

***VIRGINIA DEPARTMENT OF  
TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION –  
VIRGINIA DIVISION  
2005 SAFETEA-LU PROGRAM  
EFFICIENCIES AGREEMENT***

***MOVING THE***  

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***AMERICAN  
ECONOMY***  

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***May 2007***

**VIRGINIA DEPARTMENT OF TRANSPORTATION  
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MAY 21, 2007**

**INTRODUCTION/BACKGROUND**

Congress has charged the Federal Highway Administration with administering the Federal-Aid Highway program (FAHP) under Title 23, and other associated laws. In addition, FHWA responsibility for administering the FAHP has been clearly outlined in the following legislation: the Intermodal Surface Transportation Efficiency Act ([ISTEA](#)) of 1991; the Transportation Equity Act for the 21<sup>st</sup> century ([TEA-21](#)) of 1998; and the Safe Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ([SAFETEA-LU](#)) of 2005.

Federal funding is provided to assist States and Federal Agencies in providing transportation services through the various FHWA programs. By law, the nature of the majority of these Federal programs is Federal assistance for State administered programs. For many years, the FAHP has been administered jointly by FHWA and States/other highway program recipients. Stewardship efforts include oversight and approval actions, as well as many day-to-day actions that are routinely performed by either or both parties to ensure that the FAHP is administered appropriately. The Efficiency Agreement formalizes these delegated responsibilities and agreement to address how the FAHP will be administered.

The flexibility afforded in [ISTEA](#) and [TEA-21](#) allows States to assume the U.S. Secretary of Transportation's responsibilities for design, plans, specifications, estimates, contract awards and inspection of certain Federal-aid projects. While States may assume certain project approval authorities in accordance with [23 USC 106](#), FHWA is ultimately accountable for ensuring that the Federal Highway Program (FAHP) is delivered consistent with the established requirements.

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ([SAFETEA-LU](#)). [SAFETEA-LU](#) address the many challenges that the transportation agencies are facing today such as improving safety, reducing traffic congestion, protecting the environment, improving efficiency in freight movement, and increasing intermodal connectivity. [SAFETEA-LU](#) provides more flexibility to State and Local transportation decision makers for solving transportation problems in their communities. It makes it easier and attractive for the private sector to participate in highway infrastructure projects to bring new ideas and resources to the table.

**SUMMARY OF VDOT/FHWA REQUIREMENTS AND AGREEMENTS**

The following provisions are based on [Section 1305 of TEA-21](#) and [Section 1904](#) of the SAFETEA-LU. As permitted by [Section 1305 of TEA-21](#) and agreed upon by VDOT and FHWA, VDOT will continue to assume FHWA's responsibility for the oversight of compliance with Title 23 – U.S.C.

for the preliminary engineering, design, plans, specifications, estimates, contract awards, and construction inspection for:

1. Interstate Projects estimated to have a construction (exclusive of construction engineering and contingencies) cost of \$1 million or less.
2. NHS Projects (other than Interstate) estimated to have a construction cost (exclusive of construction engineering and contingencies) of \$25 million or less.
  - i. Determination concerning the \$1 million cut-off for Interstate projects and the \$25 million cut-off for non-Interstate NHS projects will be made by VDOT when the project is initially included in VDOT's Statewide Transportation Improvement Plan (STIP). FHWA and VDOT will reconfirm the project status (FHWA Oversight or VDOT Oversight responsibility) at the time of project scoping. After project scoping, oversight responsibility will be fixed and will remain unchanged unless: 1) there is a significant change in the project scope that would significantly alter the estimated construction cost of the project; or, 2) if both VDOT and FHWA agree that there is a reason to change oversight.
3. All Interstate Preventive Maintenance Projects estimated to have a construction cost of \$5 million or less.
4. All projects that are not on the NHS regardless of project cost.

#### **VDOT/FHWA RESPONSIBILITIES**

1. Under Title 23 and non-Title 23, FHWA is ultimately accountable for the oversight of all programs under the Federal-aid Highway Program.
2. "FHWA Oversight" is defined as full FHWA involvement in project scoping, preliminary engineering, design, plans, specifications, and estimates (PS&E) approval, concurrence in award, project inspections, work order approval, approval of design exceptions, approval of claim settlement, project acceptance, etc.
3. "VDOT Oversight" is defined as delegation of FHWA oversight responsibilities to VDOT. Delegation removes FHWA direct involvement in design activities, PS&E approval, concurrence in award, and construction activities. VDOT will act on behalf of FHWA in ensuring that all Title 23 requirements are met. In addition, FHWA reserves the right to conduct reviews, as appropriate, to confirm that the Federal-aid program is being administered in accordance with the applicable laws and regulations. The FHWA will continue to assume responsibility for Federal actions required for non-Title 23 programs such as:
  - Activities for compliance with Section 102(2)(c) of the national Environmental Policy Act (NEPA) and 23 CFR 771.
  - Activities for compliance with Section 4 (f) of the Department of Transportation Act of 1966.

- Civil Right Act of 1964, 42 USC 2000 (d) and 23 CFR 200 (Title VI), and 23 CFR 230 (EEO)
  - Uniform relocation Assistance and Real Properties Acquisition Policies Act of 1970, 42 USC 4601, 49 DFR part 24, and 23 CFR Parts 710-740
4. To provide appropriate oversight information to all FHWA and VDOT employees involved in the development of a project, the State project number will be preceded by the designation “FO” to indicate FHWA Oversight or by “NFO” to indicate VDOT Oversight. This designation will also be indicated in the STIP entry for each project.
  5. There may be a limited number of projects, in which FHWA Oversight may deviate from the criteria listed above. Reasons for the deviation may include but are not limited to project complexity or lack of complexity, need to maintain a federal presence in a specific VDOT District, or unique/innovative design and/or construction. Project selection will be made in consultation with the appropriate district.
  6. Any work associated with interchanges or an access point on the Interstate system, regardless of funding source (i.e. including projects with no Federal funds), must be submitted to the FHWA Virginia Division office for review and appropriate action.
  7. On FHWA Oversight Projects, the Division office will have early project involvement. On these types of projects, VDOT will ensure all early project coordination with FHWA and will notify FHWA of all scoping meetings, preliminary plan reviews, field inspections and pre-advertisement reviews.
  8. Process Review/Product Evaluations (PR/PE) will be undertaken as appropriate. The FHWA Division office and VDOT will annually determine what areas will be the focus for review, with the main emphasis on quality improvement. The balance of Federal oversight will be accomplished by partnering efforts, participation on task forces, committees and teams.
  9. For VDOT Oversight of Federal-Aid Funded Projects or Programs, VDOT shall comply with Title 23 and/or certain non-Title 23, USC Federal-aid program requirements, such as metropolitan and statewide planning, environment, procurement of engineering and design related services contracts, participation by Disadvantaged Business Enterprises (DBE), prevailing wage rates, acquisition of right-of-way, relocation and accommodation of utilities, and railroad work.
  10. VDOT may enter into an agreement with a local public agency to administer phases or portions of VDOT Oversight Projects or FHWA Oversight Projects. In each case, the agreement shall require the third party to perform work under the appropriate federal requirements. (23 CFR 635.102)
  11. VDOT is responsible for compliance with federal requirements by the local public agency. In accordance with SAFETEA-LU [Section 1904](#), VDOT shall be responsible for determining that sub recipients of Federal funds under this title have:

- adequate project delivery systems for projects approved under this section;
  - sufficient accounting controls to properly manage such Federal funds. FHWA shall periodically review the monitoring of sub recipients by the State.
12. The staff of the FHWA Division office is available for consultation on all aspects of any VDOT oversight project. This could entail consultation about fiscal matters, design issues, contract administration, material and geotechnical issues, new technologies, research application, etc. The Division Office will coordinate assistance of technical specialists from the FHWA Resource Center and Headquarters Offices as appropriate.
  13. For each project on the Federal-aid system with an estimated total cost of \$25,000,000 or more (\$20,000,000 or more for a bridge project), the State shall conduct at least one Value Engineering analysis to satisfy federal requirements.
  14. Projects administered through the Appalachian Highway Program are to be handled in the same manner as Interstate Projects (as described in this document).
  15. SAFETEA-LU requires that for any federal-aid project with an estimated cost of \$100,000,000 million or more, VDOT shall develop an annual finance plan which shall be made available to the Virginia Division for review upon request.

## PROJECT AUTHORIZATIONS

### Obligation of Funds

FHWA has the sole authority to authorize Federal-aid projects since Authorization of a Federal-aid project is a contractual obligation of the Federal government under [23 U.S.C. 106](#). On all Federal-aid projects (FHWA oversight or VDOT oversight), the Virginia Division will authorize the project by execution of the Project Agreement contained in FMIS 4.

- Funds for all projects will be obligated on a project-by-project basis for all types and sizes of projects and for all classes of funds
- VDOT will enter all necessary information into the FHWA’s Fiscal Management Information System (FMIS 4).
- The requested amount for authorization must be within the agreed upon limits of the STIP estimated cost for the specific phase being authorized. Currently these limits are:

STIP Estimate Amount (millions)	Limit Requiring Amendment
Up to \$2	100%
> \$2 to \$10	50%
> \$10 to 20	25%
>\$20 to \$35	15%
>\$35	10% not to exceed \$10 million

- In accordance with the Project Modification guidance effective October 1, 2006, VDOT must include appropriate justification for additional funds being requested as part of the modification to existing project agreements. No additional federal funds will be authorized without proper justification.

### **Preliminary Engineering/Environmental Authorizations**

- The project must be on the appropriate Federal-aid system (or functional classification)
- The project must be the type of work for the type of funds (appropriation code) being used.
- The project must be included in the approved STIP.
- The requested amount for authorization must be within the agreed upon limits of the STIP estimated cost for the specific phase being authorized.
- In non-conforming areas of the State, the project must be included in the constrained conforming long range plan.

### **Design Authorizations:**

- The requirements shown under “Preliminary Engineering/Environmental Authorizations” must be satisfied, and;
- The requested amount for authorization must be within the agreed upon limits of the STIP estimated cost for the specific phase being authorized.
- The project must have an approved environmental document.

### **ROW/Utility Authorizations**

The initial authorization for ROW and utility relocations is given at the preliminary stage of development. However, FHWA requires that VDOT submit a modified project agreement, through Fiscal Management Information System (FMIS4), at such point that the ROW and utility plans are complete in order to request authorization for full ROW and utility relocation work. The following items must be completed prior to any ROW or utility authorizations being executed:

- The requirements shown under “Preliminary Engineering/Environmental Authorizations” must be satisfied, and;
- The requested amount for authorization must be within the agreed upon limits of the STIP estimated cost for the specific phase being authorized.
- The project must have an approved environmental document.

### **Construction Authorizations:**

- The requirements shown under “Preliminary Engineering/Environmental Authorizations” and those shown under “Design Authorizations” must be satisfied, and;
- The PS&E package must be complete, in accordance with 23 CFR.

- All design exceptions must be identified and approved prior to PS&E package submittal.
- All access point modifications must be approved for projects on interstate system.
- A written certification must be made that all right-of-way has been acquired in accordance with the current FHWA directive(s) covering the acquisition of real property or that acquisition of right-of-way is not required.
- A written certification must be made that all utility and railroad work has been completed or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedules. Where it is determined that the completion of such work in advance of the highway construction is not feasible or practical due to economy, special operational problems and the like, there shall be appropriate notification provided in the bid proposals identifying the utility and railroad work which is to be underway concurrently with the highway construction.
- Where utility facilities are to use and occupy the right-of-way, the State must demonstrate that the provisions of [23 CFR 645.119\(b\)](#) have been fulfilled.
- There must have been a willingness to hold a public hearing or a hearing was held for the project, as appropriate.
- All necessary permits must have been obtained for the project.
- All hazardous waste or contaminated materials must be identified (to the extent practicable) and removed or appropriate bid items included in the contract.

In addition to the items listed above, the FHWA VA Division office must have the following information in order to execute an authorization for construction:

- Fifteen full working days are required to process the PS&E package which consist of plans specifications and project authorization to ensure all Federal requirements are being met prior to project advertisement;
- Responses to the FHWA VA Division's previous written comments prior to PS&E submittal;

Also, VDOT must contact the FHWA VA Division office to assure that the project has been authorized prior to it being advertised. No authorizations will be given after the project has been advertised. Exceptions to the above listed requirements will only be considered in special cases. The State Construction Engineer or the Chief Engineer must make all requests for exceptions. Approval of such requests is reserved for the FHWA Virginia Division Administrator or the Assistant Division Administrator.

Any revisions to FHWA approved PS&E must be submitted to FHWA and approved prior to opening of bids.

### **Public Interest Finding**

- A public interest finding of cost effectiveness (or a determination that an emergency exists) must be made as required by [23 U.S.C. 112](#), when construction by some method other than competitive bidding is to be used.
- A public interest finding of cost effectiveness must be made for any Federal-aid participating State force account work.
- A public interest finding of cost effectiveness must be made for any Federal-aid participating proprietary products and State Furnished equipment or materials.

### **FHWA Inspections**

FHWA Oversight Projects: The FHWA Virginia Division will inspect those projects defined as FHWA Oversight as deemed appropriate. Inspections will consist of an office review and/or field inspection of construction activities. The office review is intended for VDOT staff to inform FHWA representative of any on-going activities on the project such as work orders, claims, and progress of work. The field inspection is intended for FHWA representative to observe VDOT's oversight of contractor's on-going activities, as well as completed products. In addition, the field inspection gives FHWA representative an opportunity to meet with VDOT inspectors in the field to discuss the project and any other relevant topics.

The FHWA Virginia Division will also perform a final inspection as part of the inspection activities. This activity is most efficiently and effectively accomplished when done at the time of VDOT final inspection. Therefore, VDOT should notify the FHWA Virginia Division as soon as a final inspection is scheduled.

### **Final Acceptance of FHWA Oversight Projects by FHWA**

Final Acceptance of FHWA Oversight Projects is made at the time FHWA Virginia Division office makes final payment after VDOT submits final voucher for reimbursement. Prior to final acceptance, the FHWA Virginia Division office must have the following forms:

<b>Form No.</b>	<b>Form Title</b>
C-5	Reporting Starting and Completion of Projects
C-26	Computation of Extension of Time and Liquidated Damages or Bonus
C-50	FHWA-47 Form
C-55	Contract and Final Quantities Form (Final Bid Item Quantities)
TL-131	Certification of Materials

### **Claims**

FHWA Oversight Projects: The FHWA Virginia Division shall be made aware by VDOT of the

details of any claim at an early stage so that coordination of efforts can be satisfactorily accomplished. It is expected that VDOT will diligently pursue the satisfactory resolution of claims within a reasonable period of time. VDOT not allowing FHWA the opportunity for input could be the basis of not participating in the settlement of a Notice of Intent. FHWA participation in the settlement of a claim will be in accordance with [23 CFR 635.124](#)

**VDOT Oversight Projects:** VDOT may approve Federal participation in claims for those projects that don't have FHWA oversight, but must evaluate and document the time extension as if they were doing it for the FHWA. Federal participation in claims approved by VDOT is still subject to FHWA oversight through periodic process reviews.

### **Dispute Resolution**

The FHWA Virginia Division and VDOT work as partners in delivering the Federal-aid transportation program in Virginia. It is recognized, however, that there may be times when consensus cannot be achieved between the two agencies. Whenever these situations arise, the FHWA Virginia Division and VDOT agree to work together to resolve disputes in a timely manner. In those cases where a solution cannot be identified, VDOT and the FHWA Virginia Division may elevate the issue to the next level in the “chain of command.”

It has been agreed that only VDOT Commissioner, VDOT Chief Deputy Commissioner or the Chief Engineer will make VDOT appeals to FHWA Headquarters' offices.

## **OTHER TYPES OF PROJECTS AND PROGRAMS**

### **Design-build Contracts**

- As stated in [Section 1503](#) of the SAFETEA-LU, a State transportation department or local transportation agency can issue a request for proposal (RFP), proceed with awards of design-build contracts or issue notice to proceed prior to the completion of a NEPA process. However, a State or local agency shall receive concurrence from the FHWA Virginia Division before carrying out any of these activities. [Section 1503](#) precludes the design-build contractor from proceeding with final design or construction of any permanent improvements prior to the completion of the NEPA. FHWA is currently revising its design-build regulations to accommodate the provisions of [Section 1503](#) of the SAFETEA-LU.
- [SAFETEA-LU](#) allows the States to use design-build contracting method for any project they deem necessary. The States are no longer required to submit SEP-14 request to use design-build contracting method.
- For Federal-aid oversight projects ( $\geq$ \$25 million on NHS and  $\geq$ \$1 million on Interstate), VDOT is required to get FHWA approval prior to releasing the RFP document. FHWA approval of the RFP document carries the same significance as PS&E approval, and VDOT must submit a formal request for RFP approval.

- Design exceptions on Design-Build projects considered for new or revised interchange access approval must be documented and recommended before submitting access approval requests to FHWA.

### **Preventive Maintenance and System Preservation**

Timely preventive maintenance and preservation activities are necessary to ensure proper performance of the transportation infrastructure. Experience has shown that when properly applied, preventive maintenance is a cost-effective way of extending the service life of highway facilities and therefore is eligible for Federal-aid funding. The types of work that can be accomplished under the "Preventive Maintenance and System Preservation" must be clearly of preventive measures as opposed to reactive. The AASHTO defines preventive maintenance "as the planned strategy of cost effective treatments to an existing roadway system and its appurtenances that preserves the system, retards future deterioration, and maintains or improves the functional condition of the system without increasing structural capacity." Projects that address deficiencies in the pavement structure or increase the capacity of the facility are not considered preventive maintenance. The Virginia Division Office letter dated August 18, 2006, list all the activities that are eligible under the Preventive Maintenance and System Preservation. The FHWA oversight of projects under this program will be as follows:

- FHWA may participate in the initial review of a proposed site to determine the scope of a preventive maintenance project.
- Interstate projects estimated to have a construction cost of \$5.0 million or more will have full federal oversight.
- All NHS projects over \$25 million will have full federal oversight.
- FHWA will review and approve the PS&E package for full federal oversight projects, but will not conduct construction inspections and project acceptance.
- FHWA may conduct a random spot inspection.

### **Major Projects**

A major project is a project with an estimated total cost in the year of expenditure of over \$500,000,000 and one that involves any amount of Federal financial assistance. [SAFETEA-LU](#) lowered the monetary threshold of a major project from \$1 billion.

- FHWA and VDOT will place special emphasis on major projects including more extensive review of project costs estimates, through the development of project management plans (PMP), through risk analysis and through the development of finance plans. Detailed guidance on FHWA's expectations are found on the FHWA major project website including a FHWA memorandum from the FHWA Administrator dated January 19, 2007 - <http://www.fhwa.dot.gov/programadmin/mega/index.cfm>

- Although FHWA’s decision on whether or not a project is a major project triggering FHWA’s formal reporting is made around the end of the NEPA stage, FHWA will examine and begin more detailed monitoring when the potential for a major project is identified during the planning stage. In the early development of a potential major project, VDOT and FHWA should prepare an analysis of project management challenges or major areas of risk. The FHWA will utilize a document titled “Risk Management Tool for Managing the Planning/Environmental Phases of Prospective Major Projects,” located on the FHWA major project website.
- The Virginia Division will examine the cost estimate of a potential major project the first time the potential major project appears in the STIP and TIP, and also each time the State/MPO update their STIP/TIP.
- Cost estimates for major projects shall be re-evaluated and updated if necessary at the draft EA or EIS stage. At the final EA or EIS stage, VDOT develops and performs an independent validation of the cost estimate for the preferred alternative prior to submitting FEA or FEIS to FHWA. FHWA will review VDOT preferred alternative cost estimate and accept the cost estimate based on an independent review of the estimate and the State’s independent validation. Guidance on cost estimating is found on the FHWA major project website.
- As the NEPA process is being completed, VDOT is expected to submit to FHWA an initial Project Management Plan (PMP). This document and its later revisions as the project is further developed, should clearly define the roles, responsibilities, processes, and activities, which will result in the major project being completed on time, within budget, with highest degree of quality and safety. A PMP must be approved prior to any federal action such as authorizing federal funds for ROW or construction. Also, during construction, the PMP must be revised and updated periodically as needed to reflect current status of the major project. Guidance on a PMP is found on the FHWA major project website.
- VDOT shall submit an Initial Finance Plan for a major federal-aid project to the FHWA, Virginia Division, for review and approval prior to the authorization of Federal-aid funds for ROW acquisition. Prior to the authorization of federal-aid funds for construction, VDOT will develop, request, and receive FHWA approvals of an updated Finance Plan. Guidance on a major project finance plan is found on the FHWA major project website.
- VDOT will update the Finance Plan annually and receive FHWA approval for each update.
- For a major project, the U. S. Secretary of Transportation may require more than one Value Engineering analysis.
- For major projects advanced as Federal-aid design-build projects, an initial finance plan, a PMP, and a cost estimate must be provided to FHWA prior to the approval of a request for a proposal and authorization of funds.

- FHWA recognizes projects advanced under the PPTA may not necessarily follow normal Federal-aid processes, and involve unique aspects including the timing of various project actions and unknown involvement of Federal funds. The timing and application of the FHWA major project requirements will be determined on a case-by-case basis. The FHWA major project manager should be consulted and involved throughout the development of a PPTA.

### **Alternative Contracting [Public Private Transportation Act (PPTA) Projects]**

FHWA approval is necessary for any federally funded project (regardless of project dollar amount or highway system) that is procured by a non-traditional construction contracting technique which deviates from the competitive bidding provisions in [23 USC 112](#). Such projects are subject to an evaluation by FHWA under Special Experimental Project No. 14 (SEP-14) or Special Experimental Project No. 15 (SEP-15).

- SEP-14 remains a functional experimental program that may be used to evaluate alternative contracting techniques which deviate from the competitive bidding provisions in 23 USC 112. Any contract which utilizes a method of award other than the lowest responsive bid should be evaluated under SEP-14.
- SEP-15 is a new experimental process for FHWA to identify, for trial evaluation, new public-private partnership approaches to project delivery. It is anticipated that these new approaches will allow the efficient delivery of transportation projects without impairing FHWA's ability to carry out its stewardship responsibilities to protect both the environment and American taxpayers. SEP-15 addresses, but is not limited to, four major components of project delivery – contracting, compliance with environmental requirements, right-of-way acquisition, and project finance. Elements of the transportation planning process may be involved as well.

To ensure that federally funded PPTA projects will meet all of the Federal-aid requirements, VDOT shall closely coordinate the development of the SEP-14 or SEP-15 application with the FHWA Virginia Division Office. In addition, VDOT should include the FHWA VA Division Office in the development of project plans, specifications, and bidding requirements. Further, VDOT needs to invite the FHWA Virginia Division to meetings related to the selection of a contractor.

In conjunction with these invitations to attend or participate in project development, selection and contract development evaluations or meetings, the FHWA Virginia Division agrees that all discussions, draft documents, financial and engineering evaluations of project scope, schedule, risk, and price are to be held confidential until such material are released to the public by VDOT. These materials will be held confidential on the basis that they are a negotiation work product and release of such information may adversely affect the financial interest of the public or private entity involved with such project, or may adversely affect the process of competition or bargaining.

VDOT shall forward all documentation related to the design-build and PPTA projects to the FHWA Virginia Division, including (but not limited to) all project bid documents, project plans, project specifications, documentation related to the reasons why a contractor is selected, etc. The FHWA

Virginia Division will use the documentation, plus their knowledge of the project based on their involvement during project development, to make the determination of Federal-aid eligibility.

After Federal-aid eligibility is determined, the remaining project oversight will be based on the criteria shown in section “SUMMARY OF VDOT/FHWA REQUIREMENTS AND AGREEMENTS” (above).

### **Special Funded Projects**

- High priority ITS earmarks projects, will have full federal oversight regardless of dollar amount of the project.
- Other Congressional earmarks will have limited federal oversight depending upon the dollar amount of the project. If the cost of an earmark project is less than \$25 million on NHS or \$1 million on Interstate, FHWA will have limited oversight that will include continuous monitoring of the project status through reports from VDOT Project Manager.
- VDOT Project Manager for a specially funded Congressional earmark project will submit a quarterly project status report to the FHWA Area Engineer. The report should at a minimum include project location, short project description, current project development stage, any issues, and project funding.

### **Continuous Process Improvement (CPI) Reviews**

CPI reviews will be undertaken as appropriate taking into consideration areas of risk and areas for improvement. On an annual basis, the FHWA Division office and VDOT will determine what areas will be the focus for review, with the main emphasis on quality improvement. The balance of Federal oversight will be accomplished by partnering efforts, participation on task forces, committees and teams.

### **ATTACHMENTS**

The following attachments are included:

- [Exhibit 1](#), which shows how oversight responsibility is assigned by this agreement.
- [Exhibit 2](#), which shows the decision process involved in determining the exemption status for each project.

### **IMPLEMENTATION**

The new "Program Efficiencies" procedures will become effective on July 16, 2007. On going projects will continue under their current oversight status until final acceptance.

### **AGREEMENT MODIFICATIONS**

It may be necessary to amend this agreement at any time should essential modification become apparent to either party. The parties agree that there will be periodic reviews of this Agreement to reflect changes in federal and state laws, regulations and requirements.

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**David S. Ekern, P.E.**  
**Commissioner**  
**Virginia Department of Transportation**

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**Roberto Fonseca-Martinez, P.E.**  
**Virginia Division Office Administrator**  
**Federal Highway Administration**

**EXHIBIT 1 - OVERSIGHT RESPONSIBILITY BY SYSTEM**

ACTIVITY		VDOT Oversight Projects Interstate < \$1.0 Million NHS Non-Interstate < \$25.0 Million Non-NHS	FHWA Oversight Projects Interstate > \$1.0 Million NHS Non-Interstate > \$25.0 Million
<b>Preconstruction:</b>			
Authorization for PE and Preliminary ROW Activities		VDOT	FHWA
Non-Title 23		FHWA/VDOT	FHWA/VDOT
Consultant Agreements		VDOT	VDOT
Utility Agreements		VDOT	VDOT
Design Standards	NHS	FHWA Approved AASHTO	FHWA Approved AASHTO
	Non-NHS	VDOT Standards	N/A
Design Exceptions/ Interstate Access Approval/ Change in Limited Access	Interstate	FHWA	FHWA
	Non-Interstate	VDOT	FHWA
Interstate Clearances Vertical/Horizontal		FHWA	FHWA
Bridge Type, Size and Location		VDOT	FHWA
Buy America Exemption		FHWA	FHWA
ROW Authorization		VDOT	FHWA/VDOT
<b>Construction:</b>			
PS&E Approval		VDOT	FHWA
Authorization for Advertisement of Bid/ROW Certification		VDOT	FHWA
Concurrence in Award		VDOT	FHWA
FHWA-45, FHWA-47, And Bid Tabs	NHS	VDOT	VDOT
	Non-NHS	VDOT	VDOT
Construction Inspections		VDOT	FHWA/VDOT
Claims		VDOT	FHWA/VDOT
Work Orders and Force Account		VDOT	FHWA/VDOT
Final Inspection		VDOT	FHWA/VDOT
Final Project Acceptance		VDOT	FHWA/VDOT

**EXHIBIT 2 – FEDERAL-AID OVERSIGHT FLOWCHART**

