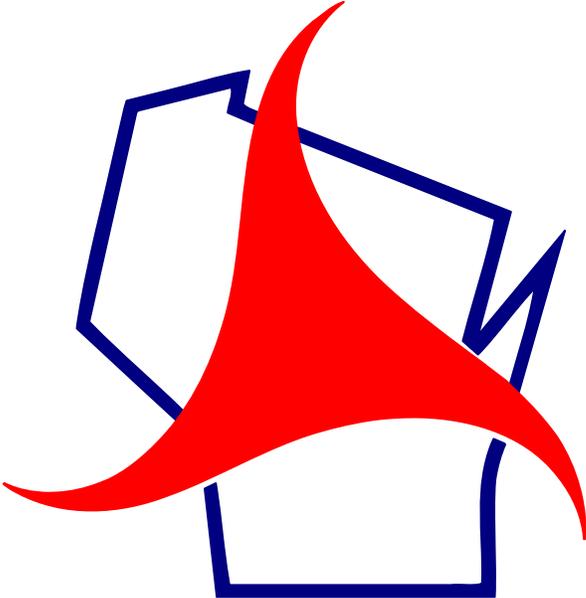


FDM 5-2 Exhibit 1.3 - Forest Highway Statewide Agreement



Effective Date of Agreement: July 15, 1997
FDM Publication/Update Date: December 3, 2008

April 14, 1997

Agreement No. DTFH71-97-X-00038

Forest Highway Statewide Agreement

among

WISCONSIN DEPARTMENT OF TRANSPORTATION

and

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

and

U.S. DEPARTMENT OF AGRICULTURE

FOREST SERVICE

for the

Administration of the Forest Highway Program

in the State of Wisconsin

Parties to Agreement:

Eastern Federal Lands Highway Division, Federal Highway Administration, U.S. Department of Transportation, hereinafter call the FHWA unless otherwise noted; the Forest Service, U.S. Department of Agriculture, hereinafter called the FS; and the Wisconsin Department of Transportation, State of Wisconsin, hereinafter called the WisDOT.

Purpose:

The purpose of this Forest Highway Statewide Agreement (Agreement) is to set forth the general Statewide procedures, mutually acceptable to the parties hereto, for the cooperative planning, programming, survey, design, construction, and maintenance of Forest Highways (FH) in the State of Wisconsin, pursuant to the provisions of 23 U.S.C. Sections 202, 203 and 204, and the regulations issued thereunder jointly by the Secretary of Transportation and the Secretary of Agriculture. The Agreement also incorporates the public involvement/public hearing requirements of 23 C.F.R. Section 771.111 and 40 C.F.R. Parts 1500 through 1508, other associated environmental review procedures under Section 771, and applicable FS requirements.

Under the Federal Lands Highway Program, Congress has authorized funds for FH that are within, or provide access to the National Forest System (NFS). Recognizing that substantial benefits will accrue to the State and to the Nation from the construction and maintenance of such FH and that the FH are under the jurisdiction of, a public road authority, and further that the WisDOT has systems planning, maintenance, right-of-way acquisition, and interdisciplinary facilities available to assist in the accomplishment of the work, it is deemed fitting and desirable to the parties hereto to express by this instrument of general terms of their cooperation in that regard to achieve maximum benefits in the public interest.

The design and construction of Forest Highway projects may be administered by either the FHWA or the WisDOT. A determination regarding project development responsibilities will be made at the program conference for development of the Forest Highway Obligation Plan and documented in the minutes, and further agreed in the Federal-aid Project Agreement (PR-2). If the design and/or construction is to be administered by any agency other than the WisDOT or the FHWA, a specific project Memorandum of Agreement/Understanding will be prepared and executed for that project.

It is recognized that a separate Memorandum of Understanding (MOU) related to highways over National Forest lands is in effect between the FS and the WisDOT.

Forest Highway Routes:

Forest Highways in Wisconsin are, for the most part, routed over previously established Town Roads, County Trunk Highways or State Trunk Highways under appropriate local State jurisdiction. This Agreement shall cover the FH routes, previously approved for inclusion in the designated FH network and any approved amendments. The FHWA shall maintain the inventory of the approved designated FH network. The list of such approved routes may be varied from time to time by agreement among the WisDOT and the FS, in consultation with the governmental unit having jurisdiction over the road, with the approval of the FHWA either by adding routes or removing routes or by altering the description of any route to give it proper identity. The WisDOT will handle all coordination with local agencies having jurisdiction over the subject roads. Each such action shall be indicated by a revised list showing the effective date of the revision.

Transportation Planning/Management Systems:

It is recognized that FHs are an integral part of the road network in any State. Transportation planning is then a function that will be performed by the WisDOT who will work with the FS and the FHWA on long-range planning activities of mutual concern. The end product of this long range planning by WisDOT, the FS, and the FHWA will be the approved Forest Highway obligation plan, of which both the WisDOT and the FS will have consented to, and the FHWA approved. The WisDOT agrees that it will adhere, in performing these functions, to the environmental review/public involvement/public hearing procedures required under the guidelines of 23 C. F. R. 771; to the statewide and metropolitan planning requirements of 23 C. F. R. 450. The WisDOT agrees to incorporate the approved Forest Highway obligation plan in the development of the State's long range transportation plan. The WisDOT agrees to share information on FH routes in its bridge, pavement, and safety management systems.

Program of Projects:

A program conference will be held biennially or more frequently if deemed necessary including the WisDOT, the FHWA and the FS in accordance with 23 C. F. R. 660.109(a). After agreement has been reached on the

program of projects, the FHWA will prepare the approved, updated program and forward copies to the WisDOT and the FS.

The FHWA will provide the FH project data to the WisDOT prior to the WisDOT's public involvement process on the proposed Statewide Transportation Improvement Program (STIP). After the conclusion of the public involvement process, the WisDOT will incorporate the program of projects into its STIP. If applicable, the WisDOT will also forward a copy of the program to the appropriate Metropolitan Planning Organization (MPO) for incorporation into its Transportation Improvement Program (TIP).

Development of Projects:

As stated previously, either the FHWA or the WisDOT will be the agency administering the design and construction of FH projects. If it is determined to be in the public interest to have an agency other than the FHWA or the WisDOT be responsible for the administration of the FH project, a specific project agreement will be prepared. Regardless of which agency is administering the project, once projects are included in an approved FH program, the agency administering the project shall proceed promptly, and projects shall be carried forth through completion in accordance with the approved program. Design standards for the FH projects shall be appropriate to the use of the road, scope of the project and in consideration of the natural and cultural environment. The design standards used for the development of Forest Highways in Wisconsin shall be appropriate to the class (arterial, collector, local) and system (STH-NHS, STH, CTH, Town Road) as contained in WisDOT Facilities Development Manual Chapter 11. Any exceptions to these standards will be mutually agreed upon by the WisDOT, the FS, the FHWA and the local agency with jurisdiction for the road.

It is the intent of the project development process to keep all agencies informed of progress, to request the WisDOT, FS and FHWA attendance at the scheduled plan reviews, and to obtain written concurrence of the plans, specifications, and estimate (PS&E) and FHWA approval prior to advertisement. If it becomes evident during the development of the project, that the scope of the project or the anticipated construction cost needs to be changed, the agency administering the project should initiate coordination with the other parties to obtain WisDOT/FS concurrence and FHWA approval of the change in the project.

Specifically, if the FHWA is administering the project, the FHWA will coordinate all plan reviews with the WisDOT and the FS and obtain written concurrence in the PS&E prior to advertisement of the project for construction. The FHWA will follow established Federal Lands Highway Program procedures for the development of the project, taking established WisDOT practices into consideration where appropriate.

When the WisDOT administers the project the following may occur concurrently. The WisDOT will coordinate with the FS during the development of the project, obtain written concurrence of the PS&E from the FS, and submit the advertisement PS&E package with evidence of the FS concurrence to the FHWA for FHWA project authorization. Upon FHWA approval that the project was developed in accordance with the approved program, FHWA will obligate funds and authorize the WisDOT to proceed with the advertisement and construction of the project. Except as stated previously for the coordination with the FS and FHWA approval and funding authorization, the WisDOT will follow approved Federal-aid procedures in the administration of the project.

Compliance with Environmental Review/Public Involvement/Public Hearing Requirements in Project Development:

The FHWA and WisDOT will adhere to the environmental review/public involvement/public hearing procedures required under the guidelines of 23 C.F.R. 771 and appropriate agency implementing procedures and policies. These procedures include providing early and continuing opportunities during the project development process for the public to be involved in the identification of social, economic and environmental impacts. When FHWA is administering the project, consideration will be given to following the WisDOT public involvement procedures. When the WisDOT is administering the project, the FHWA Federal-Aid Division office will take all formal approval action on the environmental document in accordance with Federal-Aid Procedures.

The National Environmental Policy Act requires all Federal Agencies and their agents to evaluate and disclose environmental impacts of their actions. This environmental evaluation process often involves several agencies. It is the intent under the Council of Environmental Quality regulations for a project to be evaluated one time comprehensively by a designated lead agency. Because highways are a charged responsibility of the Federal Highway Administration and its companion Departments of Transportation, it is reasonable to expect (1) that the Federal Highway Administration will be the designated lead agency and (2) to expect the Federal Highway Administration to coordinate and complete the environmental process consistent with all State and Federal Council of Environmental Quality regulations.

The role and level of involvement of the FS will vary depending upon the scope of the proposed action. Many projects will be confined within the limits of existing road rights of way and easements. This work will have minimal off-site impact and minor influence on the management program of the FS. Coordination for this type of

project will ensure conformance with the approved FH program of projects and minimal level of environmental resource coordination.

Projects that encroach on National Forest System lands need a greater level of FS review of project area resources and potential project impacts, and more detailed documentation by both the agency administering the project and the FS. Because the highway project is the proposed action triggering the environmental review process, the FS is to be a Cooperating Agency. When encroachment on National Forest System lands is anticipated, the agency administering the project and the FS should meet and agree upon the specific scope of the resource surveys, the classification of the NEPA action, the type and frequency of public involvement actions to be used in the development of the project, and the time frame for the FS to complete its decision process for the appropriation of the lands. These procedures will allow both the agency administering the project and the FS to fulfill their obligations yet complete the coordinated process in a single NEPA document consistent with CEQ guidelines. In coordinating the environmental process and the anticipated Federal land transfer, the intent is to coordinate the issuance with the FS Decision Notice for the pending Federal land transfer and the NEPA public involvement process to achieve one joint public involvement process. It is understood that this may require advancing some design activities in order to provide more detailed right-of-way information at the NEPA public involvement stage of the project.

Construction of Projects:

Minor changes in grade, alignment, surface course, or structures made necessary by unforeseen contingencies or deemed desirable by conditions developing during the progress of work may be made by the agency administering the construction project without the prior or separate approval of the other parties to this Agreement. It is contingent upon the agency administering the project to ensure that any such changes are not in conflict with any of the environmental and/or design considerations agreed to in the development of the project.

All construction is to be performed by contract entered into by competitive bids unless some other method is deemed to be more advantageous and in the public interest.

Following the award of the construction contract, the agency administering the project will notify the other parties in writing of the award of the construction contract, and invite their attendance to a preconstruction conference. Such meetings will provide an opportunity for all interested parties to discuss their mutual concerns regarding project construction. During construction, the FS (and the WisDOT will consult if FHWA is administering the project) will consult with the Project Engineer on matters pertaining to project construction and environmental and resource coordination required in the stipulation of special use permits such as clean up, borrow pit seeding, etc.

The FS (and the WisDOT if FHWA is administering the project) will be invited to participate in the final inspection. FS and WisDOT participation is to ensure that the project was constructed in accordance with the approved FH program.

FHWA will administer projects in accordance with established Federal Lands Highway Program procedures, and in accordance with the applicable Federal acquisition regulations and procedures. The WisDOT will administer projects in accordance with approved Federal-aid procedures.

Funding

When any proposed construction is to be administered by the WisDOT and financed in whole or in part with Federal funds, such circumstances will be set forth in the Project Agreement (PR-2) together with a statement of the amount of Federal funds obligated for that project. The Project Agreement (PR-2) shall include all funds including Federal funds from programs other than the Federal Lands Highway Program. The expenditure of Federal funds shall not exceed the amount shown on the PR-2. If it appears that the project cost may exceed the estimate and additional Federal funds may be needed, no obligation on the part of FHWA shall occur until the WisDOT request and receives an approved Modification of Federal Aid Project Agreement (PR-2A).

As the work progresses, the WisDOT will bill the FHWA for payment of its share of the expenses via the FHWA current bill procedures.

When the FHWA is administering projects funded entirely with FH funding or other funding provided directly to the Eastern Federal Land Highway Division, all project transactions will be processed in the Eastern Federal Lands Highway Division, Federal Highway Administration, 21400 Ridgetop Circle, Sterling, Virginia 20166.

If State, local, other Federal-aid funds or FS funds are made available on projects, the cost responsibilities and procedures to transfer these funds or to reimburse either the WisDOT or the FHWA for eligible project costs shall be covered by a specific project Memorandum of Agreement. Any unused balance of these funds will be returned to the provider after closure of the financial records. The amount of cooperative funds as set forth in

the specific project Memorandum of Agreement shall be the maximum commitment to the project, unless a modification of the specific project Memorandum of Agreement is executed.

When cooperative and/or FS funds are involved, the agency administering the project shall furnish to the other parties to the FH program a summary statement of the cost of the project. The FHWA will provide a statement of the FH portion of the project cost as reported in periodic FH financial reports. All financial information will be available at any time to the parties to this agreement upon request.

Rights-of-Way:

Rights-of-way or other interests in property are to be acquired by and in the name of the WisDOT in accordance with Federal-aid procedures. This includes preparing highway easement deeds for Federal Land transfers and furnishing copies to the FHWA Division and Regional Offices to execute the transfers. The cost of such rights-of-way or other interests in property acquired by the WisDOT are to be at the WisDOT's expense unless otherwise provided in a specific project Memorandum of Agreement.

The agency administering the project will be responsible for the preparation of all documentation necessary for WisDOT to proceed with right-of-way acquisition.

Access across National Forest Lands needed for such uses as access to gravel or fill sources and temporary use of lands (such as material source sites, stockpile sites, disposal sites, minor sloping, etc.) outside of the right-of-way required for the construction and maintenance of the highway facility, will be authorized by the FS issuance of an appropriate special use permit.

Claims:

The agency administering the project is responsible for resolution of any claim that arises as a result of any project design or construction contract. For WisDOT administered projects, reimbursement of the settlement will be made in accordance with established Federal-aid procedures for that State.

Maintenance

The WisDOT will maintain the FH project, or, by formal agreement with appropriate officials of a county, municipal government, or other public road authority, cause it to be maintained.

Prior to final construction acceptance by the contracting authority, the project shall be inspected by the cooperator, the FS and the FHWA to identify and resolve any mutual concerns.

In the event it is determined that conditions on a project under maintenance require extraordinary repairs, removal or unusually extensive slides, or similar work outside the scope of ordinary highway maintenance, the performance thereof may be accomplished as a Forest Highway project, subject to regular Forest Highway program procedures. The cost of such work shall be eligible for payment from Federal funds and if the work is to be performed by the WisDOT it shall be covered by a project agreement.

Amendments to FS Statewide Agreements:

This Agreement together with the environmental review/public involvement/public hearing procedures may be modified by advance notice of 60 days from any of the three parties to the other two.

This Agreement shall be effective as of the 15 th day of July, 1997, and shall supersede all prior existing cooperative agreements for the same routes entered into pursuant to 23 U. S. C. Sections 202, 203, and 204, "Federal Lands Highway Program" except those involving commitment of funds or arrangement for the performance of construction work on projects underway but not yet completed and final settlement made.

Wisconsin
Department of Transportation

By: James D. Grunbler
Title: Administrator, Division of Transportation
Infrastructure Development
Date: 5-15-97

Department of Agriculture
Forest Service
Region 9

By: Mary Beth Holtz
Title: Regional Forester
Date: 6/24/97

Department of Transportation
Federal Highway Administration
Eastern Federal Lands Highway Division

By: Greg M. Lambert
Title: Division Engineer
Date: 7/14/97