

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

Between

Florida Fish and Wildlife Conservation Commission

and the Florida Department of Transportation

and the Federal Highway Administration

June 1, 2009

Agency Operating Agreement
Continuing the Efficient Transportation Decision Making Process in Florida
Florida Fish and Wildlife Conservation Commission

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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 Florida Department of Transportation's (FDOT) ETDM Planning and Programming Manual and FDOT's Project Development and Environment 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 and subsequent reevaluation phases. 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 all 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 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 ETDM Database.

This Planning Screen review allows the Agency to comment on the effects of projects very early in the planning process. It also allows the Agency to provide plans, programs, and technical reports that are not contained in existing databases, but are an important part of an agency's resource management and protection initiatives and may affect a proposed project. This early agency involvement will enable planners to adjust project concepts to avoid or minimize adverse effects and to identify potential mitigation alternatives/concerns and costs for possible unavoidable effects. Indirect effects will be evaluated on a project basis in connection with the Planning Screen. The LRTPs are updated by the MPOs every five years, depending on the air quality designation by the U.S. Environmental Protection Agency. The Strategic Intermodal System (SIS) Cost-Feasible Plan is updated by FDOT every five years depending on funding and legislative issues.

The table below identifies the information available to the Florida Fish and Wildlife Conservation Commission (FFWCC) during the Planning Screen (via the ETDM database). The table also addresses Federal Highway Administration (FHWA), FDOT and the FFWCC ETAT representative review and coordination responsibilities. The review will take place on the Environmental Screening Tool (EST) and all comments will be entered directly into the ETAT review database.

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Table 1
Planning Screen Information & Responsibilities

ETDM Database (MPO, FDOT, FGDL)	FHWA/FDOT	FFWCC
<ul style="list-style-type: none"> • Purpose and Need • Project limits and logical termini • Mobility Alternatives • FFWCC plans and programs • Demographics (Community Impact Assessment) • Agency-specific Geographic Information Systems (GIS) Resource Data can be found in the EST 	<ul style="list-style-type: none"> • In MPO areas, assist in developing the Purpose and Need Statement and establishing logical termini • In non-MPO areas, FDOT in consultation with FHWA establishes Purpose and Need Statement and logical termini, as appropriate • In MPO and non-MPO areas, establish Purpose and Need for FHHS projects • Ensure project information is available for ETAT review • ETDM Coordinator will consult and resolve project issues, where feasible • Produce the Planning Summary Report which will comprise the following key components: <ul style="list-style-type: none"> — Project Description — Purpose and Need statement — Agency comments, issues and recommendations for potential direct effects — System-wide GIS mapping depicting social, cultural, and natural resources — Potential indirect and cumulative effect issues and recommendations — Summary of degree of effect comments — Summary of public involvement comments 	<ul style="list-style-type: none"> • Review and comment on Purpose and Need for project • Review and comment on logical termini • Review and comment on mode choice and mobility alternatives (demand management, transit, highways) • Review and comment on order of magnitude of impact • Request consultation with ETDM Coordinator to resolve issues • Identify important environmental resource issues • Input agency plans and programs that affect the project area • Identify need for future agency involvement and anticipated agency coordination and consultation • Identify resource management policies, goals and objectives • Identify recommended course of action to preserve and protect resources • Assign and comment of degree of effect, indicating whether or not there is an effect and the order of magnitude on any effect • Evaluate potential indirect and cumulative effects • Provide Project Recommendations and identify need for future agency involvement and anticipated agency coordination and consultation • Submit comments electronically within 45 calendar days of notification • The Planning Summary Report will be made available to the ETAT representatives through the EST for their review and information.

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Section 3.0 Programming Screen

The Programming Screen will be performed on all 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 FFWCC during the Programming Screen (via the EST). The table also addresses FHWA/FDOT and the FFWCC ETAT representative review and coordination responsibilities. The review will once again take place on the EST, and all comments will be entered directly into the ETAT review database.

Table 2
Programming Screen Information & Responsibilities

ETDM Database (MPO, FDOT,FGDL)	FHWA/FDOT	FFWCC
<ul style="list-style-type: none"> • AN process • Coastal Zone Consistency Determination • Local Government Comprehensive Plan Consistency • Goals of the State • Clean Air Act Conformity Designation • FFWCC plans and programs • Demographics (Sociocultural Effects) • Agency-specific GIS Resource Data can be found in the EST 	<ul style="list-style-type: none"> • Distribute AN to agencies including all ETAT representatives • Determine Level of NEPA Environmental Documentation (Class of Action Determination) • Publish Notice of Intent for EIS, as applicable • Establish an interdisciplinary project team • Consult with FFWCC on wildlife and habitat and reach concurrence on listed species and habitat issues • Produce Programming Summary Report which will comprise the following key components: <ul style="list-style-type: none"> --- Project Description --- Purpose and Need statement --- Class of Action Determination --- System-wide mapping depicting social, cultural, and natural resources --- Agency comments, issues, and recommendations for potential direct effects --- Preliminary outline of the Project 	<ul style="list-style-type: none"> • Review and comment on AN • FFWCC assigns project manager • FFWCC may become Cooperating Agency, if appropriate • Agree through formal documentation on adequacy of corridor-wide resource inventory • Review and comment on project impacts: quantity and types of wetlands, protected species identification and need for consultation on wildlife and habitat • Provide list of Species and Habitat and agree on how to address • Review and comments contribute to Class of Action decision • Initiate agency analysis of the project concepts and possible typical sections • Identify all permitability issues and general mitigation needed based on the statutory responsibility of the FFWCC • Perform project scoping activities based on review of ETDM databases and project information and identifying required technical studies prior to the beginning of the project development phase • Review and comment on summary of community issues, and public concerns • Participate in dispute resolution, if necessary, to assist the ETDM Coordinator in identifying solutions

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Programming Screen Information & Responsibilities

ETDM Database (MPO, FDOT,FGDL)	FHWA/FDOT	FFWCC
	<ul style="list-style-type: none"> Development scope - Dispute resolution issues - Summary of degree of effect comments - Summary of public involvement comments 	<p>to project concerns. Participate in ETAT Review Committee, as needed, to review and resolve conflicts at an informal local level</p> <ul style="list-style-type: none"> • Submit comments electronically within 45 calendar days • The Programming Summary Report will be made available to the ETAT representatives through the EST

Section 4.0 Project Development Documentation

During project development, the FFWCC will work closely with FDOT and provide information for use in meeting the requirements of the Endangered Species Act and the Fish and Wildlife Coordination Act to 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 FFWCC 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 Council on Environmental Quality (CEQ) regulations implementing NEPA and 23 CFR 771. The 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.

Project Development Information & Responsibilities

Project Development Information & Responsibilities		
FDOT	FHWA	FFWCC
Preliminary Alternatives Analyses		
<ul style="list-style-type: none"> Develop and analyze alternatives Assess major impacts of all alternatives Consult with FFWCC regarding potential impacts and Best Management Practices (BMPs) for mitigation 	<ul style="list-style-type: none"> Participate in development of alternatives 	<ul style="list-style-type: none"> Review and comment on preliminary alternatives and analysis
Technical Reports		
<ul style="list-style-type: none"> Complete technical studies as defined by ETAT and scope of services, such as: <ul style="list-style-type: none"> Wetland Evaluation Report (WER) Cultural Resource Assessment (CRA) Endangered Species Biological Assessment (ESBA) 	<ul style="list-style-type: none"> Reviews of ESBA within 30 days 	<ul style="list-style-type: none"> Review and comment on ESBA and other technical reports within 30 calendar days of notification Provide technical assistance, as needed

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Table 3
Project Development Information & Responsibilities

EA/DEIS		
<ul style="list-style-type: none"> • Incorporate ESBA into Environmental Document • Complete EA and publish Notice of Availability (NOA) • Complete EA/DEIS and submit to FFWCC for review, as appropriate 	<ul style="list-style-type: none"> • Review and approve EA/ Draft Environmental Impact Statement (DEIS) with comments incorporated (30 calendar days) • Publish NOA of DEIS in Federal Register 	<ul style="list-style-type: none"> • Review and comment on EA within 30 days or DEIS within 45 calendar days of notification, as appropriate • Review and comment on permit issues
Public Hearing		
<ul style="list-style-type: none"> • Identify opportunities, constraints and feasibility of Joint Public Notice and Hearing, if appropriate • Hold Public Hearing • Prepare transcript and certification 	<ul style="list-style-type: none"> • Attend hearing and participate as necessary 	<ul style="list-style-type: none"> • Attend joint public hearing and participate as necessary • Provide technical assistance on public hearing topics regarding permitting requirements
FONSI/FEIS		
<ul style="list-style-type: none"> • Document decisions in Finding Of No Significant Impact (FONSI) and Final Environmental Impact Statement (FEIS) • Complete FONSI/FEIS and submit to FFWCC for review, as applicable • Respond to comments • Obtain project permits concurrent with NEPA approval if appropriate 	<ul style="list-style-type: none"> • Review FEIS or FONSI within 30 calendar days • Approve FONSI or FEIS • Publish notice of FEIS availability in Federal Register (FR) • Issue Record of Decision (ROD) 	<ul style="list-style-type: none"> • Review FONSI or FEIS within 30 calendar days on NEPA documents, as appropriate
Environmental Reevaluation		
<ul style="list-style-type: none"> • Environmental reevaluation and consultation with FFWCC and FHWA on design modifications and /or any changes to EA/FONSI or FEIS commitments 	<ul style="list-style-type: none"> • Approve Environmental Reevaluation • Participate in reviews to monitor implementation of EA/FONSI or FEIS commitments 	<ul style="list-style-type: none"> • Consult with FDOT on design modification and project mitigation measures to assure compliance with EA/FONSI or FEIS commitments

Section 5.0 Environmental Reevaluation and Permits

Each project is reevaluated, in consultation with FHWA on federal aid projects, 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
- 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
- Commitments are being implemented or require change

Section 6.0 Agency Operating Agreement Modification

This AOA is between FDOT, FHWA and FFWCC. 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.

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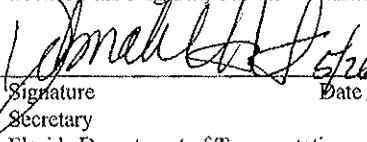
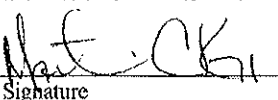

Section 7.0 Period of Performance

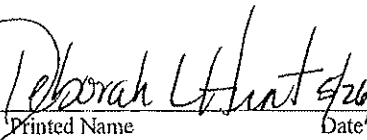
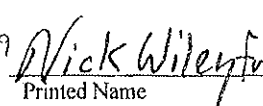
This AOA shall not expire unless specifically requested by the FFWCC or FDOT; however, the Funding Agreement (FA) shall govern with regard to the period of performance and be renewable subject to all parties agreeing to renewal. The parties to this AOA have consulted and agreed to continue participation 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.

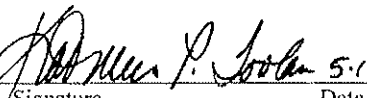
The period of performance for this AOA shall be reviewed at least every two (2) years beginning from the date of the final signatures. In the event of a conflict between any provision of the MA and the AOA, the latter shall govern. The FA shall govern with regard to the period of performance.

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.

	<u>5-26-09</u>	<u>Date</u>		<u>5-12-09</u>	<u>Date</u>		<u>5-8-09</u>	<u>Date</u>
Signature			Signature			Signature		
Secretary			Florida Division Administrator			Executive Director		
Florida Department of Transportation			Federal Highway Administration			Florida Fish and Wildlife Conservation Commission		

	<u>5-26-09</u>	<u>Date</u>	<u>MARTIN C. Knopp</u>	<u>5-12-09</u>	<u>Date</u>		<u>5-8-09</u>	<u>Date</u>
Printed Name			Printed Name			Printed Name		
Secretary			Florida Division Administrator			Executive Director		
Florida Department of Transportation			Federal Highway Administration			Florida Fish and Wildlife Conservation Commission		

	<u>5-14-09</u>	<u>Date</u>
Signature		
Legal Counsel		
Florida Department of Transportation		

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Commission Attorney

<u>Kathleen P. Toolan</u>	<u>5-14-09</u>	<u>Date</u>
Printed Name		
Legal Counsel		
Florida Department of Transportation		



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0458

STEPHANIE C. KOPELOUSOS
SECRETARY

DELEGATION OF AUTHORITY

I, Stephanie C. Kopelousos, Secretary of the Florida Department of Transportation, delegate to Kevin J. Thibault, as the Assistant Secretary for Engineering and Operations, Deborah L. Hunt, as the Assistant Secretary for Intermodal Systems Development, and William F. Thorp, as the Interim Assistant Secretary for Finance and Administration, the authority and responsibility to take action on my behalf at anytime during my absence from the Department headquarters in Tallahassee. I also rescind any prior delegations to the contrary.

Stephanie C. Kopelousos, Secretary
Florida Department of Transportation

Date