

PROGRAMMATIC AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, WISCONSIN DIVISION
AND THE WISCONSIN DEPARTMENT OF TRANSPORTATION
REGARDING THE PROCESSING OF ACTIONS CLASSIFIED AS
CATEGORICAL EXCLUSIONS FOR FEDERAL-AID HIGHWAY PROJECTS

WITNESSETH:

Whereas, the National Environmental Policy Act of 1969 (NEPA), 42 U.S. Code (U.S.C.). 4321 *et seq.*, directs Federal agencies to consider the reasonably foreseeable environmental impacts of their proposed major Federal actions through the preparation of an environmental assessment (EA) or environmental impact statement (EIS) unless a particular action is categorically excluded;

Whereas, the Federal Highway Administration's (FHWA) distribution and spending of Federal funds under the Federal-aid Highway Program and approval of actions pursuant to Title 23 of the U.S. Code are major Federal actions subject to NEPA;

Whereas, the Secretary of Transportation has delegated to FHWA the authority to carry out functions of the Secretary under NEPA as they relate to matters within FHWA's primary responsibilities (49 CFR 1.81(a)(5));

Whereas, the FHWA's NEPA implementing procedures (23 CFR 771) list a number of categorical exclusions (CEs) for certain actions that FHWA has determined do not have a significant effect on the human environment and therefore do not require the preparation of an EA or EIS (23 CFR 771.117(c)-(d));

Whereas, the Wisconsin Department of Transportation (WisDOT) is a State agency that undertakes transportation projects using Federal funding and approvals received under the Federal-aid Highway Program, as defined in the Stewardship and Oversight Agreement (Attachment 1), and must assist FHWA in fulfilling its obligations under NEPA for WisDOT projects (23 CFR 771.109);

Whereas, transportation projects proposed by WisDOT for Federal-aid funding or approvals often qualify as CEs, and WisDOT seeks to assist in reducing the paperwork and processing time for certain Federal actions that do not have significant impacts on the human and natural environment pursuant to 23 CFR 771.117;

Whereas, Wisconsin Administrative Code TRANS 400 *Wisconsin Environmental Policy Act Procedures for Department Actions* defines a list of State CE actions which are substantially similar to the FHWA list of CE actions in 23 CFR 771.117, and specifies standard documentation and nomenclature for these actions;

Whereas, Section 1318(d) of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405 (July 6, 2012), allows FHWA to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews, including agreements that allow a State to determine whether a project qualifies for a CE on behalf of FHWA;

Whereas, 23 CFR 771.117(g) allows FHWA to enter with a State into a programmatic agreement that establishes efficient administrative procedures for carrying out environmental and other required project reviews, including allowing a State to determine whether a project qualifies for a CE on behalf of FHWA;

Whereas, the FHWA and WisDOT executed a programmatic agreement for processing CEs on August 7, 2020, they have adequately performed according to the terms of that agreement based on monitoring conducted by FHWA and WisDOT, and desire to renew that agreement for a period of five years;

Whereas, the FHWA and WisDOT recognize the adjustments to NEPA implementation and reporting pursuant to sections 11311-11317 of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58, 135 Stat. 429 (November 14, 2021).

Now, therefore, the FHWA and WisDOT enter into this Programmatic Agreement (Agreement) for the processing of categorical exclusions, subject to the following terms and conditions:

I. PARTIES

The Parties to this Agreement are the Federal Highway Administration, Wisconsin Division (FHWA), and the Wisconsin Department of Transportation (WisDOT).

II. PURPOSE

The purpose of this Agreement is to authorize WisDOT to determine on behalf of FHWA whether a project qualifies for a categorical exclusion (CE) specifically listed in 23 CFR 771.117 (included in the Appendix of this Agreement). This Agreement also authorizes WisDOT to certify to FHWA that a CE action not delegated to WisDOT for approval or not specifically listed in 23 CFR 771.117, but meeting the CE criteria in 23 CFR 771.117(a), qualifies for a CE as long as there are no unusual circumstances present that would require the preparation of either an environmental assessment (EA) or an environmental impact statement (EIS).

III. AUTHORITIES

This agreement is entered into pursuant to the following authorities:

- A. National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*

- B. Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405, Sec. 1318(d) (July 6, 2012)
- C. Fixing America's Surface Transportation (FAST) Act, Pub. L. 114-94, 129 Stat. 1312, Sec. 1315 (Dec. 4, 2015)
- D. Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, 135 Stat. 429, Sec 11313 and 11314 (Nov. 15, 2021)
- E. DOT Order 5610.1C: Procedures for Considering Environmental Impacts
- F. 23 CFR 771.117: Environmental Impact and Related Procedures; FHWA Categorical Exclusions

IV. DEFINITION OF ACTIONS THAT DO NOT HAVE SIGNIFICANT IMPACTS ON THE HUMAN AND NATURAL ENVIRONMENT

- A. Projects processed under this Agreement shall be actions that meet the definition of an action (as applicable) in 23 CFR 771.111(f), the definitions of a categorical exclusion in 23 CFR 771.117(a) and are actions which do not have a significant effect on the human environment and for which neither an EA nor an EIS is required. Projects that meet FHWA's requirements in 23 CFR 771.117(a):
 - 1. Do not induce significant impacts to planned growth or land use for the area;
 - 2. Do not require the relocation of significant numbers of people;
 - 3. Do not have a significant impact on any natural, cultural, recreational, historic, or other resource;
 - 4. Do not involve significant air, noise, or water quality impacts;
 - 5. Do not have significant impacts on travel patterns; or
 - 6. Do not otherwise have any significant environmental impacts.
- B. For a proposed action that WisDOT concludes qualifies for a CE, WisDOT shall document through a certification that the action will not result in significant environmental impacts.
- C. For a proposed action that WisDOT concludes does not meet the definition of a CE due to the potential for significant environmental impacts, WisDOT shall prepare either an EA or an EIS. FHWA will review WisDOT's class of action proposal in its process initiation letter for an EA or EIS.

V. CONSIDERATION OF UNUSUAL CIRCUMSTANCES

- A. For each project processed under this Agreement, WisDOT shall consider whether a normally categorically excluded action may include unusual circumstances that would require additional environmental study to determine whether a CE classification is proper. 23 CFR 771.117(b) contains a list of unusual circumstances including:
 - 1. Significant environmental impacts;

2. Substantial controversy on environmental grounds;
 3. Significant impacts on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; or
 4. Inconsistencies with any Federal, State, or local law, requirement, or administrative determination relating to the environmental aspects of the action.
- B. For a proposed action that WisDOT concludes qualifies for a CE, WisDOT shall document through a certification that the action does not include unusual circumstances that warrant the preparation of an EA or EIS.
- C. Any action that includes unusual circumstances, relocations/displacements (residential or non-residential), auxiliary lanes, and/or capacity expansion will require WisDOT to consult with FHWA to determine the appropriate class of action for environmental analysis and documentation. Unusual circumstances may require additional studies to be performed prior to making a CE determination, or the preparation of an EA or EIS.

VI. NEPA APPROVALS

- A. FHWA and WisDOT will base their approval of CE actions on the project documentation and certifications prepared by WisDOT under this Agreement. WisDOT shall ensure that the certifications and documentation for each project prepared under this Agreement will be made available prior to or at the time FHWA contemplates its approval of the next major project phase following preliminary design/NEPA.
- B. Approval authority of CE documentation under this Agreement is delegated as follows:
1. WisDOT may make a CE determination on behalf of FHWA for the project types identified below. FHWA individual review and approval will not be required prior to WisDOT's request to proceed with final design, acquisition of right-of-way, or construction, so long as WisDOT has completed a CE determination. FHWA will rely on the certifications and approvals made by WisDOT as the basis for the CE determination and for the approval of subsequent project phases.
 - a. Actions listed in 23 CFR 771.117(c)
 - b. Actions listed in 23 CFR 771.117(d)(6) that FHWA has delegated to WisDOT for approval under the FHWA and WisDOT Stewardship and Oversight Agreement.

- i. Disposal of excess right-of-way at fair market value or for joint or limited use of right-of-way associated with parcels within or adjacent to **non-interstate** National Highway System (NHS) right-of-way boundaries. This includes air/space leases above or below the established grade line, beneath an elevated highway structure, or adjacent to the roadway, or within the approved right-of-way.
(FHWA retains approval of above referenced actions within or adjacent to interstate right-of-way.)
 - c. Actions listed in 23 CFR 771.117(d)(7) for changes in Interstate System access that FHWA has delegated to WisDOT for approval under the WisDOT Facilities Development Manual (FDM) or other agreement.
 - d. Actions classified as a 23 CFR 771.117 (d)(13) where the threshold in 23 CFR 771.117(e)(3) results in “a finding of ‘may affect, likely to adversely affect’ (MALAA) for threatened or endangered species or critical habitat”, or species and habitat that are proposed for listing, under the Endangered Species Act (ESA), and
 - i. a consistency determination with a Programmatic Biological Opinion (PBO) or Programmatic Conference Opinion (PCO) can be approved by the USFWS, and
 - ii. a project-specific biological assessment is not necessary for adverse effects to any other federally listed species not covered by a PBO or PCO, and
 - iii. the 23 CFR 771.117(d)(13) action meets all other constraints (does not exceed the criteria) listed under 23 CFR 771.117(e).
 - 2. The following project types will require review by WisDOT Central Office EPDS and/or ESS staff prior to submittal to FHWA for review and approval. FHWA review and approval must be completed prior to WisDOT’s request to proceed with final design, acquisition of right-of-way, or construction:
 - a. All other actions listed in 23 CFR 771.117(d).
 - b. Actions described in 23 CFR 771.117(c)(26-28) that exceed the environmental impact criteria listed in 23 CFR 771.117(e) and must be processed under 23 CFR 771.117(d)(13) unless otherwise noted in VI.B.1.d. of this agreement.
 - c. Any actions not specifically listed in 23 CFR 771.117 that meet the requirements in Section IV and V.
 - d. All actions proposed for processing under 23 CFR 771.117(h) with a CE from the Federal Railroad Administration (23 CFR 771.116) or the Federal Transit Administration (23 CFR 771.118). WisDOT will consult FHWA to determine the appropriate level of environmental documentation and coordination, before submitting project information for FHWA approval.
- C. The Appendix of this Agreement contains copies of the CE lists from FHWA regulations and the 23 CFR 771.117(e) criteria. FHWA and WisDOT have established certain state-specific definitions for 23 CFR 771.117(e) criteria, including:

1. 23 CFR 771.117(e)(1) – A minor amount of right-of-way is defined as fee or permanent limited easement taking of less than or equal to one (1) acre per mile on average for (c)(26) actions, and less than or equal to one half (0.5) acre total for (c)(27)&(28) actions.
 2. 23 CFR 771.117(e)(4) – Projects resulting in major traffic disruptions are those that require a Transportation Management Plan Type 3, as defined in FDM 11-50- 5.
 3. 23 CFR 771.117(e)(5) – Existing access may be modified without exceeding this criterion as long as access is maintained in a similar fashion as it existed prior the project being implemented. Creation of new access for the purposes of new development, removal of existing access without replacement or existing appropriate alternate access being available, or substantial changes that would modify existing circulation patterns on the parcel would disqualify the project from processing under 23 CFR 771.117(c)(26-28) and Section VI.B.1.a of this Agreement.
- D. For any CE, if the project includes a Section 4(f) *de minimis* determination, programmatic evaluation, or individual evaluation, the WisDOT Region shall submit the Section 4(f) documentation for review by WisDOT Central Office and review and approval by FHWA prior to internally approving or seeking FHWA approval of the CE documentation and requesting to proceed with subsequent project phases. The draft CE documentation shall be submitted as supporting documentation to the Section 4(f) determination or evaluation in these cases.
- E. In accordance with 23 CFR 771.129, WisDOT shall re-evaluate its documentation and certifications for projects, consult with FHWA, and as necessary, prepare additional documentation to ensure that determinations are still valid under the following circumstances:
1. At each subsequent approval or grant action following the environmental process, including proceeding with final design, purchasing right-of-way, and proceeding to construction.
 2. When there is a change in the scope or location of the project such that new reasonably foreseeable impacts or a change in impacts may occur that were not previously considered.
 3. When there is a change in the environmental conditions in the vicinity of the project such that new reasonably foreseeable impacts or a change in impacts may occur that were not previously considered.
 4. When there is a change in laws, regulations, or requirements that apply to resources in the vicinity of the project such that new compliance actions are necessary, or new reasonably foreseeable impacts or a change in impacts may occur that were not previously considered (e.g., listing, or proposed listing, of threatened or endangered species to the ESA).
 5. When there is a change in the environmental mitigation measures or commitments contained in the approved environmental document (e.g., additional commitments due to delayed Section 7 consultation, inadvertent findings during construction).

VII. ACCEPTABLE DOCUMENTATION FOR CATEGORICALLY EXCLUDED ACTIONS

- A. WisDOT has developed environmental analysis procedures and documentation for different types of categorically excluded actions. These procedures and documentation meet State requirements for environmental analysis and have been developed with FHWA consultation and approval to also satisfy FHWA environmental documentation requirements. Lists of FHWA CEs are included in the Appendix. Subject to the terms of this Agreement, FHWA will accept the following types of WisDOT environmental documentation and templates approved by FHWA for FHWA CE actions:
1. For projects delegated to WisDOT for preparation, review, and approval on behalf of FHWA under Section VI.B.1, WisDOT shall complete the appropriate *Categorical Exclusion Checklist* (CEC) template. The most current version of the CEC forms can be found on WisDOT's Environmental Programs Forms and Tools website.
 2. For projects retained by FHWA for review and approval under Section VI.B.2, WisDOT shall complete *Environmental Report* (ER) using the ER/EA template. The most current versions of the ER/EA forms can be found on WisDOT's Environmental Programs Forms and Tools website.
 3. Notwithstanding the above and subject to FHWA approval, WisDOT may prepare more detailed environmental documentation (e.g., ER/EA instead of CEC template) to thoroughly document and disclose reasonably foreseeable project impacts, or to provide project documentation to comply with requirements of other laws (e.g. Section 106 of the National Historic Preservation Act, Section 404 of the Clean Water Act, etc.). Conversely, WisDOT may prepare streamlined environmental documentation (e.g. CEC instead of ER/EA template) for simple projects that do not result in many impacts. WisDOT shall consult with and obtain approval from FHWA before proceeding to prepare a different type of environmental documentation than what is otherwise required under Sections VII.A.1 and VII.A.2. The appropriate CE number listed in 23 CFR 771.117 (e.g., 23 CFR 771.117(c)(22) or 23 CFR 771.117(d)(13)) should be recorded regardless of the environmental template (i.e., CEC or ER) used. If these cases include unusual circumstances, FHWA will determine that a different type of CE documentation, an EA, or an EIS is required.
- B. For projects, regardless of project type, located partially or entirely on Tribal lands in trust, allotted, or reservation status, WisDOT Region or other WisDOT staff shall consult with WisDOT Central Office Environmental Staff prior to preparing CE documentation. In certain cases, the involvement of Tribal land may warrant preparing more detailed environmental documentation (e.g. ER/EA instead of CEC) than what is defined in Section VII.A of this Agreement. WisDOT Central Office Environmental Staff will ensure adequate Tribal consultation by WisDOT and engage FHWA in consultation when necessary.

- C. All projects, regardless of the CE type, must meet the following requirements for conformity with certain plans required by FHWA regulations and other State and Federal agencies:
 - 1. Projects must conform to the State Implementation Plan which is approved or promulgated by the U.S. Environmental Protection Agency in air quality non- attainment areas.
 - 2. Projects must be included in and consistent with the Statewide Transportation Improvement Program (STIP), and in applicable urbanized areas, the Transportation Improvement Program (TIP).

- D. Notwithstanding any other provision of this Agreement, any action that does not satisfy the requirements for a CE described in Sections IV-VII of this Agreement is disqualified from processing under this Agreement and will require preparation of an EA or EIS. Disqualification may occur at any time during the environmental process if WisDOT or FHWA determines that the project fails to meet the CE criteria.

VIII. PERFORMANCE, QUALIFICATIONS, QUALITY CONTROL, REPORTING, AND RECORDKEEPING REQUIREMENTS

- A. Required Resources, Qualifications, Standards, and Training
 - 1. WisDOT must maintain adequate organizational and staff capability to effectively carry out the provisions of this Agreement. This includes, without limitation:
 - a. Using appropriate technical and managerial expertise to perform the functions set forth under this Agreement; and
 - b. Devoting adequate financial and staff resources to carry out the certification, documentation, and approval of projects under this Agreement.
 - 2. WisDOT may procure through consultant services some or all the environmental and other technical expertise needed to prepare environmental documentation under this Agreement. However, consultants may not certify and recommend for approval or approve CE documentation.
 - 3. WisDOT will maintain a list of qualified staff who internally review, certify, and recommend CE documentation for approval. The list will be updated annually and provided to FHWA with the report required under Section VIII.C.2 of this Agreement. At a minimum, all WisDOT staff shall meet all the following requirements:
 - a. Currently hold a position as Region Environmental Coordinator or as a staff member in the WisDOT Central Office Bureau of Technical Services, Environmental Services Section (ESS) or Environmental Process and Documentation Section (EPDS), or is currently a Technical Services Supervisor (TSS) with environmental functional duties.
 - b. Have completed one of the following trainings in addition to the WisDOT internal NEPA training:
 - i. *Introduction to NEPA and Transportation Decisionmaking – WEB-BASED*

(FHWA-NHI-142052)

- ii. *NEPA and Transportation Decisionmaking* (FHWA-NHI-142005)
- iii. When (i) and (ii) above are not available, WisDOT will provide internal training. This training will include both:
 - CE Workshops
 - New Regional Environmental Coordinator (REC) training series
- iv. Other training approved by FHWA.
- c. Have at least 1 year of experience preparing and reviewing NEPA documents for transportation projects.
- 4. CE documentation delegated to WisDOT for approval under Section VI.B.1 shall only be approved by WisDOT Region or Central Office Project Managers, TSS with environmental functional duties, or by members of the WisDOT Central Office Bureau of Technical Services Environmental Services Section or Environmental Process and Documentation Section.
- 5. All individuals participating in the preparation, certification, and approval of project documentation under this Agreement shall be familiar with and follow State laws, State regulations, WisDOT environmental policy in the FDM, relevant WisDOT and FHWA policy memoranda, and applicable regulations, policy, and guidance from FHWA and other agencies.

B. WisDOT Quality Control

- 1. WisDOT and its consultants shall prepare CE documentation and supporting environmental documentation with a high level of quality, consistency, and accuracy.
- 2. WisDOT agrees to carry out regular quality control activities to ensure that its CE certifications and approvals are made in accordance with applicable laws and this Agreement.
- 3. WisDOT shall monitor its processes and check for errors and omissions relating to project approvals, certifications, environmental analysis, tracking, and project file documentation. WisDOT shall take corrective action as needed. WisDOT shall document its quality control activities and any needed corrective actions taken in the annual report to FHWA required under Section VIII.C.2 of this Agreement.
- 4. WisDOT shall regularly provide internal and external trainings to maintain an adequate pool of qualified staff.
- 5. If WisDOT implements training to meet the capability requirements of this Agreement or as a corrective action, WisDOT shall be responsible for the training. WisDOT shall provide notice of the training to FHWA. FHWA will determine whether the training satisfies the criterion for document reviewer, certifier, and recommender qualification under Section VIII.A.3.b.iii of this Agreement.

C. WisDOT Performance Monitoring and Reporting

- 1. FHWA and WisDOT shall cooperate in monitoring performance under this Agreement and each party shall modify its practices to assure quality performance.

2. WisDOT shall electronically submit to FHWA a report summarizing its performance under this Agreement every calendar year. WisDOT and FHWA will meet every January to consult on the content and due date for the report that will cover the previous calendar year. At a minimum, the report will include:
 - a. Any areas where improvements are needed and what measures WisDOT is taking to implement those improvements.
 - b. A current list of qualified staff under Section VIII.A.3.
 - c. A description of actions taken by WisDOT as part of its quality control efforts under Section VIII.B.
 - d. A comprehensive list and summary statistics for all CEs approved during the calendar year.
 - e. A list of any projects reviewed for quality control purposes and the findings of those reviews.
 - f. Other content identified through consultation with FHWA.

D. Project Documentation and Recordkeeping.

1. WisDOT will maintain an electronic list of its CE approvals. The electronic list will be available to FHWA. At a minimum, the list shall include:
 - a. The WisDOT project identification number,
 - b. The Federal project number (if one exists),
 - c. Whether the project is being prepared to FHWA or other USDOT NEPA standards (23 CFR 771 *et seq.*), or WEPA standards,
 - d. A descriptive project name,
 - e. The project improvement type,
 - f. The route or facility name where the project will occur,
 - g. The type of documentation used (CEC or ER),
 - h. The number of the applicable CE from 23 CFR 771.117(c) or (d), or from 23 CFR 771.116 or 771.118 if processed under 23 CFR 771.117(h), and a brief text description of that CE,
 - i. The type of Section 4(f) evaluation or determination used (e.g. individual, *de minimis*, or type of programmatic), if applicable,
 - j. The number of relocations (i.e., displacements),
 - k. The environmental process start date,
 - l. The name of the document approver (WisDOT or FHWA staff), and
 - m. The date of WisDOT's or FHWA's final CE approval.
2. WisDOT will create a project record for each action it certifies under the terms of this Agreement. This project record shall be available to FHWA for review upon request. This record shall include at a minimum:
 - a. The appropriate environmental documentation specified by Sections IV-VII of this Agreement.
 - b. Any checklists, forms, documents, and exhibits that summarize the consideration of project effects and unusual circumstances.
 - c. A public involvement plan complying with the requirements of FDM Chapter 6 (WisDOT's FHWA-approved public involvement policy).

- d. Any stakeholder communication, correspondence, consultation, or public meeting documentation.
 - e. Any project documentation to comply with requirements of other applicable laws (e.g. Section 106 of the National Historic Preservation Act, Section 4(f), Section 7 of the Endangered Species Act, Section 404 of the Clean Water Act, etc.).
 - f. For cases involving re-evaluations, any documented re-evaluation (when required) or a statement that a re-evaluation was completed for the project (when documentation is not necessary).
3. WisDOT shall maintain electronic or paper project records and records pertaining to its administration of the certification and approval process for individual projects. WisDOT shall provide FHWA with copies of any project records FHWA may request. WisDOT shall retain those records, including all letters and comments received from governmental agencies, the public, and others for a period of no less than three (3) years after completion of project construction. This 3-year retention provision does not relieve WisDOT of its project or program recordkeeping responsibilities under 2 CFR 200.334 or any other applicable laws, regulations, or policies.
 4. WisDOT shall ensure that project records are available to the public consistent with the Wisconsin Public Records Law (Wis. Stat. 19.31-19.39) and, as applicable, the requirements for Federal agencies under 5 U.S.C. 552 (the Freedom of Information Act, as amended), NEPA, and FHWA regulation, policy, and guidance.

E. FHWA Oversight.

1. Monitoring by FHWA will include consideration of the technical competency and organizational capacity of WisDOT, as well as WisDOT's performance of its CE processing functions. Performance considerations will include, without limitation: the quality and consistency of WisDOT's project certifications and approvals, the adequacy and capability of WisDOT staff and consultants, and the effectiveness of WisDOT's administration of its internal CE approvals.
2. At a minimum, FHWA will conduct one review as part of its oversight activities during the term of this Agreement. The results of that review shall be considered along with WisDOT's annual performance reports at the time this Agreement is considered for renewal. WisDOT will implement agreed upon improvement actions to address any findings or observations identified in the FHWA review.
3. Nothing in this Agreement shall prevent FHWA from undertaking other monitoring or oversight actions, including audits, with respect to WisDOT's performance under this Agreement. FHWA may require WisDOT to perform other quality assurance activities, including other types of monitoring, that may be reasonably required to ensure compliance with applicable Federal laws and regulations.
4. WisDOT agrees to cooperate with FHWA in all oversight and quality assurance activities.

IX. AMENDMENTS AND ADMINISTRATIVE MODIFICATIONS

- A. Either party to this Agreement may request that it be amended or administratively modified, whereupon the parties shall consult to consider such an amendment.
- B. If the parties agree to amend this Agreement, then FHWA and WisDOT may execute an amendment with new signatures and dates of the signatures. The term of the Agreement shall remain unchanged unless otherwise expressly stated in the amended Agreement.
- C. Minor updates to the content and format of the WisDOT CE documentation described in Section VII will not require a formal amendment to this Agreement. However, when changes in Federal or State laws, regulations, or policies dictate substantial updates to CE designations or processes, WisDOT will consult FHWA to determine whether an amendment to the Agreement will be required prior to implementing changes in the CE documentation or approval process.

X. TERM, RENEWAL, AND TERMINATION

- A. This Agreement shall have a term of 5 years, effective on the date of the last signature.
- B. To comply with 23 CFR 771.117(g)(4), WisDOT shall make this agreement available to the public once it has been executed by posting and maintaining it on the WisDOT public website in such a way that it may be easily found by a member of the public.
- C. This Agreement is renewable for additional terms of 5 years if WisDOT requests renewal and FHWA determines that WisDOT has satisfactorily carried out the provisions of this Agreement. In considering any renewal of this Agreement, FHWA will evaluate the effectiveness of the Agreement and its overall impact on the environmental review process.
- D. At least 6 months prior to the end of each 5-year term, WisDOT and FHWA shall meet to discuss the results under the Agreement and consider amendments to this Agreement.
- E. If the parties do not renew the Agreement, then it shall expire at the end of the term then in effect.
- F. Either party may terminate this Agreement at any time by giving at least 30 days written notice to the other party.
- G. If this Agreement expires or is terminated, WisDOT shall no longer make any CE approvals on FHWA's behalf, and processing and approval of CE actions will revert to the process and standards specified in 23 CFR 771.117.


XI. SIGNATURES

Execution of this Agreement and implementation of its terms by both parties provides evidence that both parties have reviewed this Agreement and agree to the terms and conditions for its implementation. This Agreement is effective upon the date of the last signature below.

Wisconsin Department of Transportation


July 31, 2025
 Kristina Boardman, Secretary of Transportation Date

Federal Highway Administration – Wisconsin Division

Signed by:

July 31, 2025
 Linda Swann, Acting Division Administrator Date

Appendix

23 CFR 771.117 FHWA categorical exclusions.

(a) CEs are actions that, based on FHWA's past experience with similar actions, normally do not involve significant environmental impacts. They are actions that: Do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise have any significant environmental impacts.

(b) Any action that normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

- (1) Significant environmental impacts;
- (2) Substantial controversy on environmental grounds;
- (3) Significant impact on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; or
- (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

(c) The following actions meet the criteria for CEs in [paragraph \(a\)](#) of this section and normally do not require any further NEPA approvals by the FHWA:

- (1) Activities that do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so social, economic, and environmental effects can be assessed; and Federal-aid system revisions establishing classes of highways on the Federal-aid highway system.
- (2) Approval of utility installations along or across a transportation facility.
- (3) Construction of bicycle and pedestrian lanes, paths, and facilities.
- (4) Activities included in the State's highway safety plan under [23 U.S.C. 402](#).
- (5) Transfer of Federal lands pursuant to [23 U.S.C. 107\(d\)](#) and/or [23 U.S.C. 317](#) when the land transfer is in support of an action not otherwise subject to FHWA review under NEPA.

(6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.

(7) Landscaping.

(8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.

(9) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act ([42 U.S.C. 5121](#)):

(i) Emergency repairs under [23 U.S.C. 125](#); and

(ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), in operation or under construction when damaged and the action:

(A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration.

(10) Acquisition of scenic easements.

(11) Determination of payback under [23 U.S.C. 156](#) for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations.

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities that themselves are within a CE.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

(21) Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.

(22) Projects, as defined in [23 U.S.C. 101](#), that would take place entirely within the existing operational right-of-way. Existing operational right-of-way means all real property interests acquired for the construction, operation, or mitigation of a project. This area includes the features associated with the physical footprint of the project including but not limited to the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access highway. This also includes fixed guideways, mitigation areas, areas maintained or used for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transportation power substations, transportation venting structures, and transportation maintenance facilities.

(23) Federally funded projects:

(i) Receiving less than \$5,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.fta.dot.gov) of Federal funds; or

(ii) With a total estimated cost of not more than \$30,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.fta.dot.gov) and Federal funds comprising less than 15 percent of the total estimated project cost.

(24) Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(25) Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act ([33 U.S.C. 1341](#); 1342)) carried out to address water pollution or environmental degradation.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in [paragraph \(e\)](#) of this section.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in [paragraph \(e\)](#) of this section.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in [paragraph \(e\)](#) of this section.

(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) not requiring a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities that themselves are within a CE.

(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

(d) Additional actions that meet the criteria for a CE in [paragraph \(a\)](#) of this section may be designated as CEs only after Administration approval unless otherwise authorized under an executed agreement pursuant to [paragraph \(g\)](#) of this section. The applicant must submit documentation that demonstrates that the specific conditions or criteria for these CEs are satisfied, and that significant environmental effects will not result. Examples of such actions include but are not limited to:

(1)-(3) [Reserved]

(4) Transportation corridor fringe parking facilities.

(5) Construction of new truck weigh stations or rest areas.

(6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.

(7) Approvals for changes in access control.

(8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.

(9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required, and there is not a substantial increase in the number of users.

(10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.

(11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning, and where there is no significant noise impact on the surrounding community.

(12) Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

(i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

(ii) Protective acquisition is done to prevent imminent development of a parcel that may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

(13) Actions described in [paragraphs \(c\)\(26\)](#), [\(c\)\(27\)](#), and [\(c\)\(28\)](#) of this section that do not meet the constraints in [paragraph \(e\)](#) of this section.

(e) Actions described in [\(c\)\(26\)](#), [\(c\)\(27\)](#), and [\(c\)\(28\)](#) of this section may not be processed as CEs under paragraph (c) if they involve:

(1) An acquisition of more than a minor amount of right-of-way or would result in any residential or non-residential displacements;

- (2) An action that needs a bridge permit from the U.S. Coast Guard, or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;
- (3) A finding of “adverse effect” to historic properties under the National Historic Preservation Act, the use of a resource protected under [23 U.S.C. 138](#) or [49 U.S.C. 303](#) (section 4(f)) except for actions resulting in *de minimis* impacts, or a finding of “may affect, likely to adversely affect” threatened or endangered species or critical habitat under the Endangered Species Act;
- (4) Construction of temporary access or the closure of existing road, bridge, or ramps that would result in major traffic disruptions;
- (5) Changes in access control;
- (6) A floodplain encroachment other than functionally dependent uses (*e.g.*, bridges, wetlands) or actions facilitating open space use (*e.g.*, recreational trails, bicycle and pedestrian paths); or construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.
- (f) Where a pattern emerges of granting CE status for a particular type of action, the FHWA will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in [paragraph \(c\)](#) or [\(d\)](#) of this section, as appropriate.
- (g) FHWA may enter into programmatic agreements with a State to allow a State DOT to make a NEPA CE certification or determination and approval on FHWA's behalf, for CEs specifically listed in [paragraphs \(c\)](#) and [\(d\)](#) of this section and are identified in the programmatic agreement. Such agreements must be subject to the following conditions:
 - (1) The agreement must set forth the State DOT's responsibilities for making CE determinations, documenting the determinations, and achieving acceptable quality control and quality assurance;
 - (2) The agreement may not have a term of more than five years, but may be renewed;
 - (3) The agreement must provide for FHWA's monitoring of the State DOT's compliance with the terms of the agreement and for the State DOT's execution of any needed corrective action. FHWA must take into account the State DOT's performance when considering renewal of the programmatic CE agreement; and
 - (4) The agreement must include stipulations for amendment, termination, and public availability of the agreement once it has been executed.

(h) Any action qualifying as a CE under [§ 771.116](#) or [§ 771.118](#) may be approved by FHWA when the applicable requirements of those sections have been met. FHWA may consult with FRA or FTA to ensure the CE is applicable to the proposed action.

Attachment 1

**STEWARDSHIP AND OVERSIGHT AGREEMENT
ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT
BY AND BETWEEN THE
FEDERAL HIGHWAY ADMINISTRATION,
WISCONSIN DIVISION OFFICE,
AND THE
WISCONSIN DEPARTMENT OF TRANSPORTATION (WISDOT)**

SECTION I. BACKGROUND AND INTRODUCTION

In enacting section 106(c) of title 23, United States Code (U.S.C.), as amended, Congress established authority for a State department of transportation (State DOT) to carry out certain project responsibilities traditionally handled by the Federal Highway Administration (FHWA) through a delegation from the Secretary of the U.S. Department of Transportation ("Secretary"). The authority in 23 U.S.C. 106(c) applies to projects that are subject to the requirements of title 23, U.S.C. ("title 23") because the State DOT receives Federal funding or because the State DOT needs an FHWA action for the project even though the project may not use Federal funds. Congress also recognized the importance of a risk-based approach to FHWA oversight of the Federal-aid highway program (FAHP), establishing requirements in 23 U.S.C. 106(g). In addition to assumptions of responsibility, FHWA-State DOT Stewardship and Oversight Agreements cover certain oversight activities relating to the oversight requirements of 23 U.S.C. 106(g).

The FHWA may not assign its decision making authority to a State DOT unless authorized by law. The authorities FHWA assigns to a State DOT under 23 U.S.C. 106(c)(1) and (2) are listed in Attachment A of the applicable FHWA-State DOT Stewardship and Oversight Agreement. A decision, determination, or action carried out by a State DOT under the authority of a Stewardship and Oversight Agreement ("Agreement") does not constitute an eligibility, participation, obligation, reimbursement, authorization, or compliance decision by or for FHWA.

For clarity, Attachment A also lists certain other actions FHWA may have allowed a State DOT to undertake based on delegation or assumption provisions in other Federal laws. As noted in those Attachment A listings, a State DOT exercise of those authorities is governed by separate agreements between FHWA and that State DOT.

For project responsibilities that are not assumed by a State DOT under 23 U.S.C. 106(c) and are not otherwise delegated or assigned in accordance with another Federal law, FHWA may authorize a State DOT to perform work needed to reach the FHWA decision point, or to implement FHWA's decision. However, such decisions themselves are reserved to FHWA.

SECTION II. INTENT AND PURPOSE OF AGREEMENT

This Agreement establishes the roles and responsibilities of the FHWA Wisconsin Division Office and the Wisconsin Department of Transportation (WisDOT) with respect to certain title 23 project approvals and related responsibilities, and FAHP oversight activities. Nothing in this

Agreement affects the Secretary's authority, or authority delegated to FHWA, to oversee compliance with Federal requirements. These authorities include but are not limited to 23 U.S.C. 114, under which the Secretary has the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.

This Agreement carries out 23 U.S.C. 106(c)(3), which requires FHWA and the State DOT to enter into an agreement relating to the extent to which the State DOT assumes project responsibilities pursuant to section 106(c). This Agreement also documents certain oversight activities that FHWA and the WisDOT will use to efficiently and effectively deliver the FAHP.

Section IV of this Agreement covers assumption of project approvals on the National Highway System (NHS). Section V covers assumption of project approvals off the NHS.

The Project Action Responsibility Matrix, Attachment A to this Agreement, describes responsibilities that the WisDOT assumes from FHWA pursuant to 23 U.S.C. 106(c) and other legal authorities.

Upon execution of this Agreement, Attachment A controls and, except as specifically noted in Attachment A (including any amendment thereto done in accordance with section VIII) and sections IV and V of this Agreement, no other agreements, attachments, or other documents shall have the effect of delegating or assigning FHWA approvals to the WisDOT under 23 U.S.C 106(c), or have the effect of altering Attachment A.

SECTION III. PERMISSIBLE AREAS OF ASSUMPTION UNDER 23 U.S.C. 106(c)

FHWA has determined the activities and actions that are assumable under 23 U.S.C. 106(c). Those activities and actions are listed in a template issued by FHWA to create this Agreement and cover only activities or actions in the following areas:

- A. Design, which includes preliminary engineering, engineering, and design-related services directly relating to the construction of a FAHP-funded project, including engineering, design, project development and management, construction project management and inspection, surveying, assessing resilience, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services.
- B. Plans, specifications and estimates (PS&E), which represents an array of actions and approvals required before authorization of construction and carried out during construction. The PS&E package includes standards, drawings, specifications, project estimates, certifications relating to completion of right-of-way acquisition and relocation, utility work, and railroad work.
- C. Contract awards, which include procurement of professional and other consultant services and construction-related services to include advertising, evaluating, and awarding contracts.

- D. Inspections, which include general contract administration, material testing and quality assurance, review, and inspections of Federal-aid contracts as well as final inspection/acceptance.
- E. Approvals and related responsibilities affecting real property as provided in title 23, Code of Federal Regulations (CFR), section 710.201(h) and any successor regulation.

The WisDOT is to exercise any and all assumptions of the FHWA's responsibilities in accordance with the Federal laws, regulations, policies, Executive Orders, and procedures that would apply if the responsibilities were carried out by FHWA. For all projects and programs carried out under title 23, the WisDOT will comply with title 23 and all applicable non-title 23 Federal-aid program requirements.

SECTION IV. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS ON THE NHS

For projects under title 23 that are on the NHS, including projects on the Interstate System, the WisDOT may assume FHWA's title 23 responsibilities for activities or actions assumable under 23 U.S.C. 106(c) if the FHWA Wisconsin Division Office determines that assumption of responsibilities is appropriate and the WisDOT agrees.

- A. The activities or actions on the NHS assumed by the WisDOT under this Agreement are listed in Attachment A.
- B. Activities or actions for which the WisDOT has assumed the FHWA's responsibilities apply program-wide, except when superseded on a project-by-project basis by provisions contained in a stewardship and oversight plan developed by the FHWA Wisconsin Division Office for a specific project. Additional discussion on FHWA project involvement is included in section VI.D of this Agreement.
- C. In accordance with 23 U.S.C. 106(c)(4), the Secretary may define high-risk categories for Interstate projects on a national basis, a State-by-State basis, or a national and State-by-State basis. A State DOT may not assume responsibilities for Interstate projects in a designated high-risk category. Currently, FHWA has not designated any high-risk categories applicable to Wisconsin in accordance with 23 U.S.C. 106(c)(4). If the FHWA makes a future high-risk designation that applies to Wisconsin, then that designation will immediately supersede the assumptions of responsibilities elsewhere in this Agreement to the extent of that high-risk designation.

SECTION V. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS OFF THE NHS

For projects under title 23 that are not on the NHS, the WisDOT must assume FHWA's title 23 responsibilities for activities or actions assumable under 23 U.S.C. 106(c) unless the WisDOT determines that assumption of responsibilities is not appropriate (23 U.S.C. 106(c)(2)).

- A. The activities or actions off the NHS assumed by the WisDOT under this Agreement are listed in Attachment A.

- B. Activities or actions for which the WisDOT has assumed the FHWA's responsibilities apply program-wide, except when superseded on a project-by-project basis by provisions contained in a stewardship and oversight plan for a specific project developed by the FHWA Wisconsin Division Office. For non-NHS projects, the WisDOT must determine that superseding an assumption listed in Attachment A for a specific project is appropriate. Additional discussion on FHWA project involvement is included in section VI.D of this Agreement.
- C. Except as provided in 23 U.S.C. 109(o), the WisDOT is to exercise FHWA's approvals and related responsibilities on these projects in accordance with Federal laws, regulations, policies, Executive Orders, and procedures that would apply if the responsibilities were carried out by FHWA.
- D. In accordance with 23 U.S.C. 109(o), non-NHS projects shall be designed and constructed in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards, except that a local jurisdiction may use a roadway design guide recognized by FHWA and adopted by the local jurisdiction that is different from the roadway design guide used by the State in which the local jurisdiction is located for the design of projects on all roadways under the ownership of the local jurisdiction for which the local jurisdiction is the project sponsor, provided that the design complies with all other applicable Federal laws.

SECTION VI. FHWA OVERSIGHT PROGRAM UNDER 23 U.S.C. 106(g)

The Secretary must establish an oversight program to monitor the effective and efficient use of funds authorized to carry out the FAHP (23 U.S.C. 106(g)). This includes FHWA oversight of the WisDOT processes and management practices, including those involved in carrying out the approvals and related responsibilities assumed by the WisDOT under 23 U.S.C. 106(c).

Section 106(g) requires, at a minimum, FHWA's oversight program be responsive to all areas relating to financial integrity and project delivery. To carry out the requirements of 23 U.S.C. 106(g), FHWA uses a risk management framework to evaluate financial integrity, project delivery, and other aspects of the FAHP. The objective is to balance risk while considering staffing, budget resources, and the State's transportation needs.

The FHWA Wisconsin Division Office and the WisDOT may use a variety of methods to identify, analyze, and manage risks and develop response strategies, such as oversight techniques, manuals and operating agreements, stewardship and oversight indicators, and FHWA project involvement.

A. Oversight Techniques

Techniques the FHWA Wisconsin Division Office and the WisDOT may use to identify and analyze risks and develop response strategies include, but are not limited to, the following:

- Program assessments;
- FHWA Financial Integrity Review and Evaluations reviews;

- Program reviews;
- Certification reviews;
- Recurring or periodic reviews such as the FHWA Compliance Assessment Program;
- Inspections of project elements or phases.

B. Manuals and Operating Agreements

The WisDOT manuals, agreements and other control, monitoring, and reporting documents that are used on Federal-aid projects are listed in Attachment B to this Agreement. At a minimum, this list will include documents required by statute or regulation to be submitted to or approved by FHWA. Additional documents may be included as agreed to by the FHWA Wisconsin Division Office and the WisDOT.

C. Stewardship and Oversight Indicators

The FHWA Wisconsin Division Office and the WisDOT have not established indicators as part of this Agreement.

D. FHWA Project Involvement

The FHWA Wisconsin Division Office may select projects (individually or by type) for risk-based FHWA project involvement and stewardship and oversight activities, based on a risk assessment and the responses to identified threats and opportunities. The FHWA Wisconsin Division Office will identify the risks and document actions that it will undertake to respond to the risks in a stewardship and oversight plan for the affected project(s).

In some instances, such as in response to elevated risks, the assumption by the WisDOT of project approval actions under Attachment A to this Agreement may be superseded on a project-by-project basis by provisions in the stewardship and oversight plan for those specific projects, per sections IV and V of this Agreement. Stewardship and oversight plans for specific projects will distinguish which project approval actions under Attachment A are superseded by the project specific plan. Project approval actions under Attachment A that are not superseded by the project specific plan remain in effect.

SECTION VII. STATE DOT OVERSIGHT RESPONSIBILITIES

This section addresses how 23 U.S.C. 106(c) assumed authorities are carried out by the WisDOT. The actions include monitoring to assure that the WisDOT is properly carrying out its responsibilities in accordance with this Agreement.

- A. The WisDOT is responsible for demonstrating to FHWA how it is carrying out its responsibilities in accordance with this Agreement. The WisDOT will provide information to the FHWA Wisconsin Division Office upon request.

- B. The WisDOT represents that processes, procedures, and practices from manuals, agreements, and other documents listed in Attachment B to this Agreement comply with applicable Federal requirements.
- C. The WisDOT is responsible for ensuring that its subrecipients meet applicable Federal requirements. This includes but is not limited to evaluating each subrecipient's risk of ensuring compliance and determining the appropriate oversight and monitoring with respect to both the subaward and any 23 U.S.C. 106(c) assumed responsibilities that a subrecipient has been permitted to carry out on behalf of the WisDOT (2 CFR 200.332). The WisDOT is responsible for determining that subrecipients of Federal funds are suitably staffed and equipped (23 CFR 635.105(c)(3)) and have adequate project delivery systems and sufficient accounting controls to properly manage these funds (23 U.S.C. 106(g)(4)); 2 CFR 200.303).

SECTION VIII. AGREEMENT EXECUTION AND MODIFICATIONS

A. Agreement Execution

This Agreement is effective when fully executed by the FHWA Wisconsin Division Administrator and authorized representative of the WisDOT. The WisDOT duly-authorized official shall execute this Agreement and then submit it to the FHWA Wisconsin Division Administrator, who shall sign this Agreement last.

B. Agreement Modifications

The FHWA Wisconsin Division Office and the WisDOT acknowledge that Agreement modifications (minor revisions or amendments) are needed periodically. Either party may initiate a request to modify this Agreement.

1. Minor Revisions

The FHWA Wisconsin Division Office and the WisDOT may make minor revisions to this Agreement without an amendment. For purposes of this Agreement, a minor revision makes a technical correction, addresses non-substantive changes such as a change in points-of-contact or document names, or revises aspects of procedures that do not materially change the terms of this Agreement. Changes to Attachments B or C are considered minor revisions. Minor revisions are recorded in a change log by the FHWA Wisconsin Division Office. Minor revisions may be executed without FHWA legal sufficiency review or coordination with FHWA's Office of Infrastructure.

2. Amendments

Modifications to this Agreement that exceed the definition of a minor revision in paragraph B.1. of this section shall require execution of an amendment to this Agreement. Amendments include any change to Attachment A. The amendment shall follow the execution procedure set forth in paragraph A of this section. Amendments require FHWA legal sufficiency review and coordination with FHWA's Office of Infrastructure.

C. New Agreement

This Agreement will be replaced in its entirety and a new Agreement executed between the FHWA Wisconsin Division Office and the WisDOT when mutually agreed upon by the parties, or as requested by the FHWA Office of Infrastructure to account for changes to regulations or statute or upon issuance of a revised Stewardship and Oversight Agreement Template. New Agreements require FHWA legal sufficiency review and coordination with FHWA's Office of Infrastructure prior to execution.

The electronic Agreement file shall contain the executed Agreement, any change logs, and amendments.

EXECUTION BY THE FHWA WISCONSIN DIVISION OFFICE:

Name: Glenn D. Fulkerson

Title: Division Administrator

Date Executed: 7/03/2024

EXECUTION BY THE WISCONSIN DEPARTMENT OF TRANSPORTATION:

Name: Craig Thompson

Title: Secretary

Date Executed: 7/12/2024

ATTACHMENT A

Project Action Responsibility Matrix

This matrix identifies the Federal-aid highway program (FAHP) project approvals and related responsibilities. The matrix specifies which actions are assumed by the WisDOT pursuant to this Stewardship and Oversight Agreement (“Agreement”) and certain other applicable authorities as specified in the tables in this Attachment A.

The WisDOT is responsible for ensuring all applicable elements of the project are eligible for FAHP funding. Where the WisDOT assumes authority to make a decision, approval, determination or action, the WisDOT decision does not constitute an eligibility, obligation, reimbursement, authorization, or compliance decision by or for the Federal Highway Administration (FHWA). Final decisions on those matters must be made by FHWA.

Table 1: Financial Management

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
1	Review and accept initial financial plan for Federal major projects [23 U.S.C. 106(h)]	FHWA	FHWA
2	Review and accept financial plan annual updates for Federal major projects [23 U.S.C. 106(h)]	FHWA	FHWA
3	Obligate funds/authorize Federal-aid project agreement (including advance construction authorization and conversion), modifications, and project closures (project authorizations) [23 U.S.C. 106(a)(2); 23 CFR 630.106, 630.703, 630.709]	FHWA	FHWA
4	Authorize to advertise for bids when all preconditions are met [23 CFR 635.112(a), 635.309]	STATE	STATE
5	Approve reimbursements including authorizing current bill [23 U.S.C. 121]	FHWA	FHWA
6	Approval of reimbursement for bond-issue projects [23 U.S.C. 122; 23 CFR part 140, subpart F]	FHWA	FHWA

Table 2: Environment

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
7	EA/FONSI, EIS/ROD, 4(f), 106, 6(f) and other approval actions required by Federal environmental laws and regulations (Note: The FHWA may assign these NEPA actions and other environmental responsibilities to a State DOT as provided by 23 U.S.C. 327)	FHWA	FHWA

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
8	Categorical exclusion approval actions [Note: The FHWA may assign this action and other FHWA environmental responsibilities to a State DOT as provided by 23 U.S.C. 326 and 327. The FHWA also may administratively delegate responsibility for categorical exclusion determinations to a State DOT through a programmatic agreement pursuant to section 1318(d) of MAP-21 and implementing regulations in 23 CFR 771.117(g)]	Administered in accordance with Programmatic Categorical Exclusion Agreement	Administered in accordance with Programmatic Categorical Exclusion Agreement

Table 3: Preliminary Design

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
9	Approval before utilizing a consultant to act in a management support role for the contracting agency [23 CFR 172.7(b)(5)(i)]	FHWA	FHWA
10	Approval of noncompetitive procurement method for engineering and design-related services [23 CFR 172.7(a)(3)]	STATE	STATE
11	Approve exceptions to design standards [23 CFR 625.3(f)]	STATE	Not subject to 23 CFR 625.3(f)
12	Airport highway clearance coordination and respective public interest finding (if required) [23 CFR 620.104]	STATE	STATE
13	Approve project management plan for Federal major projects [23 U.S.C. 106(h)]	FHWA	FHWA
14	Approval of Interstate System access change [23 U.S.C. 111]	FHWA	Not subject to 23 U.S.C. 111
15	Determine the engineering and operational acceptability of points of ingress or egress with the Interstate System (justification reports) for new freeway-freeway interchanges (system), modification of freeway-freeway interchanges, and new partial interchanges or new ramps to/from continuous frontage roads that create a partial interchange [23 U.S.C. 111(e)]	FHWA	Not subject to 23 U.S.C. 111(e)
16	Determine the engineering and operational acceptability of points of ingress or egress with the Interstate System (justification reports) for new and modified freeway-to-crossroad (service) interchanges, and completion of basic movements at existing partial interchanges. [23 U.S.C. 111(e)]	Administered in Accordance with Programmatic Agreement	Not subject to 23 U.S.C. 111(e)
17	Approve innovative and public-private partnership projects in accordance with TE-045, SEP-14, SEP-15, or SEP-16. [23 U.S.C. 502(b)]	FHWA	FHWA

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
18	Approve any betterment to be incorporated into the project for which emergency relief funding is requested (23 U.S.C. 125; 23 CFR 668.109)	FHWA	FHWA
19	Prior written approval of the Federal awarding agency for the direct charge of up-front acquisition cost of equipment (2 CFR 200.439)	FHWA	FHWA

Table 4: Final Design

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
20	Approve retaining right-of-way encroachments [23 CFR 1.23(b)-(c)]	STATE	STATE
21	Approve use of publicly owned equipment [23 CFR 635.106]	STATE	STATE
22	Concur in use of publicly furnished materials [23 CFR 635.407(a)]	STATE	STATE
23	Approve use of more costly signing, pavement marking, and signal materials (or equipment) is in the public interest [23 CFR 655.606]	STATE	STATE
24	Exception to designation of Interstate project as significant for work zones [23 CFR 630.1010(d)]	STATE	Not subject to 23 CFR 630.1010(d)
25	Determination that a United States Coast Guard Permit is not required for bridge construction [23 U.S.C. 144(c); 23 CFR 650.805, 650.807]	FHWA	FHWA

Table 5: Realty

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
26	Completion of ROW clearance, utility, and railroad work concurrently with construction: Make feasibility/practicability determination for allowing authorization to advertise for bids or to proceed with force account construction prior to completion of ROW clearance, utility and railroad work [23 CFR 635.309(b)]	STATE	STATE
27	Approve non-highway use and occupancy of real property interests [23 CFR 1.23(c), 710.405]	FHWA for Interstate; STATE for Non-Interstate NHS	STATE
28	Approve disposal at fair market value of real property interests acquired with Federal-aid assistance, including disposals of access control [23 CFR 710.403(e), 710.409]	FHWA for Interstate; STATE for Non-Interstate NHS	STATE

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
29	Approve disposal at less than fair market value of real property interests acquired with Federal-aid assistance, including disposals of access control [23 U.S.C. 156; 23 CFR 710.403(e)]	FHWA	FHWA
30	Approve advertisement for bids based on a conditional ROW certification, unless it is not in the public interest to proceed. [23 CFR 635.309(c)(3)(i)]	FHWA for Interstate; STATE for Non-Interstate NHS	STATE
31	Approve physical construction under a contract or through force account work based on a conditional ROW certification, only if there are exceptional circumstances that make it in the public interest to proceed. [23 CFR 635.309(c)(3)(ii)]	FHWA	FHWA
32	Approve hardship and protective buying [23 CFR 710.503]	FHWA	FHWA
33	Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations or other contributions applied to a project [23 U.S.C. 323; 23 CFR 710.507]	FHWA	FHWA
34	Federal land transfers [23 CFR part 710, subpart F]	FHWA	FHWA
35	Functional replacement of property [23 CFR 710.509]	FHWA	FHWA
36	Waiver of the policy of the availability of comparable replacement dwelling before displacement under specified circumstances [49 CFR 24.204(b)]	FHWA	FHWA

Table 6: PS&E and Advertising

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
37	Approve PS&E [23 CFR 635.309(a)]	STATE	STATE
38	Approve utility or railroad force account work (23 CFR 140.916, 645.113, 646.216)	STATE	STATE
39	Approve utility and railroad agreements (23 CFR 140.916, 645.113, 646.216)	STATE	STATE
40	Approve use of consultants by utility and railroad companies [23 CFR 645.109(b), 646.216(b)]	STATE	STATE
41	Approve exceptions to maximum railroad protective insurance limits (23 CFR 140.916, 646.111)	STATE	STATE
42	Approve use of guaranty and warranty clauses for projects other than design-build projects [23 CFR 635.413(b)]	STATE	STATE
43	Recovery of railroad material - Approval of additional measures for restoration of areas affected by the removal of salvaged material for Railroad work (23 CFR 140.908)	STATE	STATE

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
44	Approve use of lump sum payments to reimburse railroad for work by its forces [23 CFR 646.216(d)(3)]	STATE	STATE
45	Waive Buy America provisions (23 CFR 635.410)	FHWA	FHWA
46	Training special provision - Approval of new project training programs [23 CFR 230.111(d)-(e)]	FHWA	FHWA

Table 7: Contract Advertisement and Award

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
47	Approve cost-effectiveness determinations for construction work performed by contract awarded by other than competitive bidding or by force account (23 CFR 635.104, 635.204)	STATE	STATE
48	Approve emergency determinations for construction work performed by contract awarded by other than competitive bidding or by force account (23 CFR 635.104, 635.204)	STATE	STATE
49	Subrecipient project administration - Approve arrangements for local agency to serve as the supervising agency for the project (23 CFR 635.105)	STATE	STATE
50	Approve advertising period less than 3 weeks [23 CFR 635.112(b)]	STATE	STATE
51	Approve addenda during advertising period [23 CFR 635.112(c)]	STATE	STATE
52	Concur in award of contract or rejection of all bids (23 CFR 635.114)	STATE	STATE
53	Approval of design-build requests-for-proposals (RFP) and addenda for major changes to the RFP during solicitation period [23 CFR 635.112(i)(4)]	STATE	STATE
54	Approve award to the next low bidder [23 CFR 635.114(f)]	STATE	STATE

Table 8: Construction

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
55	Approve contract changes and extra work (23 CFR 635.120)	STATE	STATE
56	Approve contract time extensions [23 CFR 635.120, 635.121(b)]	STATE	STATE
57	Concur in use of mandatory borrow/disposal sites (23 CFR 635.407)	STATE	STATE

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
58	Approval of administrative settlements and contract claim awards and settlements [23 CFR 140.505, 635.124]	STATE	STATE
59	Concur in termination of construction contracts [23 CFR 635.125(b)]	STATE	STATE

Table 9: Construction Manager/General Contractor (CM/GC) and Indefinite Delivery/Indefinite Quantity (ID/IQ) Contracting

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
60	Approval of advertising for bids or proposals for a CM/GC construction services phase contract [23 CFR 635.504(b)(6)]	STATE	STATE
61	Determination of indirect cost rate for preconstruction services for a CM/GC project in accordance with [23 CFR 635.504(e)(2)]	STATE	STATE
62	Approval of preconstruction price and cost/price analysis for preconstruction services for a CM/GC project [23 CFR 635.506(b)(2)]	STATE	STATE
63	Approval of price estimate for construction costs for the entire project for CM/GC project [23 CFR 635.506(d)(2)]	STATE	STATE
64	Approval of construction price analysis and agreed price for construction services of a CM/GC project or portion of the project [23 CFR 635.506(d)(4)]	STATE	STATE
65	Approval of CM/GC project preconstruction services contract award [23 CFR 635.506(e)]	STATE	STATE
66	Concur in advertising an ID/IQ solicitation prior to completion of NEPA [23 CFR 635.605(a)(2)]	FHWA	FHWA
67	Concur in awarding an ID/IQ contract prior to completion of NEPA [23 CFR 635.605(a)(3)]	FHWA	FHWA
68	Approve a time extension of an ID/IQ contract [23 CFR 635.604(a)(6)(i)]	FHWA	FHWA

ATTACHMENT B

Manuals, Agreements, Control, Monitoring, and Reporting Documents

This attachment lists manuals, agreements and other control, monitoring, and reporting documents that are used on Federal-aid projects per section VI.B of this Agreement.

Documents that include items that must be submitted to FHWA for review and/or approval	
1.	A Program Operations Manual (POM) exists outside of this S&O Agreement that provides additional details regarding the documents listed in Attachment B.
2.	Additional Special Provisions (ASPs) (FHWA Approval) (23 CFR 625, 23 CFR 630, 23 CFR 637)
3.	Americans with Disabilities Act (ADA) Transition Plan (FHWA Review) (28 CFR 35.150(d)(1))
4.	Approved Product Lists (APL) Product Approval Specifications (FHWA Approval) (23 CFR 625, 23 CFR 637)
5.	Bridge Inspection Alternate Training Course Material and End-of-Course Assessment (FHWA Approval) (23 CFR 650.309(h)(2))
6.	Bridge Inspection Use of Method 2 for Determining Inspection Intervals (FHWA Approval) (23 CFR 650.311(a)(2))
7.	Bridge Manual and State Standard Bridge Detail Sheets (FHWA Approval) (23 CFR 625.3(a)(1))
8.	Carbon Reduction Strategy (FHWA Approval) (23 U.S.C. 175(d))
9.	Construction and Materials Manual (CMM) (FHWA Approval) (23 CFR 635, 23 CFR 637)
10.	Data Quality Management Program (FHWA Approval) (23 CFR 490.319(c)(2))
11.	Disadvantaged Business Enterprise (DBE) Program Plan (FHWA Approval) (49 CFR 26.21)
12.	DBE Program Triennial Overall Goal, Goal Methodology, and Shortfall Analysis (FHWA Approval) (49 CFR 26.45(f), 49 CFR 26.47(c))
13.	DBE Supportive Services Procedures (FHWA Approval) (23 CFR 230.204)
14.	Equal Employment Opportunity (EEO) Plan (Title VII) (FHWA Approval) (23 CFR 230.311(a))
15.	Facilities Development Manual (FDM) Chapter 3 - Facilities Development Process (FHWA Review) (23 CFR 630, 23 CFR 635, 2 CFR 200, 23 USC 106(h))
16.	FDM Chapter 5 - Agency Coordination (FHWA Review) (23 USC 106 and 139)
17.	FDM Chapter 6 - Public Involvement & Public Involvement Program Procedures for Federal-aid projects (FHWA Approval) (23 CFR 771.111(h))
18.	FDM Chapter 8 - Consultant Services (FHWA Approval) (23 CFR 172.5(c))
19.	FDM Chapter 11 - Design (FHWA Approval) (23 USC 111, 23 CFR 625)
20.	FDM Chapter 14 - Pavements (FHWA Approval) (23 CFR 625, 23 CFR 626)
21.	FDM Chapter 16 - Standard Detail Drawings (FHWA Approval) (23 CFR 625.3(a)(1))
22.	FDM Chapter 17 - Railroad Coordination (policy, standard agreement forms & provisions, and administration / process procedures changes only) (FHWA Review) (23 CFR 646, 23 CFR 140 Subpart I)
23.	FDM Chapter 19 - Plans, Specifications and Estimates: Contract Time for Completion (19-10-30) (FHWA Review) (23 CFR 625, 630)
24.	FDM Chapter 20 - Environmental Documents, Reports and Permits (FHWA Review) (23 CFR 771 and 23 CFR 774)
25.	FDM Chapter 21 - Hazardous Materials Investigation (FHWA Review) (42 USC 82 and 24 USC 103)
26.	FDM Chapter 22 - Air Quality (FHWA Review) (42 USC 82 and 42 USC 103)
27.	FDM Chapter 23 - Noise (FHWA Approval) (23 CFR 772.7)
28.	FDM Chapter 24 - Land and Water Resources Impacts (FHWA Review) (23 USC 109(h))
29.	FDM Chapter 25 - Socio-Economic Factors (FHWA Review) (23 USC 109(h))
30.	FDM Chapter 26 - Cultural Resource Preservation (FHWA Review) (23 CFR 774 and 36 CFR 800)
31.	Functional Classification Criteria and Procedures (FHWA Review) (23 CFR 470.105(a))
32.	Geotechnical Manual (FHWA Approval) (23 CFR 625.3(a)(1))

33.	Highway Safety Improvement Program (HSIP) including Program Management Manual (PMM) Chapter 04-01-10 (HSIP Highways) and Chapter 04-05-10 (HSIP Rail-Highway Crossings) (FHWA Approval) (23 CFR 924.7(b), 23 CFR 924.9)
34.	Independent Sampling and Testing Assurance (IA) Program Annual Report (FHWA Review) (23 CFR 637.205(a))
35.	Indirect Cost Allocation Plans (ICAPs) (FHWA Approval) (2 CFR 200, Subpart E; Appendix VII to Part 200)
36.	Intelligent Transportation System (ITS) Architecture & Standards (FHWA Review) (23 CFR 940.13)
37.	Junkyard Effective Control Policy including Highway Maintenance Manual Chapter 7, Section 01, Subject 40 (FHWA Approval) (23 CFR 751.13(e))
38.	Liquidated Damages Rate (FHWA Approval) (23 CFR 635.127)
39.	Local Program Funding Guidance (FHWA Review) (23 USC 106(g)(4)(A), 2 CFR 200, Subpart F, OMB Circular A-123, 49 CFR Part 18 and 2 CFR Part 225)
40.	Local Program Real Estate (LPRE) Manual (FHWA Approval) (23 CFR 710.201(c)(1))
41.	Long-range Statewide Transportation Plan (FHWA/FTA Review) (23 CFR 450.216(q))
42.	Management Process and Project Selection Procedures and Certification for Research, Development & Technology Transfer Program and Revisions to Process (FHWA Approval) (23 CFR 420.209(b))
43.	Manual of Test Procedures (MOTP) (FHWA Approval) (23 CFR 625, 23 CFR 637)
44.	Metropolitan Planning Organization (MPO) Public Participation Procedures (FHWA Review) (23 CFR 450.316(a))
45.	Metropolitan Transportation Plan (MTP) in Attainment and Non-Attainment Areas (FHWA Review) (23 CFR 450.322)
46.	National Environmental Policy Act (NEPA) Procedures including Section 4(f) (FHWA Review) (23 CFR 774.3)
47.	On-the-Job-Training (OJT) Annual Report (FHWA Approval) (23 CFR 230.111(b), (23 CFR 230.111(e)(1))
48.	OJT Supportive Services Procedures (FHWA Review) (23 CFR 230.113)
49.	Outdoor Advertising Control Policy including the Highway Maintenance Manual Chapter 9, Section 05, Subject 01 (FHWA Approval) (23 CFR 750.705(j))
50.	Performance and Expenditure Reports for State Planning and Research (SPR) Work Programs (FHWA Review) (23 CFR 420.117(b))
51.	Process developed under the direction of a Professional Engineer (P.E.) to determine when a Team Leader's qualifications are adequate to lead a complex tunnel inspection (FHWA Approval) (23 CFR 650.507(e)(4))
52.	Program Management Manual (PMM) (FHWA Review) (23 CFR 630, 2 CFR 200, 23 CFR 140, FHWA Order 4560.1C)
53.	Railroad Agreement Alternate Procedure (Non-Interstate Projects) (FHWA Approval) (23 CFR 646.220)
54.	Real Estate Program Manual (REPM) (FHWA Approval) (23 CFR 710.201(c)(1))
55.	Regional ITS Architecture (FHWA Review) (23 CFR 940.9)
56.	Special Experimental Project (SEP-16) Agreements (FHWA Approval) (23 USC 502(b)(2))
57.	Special Provisions (SPVs) (FHWA Approval) (23 CFR 625, 23 CFR 630, 23 CFR 637)
58.	Sponsor's Guide for Non-Traditional Projects (FHWA Review) (23 CFR 625.3(a)(4))
59.	SPR Research Reports (FHWA Approval) (23 CFR 420.117(e)) Note: FHWA Approval has been waived; however, the Wisconsin Division Office reserves the right to request individual reports to be sent by WisDOT for any SPR Research funded project.
60.	Standard Specifications for Highway and Structure Construction (SS) (FHWA Approval) (23 CFR 625, 23 CFR 630, 23 CFR 637)
61.	Standardized Special Provisions (STSPs) (FHWA Approval) (23 CFR 625, 23 CFR 630, 23 CFR 637)
62.	State Consultation Process for Non-metropolitan Local Officials included in Wisconsin Department of Transportation Coordination Document (FHWA/FTA Review) (23 CFR 450.210(b))
63.	State Consultation Process for Statewide Transportation Improvement Program (STIP) and Long Range Plan with Tribal Governments included in Wisconsin Department of Transportation Coordination Document (FHWA/FTA Review) (23 CFR 450.210(c))
64.	State Freight Plan (FHWA Approval) (49 U.S.C. 70202(h))
65.	State Planning Work Program (FHWA Approval) (23 CFR 420.115(a))

66.	State Public Involvement Procedures for Planning included in Wisconsin Department of Transportation Coordination Document (FHWA/FTA Review) (23 CFR 450.210(a))
67.	State Research and Development Work Program (FHWA Approval) (23 CFR 420.115(a))
68.	State Structure Inspection Manual (FHWA Review) (23 CFR 650.307(e), 23 CFR 650.313(r))
69.	Statewide Transportation Improvement Program (STIP) Amendment Procedures (FHWA/FTA Approval) (23 CFR 450.218(n))
70.	Structure Inspection Procedure: Use of nationally recognized method to determine system or internal redundancy (FHWA Approval) (23 CFR 650.313(f)(1)(i))
71.	Title VI Goals & Accomplishments Report (FHWA Review) (23 CFR 200.9(b)(10))
72.	Title VI Implementation Plan - Annual Update Report (FHWA Approval) (23 CFR 200.9(b)(11))
73.	Traffic Engineering, Operations and Safety Manual (TEOpS) (FHWA Review) (23 CFR 630)
74.	Transportation Asset Management Plan (TAMP) and Annual Consistency Report (FHWA Approval) (23 U.S.C 119(e))
75.	Transportation Planning Manual (FHWA Review) (23 CFR 450, 23 CFR 490, 2 CFR 200 and 23 CFR 420)
76.	Tunnel Inspection Alternate Training Course Material and End-of-Course Assessment (FHWA Approval) (23 CFR 650.509(f)(2))
77.	Unified Planning Work Programs (UPWP) developed by Transportation Management Areas (TMAs) and Metropolitan Planning Organizations (MPOs) (FHWA Review) 23 CFR 420.115(a)
78.	Utility Agreement / Alternate Procedure (FHWA Approval) (23 CFR 645.119)
79.	Value Engineering Annual Report (FHWA Review) (23 CFR 627.7(a)(3))
80.	Value Engineering Policies and Procedures (FHWA Review) (23 CFR 627.1)
81.	Vehicle Size & Weight Statewide Enforcement Plan (SEP) (FHWA Approval) (23 CFR 657.9(a))
82.	Wisconsin Electric Vehicle Infrastructure Plan (FHWA Approval) (IIJA, Division J, Title VIII, Paragraph (2))
83.	Wisconsin Manual on Uniform Traffic Control Devices (MUTCD) (FHWA Approval) (23 CFR 655.603(b)(1))
84.	Wisconsin Utility Accommodation Policy (UAP) (FHWA Approval) (23 CFR 645.215)
85.	WisDOT Emergency Relief (ER) Guidance and FHWA ER Procedures (FHWA Review) (23 USC 125, 23 CFR 668)
86.	Work Zone Safety and Mobility Policy / Guidance (FHWA Approval) (23 CFR 630.1006)
87.	Programmatic Agreement: Agreement between WisDOT & Eastern Federal Lands for Forest Highway Program (FHWA, WisDOT, USDAFS) (Signed: July 15, 1997 – Revised: 12/3/2008)
88.	Programmatic Agreement between FHWA WI Division and WisDOT Regarding the Review and Approval of Specific Types of Changes in Interstate-System Access (FHWA, WisDOT) (Signed: 9/28/2021)
89.	Programmatic Agreement: Concurrent NEPA / 404 Processes for Transportation Projects (FHWA, USACE, USEPA, USFWS) (Signed: 3/1994)
90.	Programmatic Agreement Between the FHWA WI Division and WisDOT Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects (FHWA, WisDOT) (Signed: 8/7/2020)
91.	Programmatic Agreement: WisDOT Wetland Mitigation Banking Technical Guideline (FHWA, WisDOT, WDNR, USACE, USEPA, USFWS) (Signed: 7/20/1993 – Revised: 3/8/2002)
92.	Programmatic Agreement: Partnership Agreement Between Wisconsin's Eleven Federally Recognized Tribes, FHWA, and WisDOT (FHWA, WisDOT, Wisconsin's Eleven Federally Recognized Tribes) (Signed: 9/30/2019)
93.	Programmatic Agreement among the FHWA, FRA, USACE, Wisconsin SHPO, ACHP, WisDOT, and the Sokaogon Chippewa Community Regarding the Transportation Program in Wisconsin (FHWA, WisDOT, SHPO, ACHP, FRA, ACOE) (Signed: 9/28/2023)
94.	Programmatic Agreement: FDM 3-5 Exhibit 5.1 Agreement for the Use of Federal Funds for Preventive Maintenance of Streets & Highways (Except Structures) (FHWA, WisDOT) (Signed: 11/30/2010 – Revised: 9/19/2014)
95.	Programmatic Agreement: Memorandum of Agreement Regarding Determination of Conformity of Transportation Plans, Programs, and Projects to State Implementation Plans (FHWA, WisDOT, EPA, DNR, FTA, MPOs) (Signed: 2012)
96.	Programmatic Agreement: FDM 3-5 Exhibit 5.2 Agreement for the Use of Federal Funds for Preventive Maintenance of Structures (FHWA, WisDOT) (Signed: 5/13/2016)

Documents that do not include items that must be submitted to FHWA for review and/or approval. These documents will be made available to FHWA upon request.	
1.	Evaluation of Facilities Repeatedly Requiring Repair and Reconstruction due to Emergency Events (FHWA Review) (23 CFR 667.9(b))
2.	Financial Plan (Projects \$100M up to \$500M) (FHWA Review) (23 U.S.C. 106(i))
3.	Triennial Noise Barrier Construction Reporting (FHWA Review) (23 CFR 772.13(f))
4.	NEPA Class of Action Reporting (FHWA Review) (23 USC 157 (PL 117-58 Section 11312 of BIL))