MEMORANDUM OF AGREEMENT
BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION, OREGON DIVISION
AND
THE FEDERAL TRANSIT ADMINISTRATION, REGION 10

BACKGROUND

In early 2003, a joint memorandum from Federal Highway Administrator Peters and Federal Transit Administrator Dorn put forth a proposal that the administrations should develop plans for collaboration initiatives in transportation planning. 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 10 office (hereinafter referred to as FTA-10) and the FHWA Oregon Division (hereinafter referred to as FHWA-OR) can further improve coordination in implementing program oversight activities and increase efficiency in delivering service to our customers and partners. The national MOA efforts have been used as a framework for the development of this MOA between the FTA-10 and the FHWA-OR.

PURPOSE OF THIS AGREEMENT

The purpose of this MOA is to set forth the general terms and conditions for collaboration in transportation planning between FHWA-OR and FTA-10 and ultimately to improve coordination of the transportation planning processes while fulfilling the provisions of 23 CFR 450 and 420, and 49 CFR 613.

GOALS

The FTA-10 and FHWA-OR shall carry out the terms of this MOA to streamline transportation planning decision-making for Federal surface transportation projects and programs. The goal of this MOA is to continue a mutually beneficial relationship and to streamline and improve the following transportation planning processes:

I. Coordination of the 3-C (Cooperative, Continuing and Comprehensive) Planning Process
II. Unified Planning Work Program (UPWP) Reviews and Approvals
III. Statewide Transportation Improvement Program (STIP) Approval and Amendments
IV. Statewide and Metropolitan Planning Findings
V. Air Quality Conformity Determinations
VI. Planning Certification Reviews
VII. Environmental Streamlining

VIII. Transfer Funding Procedures
IX. Communication and Conflict Resolution

I. Coordination of the 3-C (Cooperative, Continuing and Comprehensive) Planning Process

ROLES AND RESPONSIBILITIES

1. FTA-10 and FHWA-OR shall instill the need for multi-modal corridor planning.
2. FTA-10 and FHWA-OR shall encourage public involvement, agency representation and interagency coordination.
3. FTA-10 and FHWA-OR shall encourage a planning process that is open, professional and inclusive.
4. FTA-10 and FHWA-OR shall be impartial in dealing with multiple planning partners and competing transportation modes.
5. The 3 C process shall be formally reviewed every four years in the Transportation Management Areas (TMA) through the certification review process and when needed in the other Metropolitan Planning Organizations (MPOs) in Oregon.

II. UPWP Reviews and Approvals

BACKGROUND

23 CFR 450.314 and 49 CFR 613 require TMAs to develop Unified Planning Work Programs (UPWPs) and allow other MPOs to prepare simplified statements of work in lieu of UPWPs. The MPOs in Oregon have chosen to prepare UPWPs

ROLES AND RESPONSIBILITES

1. The draft UPWP shall be submitted concurrently to both FHWA-OR and FTA-10 by each MPO.
2. Oregon Department of Transportation (ODOT) coordinates UPWP meetings (typically in February) with the FHWA, FTA, MPO, State and transit operator to discuss and resolve any significant concerns relevant to the draft document.
3. Comments on the draft UPWP may be issued jointly, or separately by each agency in coordination with the other agency. FHWA-OR and FTA-10 will resolve any outstanding issues with the proposed UPWP with each MPO.
4. The final UPWPs shall be submitted concurrently with the State Planning and Research (SPR) work program by the State to both FHWA-OR and FTA-10.
5. FHWA-OR will approve the final UPWPs on behalf of both agencies after consultation with FTA-10. The approval is typically included in the FHWA-OR approval of the State's SPR work program

III. STIP Approval and Amendments

BACKGROUND

Current regulations for implementing Federal statewide transportation planning requirements are contained in 23 CFR 450 and 49 CFR 613. SAFETEA-LU requires that at least every four (4) years the State will submit the proposed Statewide Transportation Improvement Program (STIP) to the FHWA and the FTA for joint approval prior to the obligation of Federal funds made available to the state under Titles 23 and 49. The joint review shall include, but shall not be limited to the requirements of air quality conformity, public involvement and fiscal constraint.

ROLES AND RESPONSIBILITIES – STIP Approval

1. The State shall submit the proposed STIP to the FHWA-OR and the FTA-10 for joint review and approval by September 1.
2. Supporting MPO Transportation Improvement Programs (TIPs) and air quality conformity findings should be current prior to submission.
3. During this review period, FTA-10 and FHWA-OR shall share, discuss and resolve comments relative to the joint approval of the State's STIP using a combination of telephone and e-mail communications. This joint review effort shall be documented in the form of e-mails and a jointly signed approval letter.
4. The STIP approval letter, including statewide planning findings, shall be prepared by FHWA-OR, in consultation with FTA-10, and jointly signed by FTA-10 and FHWA-OR. If necessary, FTA's scanned signature will suffice as an original for the purposes of this MOA.
5. After consultation, FHWA-OR and FTA-10 shall agree on the most efficient and timely method for forwarding the jointly signed letter to the State, based on staff and resource availability. Routine options include:
    a. FHWA-OR forwards electronic version of the letter to FTA-10. FTA-10 signs the letter and sends a scanned version to FHWA-OR. FHWA-OR prints and signs the final letter and distributes the original and copies (including a fully signed copy for FTA-10 files.)
    b. FHWA-OR prints and signs final letter and mails to FTA-10 along with addressed envelopes for distribution. FTA-10 signs the final letter, makes copies and distributes the original and copies (including a fully signed copy for FHWA-OR files.)
    c. FHWA-OR e-mails final letter to FTA-10. FTA-10 prints the final letter, signs and returns to FHWA-OR. FHWA-OR signs and distributes (including a fully signed copy for FTA-10 files.)
6. All efforts should be made to issue the STIP approval letter within 30 calendar days of receipt of the STIP from the State. This will sometimes require use of overnight delivery of the signed letter or providing an advanced scanned version in order to serve our State and MPO customers in a timely manner.

ROLES AND RESPONSBILITIES – STIP Amendments

1. The State shall submit proposed STIP amendments to both the FHWA-OR and the FTA-10 for review and approval.
2. Applicable MPO TIP amendments and air quality conformity determinations should be current prior to submission and/or accompany the STIP amendment submittal.
3. FTA-10 has signature authority for STIP amendments that involve only FTA projects and funds. FHWA-OR has signature authority for STIP amendments that involve only FHWA projects and funds. Amendments that include both FHWA and FTA projects and funds require joint approval.
4. Amendments that require joint approval will follow the procedures for STIP approval previously described.
5. All efforts should be made to act upon STIP amendments (approve, disapprove, or advise ODOT of additional information needed) within two (2) weeks of receiving the amendment from the State.
6. Upon approval, a copy of the amendment action letter shall be provided to the other Federal transportation agency and the State for their information and/or action.

IV. Statewide and Metropolitan Planning Findings

BACKGROUND

23 CFR 450.220 and 49 CFR 613 require that the State include with their proposed STIP a certification that the transportation planning process is being carried out in accordance with those regulations. These regulations also require FHWA and FTA to make a joint planning finding as to the extent the projects in the STIP are based on a planning process that meets federal requirements. The statewide planning finding shall cover, but shall not be limited to, the State self-certification (required by 23 CFR 450.220(a) and 49 CFR 613), inclusion of MPO submitted TIPs in their entirety, the public involvement process, the financial plan and air quality conformity.

23 CFR 450.330 and 49 CFR 613 require a joint Federal finding that each metropolitan TIP is based on 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 (required by 23 CFR 450.334 and 49 CFR 613) and upon other reviews as deemed necessary by FHWA-OR and FTA-10. The FHWA-OR and FTA-10 will evaluate each metropolitan planning process based on, but not limited to: previous reviews, review of the UPWP, the long-range transportation plan, the TIP, the relationship of projects in the TIP to the long-range plan, air quality conformity, public involvement process and attendance at meetings and routine communication.

ROLES AND RESPONSIBILITES - Statewide Planning Finding:

1. The Federal statewide planning finding shall be documented in the joint STIP approval letter.

2. The FHWA-OR shall be the lead in initiating the statewide planning finding upon receiving the STIP from the State.

ROLES AND RESPONSIBILITES - Metropolitan Planning Finding:

1. The Federal metropolitan planning finding shall be documented in the joint STIP approval letter.
2. The FHWA-OR shall be the lead in initiating the metropolitan planning finding upon receiving the STIP from the State

V. Air Quality Conformity Determinations

BACKGROUND

Section 176(c) of the Clean Air Act establishes conformity requirements for long-range regional transportation plans (RTP), TIPs, and projects, and amendments to those plans and TIPs in areas designated as non-attainment 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 surface transportation projects are consistent with approved plans for air quality. The State of Oregon has an EPA approved conformity State Implementation Plan that outlines procedural requirements for consultation.

Currently four MPOs in Oregon have conformity responsibilities and ODOT has responsibility for most of the rural non-attainment or maintenance areas.

- Metro has conformity responsibility for the Portland carbon monoxide area.
- SKATS has responsibility for the Salem-Keizer carbon monoxide area.
- Central Lane MPO has responsibility for the Eugene-Springfield carbon monoxide area.
- RVMPO has responsibility for the Rogue Valley PM_{10} area, the Medford carbon monoxide area, and the Grants Pass PM_{10} and carbon monoxide areas.
- ODOT has responsibility for LaGrande, Lakeview, Oakridge and LaGrande PM_{10} areas.

ROLES AND RESPONSIBILITES

1. FHWA-OR and FTA-10 staff shall work closely together during the development of the draft conformity determination to resolve concerns prior to the public release of the draft document.
2. The FHWA-OR and FTA-10 shall meet or teleconference with EPA and/or other participating agencies as necessary to resolve pertinent comments that may result from review, prior to the public release of the draft document, to the extent possible.
3. A copy of the MPO air quality conformity determination and associated plan, TIP or amendment shall be submitted concurrently by the MPO or ODOT to FHWA-OR and

FTA-10. The MPO shall also forward copies to the U.S. Environmental Protection Agency (EPA) Region 10, Oregon Department of Transportation air quality specialist and the Oregon Department of Environmental Quality (DEQ) planning liaison, except for determinations from the Central Lane MPO, a copy shall be sent to the Lane Regional Air Pollution Authority.

4. Upon receipt of the MPO or ODOT conformity determination, FTA-10 and FHWA-OR staff shall advise each other of any concerns as soon as possible, but no later than 14 days after receipt of the documents. The Oregon conformity SIP currently provides a 14-day period for EPA to review and comment on conformity determinations. If FTA-10 has not responded within 14-days, FHWA-OR will assume the lead for the conformity determination on their behalf.
5. Upon receipt of concurrence from EPA or the close of the comment period without the receipt of adverse EPA comments, the FHWA-OR and FTA-10 shall make joint conformity determination.
    a. The FHWA-OR shall prepare the joint letter to be signed by the FTA-10 Regional Administrator and the FHWA-OR Division Administrator. FHWA-OR and FTA-10 will agree on the most efficient method for distributing the signed letter. Routine options are outlined under III. STIP Approval and Amendments.

VI. Planning Certification Reviews

BACKGROUND

SAFETEA-LU requires a joint FHWA/FTA certification of the transportation planning process for all Transportation Management Areas (TMA's) at least every four (4) 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.

ROLES AND RESPONSIBILITES

1. The team shall consist of staff from FHWA-OR, FTA-10, and if necessary, other technical expertise from other Division or Regional offices, Headquarters, Resource Center and EPA.
2. The FHWA-OR and FTA-10 shall cooperatively determine the assignment of responsibilities for the reviews. This includes establishing schedules, obtaining material for the desk audit, completion of the desk audit, notifying participants, preparing the agenda for meetings, leading the meeting sessions, scheduling the public meeting, drafting and finalizing the report, and corrective action follow-up and reporting.
3. FTA-10 and FHWA-OR staff shall share responsibilities for leading the meeting sessions during the review (including the public meeting) and the closeout after the review.
4. During the course of the review and report preparation, FHWA-OR and FTA-10 shall share responsibilities for drafting findings, corrective actions, recommendations, and

noteworthy practices, including establishing timeframes for completing corrective actions.

5. The FHWA-OR and FTA-10 shall circulate a draft report to the MPO, transit operator(s), ODOT and other participants for factual verification.
6. All efforts should be made to issue the final report with a joint FHWA/FTA letter to the MPO policy board no later than 90 days after the last review meeting is held with the MPO staff. This letter must be issued within four (4) years from the date the preceding review was issued.
7. FHWA-OR shall take the lead in setting up a follow-up meeting with the MPO and FTA-10 prior to the expiration of the time limit given to resolve the corrective actions.
8. Based on the nature of the corrective action, FHWA-OR or FTA-10 shall take the lead in reviewing the progress in resolving the corrective action.

VII. Environmental Streamlining

When applicable, FTA-10 and FHWA-OR agree to be cooperating agencies for each other's projects. When joint funding is involved and funding transfers are not possible, FTA-10 and FHWA-OR 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.

VIII. Transfer Funding Procedures

ROLES AND RESPONSIBILITIES

1. FHWA-OR and FTA-10 will encourage ODOT and the MPOs to identify funds included in the MPO TIPs and ODOT STIP that they intend to transfer at the time of STIP submission.
2. After FTA-10 reviews the transfer funds programmed in the STIP and determines that the proposed project is ready to advance, FTA-10 will send a letter to ODOT requesting that the State initiate the transfer process.
3. A copy of the letter will be provided to the FHWA-OR, the funding recipient and the appropriate MPO, if applicable
4. FHWA-OR will initiate the transfer process within two (2) weeks of receipt of the request from ODOT.
5. FTA-10 shall, to the best of its ability, encourage the timely obligation and expenditure for projects involving transfer funding.

IX. Communication and Conflict Resolution

BACKGROUND

This MOA establishes a framework to further promote existing collaboration. Because the FTA-10 and FHWA-OR offices are located more than two hundred miles apart, the majority of communications between the two agencies is e-mail and telephone calls.

Occasional face-to-face meetings are an effective form of communication and are more likely in joint activities such as planning certification and UPWP reviews. This MOA outlines the following procedures that have been used to streamline communications:

ROLES AND RESPONSIBILITIES

Communications:

1. The FTA-10 and FHWA-OR shall continue to communicate using telephone, e-mails and meetings.
2. The FTA-10 and FHWA-OR planners shall be the points of contact in each agency and shall conduct the initial discussion regarding all planning issues based on the procedures established above.
3. The FTA-10 and FHWA-OR planners shall communicate with issue-appropriate staff within their own agencies.
4. Draft correspondence shall be forwarded through e-mails.
5. Each party shall be provided the opportunity to comment on all planning issues relative to their focus area within a reasonable, expedient and mutually agreeable time frame.
6. Draft correspondence shall be reviewed within the time frame requested by the agency preparing the draft correspondence. If no time frame is identified, a maximum of two (2) weeks can be used to proceed without receipt of comment from the other agency.
7. The agencies will use overnight mail, courier service, etc. to expedite exchange and delivery of final signed documents as necessary to serve our State, regional, local, MPO and transit customers within timelines included in this MOA. FTA-10 will use electronic signatures whenever possible to streamline processes and reduce timeframes.

Conflict Resolution:

1. All comments and responses to comments should be documented. The FTA-10 and FHWA-OR planners shall notify each other when issues arise between the agencies, so that there will be a reasonable opportunity for discussion.
2. If the issues remain unresolved and efforts to resolve the issues are exhausted between the affected FTA-10 and FHWA-OR planners, the issues shall be escalated to FTA-10 Deputy Regional Administrator/Regional Administrator and FHWA-OR Division Administrator. The agencies shall make every effort to settle conflicts quickly in order to respond to our customers within allotted timeframes, e.g. 30 days to approve the STIP, two (2) weeks to approve a STIP amendment, etc.
3. To the maximum extent possible, issues involving the two (2) agencies shall be resolved at the Division/Region level. When issues, which affect both agencies, arise that cannot be resolved at the Division/Region level, joint communications to respective Headquarters offices are strongly encouraged.

Summary

This agreement shall remain in effect indefinitely unless terminated by either party upon a 30-day written notice to the other party. Either party to this MOA may request amendment, whereupon the parties will consult to consider such amendment. This MOA goes into effect with signature and date of all parties.

	Lucida M. Gehrke
David O. Cox	**R.F. Krochalis**
Division Administrator	for **Regional Administrator**
Federal Highway Administration	**Federal Transit Administration**
	6 October 2005
Date	**Date**