which include local funding participation. History has shown that on many Specified Percentage projects it has taken a considerable time to close out the project after construction completion due to the required process of:

- conducting a final project audit,
- preparation of a Statement of Cost,
- notifying the local government:
  - they have paid excess funds and reimbursing the local government the excess funds, or
  - additional local funds are required and collecting the additional funds from the local government, and
- closing out the project.

In many cases the funds owed/due were relatively minor yet required extensive analysis to quantify the exact amount.

Specified Percentage and Periodic Payments are alternate funding arrangements subject to special approval by the Executive Director (which has been delegated to the Deputy Executive Director).

The Commission's expectation is that the AFA for most projects which are managed from start to finish by TxDOT with partial funding from a local government will be Fixed Price. The districts should develop the initial cost estimates with proper care so that the projected costs for all elements of project development are reasonably accurate. This will minimize financial risk to TxDOT. The AFAs may be modified by written amendment when executed by both parties in the following instances:

- significantly differing site conditions,
- when work requested by the local government is determined to be ineligible for federal participation,
- when there is change in the scope of work,
- when the adjustment is mutually agreeable to the Department and the local government.

On substantial projects, it is likely that the Department and the local government should validate the local government Fixed Price upon receipt of construction bids to confirm the local government level of participation is at a similar percentage of total project costs as was anticipated upon execution of the AFA. If costs are considerably higher than originally estimated and the Department and the local government cannot agree upon a revised level for each party's financial participation through execution of an Amendment, the Agreement may be terminated in accordance with terms of the AFA.

For projects where the Department approves a local government to manage one or more elements of project development, using a Specified Percentage funding arrangement for the local government performed or managed elements of project development frequently is the appropriate choice. If the local government is managing all elements of the project development, Specified Percentage (in most cases) will be the preferred method of sharing costs. In Specified Percentage agreements, a maximum amount of federal and/or state participation is also appropriate. In these cases, the local government will be responsible for all project costs above the funding commitment of state and/or federal funds.

Examples of how this guidance may be implemented are as follows;

1. Off-system project with only federal and local funding, the local government is managing the entire process from start to finish.
  - a. Specified Percentage for all elements
2. Off-system project with only federal and local funding, the local government is managing design, utility relocation, and right-of-way acquisition, TxDOT is managing environmental and construction.
  - a. Specified Percentage for LG managed tasks
  - b. Fixed Price for TxDOT managed tasks
3. On-system project at request of the local government, TxDOT is managing the entire process from start to finish.
  - a. Fixed Price for LG contribution, TxDOT responsible for cost overruns.
  - b. Evaluate whether an Amendment is necessary upon receipt of construction bids to adjust LG financial participation to properly allocate actual construction bid amount to LG.
4. Major on-system project being managed by TxDOT with federal/state funding. Original project scope was all federal/state funding. Minor additions have been requested by LG and are incorporated into the project to accommodate local requests.
  - a. Fixed price for LG contribution, TxDOT responsible for cost overruns
  - b. Evaluate whether an Amendment is necessary upon receipt of construction bids to adjust LG financial participation to properly allocate actual construction bid amount for requested additions to LG.
5. Major on-system project with federal/state/local funding with all elements of work being managed by a Regional Mobility Authority.
  - a. Specified Percentage for all elements, LG responsible for cost overruns.

The attached FAQ responds to some recently asked questions.

Frequently Asked Questions  
Fixed Price vs. Specified Percentage on AFAs

**Estimates**

Question: In general, the project estimate for LG projects is based on an estimate the LG submits in their project nomination packet when responding to an MPO's Call for Projects for Cat 5, 7, and 9 funding. The project is selected by the MPO without review or input from the State on the accuracy of the estimate. Are we expected to update the estimate at the time of AFA development or are we supposed to use the project nomination estimate?

Answer: The AFA should only be executed using an estimate that is mutually agreed upon by the State and the Local Government. This may differ from the initial estimate submitted to the MPO by the LG. The agreed-upon estimate should be provided to the MPO to reflect the current estimated project cost.

**Overruns**

Question: If a fixed-price project overruns, is the State expected to amend the AFA to update the fixed price of the project? Or, is the intention to treat this like the Off-system Bridge Program and the LG costs are fixed regardless of work/cost overrun?

Answer: No, it is not anticipated that amendments to the AFA would be necessary or appropriate on a frequent basis to adjust for overruns due to changes in actual material and labor costs from those in the estimate used as the basis of the Agreement. Once the contract has been executed, the State has agreed to cover cost overruns, and should act accordingly. The State would be acting in bad faith if it requested an adjustment to the budget page due to cost overruns, when it agreed to cover them in the original contract. However, if anticipated costs of the project increase substantially due to major changes in scope or significant increases in material, right of way, or utility relocation costs, the State and LG should consider amending the AFA and adjusting participation by each party prior to awarding the construction contract. If a project's cost increases significantly and the parties cannot agree to an Amendment, the AFA can be terminated by either party in accordance with the terms of the AFA.

Question: If the project overruns its costs in a Fixed Price AFA, what funding source will be used to cover TxDOT's increased cost for the overrun? If the answer is, the overruns will come from the same funds for which it was funded, does this also apply to Category 5, 7, and 9 funds allocated by an MPO? Does this mean that future allocations of funding will be reduced to cover current overruns?

Answer: If a project overruns, the party responsible to cover the increased costs may use its available sources of funding to provide the required funds. If the available funds come from Category 5, 7, or 9 funds allocated by an MPO, and the MPO agrees to increase its contributions to this project, the MPO's available funds will be reduced for other projects from these sources.

### ROW/Utilities

Question: Do fixed price provisions apply to ROW and Utility agreements?

Answer: Fixed Price provisions should be implemented similarly on all agreement types.

### Locally Funded Projects

Question: Are Locally Funded Projects fixed price regardless of whether they are on or off system? If so, what source of funds will cover the overruns?

Answer: No. The funding structure for an agreement depends on the terms to which the parties agreed. However, Fixed Price provisions should be implemented for all TxDOT-managed elements of an AFA. If a project overruns, the party responsible to cover the increased costs may use its available sources of funding to provide the required funds.

### Local Lets

Question: The Fixed Price AFA does not have a requirement that the State approve cost estimates before an LG lets a project or adds additional work after the project has let via change order. Is the State still responsible for overruns?

Answer: Yes, if you have a Fixed Price AFA. However, it is recommended that AFAs for Local Let project contain Specified Percentage funding structures for any LG-managed project activities. Local-let projects and specified percentage AFAs require the Deputy Executive Director's special approval. .

### Use of Fixed Price Template

Question: In general, all of the LG federally funded projects were selected during previous MPO Program Calls, i.e., prior to the implementation of the Fixed Price AFA becoming the standard method. We would prefer to use specified percentage AFA for these projects; however, Contract Services is mandating use of the Fixed Price template. Can we use Specified Percentage for these projects?

Answer: All new AFAs should conform to the current requirements of TAC §15.52. Specified Percentage can be used with approval of the Deputy Executive Director.

Question: Amendments: Whenever an amendment to an agreement is necessary, Contract Services typically requires an update to all articles that have changed since execution of the original AFA. If we did that, we would change entirely the terms of the AFA. Will Contract Services amend specified percentage AFAs without requiring that we update to the new template?

Answer: Whenever an amendment to an AFA is necessary, any applicable changes in Federal or State law since the execution of the AFA (and subsequent amendments thereto) must be incorporated into the new amendment. Existing Specified Percentage AFAs do not need to be changed to conform to new TAC requirements unless it is deemed beneficial to both the State and the LG. Other Amendments to the AFAs may be executed without altering funding participation when there is no other business purpose to change the funding participation.



LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_

### LG Agency Risk Assessment

	Criteria	Range of Attributes	Risk Score	Comments/Justification for Score
<b>Audits</b>	<b>Recent Single Audits, Federal Agency Audits, or Texas State Agency Audits</b>	No findings of concern	A	
		Minor findings that are actively being addressed	B	
		Major findings being addressed or multiple minor findings	C	
		Multiple findings of concern	D	
<b>Process</b>	<b>Project Delivery Process</b>	Well-defined process that regularly demonstrates successful results	A	
		Not well-defined process, but demonstrated success on past projects	B	
		Well-defined process that is new or has not shown consistent success	C	
		Inadequate process or no project delivery system has been provided	D	
<b>Program Past Performance (with TxDOT or Similar Agency)</b>	<b>Financial</b>	Consistently provide accurate and timely billings	A	
		Consistently accurate billings, not as frequently or timely as desired, or occasional inaccuracies	B	
		Occasional inaccuracies, always resolved, less frequently or timely billings than desired	C	
		Inaccurate, infrequent, or incomplete billings	D	
	<b>Compliance</b>	Consistent compliance with thorough documentation	A	
		Minor compliance or documentation issues, promptly addressed when notified	B	
		Some compliance or documentation issues, addressed but not always promptly	C	
		Poor performance, frequently lacking documentation	D	
	<b>Communication/Responsiveness</b>	Always timely, credible, and complete information	A	
		Credible and complete information, occasionally delayed	B	
		Eventually provides credible and complete information upon repeated requests	C	
		Non-responsive, inaccurate, or incomplete information	D	
<b>Program Leadership</b>	<b>Stability</b>	Steady, consistent, continuity of personnel in key positions over extended time	A	
		Current personnel have been in positions for a reasonable length of time	B	
		Some turnover in key positions, but culture of LG remains relatively consistent	C	
		Frequent turnover of personnel or changing positions	D	
	<b>Experience</b>	Well-equipped through education and/or training	A	
		Good basic level of experience and knowledge and commitment to further development of skills	B	
		Limited experience and knowledge but commitment to further development of skills	C	
		No relevant experience in required areas or no commitment to further development of skills	D	
	<b>Teamwork</b>	Consistently looking for win-win outcomes	A	
		Reasonable willingness to work with others to achieve acceptable outcomes	B	
		Hesitant to agree with anything that is not clearly in best interest of LG	C	
		Solely interested in winning at expense of others	D	
<b>Total Overall Risk Score</b>				

Low level of risk to TxDOT	A
Moderate level of risk to TxDOT	B
High level of risk to TxDOT	C
Unacceptable level of risk to TxDOT	D

<b>Notes</b>	
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Recommendation:

Acknowledgement:

\_\_\_\_\_  
 Director, District TP&D

\_\_\_\_\_  
 Director, District Construction

\_\_\_\_\_  
 District Engineer

\_\_\_\_\_  
 District Engineer Signature Date



Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

**Special Approval per TAC §15.52**  
**Part A - LG Qualifications Statement**  
*(Local Government Agency management of project development process elements)*

Local government (LG) agencies may manage elements of the project development process (environmental, right-of-way acquisition, utility relocation, design/bid document preparation, letting and award, and construction/project close-out) with written TxDOT approval. This approval is typically provided by language in the Advance Funding Agreement executed by TxDOT and the local government agency. Local government completion of Part A (pages 1-4) of this form is required. Upon receipt of completed Part A, the TxDOT district will evaluate the LG's capabilities to manage one or more elements of a project using Part B (pages 5-8) for recommendation to the TxDOT's Deputy Executive Director.

Describe the following items for the proposed project or program	
Project limits, type of work and any significant elements	
Preliminary estimated project costs	
Anticipated Funding Sources	FHWA <input type="checkbox"/> TxDOT <input type="checkbox"/> Local <input type="checkbox"/>

LG proposes to manage the following activities for this project	To be performed by LG with its own staff?	To be performed by consultant under contract with LG?
Environmental	Select one...	Select one...
Right-of-way acquisition	Select one...	Select one...
Utility relocation	Select one...	Select one...
Design and bid document preparation	Select one...	Select one...
Letting and award	Select one...	Select one...
Construction oversight, inspection, documentation and project close-out	Select one...	Select one...
Other _____	Select one...	Select one...
Other _____	Select one...	Select one...

Describe LG's approach to performing the proposed management services for this project

Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

In evaluating a LG request to manage elements of the project development process for projects on the State Highway System or with TxDOT and/or FHWA funding, 43 TAC §15.52 requires TxDOT to consider six criteria. The LG is to provide information requested in Items 1 and 2 below. TxDOT district personnel will complete information on the remainder of the evaluation criteria in Part B (pages 5-8).

**1. Previous experience of the LG in performing the type of work proposed**

<p><b>Attach an audited financial statement of Local Government Agency for most recent fiscal year.</b></p> <p>If TxDOT already has a copy of a Single Audit report or other audited financial statement for a recent year insert the fiscal year in the box to the right (submittal of an additional audit is not required).</p>	
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Please provide information on up to two similar projects completed in the past 5 years performed by the LG or by consultants under contract to the LG.

**PROJECT A**

<b>Name of previously completed project</b>				
<b>Describe type of work</b>				
<b>Describe any complex items of work</b>				
<b>Construction cost</b>	Estimated:		Actual:	
<b>Letting date</b>	Scheduled:		Actual:	
<b>Contract time</b>	Scheduled:		Actual:	
<b>LG management activities performed by LG personnel</b>				
<b>LG management activities performed by consultants</b>				
<b>Name of current LG employee contact who worked on project</b>			<b>Phone #</b>	
			<b>Email</b>	

Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

**PROJECT B**

Name of previously completed project			
Describe type of work			
Describe any complex items of work			
Construction cost	Estimated:		Actual:
Letting date	Scheduled:		Actual:
Contract time	Scheduled:		Actual:
LG management activities performed by LG personnel			
LG management activities performed by consultants			
Name of current LG employee contact who worked on project		Phone #	
		Email	

**2. The capability of the LG to perform the type of work proposed or to award and manage a contract for that work in a timely manner, consistent with federal, state, and Department regulations, standards, and specifications**

Please describe the LG's proposed personnel.

Name of person to serve in the position of Responsible Person in Charge		Position/Title	
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- a. Must be full-time employee of LG;
- b. Must be able to administer project activities (cost, time, scope, adherence to contract requirements, construction quality, etc.);
- c. Must maintain familiarity with day-to-day project operations (including project safety);
- d. Must make or participate in decisions about change orders or supplemental agreements;
- e. Must visit and review the project regularly;
- f. Must review financial processes, transactions and documentation; and
- g. Must direct his/her project staff (agency or consultant) at all stages of the project.

Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

<b>Name of person to serve as Project Manager</b>	<b>Position/Title</b>
---	-----------------------

- a. Responsible for daily oversight of the project;
- b. Primary point of communication with TxDOT for day-to-day matters;
- c. May be same person as RPIC; and
- d. May be local government employee or consultant.

<b>Project Manager's previous experience on projects of similar type, complexity and cost</b>	
<b>Project Manager's previous experience on TxDOT and/or FHWA-funded projects</b>	

<b>Name of person to serve in the position of Qualified Person</b>	<b>Position/Title</b>
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- a. Must have completed TxDOT-required LGPP training prior to execution of AFA;
- b. May be same person as RPIC or PM; and
- c. May be LG employee or consultant.

<b>Qualified Person's previous experience on projects of similar type, complexity and cost</b>	
<b>Qualified Person's previous experience on TxDOT and/or FHWA-funded projects</b>	

Information submitted by:

\_\_\_\_\_ LG representative signature

\_\_\_\_\_ Date

\_\_\_\_\_ LG representative printed name

\_\_\_\_\_ LG representative title

Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

**Special Approval per TAC §15.52**  
**Part B - TxDOT Evaluation and Special Approval of LG Qualifications**  
*(Local Government Agency management of project development process elements)*

Local government (LG) agencies may manage elements of the project development process (environmental, right-of-way acquisition, utility relocation, design/bid document preparation, letting and award, and construction/project close-out) with written TxDOT approval. This approval is typically provided by language in the Advance Funding Agreement executed by TxDOT and the LG. Completion of Part A - LG Qualifications Statement and this Part B - TxDOT Evaluation and Special Approval of LG Qualifications are required for TxDOT to authorize the LG to manage one or more elements of a project.

In approving a LG request to manage elements of the project development process for projects on the State Highway System or with TxDOT and/or FHWA funding, 43 TAC §15.52 requires TxDOT to consider six criteria. TxDOT district personnel shall review Part A (pages 1-4), provide supplemental information by fully completing Part B (pages 5-8), and, based upon a determination of the adequacy of the LG's project delivery systems and accounting controls, recommend an appropriate role for the LG in project delivery on page 7 of this form.

43 TAC §15.52 regulations require the approval of the Executive Director (or authorized designee) for the LG to manage projects in the following cases:

	Applies
Any project on the State Highway System that improves freeway mainlanes	Select one...
A roadway improvement project that is to be on the State Highway System for which less than 50 percent of the funds come from sources other than federal or state highway funding	Select one...

**1. LG's previous experience in performing the type of work proposed**

In Section 1 of Part A (beginning on page 2), the LG submitted information on up to two similar projects completed in the past 5 years performed by the LG or by consultants under contract to the LG. Please rate if these previous projects are comparable or not comparable to the proposed new project.

	Yes/No
Project A Comparable	Select one...
Project B Comparable	Select one...

TxDOT Risk Rating of LG Agency: Select one...  
 (for definition of ratings, see page 8)

Date of Rating: \_\_\_\_\_

**2. District evaluation of LG capability to perform type of work proposed based on past projects identified above and other previous projects with TxDOT and/or FHWA funding**

Please describe the LG's performance.

a. Timeliness and quality in acquisition of right of way	
b. Timeliness and quality in relocation of utilities	
c. Timeliness and quality of preparing environmental documents and obtaining required permits and clearances	

Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

d. Timeliness and quality of project design and developing contract documents	
e. Timeliness and quality of letting and awarding construction contract	
f. Quality of performance in managing construction contractor and contract change orders	
g. Quality of performance in project inspection and documentation during construction	
h. Timeliness and quality of reimbursement requests throughout project	
i. Timeliness and quality of project close-out after project acceptance	
j. Timeliness of submitting supplemental funding when required	
k. Timeliness and adequacy in responding to audits	

**3. The need for accelerated project delivery**

Describe unique project situations requiring accelerated project delivery and any advantages of work being performed by LG rather than TxDOT.	
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**4. Department resources available to perform or manage the highway improvement project in an efficient and timely manner**

Describe any Department resource constraints that suggest the LG management of project development activities is in the best interest of TxDOT and the LG.	
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Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

**5. Cost effectiveness of local performance of the work as compared to awarding the highway improvement project through TxDOT's competitive bidding process**

On federally funded projects, FHWA holds TxDOT entirely responsible for successful project delivery, including the proper acquisition of right of way, utility relocation, environmental, design, construction, and project close-out. LG management of the project requires the LG performance of activities plus TxDOT oversight to assure compliance with all federal and state requirements.

<b>Explain why it is advantageous for successful delivery of this project for the LG to manage the proposed elements of project development.</b>	
--	--

**6. Any other considerations relating to the benefit of the state, the traveling public, and the operations of the Department**

<b>Please list any additional items to be considered in TxDOT's evaluation that are of benefit to the state, the traveling public, and the operations of the Department to allow the LG to manage the proposed elements of the project development process.</b>	
---	--

**Special approval for LG to manage the following items:**

Environmental	<input type="text" value="Select"/>	ROW acquisition	<input type="text" value="Select"/>	<input type="text"/>	<input type="text" value="Select"/>
Design/PS&E	<input type="text" value="Select"/>	Utility relocation	<input type="text" value="Select"/>	<input type="text"/>	<input type="text" value="Select"/>
Letting & award	<input type="text" value="Select"/>	Construction	<input type="text" value="Select"/>	None	<input type="text" value="Select"/>

Based upon review of Part A and completion of Part B, District determines the LG has adequate project delivery systems and sufficient accounting controls. Therefore, I (District Engineer) recommend Deputy Executive Director provide special approval of the LG performing the above marked project delivery items. The District commits to providing an appropriate level of oversight of LG activities to maximize compliance with applicable federal and state laws and regulations. District will provide: Level 1 , Level 2 , Level 3  oversight, as defined on page 8.

**Recommendation for approval:**

\_\_\_\_\_  
 District Engineer signature

\_\_\_\_\_  
 Date

**Special approval:**

\_\_\_\_\_  
 Deputy Executive Director signature

\_\_\_\_\_  
 Date

Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

## Local Government Projects – Risk Assessment

### LG Risk Rating Definitions

Low level of risk to TxDOT	A
Moderate level of risk to TxDOT	B
High level of risk to TxDOT	C
Unacceptable level of risk to TxDOT	D

### Oversight Levels

Level 1 Oversight – Relatively Low Risk Non-construction Projects and Very Low Risk Construction Projects

Level 2 Oversight – Higher Risk Non-construction Projects and Low to Moderate Risk Construction Projects

Level 3 Oversight – Higher Risk Construction Projects

TxDOT District Oversight Activity <sup>1</sup>	Minimum Frequency <sup>2</sup>		
	Level of Oversight		
	1	2	3
LG submit and TxDOT review project reports	Quarterly	Monthly	Monthly
TxDOT host project review/coordination meetings with LG	Quarterly	Monthly	Semi-monthly
TxDOT conduct worksite/project site visits	Annually <sup>3</sup>	Monthly	Weekly
TxDOT review LG project documentation/records	Annually <sup>3</sup>	Monthly	Monthly
LG submit and TxDOT review and approve reimbursement requests	Monthly	Monthly	Monthly

<sup>1</sup> Refer to TxDOT LG Project Management Guide for additional detail on oversight activities

<sup>2</sup> Greater frequency may be at District discretion

<sup>3</sup> Minimum of two times



Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

**TxDOT Project Update Evaluation of LG Qualifications**  
*(Local Government Agency management  
 of project development process elements)*

In accordance with the executed Advance Funding Agreement, the local government (LG) agency is managing the following elements of the project development process:

LG is managing the following activities for this project	Being performed by LG with its own staff?	Being performed by consultant under contract with LG?
Environmental	Select one...	Select one...
Right-of-way acquisition	Select one...	Select one...
Utility relocation	Select one...	Select one...
Design and bid document preparation	Select one...	Select one...
Letting and award	Select one...	Select one...
Construction oversight, inspection, documentation and project close-out	Select one...	Select one...
Other _____	Select one...	Select one...
Other _____	Select one...	Select one...

**Describe LG's method of performing these management services for this project**

(i.e., City public works director, \_\_\_\_\_ is serving as Responsible Person in Charge; city is using its own right-of-way agent to acquire ROW and coordinate required utility relocations; city has selected consulting engineering firm, \_\_\_\_\_ through TxDOT approved qualifications-based selection process to perform environmental, design and construction oversight; city has assigned engineer, \_\_\_\_\_, within its transportation department as project manager to manage consultant contract and oversee performance of project and invoicing.)

\*\*\*DELETE THIS EXAMPLE TEXT BEFORE ADDING NEW TEXT\*\*\*

<b>Name of person serving in the position of Qualified Person</b>		<b>Position/Title</b>	
---	--	-----------------------	--

TxDOT Risk Rating of LG Agency: Select one...

Date of Rating: \_\_\_\_\_

LG's performance on this project to-date is as follows:

<b>a. Timeliness and quality in acquisition of right of way</b>	
<b>b. Timeliness and quality in relocation of utilities</b>	
<b>c. Timeliness and quality of preparing environmental documents and obtaining required permits and clearances</b>	
<b>d. Timeliness and quality of project design and developing contract documents</b>	

Project CSJ: \_\_\_\_\_  
 LG Name: \_\_\_\_\_  
 LG Texas ID No. (TIN): \_\_\_\_\_  
 District: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

e. Timeliness and quality of letting and awarding construction contract	
f. Quality of performance in managing construction contractor and contract change orders	
g. Quality of performance in project inspection and documentation during construction	
h. Timeliness and quality of reimbursement requests throughout project	
i. Timeliness and quality of project close-out after project acceptance	
j. Timeliness of submitting supplemental funding when required	
k. Timeliness and adequacy in responding to audits	

Based upon the district's review of LG's project performance to-date, the District has determined that LG has adequate project delivery systems and sufficient accounting controls, to continue performing the following elements of the project development process:

Environmental	Select (	ROW acquisition	Select (	_____	Select (
Design/PS&E	Select (	Utility relocation	Select (	_____	Select (
Letting & award	Select (	Construction	Select (	None	Select (

The District has determined it will provide: Level 1 , Level 2 , Level 3  oversight, as defined below, for the duration of the project to maximize LG's compliance with applicable federal and state laws and regulations.

TxDOT District Oversight Activity <sup>1</sup>	Minimum Frequency <sup>2</sup>		
	Level of Oversight		
	1	2	3
LG submit and TxDOT review project reports	Quarterly	Monthly	Monthly
TxDOT host project review/coordination meetings with LG	Quarterly	Monthly	Semi-monthly
TxDOT conduct worksite/project site visits	Annually <sup>3</sup>	Monthly	Weekly
TxDOT review LG project documentation/records	Annually <sup>3</sup>	Monthly	Monthly
LG submit and TxDOT review and approve reimbursement requests	Monthly	Monthly	Monthly

<sup>1</sup> Refer to TxDOT LG Project Management Guide for additional detail on oversight activities

<sup>2</sup> Greater frequency may be at District discretion

<sup>3</sup> Minimum of two times

Recommendation:

Acknowledgement:

\_\_\_\_\_  
 Director, District TP&D

\_\_\_\_\_  
 Director, District  
 Construction

\_\_\_\_\_  
 District Engineer

\_\_\_\_\_  
 District Engineer  
 signature date

---

## Attachment B:

### List of Projects of Division Interest (PoDI)

**List of Projects of Division Interest (PoDI)**

**12/1/2016**

**PY 17 PoDI Criteria : Major Projects, TIGER, Other Federal Agency Commitment (DOD & ER), D-B and Projects Selected Based on Risk**

Number	District	County(s)	Federal Project Number(s)	State Project Number(s)	Project Name(s)	PODI Type	Currently PoCI	FHWA Point of Contact
1	Austin	Travis	2012492	0151-09-036, 0151-09-127, 0265-01-080	US 183 - Bergstrom Expressway (From US 290 to SH 71)	Major Projects (>\$500M); 23 USC 106(h)		Jackson, Brett
2	Austin	Travis		0265-01-110	SH 71 Toll Lanes	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Larsen, Lisa
3	Austin	Travis	1102558	3136-01-107	Loop 1-Mopac Improvement Project	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Larsen, Lisa
4	Austin	Travis		0151-05-100, 0151-05-101, 0151-05-102	US 183 North	Major Projects (>\$500M); 23 USC 106(h)		Jackson, Brett
5	Austin	Travis	1102012	0114-02-053	US 290 - Manor Expressway	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Ham, Justin
6	Austin	Travis		0113-08-060, 0700-03-077	The Oakhill Parkway	Major Projects (>\$500M); 23 USC 106(h)		Jackson, Brett
7	Austin	Travis		0015-13-382	US 183 Direct Connectors	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Larsen, Lisa
8	Austin	Travis, Williamson			I-35 Central Texas through Downtown Austin	Major Projects (>\$500M); 23 USC 106(h)		Ham, Justin
9	Austin/San Antonio	Williamson, Travis, Comal, Bexar, Hays	0146001, 2006888, 1302090, 1302091	8300-00-001	Lone Star Rail Project	Major Projects (>\$500M); 23 USC 106(h)		Ham, Justin
10	Beaumont	Jefferson		0739-01-039, 0739-02-160, 0739-02-161	IH 10 Widening	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Yilma, Semme
11	Brownwood	Eastland		0007-06-084	IH 20 Ranger Hill	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Spoehrer, Kevin
12	Corpus Christi	Nueces	597001	0101-06-095	Harbor Bridge (US 181 and SH 286)	Major Projects (>\$500M); 23 USC 106(h)	YES	Hinojosa, Albert
13	Corpus Christi	Nueces	2013287	0102-03-081, 0102-04-096	US 77 Upgrade to I 69	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Hinojosa, Albert
14	Dallas	Dallas	2002040, 2003038, 2004426, 0305083, 2013306, 2013307, 2013308, 2013309, 2013353	1068-04-048, 1068-04-049, 1068-04-119, 1068-04-023, 1068-04-116, 0442-02-132, 0442-02-118, 0009-11-226, 0196-03-205, 1068-04-157, 1068-04-158, 1068-04-159, 1068-04-160, 1068-04-099	IH 30/IH 35E - Project Horseshoe	Major Projects (>\$500M); 23 USC 106(h)		Wilson, Anita
15	Dallas	Dallas	2005994, 6353373, 2009750	2374-01-068, 2374-01-032, 0196-03-137	IH 635 - LBJ Freeway	Major Projects (>\$500M); 23 USC 106(h)		Jackson, Brett
16	Dallas	Dallas and Denton	356438, 2013303, 203491, 2013293	0195-03-050, 054, 067, 071, 0196-01-056, 074, 096, 0196-02-068, 073, 114, 120, 123, 0196-03-138, 180, 240, 245, 258	IH 35E Managed Lanes	Major Projects (>\$500M); 23 USC 106(h)	YES	Spoehrer, Kevin

**List of Projects of Division Interest (PoDI)**

**12/1/2016**

**PY 17 PoDI Criteria : Major Projects, TIGER, Other Federal Agency Commitment (DOD & ER), D-B and Projects Selected Based on Risk**

Number	District	County(s)	Federal Project Number(s)	State Project Number(s)	Project Name(s)	PoDI Type	Currently PoCI	FHWA Point of Contact
17	Dallas	Dallas	1402025	0197-02 108, 0092 14-081	US 175 - SM Wright Phase 1 (From IH 45 to east of Bezar Street)	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Patel, Ujval
18	Dallas	Dallas		0918-45 121	Trinity Parkway (From IH 35E/SH 83 to US 175/SH 310)	Major Projects (>\$500M); 23 USC 106(h)	YES	Wilson, Anita
19	Dallas	Dallas		0581-02 124, 0094-03 060	LP 12/H 35E Corridor - Reconstruction and Toll Managed Lanes	Major Projects (>\$500M); 23 USC 106(h)		Wilson, Anita
20	Dallas	Dallas		0442-02 088, etc.	The Southern Gateway Managed Lanes Project	Major Projects (>\$500M); 23 USC 106(h)		Wilson, Anita
21	Dallas	Dallas		2374-01 137, 2374-02 053	IRI East (East I-635)	Major Projects (>\$500M); 23 USC 106(h)		Wilson, Anita
22	Dallas	Dallas		2964-01 038	SH 161 Toll Facility	Major Projects (>\$500M); 23 USC 106(h)		Patel, Ujval
23	Dallas/Fort Worth	Dallas and Tarrant	2013292	0094 03 065, 0364 05-025, 0094 02 077, 0094 03 116, 0094 07 015, 0094 07 020, 0581 02 281, 0353 06-054, 0353 06-025, 0353-04 056	Midtown Express SH 183/LP12/SH 114 Reconstruction of Interchanges and Managed Lanes	Major Projects (>\$500M); 23 USC 106(h)		Wilson, Anita
24	Fort Worth	Tarrant	355152, 355151	0014 16 179 (3A)   0014 16 255, 0081 12 045 (3B)	North Tarrant Express (NTE) Segments 3A, 3B, and 3C	Major Projects (>\$500M); 23 USC 106(h)		Jackson, Brett
25	Fort Worth	Tarrant	2009919	0008 14-058, 0008 14-059, 0014 16-194	North Tarrant Express (NTE) Segments 1&2	Major Projects (>\$500M); 23 USC 106(h)		Jackson, Brett
26	Fort Worth	Tarrant	2016183	1068 02 127, 1068-04 903, 2166-02 054 (PH 1/2 1068-02-076 & 1068-04 104)	SH360 & IH30 Reconstruction and Widening	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Wilson, Anita
27	Fort Worth	Tarrant, Johnson	2009485	0504-02-008, 0504-02-013, 0504-02-022	SH 121 Chisolm Trail (Southwest Parkway)	Major Projects (>\$500M); 23 USC 106(h)		Wilson, Anita
28	Fort Worth	Tarrant	2009753, 2009513	0353-03-059, 0353-03-079	DFW Connector - SH 121/SH 114 Reconstruction and Toll Managed Lanes	Major Projects (>\$500M); 23 USC 106(h)		Patel, Ujval
29	Houston	Harris, Montgomery		0912-00-471	SH 99 - The Grand Parkway (Segments F-1, F-2, and G)	Major Projects (>\$500M); 23 USC 106(h)		Mott, Daniel
30	Houston	Harris	2013983, 2013991, 2013737, 2013740, 2013741, 2013998, 2013136, 2013082	0050-06-079, 0271 14-213, 0271 14 217, 0271 14 228, 0050-09-069, 0050-09-071, 0050-06-080, 0050-08-087, 0050-09-070, 0050 90-086, 0114-12-007	US 290 Reconstruction (From IH 610 to FM 2920) 13 Construction contracts	Major Projects (>\$500M); 23 USC 106(h)		Mott, Daniel
31	Houston	Harris	DFFH61 13 G-00004	F-TIGER4-0001-4	Houston Regional Bike/Pedestrian Connections to Transit (White Oak Path Trail)	TIGER Discretionary Grant Projects		Paulk, Randy
32	Houston	Harris	DFFH61 13 G-00004	F-TIGER4-0002-4	Houston Regional Bike/Pedestrian Connections to Transit (White Oak Path Trail)	TIGER Discretionary Grant Projects		Paulk, Randy

**List of Projects of Division Interest (PoDI)**

**12/1/2016**

**PY 17 PoDI Criteria : Major Projects, TIGER, Other Federal Agency Commitment (DOD & ER), D-B and Projects Selected Based on Risk**

Number	District	County(s)	Federal Project Number(s)	State Project Number(s)	Project Name(s)	PODI Type	Currently PoCI	FHWA Point of Contact
33	Houston	Harris	DTFH61.13-G-00004	F-TIGER4-0003-4	Houston Regional Bike/Pedestrian Connections to Transit (White Oak Path Trail)	TIGER Discretionary Grant Projects		Paulk, Randy
34	Houston	Harris	DTFH61.13-G-00004	F-TIGER4-0004-4	Houston Regional Bike/Pedestrian Connections to Transit (Buffalo Bayou Path)	TIGER Discretionary Grant Projects		Paulk, Randy
35	Houston	Harris	DTFH61.13-G-00004	F-TIGER4-0005-4	Houston Regional Bike/Pedestrian Connections to Transit (East Downtown Trail and Bike Routes)	TIGER Discretionary Grant Projects		Paulk, Randy
36	Houston	Harris	DTFH61.13-G-00004	F-TIGER4-0006-4	Houston Regional Bike/Pedestrian Connections to Transit (Brays Bayou Trail)	TIGER Discretionary Grant Projects		Paulk, Randy
37	Houston	Harris	DTFH6116G00004	1111.16-002	TIGER VI - City of Houston ITS (HITS)	TIGER Discretionary Grant Projects		Whitfield, Toni
38	Houston	Harris, Brazoria		0598-01-090, 0598-01-092, 0598-01-096, 0598-02-092, 0598-01-901, 0598-01-902, 0598-01-905, 0958-01-906, 0598-01-907, 0598-02-900, 0598-02-093	SH 288 Reconstruction (From US 59 and CR 60) and Interchange Improvements	Major Projects (>\$500M); 23 USC 106(h)		Mott, Daniel
39	Houston	Montgomery, Harris, Liberty and Chambers		3510-07-003, 3510-08-001, 3510-09-001, 3510-09-002, 3510-10-001	SH 99 - Grand Parkway (Segment H and I-1)	Major Projects (>\$500M); 23 USC 106(h)		Mott, Daniel
40	Houston	Harris, Montgomery		0720-02-073	SH 249 (Tomball Parkway)	Major Projects (>\$500M); 23 USC 106(h)		Mott, Daniel
41	Houston/Bryan	Montgomery, Grimes		3635-01-001, 3635-02-001, 3635-02-002	SH 249 Extension	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Guerra, Lisell
42	Dallas/Fort Worth/Paris	Collin, Dallas, Ellis, Kaufman, Rockwall, Denton, Hood, Johnson, Parker, Tarrant, Wise, Hunt	DTFH6115G00005	N/A	Land Use-Transportation Connections to Sustainable Schools	TIGER Discretionary Grant Projects		Maley, Barbara
43	Paris	Grayson	2016253	0705-01-027	SH 91 at Shawnee Creek	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Patel, Ujval
44	Paris	Fannin		0901.32-099	Island Bayou Culvert Rehabilitation	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Patel, Ujval
45	Pharr	Cameron		0921-06-163	South Padre Island 2nd Access Project	Major Projects (>\$500M); 23 USC 106(h)		Mott, Daniel
46	San Antonio	Bexar		0072-07-041, 0072-08-089, 2452 02 087, 2451 02 087	IH 10/SL 1604 Expansion	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Ham, Justin
47	San Antonio	Bexar	0352342	0017 10 261, 0017 10 264	IH 35 Expansion (From IH 410 N to IH 410 S)	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Guerra, Lisell

**List of Projects of Division Interest (PoDI)**

**12/1/2016**

**PY 17 PoDI Criteria : Major Projects, TIGER, Other Federal Agency Commitment (DOD & ER), D-B and Projects Selected Based on Risk**

Number	District	County(s)	Federal Project Number(s)	State Project Number(s)	Project Name(s)	PODI Type	Currently PoCI	FHWA Point of Contact
48	San Antonio	Bexar		0253-04-138, 0253-04-146	US 281 (From LP 1604 to Borgfeld Road)	Major Projects (>\$500M); 23 USC 106(h)		Jackson, Brett
49	San Antonio	Bexar		0016-07-113	IH 35 NEX (From IH37 to Schertz Parkway)	Major Projects (>\$500M); 23 USC 106(h)		Jackson, Brett
50	Waco	Bell	2009531ES	0015-06-071	IH 35 Section 1C	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Spohrer, Kevin
51	Waco	McLennan	0354234	0015-01-186	IH 35 Section 3B	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Spohrer, Kevin
52	Waco	McLennan, Falls, and Bell	0354235	0015-02-048	IH 35 Section 3A-2	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Spohrer, Kevin
53	Waco	Bell	2012691	0015-14-091	IH 35 Section 2	Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)		Spohrer, Kevin

# Attachment C

## Findings per District and Commendations

District	# of Reviewed COs	Major Finding	Minor Finding	No Finding	Wrong Reason Code	Unique Pay Item	Poss. Partic. Error	Insuff. Doc.: Gen.	Insuff. Doc.: Pricing	No pricing
ABL	1			1						
AMA	2			2						
ATL	2			2						
AUS	10		2	8	X					
BMT	4	1		3	X		X			
BWD	1		1					X		
BRY	4		1	3		X				
CHS	2		1	1	X			X		
CRS	5		2	3				X	X	
DAL	19		4	15	X					
ELP	2			2						
FTW	10		5	5	X				X	
HOU	14	1	5	8	X	X			X	
LRD	3			3						
LBB	2			2						
LFK	2		1	1					X	
ODA	1			1						
PAR	3	2	1		X			X		
PHR	3	1	2					X	X	X
SJT	3	1		2	X					
SAT	8	2	2	4			X	X		
TYL	3		3				X	X	X	
WAC	4	2	1	1		X	X	X	X	
WFS	2			2						
YKM	4		3	1	X	X				
<b>Total = 114</b>		<b>10</b>	<b>34</b>	<b>70</b>						

The above table depicts the breakdown of COs reviewed per District, along with their respective findings.

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Attachment D:

Independent Assurance Annual  
Report and Approval

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**Brett Haggerty**

---

**From:** Travis, James (FHWA) <James.Travis@dot.gov>  
**Sent:** Monday, May 08, 2017 1:57 PM  
**To:** Brett Haggerty; Thomas L. Smith  
**Cc:** Twehues, Melanie (FHWA); Travis, James (FHWA)  
**Subject:** TxDOT Annual IA Report  
**Attachments:** 2016 IA Master Program Report to FHWA.PDF

Mr. Haggerty,

FHWA has received TxDOT's Annual Independent Assurance Report. The report is required per 23 CFR 637 for states utilizing system based Independent Assurance. After review of the attached final report, FHWA finds that the report meets the CFR requirements. FHWA appreciates TxDOT's commitment to a quality independent assurance program.

Jim Travis  
Asset Management Engineer  
FHWA – Texas Division Office  
512-536-5953



125 EAST 11<sup>TH</sup> STREET | AUSTIN, TEXAS 78701-2483 | (512) 463-8588 | WWW.TXDOT.GOV

May 2, 2017

Mr. Al Alonzi  
 Division Administrator  
 Federal Highway Administration  
 300 East 8<sup>th</sup> St., Room 826  
 Austin, Texas 78701

RE: Annual Report on Independent Assurance Program Results – CY 2016

Dear Mr. Alonzi:

In accordance with the requirements set forth in 23 CFR 637 Part B and the Texas Department of Transportation's (TxDOT) Quality Assurance Program for Construction, the information below summarizes the results of TxDOT's independent assurance (IA) activities under the system approach to IA testing for calendar year 2016.

TxDOT Independent Assurance Program Results – 2016			
IA Activities	TxDOT	Commercial Laboratory	Contractor
Number of personnel evaluated under system approach	1,780	1,119	373
Number of IA evaluations completed	12,544	10,983	4,601
Number of IA evaluations meeting tolerance	11,930	10,425	4,301
Number of IA evaluations not meeting tolerance	614	558	300
<p><b>Corrective actions:</b> Engineering reviews of procedures, equipment, and proper sampling were performed to determine the reason(s) for tests not meeting acceptable tolerance limits. A combination of procedural errors, equipment problems, and sampling issues were found to be the causes of tests not meeting specified tolerance limits for procedural discrepancies, test procedures were reviewed and technicians were given guidance on problems encountered. Any technicians who did not participate in required proficiency testing had their certification put into an inactive state until they could meet and comply with the program.</p>			

The data above represent a 95.1%, 94.9%, and 93.5% success rate, respectively, for TxDOT, commercial laboratory, and contractor personnel.

This program evaluated TxDOT, commercial laboratory, and contractor personnel (where applicable) performing testing on traditional, design-build, and concession projects. In general, TxDOT uses a tiered approach to administering the IA program, whereby the Construction Division's (CST) central laboratory conducts IA evaluations on qualified district laboratory personnel, who in turn evaluate area office and commercial laboratory personnel within their respective districts. For design-build and

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concession projects, IA activities are administered by the designated project IA laboratories and reported to TxDOT.

IA testing in hot mix asphalt (HMA) is covered by a statewide proficiency sample testing program administered by the central laboratory to all HMA Level 1A certified technicians, to include TxDOT, commercial laboratory, and contractor personnel. For concrete and aggregate testing, IA testing was performed using split or proficiency samples administered at the project level.

For soils/base testing, CST has a soils/base (SB) certification program, which is administered by the Texas Asphalt Pavement Association (TXAPA) / Hot Mix Asphalt Center (HMAC) and consists of five certification levels (SB 101, SB 102, SB 103, SB 201, and SB 202). A statewide soils/base proficiency program covering all SB 101, SB 201, and SB 202 certified technicians in the state is conducted. Soils/base technicians not certified by TXAPA, but rather through TxDOT's internal program, were addressed collectively between the TXAPA/HMAC and TxDOT's central laboratory using the tiered approach discussed above.

There were various alternate delivery projects in 2016 on which IA split or proficiency testing was conducted. For these projects, IA activities were administered by either a TxDOT district laboratory or AASHTO accredited and TxDOT certified consultant laboratories. The table below identifies the projects and the designated IA laboratory for each. The results of the IA activities conducted by these laboratories are included in the statewide results reported above.

Project	Project Type	Designated Project IA Laboratory
US 181 Harbor Bridge	Design Build	Aviles
North Tarrant Express - 3A	Concession	Kleinfelder
US 77	Design Build	Corpus Christi District Laboratory
Pass Thru (Spur 557 and SH 34)	Pass Thru	TxDOT Dallas District Laboratory
Horseshoe Project	Design-Build	TxDOT Dallas District Laboratory
IH-35E	Design-Build	TxDOT Dallas District Laboratory
SH 183	Design Build	TxDOT Dallas District Laboratory
DFW Connector/SH 360	Design Build	TxDOT Fort Worth District Laboratory
SH 71	Design Build	HVJ
HCRMA	RMA	Raba Kistner
Loop 375 Border Express	Design-Build	Raba Kistner
SH 183 MoPac Improvement Project	Design-Build	TxDOT Austin District Laboratory

Overall, IA tests were conducted using the split sample and/or proficiency sample methods, with acceptable tolerances applied accordingly. In nearly all cases, each technician was administered a split or proficiency test on multiple test procedures. For this report, each test procedure and assigned rating was considered a separate evaluation, resulting in multiple evaluations per technician. Our statewide HMA proficiency program, for example, included two samples (A & B) sent to each HMA Level 1A certified technician (1000+ personnel). These factors contributed to the large number of evaluations represented in this report.

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Through IA testing and our technician and laboratory qualification programs, we will continue to ensure quality sampling and testing practices and maintenance of equipment.

Please contact me at (512) 506-5808 or Thomas Smith at (512) 506-5802 should you have any questions regarding the information contained in this report.

Sincerely,



Brett T. Haggerty, P.E.  
Director, Materials & Pavements  
Construction Division

cc: Jim Travis, Asset Management Engineer, Technical Programs, FHWA  
Thomas L. Smith, Program Manager, Materials & Pavements, Construction Division, TxDOT