
Office of Inspector General

Audit Report

FHWA NEEDS TO STRENGTHEN ITS OVERSIGHT OF STATE TRANSPORTATION IMPROVEMENT PROGRAMS

Federal Highway Administration

Report Number: ST2017019

Date Issued: January 5, 2017





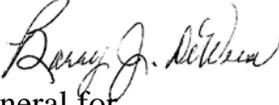
Memorandum

U.S. Department of
Transportation

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION:** FHWA Needs To Strengthen Its
Oversight of State Transportation Improvement
Programs
Federal Highway Administration
Report Number ST2017019

Date: January 5, 2017

From: Barry J. DeWeese 
Assistant Inspector General for
Surface Transportation Audits

Reply to
Attn. of: JA-30

To: Federal Highway Administrator

Each year, the Federal Highway Administration (FHWA) provides about \$40 billion in Federal funding to States for construction and improvements to the Nation's highways and bridges. To ensure that States appropriately plan and budget for the use of these funds and meet Federal requirements, Congress requires each State to submit to its FHWA Division Office and Regional Office of the Federal Transit Administration (FTA), a Statewide Transportation Improvement Program (STIP)—a list and description of projects that the State and metropolitan planning organizations (MPO) plan to implement over a 4-year period.¹ Federal law also requires that all projects in a STIP be fiscally constrained—meaning they demonstrate reasonably available funding and reliable cost estimates. FHWA coordinates with FTA to jointly approve each STIP to help ensure that the State Departments of Transportation (State DOTs) meet Federal requirements, such as outreach to public stakeholders on the planning process.²

We self-initiated this audit because of the significant amount of Federal funding provided to States to maintain and improve transportation infrastructure. Our objective was to assess FHWA policies, procedures, and guidance for ensuring that STIPs receive comprehensive, consistent reviews and meet Federal requirements, including coordination with FTA.

¹ An MPO—a policy board that represents a locality with a population of over 50,000—develops a metropolitan area's transportation plan. An agreement between the State's governor and the local governments or by State or local law designates the MPO.

² 23 U.S.C. §§ 134 and 135; 23 C.F.R. Part 450.

We conducted our work in accordance with generally accepted Government auditing standards. We assessed FHWA's process for reviewing STIPs in fiscal years 2013 and 2014. We also interviewed FHWA and FTA officials in Washington, D.C. and in Division and Regional offices, and officials at State DOTs and MPOs in six randomly sampled States—Florida,³ Maine, Maryland, Massachusetts, New Jersey and New Mexico. See exhibit A for details on our scope and methodology, and exhibit B for a list of entities contacted.

RESULTS IN BRIEF

Based on our sample of FHWA Division Offices, we determined that FHWA's Guidance⁴ does not provide sufficient detail for STIP reviews in certain areas. Furthermore, FHWA Headquarters' oversight process is not sufficient to routinely determine how well the Divisions ensure that the States comply with certain STIP requirements. As a result, most of the Division Offices we visited did not adequately document their STIP reviews or demonstrate sufficient action to ensure that the STIPs complied with Federal requirements for fiscal constraint. For example, five of the six Divisions we visited—Massachusetts, Maine, New Jersey, Maryland, and New Mexico—did not fully document their STIP reviews and approvals in accordance with FHWA's Guidance and Federal requirements. A lack of documentation makes it difficult for FHWA Headquarters to monitor the Divisions' implementation of the STIP process and ensure States implement corrective actions. We also found that four Division Offices—New Jersey, Maryland, Maine, and New Mexico—did not properly determine that the STIPs were fiscally constrained before approving them. For example, the New Jersey Division office approved a STIP in 2013 that included a funding method for some planned projects that financed them over multiple years with available cash flow, but without—as internal FHWA documents revealed—a demonstration of full funding in the STIP. Federal law⁵ requires States to demonstrate committed or reasonably available non-Federal revenues that will provide full funding for the costs of construction projects. States that do not demonstrate reasonably available funding on their STIPs risk project delays, work stoppages, and project terminations. In addition, while FHWA's Divisions and FTA's Regional Offices coordinated approval of STIPs, some Division Offices and FTA Regional Offices have not updated coordination agreements in a timely manner or mitigated duplicative reporting requirements.

We are making recommendations to strengthen FHWA's oversight of Division Offices' STIP reviews and clarify existing guidance to Division Offices.

³ We found no issues in Florida.

⁴ FHWA Field Planner Guide.

⁵ 23 U.S.C. § 135(g)(5)(E); 23 C.F.R. § 450.218(o).

BACKGROUND

A STIP's list of transportation projects must include all projects that require Federal approval. Each State DOT must self-certify that the STIP complies with Federal statutory and regulatory requirements before it can receive Federal funds, and FHWA must verify that States' transportation planning processes comply with those requirements. STIPs also include transportation projects that MPOs and local officials have submitted and the Governor has approved. STIPs can include hundreds of projects. See exhibit C for a list of STIP review requirements.

Federal regulations⁶ require that an FHWA Division Office and an FTA Regional Office review each STIP for several important elements before approving it to determine whether the State DOT is appropriately planning for the use of Federal funds. These elements—including financial planning, planning for public safety, civil rights compliance, and economic development—are outlined in FHWA's Guidance.

The Division Office's determination of whether a STIP demonstrates fiscal constraint is an important part of its review. A STIP is fiscally constrained if funding for all projects planned for each STIP year is reasonably available and the State DOT has developed reliable cost estimates for the projects. The State DOT must determine what Federal, State, and local resources are available; what resources are needed; and what gaps or shortfalls it must address to implement planned projects on the STIP. The purpose of fiscal constraint is to prevent States from programming too many projects and the possibility of running out of funds. State DOTs must also estimate costs for each STIP project using an inflation rate developed cooperatively with its MPOs and public transportation operators based on reasonable financial principles and information.⁷

FHWA's and FTA's roles and responsibilities in STIP reviews and approvals are defined in a memorandum of agreement (MOA) between each FHWA Division Office and FTA Regional Office. For example, the MOA includes timeframes for the review of STIP documentation and how to process each Agency's comments on the STIP. Federal statute⁸ and regulations⁹ also require that FHWA and FTA prepare a joint Federal Planning Finding (FPF) to document their review of State information and to support each STIP approval. In the FPF—a prerequisite to STIP approval—FHWA and FTA document the activities in their review that led to their determination of whether the State's planning process meets Federal requirements. If the Agencies approve a STIP for funding, both the FHWA

⁶ 23 C.F.R. § 450.220.

⁷ 23 C.F.R. § 450.218(l).

⁸ 23 U.S.C. § 135(g)(7) and (8); 49 U.S.C. § 5304(g)(7) and (8).

⁹ 23 C.F.R. § 450.220(b).

Division Administrator and the FTA Regional Administrator sign an approval letter.

States must also include in their STIP processes opportunities for the public to comment on transportation planning.¹⁰ FHWA requires each State to have a documented public involvement process that provides opportunities for the public to review each STIP and that solicits input from officials from small and rural localities. Public involvement in the transportation planning process helps agencies make informed decisions through consideration of public needs and preferences.

FHWA DOES NOT ADEQUATELY ENSURE THAT STIPS FULLY COMPLY WITH FEDERAL REQUIREMENTS AND ARE COORDINATED WITH FTA

Based on our reviews of six sample Division Offices, we determined that FHWA's Guidance does not provide sufficient detail for Division Offices on how to conduct STIP reviews in certain areas, and FHWA Headquarters does not have an oversight process to routinely determine how well the Divisions ensure that the States comply with certain requirements. As a result, the Division Offices we visited did not adequately document their STIP reviews or demonstrate sufficient actions to ensure that STIPs complied with Federal requirements. This lack of documentation makes it difficult for FHWA to monitor the Divisions' implementation of the STIP process and ensure that States implement corrective actions. Furthermore, while FHWA and FTA coordinated on the approval of STIPs, some FHWA Division Offices have not worked effectively with FTA to timely update agreements on coordination roles and responsibilities and to reduce duplicative reporting under the Civil Rights Act.

FHWA's Guidance Lacks Detail on STIP Review Requirements in Certain Areas, and FHWA Headquarters Has No Routine STIPs Oversight Mechanism

FHWA's Guidance does not specify which STIP elements Division Offices should at a minimum review and discuss in FPFs. It also does not include minimum expectations for analysis and review of information that States provide in their STIPs. Instead, the Guidance provides a high level template to assist Division Offices in the preparation of FPFs, with four broad areas for comment—strengths, areas for improvement, suggestions for enhancing the process, and corrective actions. It does not specify what detail Divisions should include in FPFs or the extent of documentation they should provide. FHWA officials stated that policies are designed to give flexibility to Division Offices.

¹⁰ 23 U.S.C. § 135(f)(3).

Between 2011 and 2014, FHWA Headquarters examined the Divisions' STIP review processes for fiscal constraint and other areas to ensure States' compliance with Federal laws and regulations and Agency Guidance. It evaluated 14 Division Offices and made 30 recommendations—such as verification that projects include total costs and sufficient documentation in FPFs to support STIP approvals. However, FHWA Headquarters did not monitor and track the Divisions' follow-up on identified issues. Because it discontinued these evaluations, FHWA cannot be sure that Division offices identify and resolve issues in their STIP reviews and approvals.

Furthermore, in its reviews of the STIP process, FHWA's Planning Office recommended that Division Offices store their STIP review documentation and corrective actions for the States in a centralized database. However, the Agency has not set up the relational database, needed to analyze the information and create useful reports, or required the Division Offices to capture this information. FHWA planning officials acknowledged that a centralized location for review information would allow Headquarters to more easily review Division data.

Documentation of STIP Reviews in Most Sampled Division Offices Was Insufficient To Support Approvals

In the absence of minimum documentation requirements in FHWA's Guidance, five of the six Division offices we visited—Massachusetts, Maine, New Jersey, Maryland, and New Mexico—did not sufficiently document their STIP reviews and approvals.

Office of Management and Budget (OMB) Circular A-123 requires well-defined documentation regarding internal controls such as the STIP approval process. According to OMB, documentation should be clear enough for anyone not familiar with agency procedures to understand the review. FHWA's Guidance states that in their FPFs, the Division Offices should include summary reports with sufficient detail to support the reasons for approvals. The lack of sufficient documentation in sampled States makes it difficult for FHWA to ensure that the Division Offices conduct timely and effective communication with the States to remediate deficiencies in the States' planning processes. For example:

- The Massachusetts Division's FPF did not clearly explain the Office's findings that the State's process complied with Federal requirements. The Office approved the STIP and in its FPF made recommendations, but did not clearly state the recommendations or provide clear support for them. For instance, one of the recommendations states: "We continue to recommend a balanced advertising program, whereby projects are advertised evenly throughout the year. As discussed with your staff, we recommend that MassDOT [Massachusetts DOT] address the significantly large off-system bridge

balances that may result in a lapsing of these funds.” It is unclear how the advertising program relates to the bridge balances in the description. The Division Office did not provide a clear explanation of the problems, the reasons for the need for corrective actions, or details on the specific corrective actions the State should take.

- In 2013, FHWA’s New Mexico Division Office approved a STIP without completing the required FPF. According to New Mexico Division personnel, they were reviewing the State’s planning processes and documentation, and working with the State DOT to improve them by enhancing consistency and transparency, and reducing risk in the delivery of federally-funded highway projects. New Mexico Division officials also noted that the State DOT addressed some corrective actions for the planning process in subsequent amendments to the STIP. For example, one of the STIP’s projects had received an obligation of over \$350,000 in Federal funds from FHWA before the Agency had approved the project as part of a STIP or authorized the work. The amendment noted that overbilling was a recurrent problem. The FHWA Division Office used the amendment to require the State DOT to develop an action plan to monitor project obligations throughout the year. The State DOT established new STIP planning procedures that it finalized in July 2014.

Four Division Offices’ STIP Reviews Did Not Ensure that States Met Requirements for Fiscal Constraint and Cost Estimation

In the absence of sufficient oversight from FHWA Headquarters of the Divisions’ implementation of the planning process, four Division Offices—New Mexico, New Jersey, Maryland, and Maine—did not demonstrate that they took sufficient actions to properly determine whether STIPs met Federal requirements for fiscal constraint and the cost estimation process before approving them. If States do not comply with the Federal planning process, they may experience project delays, risk work stoppages or project terminations, and ineffectively use Federal funds.

In 2013, New Jersey Division officials approved a STIP totaling \$15.3 billion. New Jersey DOT used a funding plan they called multi-year funding for certain projects in the STIP that total about \$2.3 billion. Multi-year funding is the practice of submitting a STIP for approval without a demonstration of full funding for some projects. Estimated costs for these projects are funded on a cash flow basis over multiple years without—as internal FHWA documents revealed—a demonstration of full funding in the STIP. As used by New Jersey, the practice does not meet the Federal requirements for fiscal constraint because it does not include required non-Federal funding. Federal law¹¹ requires States to demonstrate available, committed or reasonably available non-Federal revenues to provide full

¹¹ 23 U.S.C. § 135(g)(5)(E); 23 C.F.R. § 450.218(o).

project funding. Fiscal constraint requires reasonably available funding throughout a project to increase the likelihood that the project will be implemented effectively and efficiently.

New Jersey has used its multi-year funding method since 1998, and FHWA's approval implies acceptance of STIPs that are not fiscally constrained, contrary to Federal regulations. In a 2005 memorandum to FHWA Headquarters, the New Jersey Division acknowledged that the practice does not meet the requirements of fiscal constraint, but the issue was never resolved. Officials in FHWA's Office of Planning stated that multi-year funding is risky for project planning but have not stopped New Jersey DOT from using it or issued a formal policy regarding its use. Under FHWA regulations,¹² Division Administrators can partially approve portions of a STIP when some projects do not meet Federal requirements and outline corrective actions for the State DOT to take to ensure the projects comply. However, in 2013 the FHWA Division Office approved the New Jersey DOT's entire STIP. If a State DOT does not identify full funding and Federal funding then becomes unavailable or is delayed, the State's projects risk interruptions or even termination.

Additionally, the New Jersey Division Office did not comment on a significant State budget issue in their approval of the State's STIP. As part of planning fiscally constrained STIPs, States must consider current and projected economic climates and develop strategies to identify available funding sources. However, the New Jersey Legislature had not passed legislation to provide the State Transportation Trust Fund with \$1.6 billion for transportation projects planned for fiscal year 2017, making the budgetary situation for the 2014 through 2017 STIP uncertain. Yet, when the New Jersey Division approved this STIP, it did not comment on the State's lack of a strategy for assuring that its primary source of State revenue—the State Transportation Trust Fund—would be viable in 2017.

FHWA's Maryland Division Office approved a \$15.9 billion STIP in 2014 without sufficient analysis of the State's support for its assertion that the STIP was fiscally constrained. Maryland Division officials told us that they rely on summary financial information that the State DOT reports for its STIP to determine whether it is fiscally constrained. The FHWA Maryland Division Office provided us with a cost and revenue analysis that the State of Maryland completed for a prior STIP. However, under Federal statute,¹³ Division Offices must base STIP approvals on current analyses. Furthermore, FHWA's Guidance states that Divisions' STIP reviews should help the Divisions determine the viability and reasonableness of

¹² 23 C.F.R. § 450.220(b).

¹³ 23 U.S.C. § 135(g)(7) and (8); 23 C.F.R. § 450.220(b).

the States' identified funding sources.¹⁴ The lack of analyses of supporting documentation makes it difficult for the Divisions to verify that the States' funding sources are in fact viable and reasonable.

Lastly, the New Jersey, New Mexico, and Maine Division Offices approved STIPs without sufficient State documentation on how the States accounted for inflation in their project cost estimates. In the absence of this information, the Divisions could not determine whether STIPs' projects conformed to FHWA's regulations and guidance for cost estimation. FHWA regulations¹⁵ require cost estimates for each STIP project to account for inflation in the year of expenditure to help ensure that the State plans for adequate funding. For the four Maine projects we reviewed, Maine DOT did not use inflation rates in its cost estimates. Additionally, FHWA's New Jersey and New Mexico Division Offices could not provide the specific inflation rates for the projects we reviewed in their STIPs. A lack of information on how States calculate cost estimates makes it difficult for the Divisions to accurately determine whether the STIPs are fiscally constrained.

FHWA and FTA Jointly Reviewed STIPs but Missed Opportunities To Enhance Coordination

While FHWA's Divisions and FTA's Regional Offices coordinated to jointly approve STIPs, some Division Offices have not worked effectively with FTA to update agreements on coordination in the planning process in a timely manner and reduce duplicative reporting under the Civil Rights Act.

In September 2003, FHWA and FTA signed the Planning Collaboration Initiative (PCI) National Memorandum of Action to improve oversight of State transportation planning through coordination. The PCI established guiding principles for how the two Agencies should collaborate on planning. In 2013, FHWA and FTA issued memoranda that called for FHWA Division Offices and FTA Regional Offices to update their memoranda of agreement to reflect current organizational structure and reporting requirements by October 2014.

FHWA officials informed us that as of March 2016, 19 of its Division Offices had not updated their memoranda of agreement with FTA that outline Agency coordination roles and responsibilities. For example, New Mexico Division's agreement with FTA has not been updated to include coordination areas implemented by the Moving Ahead for Progress in the 21st Century Act¹⁶ of 2012 (MAP-21)—such as congestion mitigation and management. New Mexico Division Officials informed us that they are ready to sign the agreement as soon as

¹⁴ FHWA's Guidance recommends that State and local agencies provide documentation that shows projected revenues in support of projects are reasonable. Documentation must show historical and future revenue sources. Agencies should explain how they expect new funding sources to achieve revenues by project completion or identified project phases.

¹⁵ 23 C.F.R. § 450.218(l).

¹⁶ Public Law No. 112-141 (2012).

FTA's Region VI officials complete it. According to FTA regional officials, challenges associated with coordination between multiple organizations and States have caused the delays in agreement updates. The Maryland Division Office updated its memorandum of agreement with FTA during our audit.

Furthermore, FHWA and FTA have each created guidelines for State DOTs to implement plans to meet nondiscrimination requirements under the Civil Rights Act of 1964,¹⁷ and as result, some States have unnecessarily established two plans. Under Title VI of the act and other statutes,¹⁸ recipients of Federal funds from DOT cannot discriminate based upon race, color, national origin, sex, age, and disability in transportation programs, services, and activities. Both Agencies require that each grant recipient has a nondiscrimination plan to report on how it will implement and monitor compliance with these requirements. State DOTs must certify that they have plans in place, and as part of the STIP approval process, FHWA and FTA must review¹⁹ these certifications. Some States have prepared two plans—one that responds to FHWA's requirements and another that responds to FTA's. For example, the State DOTs in Florida, Maine, Massachusetts, and New Mexico have two plans. The FHWA Division and FTA Regional Office for New Jersey agreed to a combined plan that details how the State DOT has met, and continues to meet, nondiscrimination requirements. This coordination between FHWA and FTA has allowed them to avoid duplication of work for the State DOT.

CONCLUSION

FHWA and FTA are jointly responsible for ensuring that the STIPs planning process is carried out in accordance with Federal requirements. Because FHWA did not demonstrate that it performed a comprehensive and consistent review of States' planning processes, significant issues that could impact the timely and effective implementation of transportation projects that use Federal taxpayer dollars were not identified. Additionally, FHWA's STIP review process is the initial step in determining fiscal constraint for plans using approximately \$40 billion in Federal funds. Weaknesses in the review process put Federal funds at risk when State planning is inaccurate and projects may be delayed or not completed with the resources available. Lastly, FHWA and FTA should assure that not only are they coordinating efficiently, but that they provide guidance to the States and MPOs on efficiently using limited resources.

¹⁷ Public Law No. 88-352 (1964), Title VI codified at 42 U.S.C. § 2000d *et seq.*

¹⁸ Other statutes include the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Civil Rights Restoration Act of 1987.

¹⁹ 23 C.F.R. Part 200; 49 C.F.R. Part 21.

RECOMMENDATIONS

We recommend that the Federal Highway Administrator:

1. Establish minimum documentation requirements for FPFs and STIPs in guidance to Division Offices.
2. Develop and implement an oversight process to monitor and provide feedback to Division Offices on their review and approval of STIPs, and ensure Division Offices comply with Federal regulations, especially in regard to verifying fiscal constraint and the States' cost estimation processes.
3. Establish a centralized relational database to collect FPF information from the Division Offices and track recommendations and related corrective actions.
4. Complete the update of the MOAs on coordination with FTA.
5. Identify best practices of FHWA Division and FTA Regional Offices on coordination for development of Title VI plans, and distribute the best practices agency-wide.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided FHWA with our draft report on September 16, 2016, and received FHWA's response on October 28, 2016, which is included as an appendix to this report. FHWA concurred with recommendations 3, 4 and 5, and agreed to complete necessary actions to implement each of these recommendations by December 31, 2017. Accordingly, we consider these recommendations resolved but open pending completion of planned actions.

FHWA did not concur with recommendations 1 and 2. The Agency considers that its STIP guidance includes documentation standards and asserts that FHWA Headquarters monitors Division Office reviews and approvals of STIPs through annual internal control testing and the Agency's Compliance Assessment Program (CAP). We do not agree. Our review considered all FHWA guidance and processes and they do not address the conditions we reported on, especially FPFs and fiscal constraint. However, FHWA states that it will improve the process and has provided alternative actions for recommendation 1 and 2. We therefore request that FHWA provide within 30 days the specific plan and target action dates for the alternative actions it will take to respond to recommendations 1 and 2. Pending receipt of FHWA's plan, we consider recommendations 1 and 2 open and unresolved.

We appreciate the courtesies and cooperation of FHWA representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5630, or David Pouliott, Program Director, at (202) 366-1844.

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cc: DOT Audit Liaison, M-1
FHWA Audit Liaison, HCFB-32
FTA Audit Liaison, TBP-30

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted our work from March 2015 through September 2016, in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To assess FHWA policies, procedures, and guidance for ensuring that STIPs receive comprehensive, consistent reviews and meet Federal requirements, including coordination with FTA, we interviewed officials from the American Association of State Highway and Transportation Officials (AASHTO), FHWA, FTA, State DOTs and MPOs. We examined the relevant Federal laws, regulations, policy, and other guidance to gain an understanding of the requirements and oversight process developed by FHWA. To select a representative sample of Division Offices to assess, in coordination with the OIG statistician, we sorted the universe of 50 States and the District of Columbia by total apportionment amounts in fiscal year 2014 in descending order, and then stratified the universe into 3 groups—high, medium and low—with 17 in each stratum. We selected a simple random sample of 3 out of the 17 in each stratum for a total of 9 States out of a universe of 51. After completing our work in three States, we reduced our total sample to six, which we and the OIG Statistician deemed sufficient to verify our initial findings and address our audit objective. We then visited FHWA Division Offices and State DOTs in those six States: Florida, Maine, Maryland, Massachusetts, New Jersey and New Mexico.

During site visits, we conducted standardized interviews with FHWA Division Office leadership and planning staff as well as State DOT and MPO planning officials. We also developed a standardized tool to review the work completed by the Division planning staff in order to assess their conformance with the Field Planner Guidebook prescribed by FHWA Headquarters and whether it was implemented effectively. The documentation we examined included STIPs, TIPs, Federal Planning Findings, Title VI plans, process reviews, FTA and FHWA memoranda of agreement, communications, briefings, and other memoranda. Our assessment focused on FHWA's most recently approved STIPs at the time of our site visits, which ended in November 2015.

EXHIBIT B. ENTITIES VISITED OR CONTACTED

American Association of State Highway and Transportation Officials

FHWA, Office of Planning

FTA, Office of Planning, and FTA Regional Offices 1, thru 4 and 6

Florida

Florida Division, FHWA

Florida Department of Transportation

Capital Region Transportation Planning Agency

Maine

Maine Division, FHWA

Maine Department of Transportation

Bangor Area Comprehensive Transportation System

Maryland

Maryland Division, FHWA

Maryland Department of Transportation

Baltimore Regional Transportation Board

Massachusetts

Massachusetts Division, FHWA

Massachusetts Department of Transportation

Boston Region Metropolitan Planning Organization

New Jersey

New Jersey Division, FHWA

New Jersey Department of Transportation

Delaware Valley Regional Planning Commission

New Mexico

New Mexico Division, FHWA

New Mexico Department of Transportation

Santa Fe Metropolitan Planning Organization

EXHIBIT C. FHWA'S STIP OVERSIGHT REQUIREMENTS

General Area	Specific Review Area	Law or Regulation
State & MPO Certifications		1-10 listed below are also under 23 C.F.R. § 450.220.
	(1) General Requirements -- refers to consistency in general with planning requirements, many of which are below.	23 U.S.C. § 135; 49 U.S.C. §§ 5303 and 5304; 23 C.F.R. Part 450.
	(2) Title VI of the Civil Rights Act of 1964.	42 U.S.C. § 2000d; 49 C.F.R. Part 21.
	(3) Prohibition of discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunities.	49 U.S.C. § 5332.
	(4) Involvement of disadvantaged business enterprises in the FHWA and the FTA funded projects.	Section 1101(b) of SAFETEA-LU (Public Law No. 109-59 (2005)); 49 C.F.R. Part 26.
	(5) Implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts.	23 C.F.R. Part 230.
	(6) The Americans with Disabilities Act of 1990, Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance; Transportation Services For Individuals With Disabilities; and Americans With Disabilities Act Accessibility Specifications For Transportation Vehicles.	42 U.S.C. § 12101; 49 C.F.R. Part 27; 49 C.F.R. Part 37; 49 C.F.R. Part 38.
	(7) In States containing nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act as amended.	42 U.S.C. §§ 7504; 7506(c) and (d); 40 C.F.R. Part 93.
	(8) The Older Americans Act, prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance.	42 U.S.C. § 6101.
	(9) Prohibition against discrimination based on gender.	23 U.S.C. § 324.
	(10) Section 504 of the Rehabilitation Act of 1973 regarding discrimination against individuals with disabilities.	29 U.S.C. § 794; 49 C.F.R. Part 27.
Planning Factors	10 planning factors (a) Each State shall carry out a ... planning process that ... will address the following factors: (1) Support the economic vitality... especially by enabling global competitiveness, productivity, and efficiency (2) Increase the safety of the transportation System...	23 C.F.R. § 450.206.

Exhibit C. FHWA's STIP Oversight Requirements

General Area	Specific Review Area	Law or Regulation
	<p>(3) Increase the security of the transportation system</p> <p>(4) Increase accessibility and mobility of people and freight</p> <p>(5) Protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns</p> <p>(6) Enhance the integration and connectivity of the transportation system between modes...</p> <p>(7) Promote efficient system management and operation</p> <p>(8) Emphasize preservation of the existing system.</p> <p>(9) Improve the resiliency and reliability of the transportation system and reduce or mitigate storm water impacts of surface transportation; and</p> <p>(10) Enhance travel and tourism.</p>	
Interagency Coordination	State coordination of planning process activities with different agencies and governments	23 C.F.R. § 450.208.
Involvement of Interested Parties	Public involvement in and comments on the transportation plans and projects.	23 C.F.R. §§ 450.210(a) and 450.216(l)(2).
Conformity Determinations	Air Quality in the State. Ensures that federally supported highway and transit project activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards.	23 C.F.R. § 450.208(b); 23 C.F.R. §§ 450.324(a), 450.326(a), and 450.328(b).
Current Transportation Plans	Long Range Statewide Transportation Plan and Metropolitan Transportation Plan	23 C.F.R. §§ 450.216 and 450.324.
STIP General	Requirements for the development and content of the STIP must be met.	23 C.F.R. § 450.218.
STIP Fiscal Constraint	Revenue and cost estimates must use year of expenditure dollars and be based on reasonable financial principles and information. Full funding can reasonably be anticipated to be available within the time period contemplated for completion of projects or phases.	23 C.F.R. § 450.218(l) and (m).
Consideration of Transportation Alternatives	Development and integrated management and operation of transportation systems and facilities.	23 U.S.C. § 135(a)(2) and (3).

Exhibit C. FHWA's STIP Oversight Requirements

Congestion Management in Transportation Management Areas (TMA)	Air Quality in Transportation Management Areas (TMA). A TMA is an area designated by the Secretary of Transportation, having an urbanized area population of over 200,000.	23 C.F.R. § 450.322.
TMA Certification	FHWA and FTA joint review and evaluation of the transportation planning process for each TMA.	23 C.F.R. § 450.336(b).

EXHIBIT D. MAJOR CONTRIBUTORS TO THIS REPORT

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Petra Swartzlander	Senior Statistician
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APPENDIX. AGENCY COMMENTS



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **INFORMATION:** Federal Highway Administration (FHWA) Response to Office of Inspector General (OIG) Draft Report, "FHWA Needs to Strengthen Its Oversight of State Transportation Improvement Programs"

Date: October 28, 2016

From: Gregory G. Nadeau
Administrator

In Reply Refer To:
HCFB-30

To: Barry J. DeWeese
Assistant Inspector General for
Surface Transportation Audits

The FHWA disagrees with OIG's overall premise that it lacks oversight over Statewide Transportation Improvement Programs (STIPs). Specifically, the OIG's report incorrectly states that FHWA has no oversight mechanism with regard to review of division office compliance with STIP requirements. The Agency provides risk-based stewardship and oversight over the transportation planning process, including STIPs, which is managed jointly with the Federal Transit Administration. The FHWA has several systematic processes for monitoring division oversight of STIP compliance. These include:

- Annual independent internal control testing validates the design and operating effectiveness of key controls.
- Annual Compliance Assessment Program (CAP) provides an informed assessment of how well States comply with key Federal requirements, such as STIP provisions, for highway construction projects.
- Under CAP, during performance year 2015, FHWA division offices reviewed a sample of 2,524 projects drawn to represent all 14,697 Federal-aid highway projects authorized for construction from April 1, 2013 to March 31, 2014. As an additional level of oversight, since 2013, the FHWA Program Management Improvement Team visited 25 States to conduct Quality Assurance reviews of the divisions' implementation of

CAP. In the course of these reviews, FHWA identified successful practices that improved the reliability and effectiveness of the Federal-aid highway program.

Moreover, actions related to the State of the Practice reviews mentioned by OIG are examples of our stewardship and oversight.

- A team from FHWA Headquarters, its Resource Center, and division offices, in partnership with the Volpe Center, visited 15 division offices from 2011 to 2014 to review how the division offices assessed fiscal constraint in STIPs and how the Federal Planning Finding (FPF) was used to assist in STIP approval. The FHWA is now using the results of these reviews to address specific deficiencies and areas of improvement by engaging with division offices on these topics. For example, we are increasing the number of division offices' documenting their planning findings, as well as documentation of advanced construction, in their STIPs.
- We also developed and conducted training on STIP reviews, oversight, and the FPF to address the findings identified in the State of Practice reviews. Several Web based boot camp training modules were developed to assist planners in their understanding of fiscal constraint, the FPF, and the STIP approval process. The boot camp modules are targeted toward all new planning FHWA field staff and have helped improved field staff skills. The STIP reviews help FHWA identify and target areas of improvement for training and skill development, and strengthen division offices' oversight of the STIP.

We do not concur with recommendations 1 and 2 because we do not agree with the premise on which the recommendations are based. The FHWA already has documentation standards in its existing guidance and oversight processes to monitor and provide feedback to division offices' on their review and approval of STIPs. However, in our commitment to continuous improvement and as an alternate action to recommendations 1 and 2, we will review FHWA's current documentation and oversight processes, and evaluate the need to update our existing guidance on FPF, fiscal constraint, and cost estimation processes. We concur with OIG's recommendations 3, 4, and 5, as written. We plan to complete the necessary actions by December 31, 2017.

We appreciate the opportunity to respond to the draft report. Please contact Gloria Shepherd, Associate Administrator of the Office of Planning, Environment, and Realty, at 202-366-0116 with any questions.