

## **MEMORANDUM OF AGREEMENT BETWEEN:**

### ***THE FEDERAL HIGHWAY ADMINISTRATION, IDAHO DIVISION AND THE FEDERAL TRANSIT ADMINISTRATION, REGION X***

#### **BACKGROUND**

In early 2003, a joint memorandum from Federal Highway Administrator Peters and Federal Transit Administrator Dorn put forth a proposal that the two administrations should develop plans for collaboration initiatives in the transportation planning arena. As a result, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) field and headquarters staff participated in several teleconferences and developed guidelines for a joint FTA and FHWA national Memorandum of Agreement (MOA). This effort established a mechanism through which the FTA Region X office (hereinafter referred to as FTA-X) and the FHWA Idaho Division (hereinafter referred to as FHWA-ID) can further improve coordination in implementing program oversight activities and increase efficiency in delivering service to the Idaho Transportation Department (ITD) and the State's metropolitan planning organizations (MPOs).

The national MOA efforts have been used as a framework for the development of this MOA between the FTA-X and the FHWA-ID.

#### **PURPOSE OF THIS AGREEMENT**

The purpose of this MOA is to set forth the general terms and conditions for collaboration in transportation planning between the FHWA-ID and the FTA-X pursuant to an initiative undertaken by the Administrators of FTA and FHWA and ultimately, to improve coordination of the transportation planning processes and fulfill the provisions of 23 U.S.C. 450 and 420, and 49 U.S.C. 613.

#### **GOALS**

The FTA-X and FHWA-ID shall carry out the terms indicated in this MOA to streamline transportation planning decision making for Federal surface transportation projects and programs.

The goal of this MOA is to establish a mutually beneficial relationship and to streamline and improve the following transportation planning processes:

- I. Statewide Transportation Improvement Program (STIP) and STIP Amendment Approvals
- II. Statewide and Metropolitan Planning Findings
- III. Metropolitan Transportation Planning Program Approvals, Financial Administration and Oversight
- IV. Transportation Air Quality Conformity Determinations

- V. Planning Certification Reviews and Follow-up on Corrective Actions
- VI. Methods for Communications and Conflict Resolution between FHWA and FTA
- VII. Transfer Funding Procedures
- VIII. Congestion Mitigation Air Quality (CMAQ) Improvement Program Project Eligibility
- IX. Environmental Streamlining

## **I. STIP and STIP Amendment Approvals:**

### **BACKGROUND**

Titles 23 USC 135 and 49 USC 5303 specify that, as a prerequisite for obligation of Federal funds, states must submit their Statewide Transportation Improvement Programs (STIPs) to the FHWA and the FTA for joint approval no less frequently than every four years. In addition, amendments to currently approved STIPs must also receive prior FHWA and/or FTA approval.

### **ROLES AND RESPONSIBILITIES**

#### **STIP Approval**

1. Idaho Transportation Department (ITD) shall submit their proposed STIP to both FHWA-ID and FTA-X for review and joint approval.
2. Transportation Improvement Programs (TIPs) and air quality conformity determinations shall accompany the STIP in order for it to be considered fully "received" by FHWA-ID and FTA-X.
3. FHWA-ID and FTA-X shall have 30 days upon receipt of the STIP submittal to review and take action on ITD's approval request. During this review period, FTA-X and FHWA-ID shall coordinate and resolve comments and issues concerning the submittal.
4. FHWA-ID shall, upon expiration of the 30 day review period (or completion of the review, which ever occurs first), prepare a STIP approval letter which includes the statewide planning finding and incorporates any comments or conditions agreed to by FHWA-ID and FTA-X.
5. FHWA-ID shall coordinate the joint FTA-X / FHWA-ID signing of the STIP approval letter and transmit it to ITD with copies to the State's MPOs.

#### **STIP Amendment Approval**

1. ITD shall submit their proposed STIP amendments to both FHWA-ID and FTA-X for review and approval.
2. Applicable MPO TIP amendments and air quality conformity findings should be current prior to submission.
3. FTA-X shall have signature authority for major STIP amendments that involve only FTA projects and funds and do not require a new air quality conformity finding. Likewise, FHWA-ID shall have signature authority for major STIP amendments that involve only FHWA projects and funds and do not require a new air quality conformity finding.
4. Should an amendment contain a mix of projects requiring approval from both FTA-X and FHWA-ID, the procedures for initial STIP approval shall be followed.

5. All efforts should be made to act upon STIP amendments (approve, disapprove, or advise the ITD of additional information needed) within two weeks of receiving the amendment from ITD.
6. FHWA-ID or FTA-X, as appropriate will transmit the amendment action letter to ITD and provide a copy of the letter to the other Federal agency where applicable.

## **II. Issuance of Statewide and Metropolitan Planning Findings:**

### **BACKGROUND**

23 CFR 450 and 320 and 49 CFR 613 require a joint Federal finding that each metropolitan planning area is following a continuing, comprehensive transportation planning process carried on cooperatively by the State, MPO and transit operator(s). These findings shall be based on the self-certification by the State and the MPO under 23 CFR 450.334 and 49 CFR 613 and upon other reviews as deemed necessary by FHWA-ID and FTA-X. These regulations also require that the State include with their proposed STIP a certification that the transportation planning process is being carried out in accordance with the regulations. The review(s) shall cover, but shall not be limited to, the State/MPO self-certification (required by 23 CFR 450.334(a) and 49 CFR 613), the locally approved transportation plan, the TIP, the public involvement process, the financial plan, the relationship of projects in the TIP to the long range transportation plan, air quality conformity of the transportation plan and the TIP. The FHWA-ID and FTA-X will evaluate each metropolitan planning process based on, but not limited to, previous reviews, review of the UPWPs, attendance at meetings and routine communication.

### **ROLES AND RESPONSIBILITIES**

#### **Statewide Planning Finding:**

1. FHWA-ID shall be the lead in initiating the statewide planning finding upon receiving ITD's STIP submittal.
2. The review by both FHWA-ID and FTA-X shall be conducted as part of the joint STIP approval process.
3. The Federal statewide planning finding shall be documented in the joint STIP approval letter.

#### **Metropolitan Planning Finding:**

1. FHWA-ID shall be the lead in initiating the metropolitan planning finding upon receiving the draft UPWPs from each MPO.
2. The review by both FHWA-ID and FTA-X shall be conducted as part of the joint UPWP review.
3. The Federal metropolitan planning finding shall be documented as part of FHWA-ID's UPWP approval action.

### **III. Metropolitan Transportation Planning Program Approvals, Financial Administration, and Oversight:**

#### **BACKGROUND**

Section 134 of US 23 U.S.C., Section 613 of US 49 U.S.C., 23 CFR 420 and 49 CFR 613 provide the basic framework for Federal administration and oversight of states' metropolitan transportation planning programs. Additional flexibilities, in the form of the Consolidated Planning Grants (CPG) program were initially made available to States in 1996 and further expanded in 2004.

Consistent with the above described CPG program, the FHWA-ID has, since 1997, served as the Lead Agency responsible for the administration of the ITD's Federally funded metropolitan transportation planning program activities. In 2004 FHWA-ID was requested by the ITD to serve as the Lead Agency for the financial process supporting Idaho's CPG program.

#### **ROLES AND RESPONSIBILITIES**

##### **Program and Program Amendment Approvals**

1. All Unified Planning Work Programs (UPWPs) shall be submitted concurrently to both FHWA-ID and FTA-X.
2. FTA-X and FHWA-ID shall, where necessary, initiate meetings with the ITD and the State's MPOs and transit operators as appropriate, to discuss and resolve any significant concerns relevant to the draft document.
3. Once all outstanding issues with the proposed UPWP(s) have been resolved to the satisfaction of both FHWA-ID and FTA-X, the FHWA-ID will prepare a written approval to the ITD for the UPWP(s) and incorporate in this approval any comments or conditions agreed to by FHWA-ID and FTA-X. Copies of the approval letter will be sent to the affected MPO(s) and FTA-X.
4. In the event that a MPO requests an amendment to its previously approved program, ITD shall forward the amendment request to FHWA-ID with a copy (including any attachments) to FTA-X. FHWA-ID shall, within two weeks of receipt of the amendment request, coordinate with FTA-X on the acceptability of the amendment and provide a written response to ITD with copies provided to FTA-X and the affected MPO(s).

##### **Financial Administration**

##### **Obligation of Funds**

##### **FHWA Funds (planning and capital improvement funds):**

1. ITD will send an authorization request (Form ITD 2101) to FHWA-ID specifying the type, amount, purpose and recipient of the funds to be obligated.
2. FHWA-ID will review the authorization request and, to the extent that the funds are available and the proposed use is

consistent with the currently approved UPWP, FHWA-ID will authorize (obligate) the funds by approving the ITD 2101 and entering the transaction in FHWA's Financial Information Management System (FMIS).

**FTA Funds** (including 5303 funds):

1. ITD will send a letter to FTA-X to request that a specified amount and type of funds be transferred to FHWA-ID for use in Idaho's CPG program. If applicable, the ITD's letter should also specify that FHWA's sliding scale is to apply (for determining the non-Federal match).
2. FTA-X will verify the availability of the amount and type of funds requested and notify FTA-HQ to carry out the specified transfer of FTA funds (from FTA-X to FHWA-ID).
3. FTA-X will provide written confirmation to FHWA-ID and the ITD when the transfer action has been completed.
4. ITD will send an authorization request (Form ITD 2101) to FHWA-ID specifying the type, amount, purpose and recipient of the funds to be obligated.
5. FHWA-ID will review the authorization request and, to the extent that the funds are available and the proposed use is consistent with both the currently approved UPWP, FHWA-ID will authorize (obligate) the funds by approving the ITD 2101 and entering the transaction in FHWA's financial management system.

**Billing of Costs**

1. Each MPO will prepare and forward billing requests to ITD.
2. ITD will review the billings for eligibility, accuracy and completeness and, within 30 days of receiving each billing, provide reimbursement to the requesting MPO in accordance with ITD's procedures.
3. ITD will initiate cash draw-downs from FHWA-ID's financial management system when needed to cover its expenditures.
4. ITD and the MPOs will provide periodic progress and financial reports to FHWA-ID in accordance with ITD's procedures.

**Program Oversight**

1. FHWA-ID will serve as the Lead Agency and primary Federal contact to the ITD and its MPOs on procedural and administrative questions concerning Idaho's metropolitan transportation planning program.
2. Where issues arise which have specific implications to transit programs, activities, or funding, FHWA-ID will advise FTA-X and request their input and/or intervention.



3. When issues requiring formal Federal approval or clarification arise, FHWA-ID will coordinate with FTA-X and prepare a joint written response to ITD and the MPOs, as appropriate.

#### **IV. Transportation Air Quality Conformity Determinations:**

##### **BACKGROUND**

Section 176C of the Clean Air Act establishes conformity requirements for long-range regional transportation plans (RTP), TIPs and projects in areas designated as nonattainment or maintenance. Section 176 (d) of the Clean Air Act established priority requirements for programs supported by the Federal government in order to provide for timely implementation of eligible portions of air quality plans. Section 109 (j) of 23 USC established consistency requirement to assure that highways are consistent with approved plans for air quality. The State of Idaho has an EPA approved conformity SIP, which outlines procedural requirements for consultation.

##### **ROLES AND RESPONSIBILITIES**

1. ITD shall provide copies of MPOs air quality conformity determinations and related plans and TIPs to FHWA-ID (2 copies) and FTA-X (1 copy).
2. FHWA-ID will forward one copy of each conformity determination to the U.S. Environmental Protection Agency Region 10 (EPA-X).
3. EPA-X shall be given 30 days in which to review and comment to FHWA-ID on draft conformity determinations.
4. FTA-X and FHWA-ID staff shall likewise have 30 days in which to coordinate any issues or concerns with the conformity determination and to agree to appropriate follow up actions to resolve these issues or concerns.
5. Upon expiration of the 30 day comment and coordination periods or upon completion of commenting and coordination (which ever occurs earlier), the FHWA-ID will prepare a conformity finding to the ITD which incorporates any comments and conditions agreed to by FHWA-ID, FTA-X and EPA-X.
6. FHWA-ID shall coordinate the joint signing (by FTA-X and FHWA-ID) of the conformity finding and transmit the letter to the ITD along with carbon copies to the applicable MPOs.

#### **V. Planning Certification Reviews:**

##### **BACKGROUND**

The SAFETEA-LU requires a joint FHWA/FTA certification of transportation planning process for all Transportation Management Areas (TMA's) at least every four years. A joint certification review along with other documentation and site visits is the basis used for determining that the transportation planning process in a TMA meets or substantially meets the requirement of 23 CFR Part 450 and 49 CFR Part 613.

## VIII. CMAQ Funds Eligibility:

### BACKGROUND

ITD has, on its own initiative, developed an elaborate and well thought out Congestion Mitigation Air Quality (CMAQ) Program and process for identifying, ranking, and programming air quality supportive projects. FHWA-ID is actively involved in this program through its representation on the State's CMAQ Program Committee.

### ROLES AND RESPONSIBILITIES

FHWA-ID shall take the lead on determining CMAQ eligibility. This determination shall be made in conjunction with the STIP review and approval process.

## IX Environmental Streamlining

When applicable, FHWA-ID and FTA-X agree to be cooperating agencies for each other's projects. When joint funding is involved and funding transfers are not possible, FHWA-ID and FTA-X agree to be co-lead agencies for NEPA compliance. In such situations, early coordination will be accomplished to identify possible areas of concern and to agree upon the appropriate class of action and level of environmental analysis.

## SUMMARY

This agreement shall remain in effect indefinitely unless terminated by either party upon a thirty-day written notice to the other party. Either party to this MOA may request that it be amended, whereupon the parties will consult to consider such amendment. This MOA goes into effect with signature and date of all parties.

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**Stephen A. Moreno**  
**FHWA Division Administrator**  
**Federal Highway Administration**

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**Date**

*Linda M. Gehlke*  
*Acting* **R. F. Krochalis**  
**FTA Regional Administrator**  
**Federal Transit Administration**

*20 October 2005*  
**Date**