

Idaho Transportation Department & Local Highway Technical Assistance Council Stewardship Agreement

WHEREAS, this Agreement is entered into by the Local Highway Technical Assistance Council (LHTAC) and the Idaho Transportation Department (ITD) to define procedures, which will be used to administer local federal-aid projects and state system projects as requested by ITD. This agreement supersedes any previous stewardship agreement entered into between the parties.

WHEREAS, United States Code, Title 23 (23 U.S.C.) provides flexibility to the States and the Federal Highway Administration (FHWA) Divisions in reaching agreement on responsibilities for design, plans, specification and estimate (PS&E), right of way certification, contract awards and inspections/final acceptance of federal-aid highway projects. In accordance with 23 U.S.C. 106, ITD has assumed those listed responsibilities by entering into an agreement with the FHWA.

Under the Code of Federal Regulation, Title 23 (23 CFR), and more specifically in 23 CFR 1.11 and 23 CFR 635.105, ITD may delegate all or some project activities to Local Public Agencies (LPAs). This agreement allows LHTAC some of those responsibilities to perform activities noted herein on local federal-aid projects in Idaho.

WHEREAS, both ITD and LHTAC recognize the need/benefits of working together to manage the delivery of federal-aid highway funds, establish new programs, and deliver new technology. Therefore, in accord with the provisions of 23 U.S.C., it is desirable to define the stewardship roles between ITD and LHTAC for the federal-aid highway program on the local system.

WHEREAS, the following policies and procedures will apply to the broad oversight of the federal-aid highway program and to the specific development and construction of federal-aid projects on the local system in Idaho.

WHEREAS, authority for this Agreement is established by Section 40-317, Idaho Code, 23 U.S.C. 106, 23 CFR 1.11 and 23 CFR 635.105.

ITD and LHTAC agree as follows:

I. Program/ Project Oversight

Under 23 U.S.C., ITD must maintain overall accountability for the federal-aid program in Idaho. ITD will monitor the federal-aid program through all stages of development and construction and serve as formal contact with the FHWA. LHTAC will be responsible for program and project management of local projects as defined later in this document. This will include such items as:

- LHTAC will be responsible for assisting LPAs with project applications.
- LHTAC will be responsible for assisting LPAs with preparing scopes of work and negotiations for consultant agreements.
- LHTAC will be responsible for reviewing and approving project documents as noted in Attachment A - ITD/LHTAC Oversight Table.

ITD will provide oversight of LHTAC's processes and management practices for those involved in carrying out the approvals and related responsibilities assumed by LHTAC as noted in Attachment A – ITD/LHTAC Oversight Table.

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LHTAC will be reimbursed for eligible expenses associated with any project activity.

A. LHTAC and ITD Responsibilities

Attachment A, ITD/LHTAC Oversight Table, outlines the activities, roles, responsibilities, and the approval authorities where applicable. The table is broken down by program area and identifies the responsible agency for project level actions. Projects of FHWA interest are also addressed in the table. The delegation of project authority to LHTAC does not preclude ITD from conducting project level activities as warranted. These activities may include project inspections, document reviews, and other day-to-day program management activities.

LHTAC Responsibilities

- LHTAC will be responsible for federal-aid project development and construction on the local system and will adhere to ITD policies and procedures as contained in ITD's manuals or as outlined in the LHTAC Operations Guide for Stewardship, previously called the LHTAC Quality Assurance Guide.
- LHTAC will provide project management oversight on the local system and will be responsible for adherence to applicable federal and State of Idaho regulations through project development and construction.
- LHTAC will be responsible for coordination, in conjunction with ITD, with appropriate federal and resource agencies on all local agency projects.
- LHTAC will certify, via completed PS&E checklist, the completeness of the project PS&E packages when submitted for advertisement and bidding of local projects. LHTAC will maintain and make available all appropriate approval documentation.
- LHTAC will be responsible for managing project cost overruns for all federal programs they administer through financial coordination with the local jurisdictions or other funding actions to assure project funding is in place.
- LHTAC will be responsible for ensuring personnel providing approval do so in their area of expertise and with proper licensure.
- LHTAC will assign competent LHTAC staff to act as the resident engineer on LHTAC administered construction projects.
- LHTAC will provide updated LHTAC Operations Guide for Stewardship to ITD upon execution of the ITD/LHTAC stewardship agreement. The plan will outline the processes LHTAC will use to ensure that all standards are met during the development and or construction of local projects. LHTAC Operations Guide for Stewardship will be reviewed as necessary.

ITD Responsibilities

- ITD will continue program and project level oversight, as necessary, to insure compliance with applicable non-Title 23 federal laws and regulations (e.g., Uniform Relocation Act, EEO, NEPA, ESA, Title VI Environmental Justice and Title VI Limited English Proficiencies, American with Disabilities Act, etc.)
- ITD will review, approve and/or process the necessary program and financial documents, and authorize and place under agreement federal-aid funds.

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- ITD will respond, when possible, to LHTAC's request for technical assistance. This will include service on LHTAC committees, research panels, teams and other joint activities.
- ITD will provide training or instruction on required processes or procedures.
- ITD will advertise and award all local construction projects not covered under a separate agreement.

II. Functional Areas

A. Local Project Identification

Based upon available funding, LHTAC will call for applications from eligible LPAs throughout Idaho for the federal-aid programs with local funding: Urban, Rural, Safety, Off-System Bridge and Local Bridge Programs. LHTAC employs a process to prioritize the projects that are identified, and makes a recommendation to the Idaho Transportation Board for inclusion of projects on the Idaho Transportation Investment Program (ITIP). LHTAC manages state off-system projects along with on-system projects by ITD request. LHTAC will follow guidance in current board and administrative policies for all programs, where applicable.

B. Other Project Involvement

LHTAC administers other federally funded local projects within the Freight Program, the TAP Program and the Emergency Relief Program. LHTAC participates in the TAP Recommendation Committee for the project selection. LHTAC manages TAP off-system projects along with on-system projects by ITD request.

C. Project Development and Construction

LHTAC will facilitate the local highway jurisdiction entering into a state/local agreement with ITD for development and construction of local federal-aid projects. Within the duties assigned in the ITD/LHTAC Oversight Table, LHTAC may act as the ITD's representative to manage the project.

For certain statewide or combined projects, LHTAC may enter into a state/local agreement as the local sponsor.

Consultant selection and negotiation will be completed by the local public agency with the assistance of LHTAC utilizing procedures in ITD's Professional Service Agreement Procedures (PSAP) Manual. ITD will prepare and issue the agreement.

Development of local federal-aid projects will be in accordance with the ITD's Roadway Design Manual, Materials Manual, Guide for Utility Management, Right-of-Way Manual, Guidelines for Local Public Agency Projects, and any other standards and procedures mutually agreed upon as put forth by LHTAC and ITD and noted in the LHTAC Operations Guide for Stewardship.

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LHTAC will act as the ITD's representative to provide contract administration, including construction engineering, inspection and testing by consultant, for the construction phase of the projects. LHTAC will assign a full-time employee to be in charge of the project to act as the authorized representative of the Engineer under the direction of the LHTAC Administrator or as delegated. Specific authorities are outlined in Attachment A.


III. Performance Measures

LHTAC has established local measures to assess performance in administering the federal-aid highway program requirements and to help determine whether funds are being effectively utilized to improve the transportation system. These design and construction focused Performance Measures are listed on LHTAC's website. ITD will track and measure project related data and share with LHTAC information for improving processes.

IV. Miscellaneous

- A. This Stewardship Agreement reflects the broad stewardship approach to be taken by ITD and LHTAC, as mutually agreed by both parties. Modifications will be made to this agreement on an as needed basis, to insure detailed, up-to-date, and duly adopted policies and procedures are included. Modifications must be in writing and mutually agreed upon by the parties.
- B. This agreement expires on September 30, 2025, unless extended by mutual written agreement of the parties. Prior to that date either party may terminate the agreement by providing a 30 day written notice.

By:  Date: 9/25/2020
Jeff R. Miles, Administrator
Local Highway Technical Assistance Council

By:  Date: 9/28/2020
Brian Ness, Director
Idaho Transportation Department

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Attachment A - ITD/LHTAC Oversight Table

#	Category/ Activity or Item	FHWA	ITD	LHTAC	References
Funding					
<i>Project</i>					
1-1	Transfer of Funds	Approve	Request	Prepare	23 U.S.C. 104, Guidelines for Local Public Agency Projects
<i>Program</i>					
1-2	STP Program Match Procedures	Approve	Review	Recommend	23 U.S.C. 133, Guidelines for Local Public Agency Projects
Design					
2-1	Authorization for PE/RW/CN/UT	Approve	Request	Prepare	23 U.S.C. 120, 23 CFR 630, ITD-2101
2-2	Project Charter	Concur – Projects of Division Involvement (PoDI)		Approve	Guidelines for Local Public Agency Projects, ITD Materials Manual, ITD Environmental Manual, Project Charter Instruction Manual, ITD Roadway Design Manual
2-3	Design Approval	Review – Projects of Division Involvement (PoDI)		Approve	Guidelines for Local Public Agency Projects, ITD Roadway Design Manual, AP 5024 - Public Hearings, BP 4024 - Public Hearings
2-4	Final Plans	Approve – Projects of Division Involvement (PoDI)		Review/Approve	ITD Roadway Design Manual, Guidelines for Local Public Agency Projects
2-5	Professional Services Agreements and Supplementals	Approve – Projects of Division Involvement (PoDI)	Prepare/Recommend (PoDI) Award	Prepare Scope of Work and Estimates/Select/ Negotiate	23 CFR 172, 48 CFR Part 31, A5001, B4001, ITD Professional Service Agreement Procedures Manual
2-6	Bidding/Contract Award	Concur – Projects of Division Involvement (PoDI)	Award/Notify	Award (Procurement)/ Concur	23 CFR 635.IC 40-902, A5001, B4001, ITD Roadway Design Manual
2-7	Plans, Specifications and Estimate	Approve – Projects of Division Involvement (PoDI)		Certify/Submit	23 CFR 630.205, ITD Roadway Design Manual 900, Guidelines for Local Public Agency Projects, PS&E Checklist
2-8	Buy America Waivers	Approve	Review	Request	23 CFR 635.410

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#	Category/ Activity or Item	FHWA	ITD	LHTAC	References
2-9	Design Exceptions	Approve – Projects of Division Involvement (PoDI) and NHS Projects Only		Prepare/Approve	23 CFR 625, ITD Roadway Design Manual
2-10	Utility Waivers			Prepare/Approve	ITD Guide for Utility Management, LHTAC Policy 003 - Inclusion of Utility Work Under a Federal-aid Project
2-11	Utility Agreements			Prepare/Approve	23 CFR 635 & 645, ITD Guide for Utility Management, IC 40-210, ITD Roadway Design Manual, LHTAC Policy 003 - Inclusion of Utility Work Under a Federal-aid Project
2-12	Utility Relocation Order			Prepare/Approve (Issued by LPA)	ITD Guide for Utility Management or Local Agency Guide following State/Federal law, LHTAC Policy
2-13	Utility Hearing			Prepare/Hold Hearing	ITD Guide for Utility Management IC 40-312 or Local Agency Guide following State/Federal law
Environmental					
<i>Project</i>					
3-1	Environmental Documentation exclusive of activities 3-2 to 3-6 listed below	Information	Approve	Prepare/Review/Submit	ITD Environmental Manual, ITD/FHWA Programmatic Agreement, 23 CFR 771, 36 CFR 800, 50 CFR 402
3-2	C list Categorical Exclusion		Approve	Prepare/ Review/ Submit	23 CFR 771
3-3	D list Programmatic Categorical Exclusion		Approve	Prepare/Review/Submit	23 CFR 771, ITD/FHWA Programmatic Agreement
3-4	EA, EIS, Noise, 6(f) Reports	Approve	Review	Prepare/Review/Submit	23 CFR 771, 23 CFR 772
3-5	4(f)	Approve Individual	Approve (de minimus and programmatic)/ Review (Individual)	Prepare/Review	ITD/FHWA Programmatic Agreement
3-6	Section 106	Approve	Review/Approve	Prepare	36 CFR 800 & 2002 FHWA Delegation of Authority Letter to ITD

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#	Category/ Activity or Item	FHWA	ITD	LHTAC	References
Materials					
<i>Project</i>					
4-1	Life Cycle Cost Analysis and Pavement Design- NHS Only	Review – Projects of Division Involvement (PoDI)		Review/Approve	23 U.S.C. 106, ITD Materials Manual Section 500, Not required off NHS
4-2	Geologic Reconnaissance Reports or Roadway Material Reports	Review – Projects of Division Involvement (PoDI)		Review/Approve	ITD Materials Manual Section 220 & 240, ITD Roadway Design Manual
4-3	Geotechnical Engineering Reports and other Technical Reports	Review – Projects of Division Involvement (PoDI)		Approve	ITD Materials Manual Section 230 & 600
4-4	Material Certifications (Record Inspection/MAPS) and Cost Eligibility Determination	Review – Projects of Division Involvement (PoDI)		Approve	23 CFR 637, Field Test Manual Part II Quality Assurance Program, ITD Contract Admin Manual Subsections 106 & 109
Bridge (20 Foot span or Larger)					
<i>Project</i>					
5-1	Draft Type, Size and Location (TS&L)	Concur – Projects of Division Involvement (PoDI)		Prepare/Review/Approve	
5-2	TS&L Plans	Approve – Projects of Division Involvement (PoDI)		Prepare/Review/Approve	23 CFR 630, 23 U.S.C. 106, ITD Roadway Design Manual 1040, BM Article 0.7 ITD Bridge Design LRFD Manual, ITD Bridge Inspection PONTIS Report, ITD Bridge Inspection Coding Guide
5-3	Situation and Layout Plans	Information – Projects of Division Involvement (PoDI)		Prepare/Review/Approve	23 CFR 630, 23 U.S.C. 106, ITD Roadway Design Manual 1040, BM Article 0.2 ITD Bridge Design LRFD Manual, ITD Bridge Inspection PONTIS Report, ITD Bridge Inspection Coding Guide
5-4	PS&E	Approve – Projects of Division Involvement (PoDI)		Certify/Submit	23 CFR 630, 23 U.S.C. 106, ITD Roadway Design Manual, BM Article 0.2

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#	Category/ Activity or Item	FHWA	ITD	LHTAC	References
Right-of-Way					
<i>Project</i>					
6-1	Hardship and Protective Buying	Approve	Review/Recommend	Prepare/Review/Submit	23 CFR 710, ITD ROW Manual
6-2	R/W Plans		Certify/Issue	Prepare/Submit	23 CFR 710, ITD ROW Manual 200, ITD Roadway Design Manual, Public Law 91-646
6-3	R/W Certification	Information	Certify/Issue	Prepare/Submit (ITD Form 1983)	23 CFR 710, ITD ROW Manual 200, ITD Roadway Design Manual, Public Law 91-646
6-4	Conditional R/W Certification	Review/Approve	Certify/Issue	Prepare/Submit	23 CFR 710, ITD ROW Manual 200.73, ITD Roadway Design Manual 415.70, Public Law 91-646
6-5	No Acquisition R/W Certification	Information	Information	Prepare/Approve	23 CFR 710, ITD ROW Manual 200, ITD Roadway Design Manual, Public Law 91-646
6-6	Appraisal Waiver			Approve	49 CFR 24.102(n), Idaho Code 54-4105(5)
6-7	Federal Land Acquisition	Approve/Execute	Concur	Prepare/Submit	ITD ROW Manual
Financial Services					
<i>Project</i>					
7-1	Final Vouchers (project closure)	Approve – Projects of Division Involvement (PoDI)	Prepare/Approve	Prepare/Submit	49 CFR 18.50
7-2	Funding Eligibility Determinations	Approve – Projects of Division Involvement (PoDI)		Prepare/Approve	23 U.S.C. & 23 CFR throughout ITD Administrative Policies, 5013, 5029, 5539
7-3	Monthly Payments		Issue	Prepare/Submit	
<i>Program</i>					
7-4	Accounting Procedures	Review	Review/Approve	Prepare/Submit	49 CFR 18, OMB Circular A-87, 2 CFR 225, B4029, A5029, A5013, LHTAC Financial Procedures Manual
7-5	Internal Controls	Review	Review/Approve	Prepare/Submit	23 CFR 140, 23 CFR 637, 49 CFR 18, A-01-05, A5513, A5059, A5538, LHTAC Financial Procedures Manual
7-6	Federal-aid Billing	Approve	Review	Prepare/Submit	LHTAC Financial Procedures Manual, 49 CFR 18, 23 CFR 635

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#	Category/ Activity or Item	FHWA	ITD	LHTAC	References
Construction					
<i>Project</i>					
8-1	Change Orders	Approve – Projects of Division Involvement (PoDI)	Concur (> +/- \$500,000)	Prepare/Approve	23 CFR 635, Standard Specs Subsection 104, ITD Contract Admin Manual Subsection 104
8-2	Claims	Approve – Projects of Division Involvement (PoDI)	Approve (CE Level)	Prepare/Approve (DE Level)	23 CFR 635.124, Standard Specs Subsection 105.16
8-3	Termination of Contract (all projects)	Approve – Projects of Division Involvement (PoDI)	Approve	Prepare/Review/Recommend	23 CFR 635, Standard Specs Subsection 108, ITD Contract Admin Manual Subsection 108.09
8-4	NPDES General Construction Permit Compliance		Report violations to EPA as needed	<ul style="list-style-type: none"> • File NOI and NOT as operator unless otherwise agreed in writing • Approve all CGP documents, including but not limited to SWPPP plans and revisions and inspection reports (ITD 2802) • Submit copy of NOI, NOT, and inspection reports to ITD for information. • Submit notice of potential violations to ITD for action 	Environmental Stormwater Website: https://itd.idaho.gov/en/
8-5	Final Estimate	Approve – Projects of Division Involvement (PoDI)		Approve	23 CFR 635.123, Standard Specs Subsection 109.08, ITD Contract Admin Manual Subsections 109.08 & 111.04

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#	Category/ Activity or Item	FHWA	ITD	LHTAC	References
8-6	Subcontract Agreements	Approve – Projects of Division Involvement (PoDI)		Approve	ITD-315, Standard Specs Subsection 108.01, ITD Contract Admin Manual Subsections 108
8-6	Project Acceptance	Approve – Projects of Division Involvement (PoDI)	Concur	Approve	23 CFR 635.101, ITD Contract Admin Manual Subsection 109.08
8-7	Non-Bid Items/Force Account (Work by Local Forces)	Approve – Projects of Division Involvement (PoDI)	Approve	Prepare/Submit	23 CFR 635(b), ITD 2395 - Request for Federal-Aid On No-Bid Items of Work (Force Account), ITD Roadway Design Manual
Civil Rights					
<i>Project</i>					
9-1	DBE Good Faith Efforts	Information	Approve		49 CFR 26, ITD DBE Plan, ITD Civil Rights Special Provisions
9-2	Changes in Use of Specific DBE on FA Contract	Information	Approve		49 CFR 26, ITD DBE Plan, ITD Civil Rights Special Provisions
9-3	Approval of Trainees on FA Projects	Information	Approve		ITD Contract Compliance Plan
9-4	Non-DOL approved Training Programs	Final Approval	Approve		23 CFR 230, Subpart A, App. B, ITD Contract Compliance Plan, ITD Training Provisions
9-5	Contract Compliance Review Reports	Concur/Approve	Prepare		23 CFR 230.413(b), ITD Contract Compliance Plan
9-6	Show Cause Notice	Information	Approve		23 CFR 230 Subpart D, ITD Contract Compliance Plan
9-7	Corrective Action Plan	Information	Approve		23 CFR 230 Subpart D, ITD Contract Compliance Plan

- Projects of Division Involvement (PoDi) are FHWA projects of interest that are typically determined annually and a list of these projects is provided by FHWA.