

**Agency Operating Agreement for  
Continuing the Efficient Transportation Decision Making Process in Florida**

**Between**

**Florida Department of Community Affairs  
and the Florida Department of Transportation  
and the Federal Highway Administration**

**December 25, 2008**

**Agency Operating Agreement**  
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**Florida Department of Community Affairs**

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# Agency Operating Agreement Continuing the Efficient Transportation Decision Making Process in Florida Florida Department of Community Affairs

## Section 1.0 Introduction

The Efficient Transportation Decision Making (ETDM) Process is designed to accomplish the streamlining objectives identified in Section 1309 of the Transportation Efficiency Act for the 21st Century and Sections 6001 and 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The ETDM Process creates linkages between land use, transportation, and environmental resource planning initiatives, through early, interactive agency involvement. In implementing the ETDM Process, all Environmental Technical Advisory Team (ETAT) agencies are responsible for reviewing and commenting on transportation improvements consistent with their respective agencies' statutory and regulatory authority. Process objectives include effective/timely decision making without compromising environmental quality, full and early public and agency participation, integrating National Environmental Policy Act (NEPA) reviews with issuance of project permitting and implementing meaningful dispute resolution mechanisms. The results of the ETDM Process include concurrent actions and approvals, interactive planning, efficiency gained from technology, and ultimately better transportation decisions. The ETDM Process described in this Agency Operating Agreement (AOA) follows the guidelines set forth in the FDOT's ETDM Planning and Programming Manual and FDOT's Project Development and Environment (PD&E) Manual. The tables below identify the information available from the project's purpose and need, to technical reports and environmental documents. The tables also identify the agency's review responsibilities from project planning through compliance with NEPA. The tables have been divided into three basic phases of a transportation project: planning, programming, and project development. Program and project efficiency is gained by two environmental screening events that occur at the transportation planning and programming phases. The Planning and Programming Screens apply only to major capacity improvement projects, including roadway widenings, new roadways, new rail systems and bridge projects.

## Section 2.0 Planning Screen

In Metropolitan Planning Organization (MPO) areas, the Planning Screen will occur on capacity improvements contained in the Long Range Transportation Needs Plan (LRTP) and prior to the development of the MPO LRTP with the exception of the Florida Intrastate Highway System (FIHS) facilities. FIHS facilities will be screened during the development of the FIHS Cost Feasible Plan, by FDOT, for both the MPO and non-MPO areas. FDOT staff is responsible for uploading the FIHS project information into the Environmental Screening Tool (EST).

The table below identifies the information available to the Florida Department of Community Affairs (FDCA) during the Planning Screen (via the EST). The table also addresses Federal Highway Administration (FHWA)/Florida Department of Transportation (FDOT) and the FDCA ETAT representative review and coordination responsibilities. The review will take place on the interactive ETDM Web site and all comments will be entered directly into the ETAT review database.

**Table 1  
Planning Screen Information and Responsibilities**

ETDM Database (MPO, FDOT, FGDL)	FHWA/FDOT	FDCA
<ul style="list-style-type: none"> <li>Purpose and Need</li> <li>Project limits and logical termini</li> <li>Mobility Alternatives</li> <li>Demographics (Sociocultural Effects Assessment)</li> <li>Agency-specific GIS Resource Data can be found in the EST</li> <li>Examples of Indirect and Cumulative Effects GIS Data Sets can be found in the EST</li> </ul>	<ul style="list-style-type: none"> <li>In MPO areas, assist in developing the Purpose and Need Statement and establishing logical termini</li> <li>In non-MPO areas, FDOT in consultation with FHWA establishes Purpose and Need Statement and logical termini.</li> <li>In MPO and non-MPO areas, establish Purpose and Need for FIHS projects</li> </ul>	<ul style="list-style-type: none"> <li>Review, comment and acknowledge Purpose and Need for project</li> <li>Review, comment and acknowledge logical termini</li> <li>Review, comment and acknowledge mode choice and mobility alternatives (demand management, transit, highways)</li> <li>Review and comment on order of magnitude of effect</li> <li>Identify important environmental resource issues</li> </ul>

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**Table 1**  
**Planning Screen Information and Responsibilities**

ETDM Database (MPO, FDOT, FGDL)	FHWA/FDOT	FDCA
	<ul style="list-style-type: none"> <li>• Identify P2000 / CARL lands</li> <li>• Ensure project information is available for ETAT review</li> <li>• ETDM Coordinator will consult and resolve project issues, where feasible</li> <li>• Produce the Planning Summary Report which will comprise the following key components: <ul style="list-style-type: none"> <li>– Project Description</li> <li>– Purpose and Need statement</li> <li>– Agency comments, issues and recommendations for potential direct effects</li> <li>– System-wide GIS mapping depicting social, cultural, and natural resources</li> <li>– Potential indirect and cumulative effects issues and recommendations</li> <li>– Summary of degree of effects comments</li> <li>– Summary of public involvement comments</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Determine potential impacts to land use and consistency with local government Local Comprehensive Plan and Statewide goals and objectives</li> <li>• Input agency plans and programs that affect the project area</li> <li>• Identify need for future agency involvement and anticipated agency coordination and consultation</li> <li>• Identify consistency with local resource management policies, goals and objectives</li> <li>• Identify alternative land use issues for consideration</li> <li>• Identify recommended course of action to preserve and protect resources</li> <li>• Evaluate potential indirect and cumulative effects</li> <li>• Evaluate indirect and direct effects of greenhouse gas emissions and energy efficiency (Subject to development of guidance by FDOT and FDCA for MPO's and local governments respectively)</li> <li>• Provide Project Recommendations</li> <li>• Submit comments electronically within 45 calendar days of notification</li> <li>• The Planning Summary Report will be made available to the ETAT representatives through the EST for their review and information.</li> <li>• Evaluate if project involves direct or indirect effects on growth patterns addressed by Florida Statutes (F.S.), FDCA Administrative Rules and Local Government Comprehensive Plans  i.e.: <ul style="list-style-type: none"> <li>– Urban Sprawl</li> <li>– Land Use</li> <li>– Housing Objectives</li> </ul> </li> </ul>

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### Section 3.0 Programming Screen

The Programming Screen will be performed annually on bridge projects contained in the Annual Bridge Repair and Replacement Report and on major capacity improvement projects contained in the MPO's list of priority projects prior to inclusion into FDOT's Five-Year Work Program with the exception of the FIHS facilities. The FIHS facilities for MPO and non-MPO areas will be screened during FDOT's development of the FIHS Ten-Year Plan. FDOT staff will be responsible for uploading the FIHS project information into the ETDM database. Major capacity improvements and bridge projects located on the State Highway System in rural areas will also undergo review prior to inclusion into FDOT's Five-Year Work Program.

The Programming Screen will initiate the Advance Notification (AN) process. The subsequent table identifies the information available to the FDCA during the Programming Screen (via the EST). The table also addresses FHWA/FDOT and the FDCA ETAT representative review and coordination responsibilities. The review will once again take place on the interactive ETDM Web site, and all comments will be entered directly into the ETAT review database.

**Table 2**  
**Programming Screen Information and Responsibilities**

ETDM Database (MPO, FDOT, FGDL)	FHWA/FDOT	FDCA
<ul style="list-style-type: none"> <li>• AN process</li> <li>• Coastal Zone Consistency Determination</li> <li>• Local Government Comprehensive Plan Consistency</li> <li>• Goals of the State</li> <li>• Clean Air Act Conformity Designation</li> <li>• FDCA plans and programs</li> <li>• Demographics (Sociocultural Effects Assessment)</li> <li>• Agency-specific GIS Resource Data can be found in the EST</li> </ul>	<ul style="list-style-type: none"> <li>• Distribute AN to agencies including all ETAT representatives</li> <li>• Determine Level of NEPA Environmental Documentation (Class of Action Determination)</li> <li>• Publish Notice of Intent for EIS</li> <li>• Establish an interdisciplinary project team</li> <li>• Produce Programming Summary Report which will comprise the following key components: <ul style="list-style-type: none"> <li>– Project Description</li> <li>– Purpose and Need statement</li> <li>– Class of Action Determination</li> <li>– System-wide mapping depicting social, cultural, and natural resources</li> <li>– Agency comments, issues, and recommendations for potential direct effects</li> <li>– Preliminary outline of the Project Development scope</li> <li>– Dispute resolution issues</li> <li>– Summary of degree of effects comments</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Review and comment on AN</li> <li>• FDCA assigns project manager</li> <li>• FDCA may become a Cooperating Agency, if appropriate</li> <li>• Determine if any Developments of Regional Impacts (DRI) development order conditions will affect projects.</li> <li>• Agree through formal documentation on adequacy of corridor-wide resource inventory</li> <li>• Review and comment on project impacts on growth management issues</li> <li>• Review and comment on Class of Action</li> <li>• Initiate agency analysis of the project concepts and scope</li> <li>• Review and comment on summary of community issues, and public concerns</li> <li>• Participate in dispute resolution, if necessary, to assist the ETDM Coordinator in identifying solutions to project concerns. Participate in ETAT Review Committee, as needed, to review and resolve conflicts at an informal local level</li> <li>• Submit comments electronically within 45 calendar days</li> <li>• The Programming Summary Report will be made available to the ETAT representatives through the ETDM Web site for their review and information.</li> </ul>

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**Table 2**  
**Programming Screen Information and Responsibilities**

ETDM Database (MPO, FDOT, FGDL)	FHWA/FDOT	FDCA
	<ul style="list-style-type: none"> <li>– Summary of public involvement comments</li> </ul>	<ul style="list-style-type: none"> <li>• Evaluate if project involves direct or indirect impacts on growth patterns addressed by F.S., FDCA Administrative Rules and Local Government Comprehensive Plans. i.e.: <ul style="list-style-type: none"> <li>– Urban Sprawl</li> <li>– Land Use</li> <li>– Housing Objectives</li> </ul> </li> </ul>

#### **Section 4.0 Project Development Documentation**

During project development, the FDCA will ensure FDOT projects are consistent with Florida's growth management laws and rules, including the State Comprehensive Plan (Chapter 187, F.S.) and local government comprehensive plans prepared by Florida's counties and municipalities (Chapter 163, Part II, F.S.), and satisfy NEPA and potential permit issues and concerns so that the resultant approvals are acceptable to all parties and received concurrently. The table below identifies the reports and coordination responsibilities for FDOT, FHWA and the FDCA ETAT representative. Project development studies or environmental documents may require the development and maintenance of a project Web site. The ETDM interactive database will have links to the project development Web sites for agencies to continue their electronic reviews where such sites exist.

For federally funded major transportation capacity improvement projects, which do not individually or cumulatively have a significant environmental effect on the human and natural environment a Categorical Exclusion (CE) will be prepared. The CE level of conceptual engineering, environmental analysis and public involvement will be documented in technical support studies and be of sufficient detail to support the CE determination. For those major transportation capacity improvement projects that do not qualify for a CE an Environmental Assessment (EA) or Environmental Impact Statement (EIS) will be completed, in compliance with the CEQ regulations implementing NEPA and 23 CFR 771. Non-federally funded major transportation capacity improvement projects requiring a State Environmental Impact Report (SEIR) will follow a similar process to that used for federal documents.

**Table 3**  
**Project Development Information & Responsibilities**

FDOT	FHWA	FDCA
<b>Preliminary Alternatives Analyses</b>		
<ul style="list-style-type: none"> <li>• Develop and analyze alternatives</li> <li>• Assess major impacts of all alternatives</li> <li>• Consult with FDCA regarding potential impacts and Best Management Practices (BMPs) for mitigation</li> </ul>	<ul style="list-style-type: none"> <li>• Participate in development of alternatives</li> </ul>	<ul style="list-style-type: none"> <li>• Review and comment on preliminary alternatives and analysis</li> <li>• Acknowledge alternatives under consideration</li> </ul>

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**Table 3**  
**Project Development Information & Responsibilities**

<b>FDOT</b>	<b>FHWA</b>	<b>FDCA</b>
<b>Technical Reports</b>		
<ul style="list-style-type: none"> <li>Complete technical studies as defined by ETAT and scope of services, such as: <ul style="list-style-type: none"> <li>Wetland Evaluation Report (WER)</li> <li>Cultural Resource Assessment (CRA)</li> <li>Endangered Species Biological Assessment (ESBA)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Review and comment on technical reports</li> </ul>	<ul style="list-style-type: none"> <li>Within 30 calendar days of notification, review and comment on technical reports</li> <li>Provide technical assistance, as needed</li> </ul>
<b>EA/DEIS</b>		
<ul style="list-style-type: none"> <li>Incorporate WER, CRA, ESBA and other technical reports into Environmental Document</li> <li>Complete EA and publish Notice of Availability (NOA)</li> <li>Complete EA/DEIS and submit to FDCA for review</li> <li>Apply for project permits after the public hearing.</li> </ul>	<ul style="list-style-type: none"> <li>Review and approve EA/DEIS with comments incorporated (30 calendar days)</li> <li>Publish NOA of DEIS in Federal Register (FR)</li> </ul>	<ul style="list-style-type: none"> <li>Review and comment on EA/DEIS within 30 calendar days of notification</li> </ul>
<b>Public Hearing</b>		
<ul style="list-style-type: none"> <li>Identify opportunities, constraints and feasibility of Joint Public Notice and Hearing, if appropriate</li> <li>Hold Public Hearing</li> <li>Prepare transcript and certification</li> </ul>	<ul style="list-style-type: none"> <li>Attend hearing and participate as necessary</li> </ul>	<ul style="list-style-type: none"> <li>Attend joint public hearing and participate as necessary</li> <li>Provide technical assistance on public hearing topics to satisfy NEPA and permitting requirements</li> </ul>
<b>FONSI/FEIS</b>		
<ul style="list-style-type: none"> <li>Document decisions in FONSI and FEIS</li> <li>Complete FONSI/FEIS and submit to FDCA for review as applicable</li> <li>Respond to comments</li> <li>Obtain project permits concurrent with NEPA approval if appropriate</li> </ul>	<ul style="list-style-type: none"> <li>Review FEIS or FONSI</li> <li>Approve FONSI or FEIS</li> <li>Publish notice of FEIS availability in FR</li> <li>Issue Record of Decision</li> </ul>	<ul style="list-style-type: none"> <li>Review FONSI or FEIS and concur within 30 calendar days on NEPA compliance</li> </ul>
<b>Final Design</b>		
<ul style="list-style-type: none"> <li>Environmental reevaluation and consultation with FDCA and FHWA on any major design modifications and/or any changes to EA/FONSI or FEIS commitments, as appropriate</li> </ul>	<ul style="list-style-type: none"> <li>Approve Environmental Reevaluation</li> <li>Participate in reviews to monitor implementation of EA /FONSI or FEIS commitments</li> </ul>	<ul style="list-style-type: none"> <li>Consult with FDOT on design modification and project mitigation measures to assure compliance with EA/FONSI or FEIS commitments</li> </ul>

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**Section 5.0 Environmental Reevaluation**

Each project is reevaluated, in consultation with FHWA, by FDOT, prior to advancing to the next phase of project development. During the reevaluation phase consultation with permit and resource agencies will occur where major design changes effecting the permit have occurred, or where permits, whose effective date may expire prior to project construction have been identified and a time extension in permit duration is needed that will allow for construction to be completed, or where commitments are being implemented or require change.

**Section 6.0 Agency Operating Agreement Modification**

This AOA is between FDOT, FHWA and FDCA. Any changes, amendments, corrections, or additions to this AOA, shall be executed and approved by the same officials (or their designees) who executed and approved the original agreement and applicable appendices in accordance with applicable laws. This AOA shall become effective upon signing the agreement. Any party may terminate its participation in this AOA upon sixty (60) days written notice to the FDOT, provided that the party requesting termination has provided sufficient notice and opportunity for remedy of issues and dispute resolution.

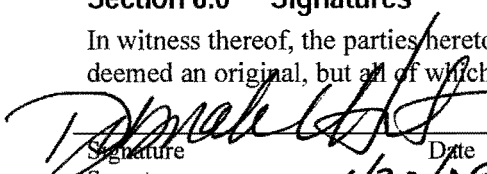
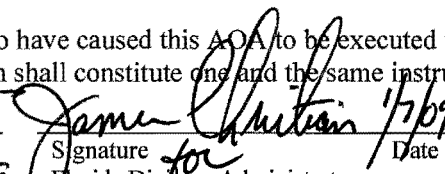
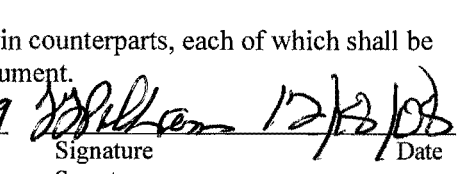
**Section 7.0 Period of Performance**

This AOA shall not expire unless specifically requested by the FDCA or FDOT; however, the Funding Agreement (FA) shall govern with regard to the period of performance and be renewable subject to all parties agreeing to renewal. The parties to this AOA have consulted and agreed to continue participation in the ETDM Process as signatories to the Master Agreement (MA), AOA and FA, with the FA's termination date serving as the controlling date.

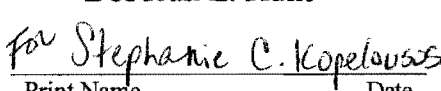
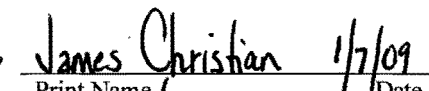
The period of performance for this AOA shall be reviewed at least every two (2) years beginning from the date of the final signatures. In the event of a conflict between any provision of the MA and the AOA, the latter shall govern. The FA shall govern with regard to the period of performance.

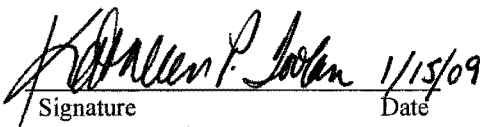
**Section 8.0 Signatures**

In witness thereof, the parties hereto have caused this AOA to be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

 _____ Signature Secretary Florida Department of Transportation	 _____ Signature Florida Division Administrator Federal Highway Administration	 _____ Signature Secretary Florida Department of Community Affairs
Date 4/20/09	Date 1/7/09	Date 12/12/08

Deborah L. Hunt

 _____ Print Name Secretary Florida Department of Transportation	 _____ Print Name Florida Division Administrator Federal Highway Administration	_____ Print Name Secretary Florida Department of Community Affairs
Date 1/15/09	Date 1/7/09	Date

  
\_\_\_\_\_  
Signature  
Office General Counsel  
Florida Department of Transportation