



Stewardship & Oversight Report Fiscal Year 2021

Federal Highway Administration,
Texas Division

December 2021

Stewardship & Oversight Agreement

On December 8, 2015, the Federal Highway Administration, Texas Division (FHWA Texas Division) and the Texas Department of Transportation (TxDOT) executed a Stewardship & Oversight Agreement on Project Assumption and Program Oversight (S&O Agreement). This agreement sets forth the roles and responsibilities of the FHWA Texas Division and TxDOT with respect to Title 23 project approvals and related responsibilities and Federal-aid Highway Program (FAHP) oversight activities.

Section XI, Subsection A, of the S&O Agreement describes the TxDOT oversight and reporting requirements, including submission of a summary report within two months of the end of the federal fiscal year of all significant stewardship and oversight activities conducted during the previous fiscal year. This report is the sixth of the annual reports under the S&O Agreement and provides summary information on TxDOT's Federal Fiscal Year 2021 stewardship and oversight activities. It provides data related to all TxDOT activities during the fiscal year and not only activities within which FHWA is participating.

In summary:

- TxDOT let \$8.256 billion in Federal Fiscal Year 2021 for 922 projects.
 - 769 Statewide Lets (\$5.859 billion)
 - 62 Local Public Agencies (LPAs) Lets (\$208 million)
 - 1 Design Build Lets (\$1.513 billion)
 - 90 Other Lets (\$676 million)
- TxDOT processed 771 construction project preliminary engineering plan sets for letting in Fiscal Year 2021
- TxDOT managed approximately 1,739 active construction projects during Fiscal Year 2021

Local Public Agencies (LPAs)

Section XI, Subsection B, of the S&O Agreement also requires that TxDOT provide an annual report documenting its fulfillment of responsibilities as a pass-through entity of FHWA funds on projects performed by local public agencies (subrecipients). TxDOT is submitting the latest edition of that report, entitled "FY 2021 Annual Report to FHWA-Texas - Local Government Projects Program (Local Public Agencies)," to the FHWA-Texas in conjunction with the annual S&O Report submittal.

Federal government laws, rules and regulations refer to local government entities as local public agencies (LPAs). TxDOT refers to LPAs as local governments (LGs) since the state of Texas laws related to LG entities are codified in the Texas Local Government Code. For this report, the use of LGs is to be considered interchangeable with LPAs. TxDOT defines a LG project as a transportation project for which at least one phase of project development (environmental, design, right of way, utility relocation or construction) or the program is managed by a LG entity and is reimbursed with FHWA or TxDOT funds. Even though projects being reimbursed with FHWA or TxDOT funds are considered LG projects by TxDOT, only projects that include reimbursement with FHWA funds are included in this report.

In summary:

- The mid-year FY 2021 report (data collected at the beginning of March 2021 from TxDOTCONNECT) includes 575 active LG projects with total funding in the amount of \$3.08 billion. The total amount of federal funds committed to these projects is \$2.02 billion (65.7 percent).
- Entering FY 2021, 81 projects with federal funds were scheduled for letting by LGs during FY 2021 with estimated total funding of \$663 million.
- LGs actually let 62 projects with federal funds in FY 2021 totaling \$208 million in construction costs.
- During FY 2021, LGs were reimbursed approximately \$87.7 million in FHWA funds on highway planning and construction projects.

In accordance with federal regulations, TxDOT is ultimately responsible for LG compliance with applicable federal laws, rules, and regulations on LG projects. When federal funds are participating in a LG project, FHWA issues a Federal Project Authorization Agreement (FPAA) to TxDOT. TxDOT has a funding agreement with a LG for each project. FHWA has no agreement with each LG. Therefore, FHWA holds TxDOT accountable for LG compliance with all applicable federal regulations. Additional information on TxDOT's oversight of this program is included in the Subsection B report.

Key Aspects of TxDOT's Stewardship & Oversight of the Federal-Aid Highway System in Texas

Overview

During Fiscal Year 2021, TxDOT has provided effective stewardship of the Federal-aid Highway System in Texas and responsible oversight of the project delivery programs that affect the condition and performance of that system across the state. TxDOT continued to make progress in providing quality stewardship of the system.

TxDOT presents key performance indicators for the Stewardship & Oversight Agreement in the [Stewardship and Oversight Indicators section](#) of this report. TxDOT will continue to work with the FHWA Texas Division to ensure that these performance indicators provide meaningful information on our efforts to effectively and responsibly manage the Federal-aid Highway Program in Texas.

Successful Project Delivery Optimization and PS&E Packages

On an annual basis, FHWA Texas Division develops a list of TxDOT projects known as Texas Division Involved Projects (TxDIP), formerly known as Projects of Division Interest (PoDI), to optimize the successful delivery of TxDOT projects and to ensure compliance with federal requirements. TxDIP projects include Major Projects (both design-bid-build delivery and alternative delivery), as well as other projects that FHWA Texas Division selects based on

elevated program risks or project level risks. The FHWA Texas Division also develops an individual TxDIP Plan for each TxDIP project to identify project risk areas, specific activities of project development/delivery that will require FHWA stewardship & oversight, and the degree of required FHWA coordination and involvement for each specified activity. The Design Division, upon receipt from FHWA, coordinates the list with the respective district offices. TxDOT district and Design Division staff monitor projects on the TxDIP to ensure appropriate coordination with the FHWA on any reviews or approvals identified by the TxDIP Plans. All FHWA-defined Major Projects are on the TxDIP. The Design Division has developed a Major Project inventory (outlining the status of Major Project documents); TxDOT shares the inventory with FHWA upon request at each quarterly coordination meeting with the Design Division and the FHWA Texas Division to better monitor and coordinate Major Project status statewide. During FY2021, the Design Division worked with the Transportation Programs Division to develop a Major Projects page on TxDOTCONNECT; the Major Projects page went live on 9/20/2021 and provides opportunity for TxDOT and FHWA to identify major projects through a centralized database. Ultimately, it will also be a source to determine status of each Major Project's documentation required by FHWA (Project Management Plans, Initial Financial Plans, and Financial Plan Annual Updates).

All TxDOT district offices submit their plans, specifications, and estimate (PS&E) packages for all state-let projects to the Design Division for final processing prior to letting. The districts submit these PS&E packages electronically through a PDF Portfolio process (ePS&E). The submitted PS&E package includes plan sheets, standard drawings, specifications, engineer's project estimate, general notes, and supporting documentation certifying the completion or conditional completion of right of way acquisition, utility work, relocation work, and railroad work. The Design Division has been sharing the above described project oversight information with the FHWA regional office since April 2016 to assist in the project authorization process.

TxDOT continues to successfully process final PS&E in accordance with the August 27, 2018 policy memo to all TxDOT District Engineers, which outlines requirements and expectations of the PS&E package submittal and PS&E processing schedule deadlines. The Design Division has also developed an improved webpage with many new guidance documents to ensure districts have the needed resources to meet requirements and expectations.

To improve communication and implementation of this policy, TxDOT holds monthly meetings with Design Division, Financial Management Division, Right of Way Division, Railroad Division, Construction Division, and members of TxDOT administration to perform a 3-month lookahead and review critical issues that may affect projects on the letting schedule and to decide the best course of action. The Design Division also hosts quarterly meetings with FHWA staff involved in both preliminary project development and final PS&E reviews and authorization to identify and discuss any issues, as well as to provide status on TxDOT efforts regarding statewide guidance and standard operating procedures (SOPs) and other guidance in development.

During this reporting period, TxDOT released the following SOPs and other guidance for statewide use: Peak Hour Traffic Development Guidance (10/2020); Value Engineering Statewide Program Webinar (10/2020); Requirements for Proprietary/Sole Source Product Procurement Approval (4/2021); Comprehensive bicycle accommodation guidance (4/2021) with statewide webinars (4/23/2021 and 5/28/2021); Estimate Summary and Bulk Upload tool (5/2021); began piloting urban intersection safety scoring tool (8/2021).

Additionally, Design Division held its first ever series of peer review/exchanges, where processes and experiences were discussed on topics ranging from IAJR development to cost estimating to implementing safety analysis in project development process. The first included El Paso, Lubbock, and Odessa Districts (3/2021), and the second included Beaumont, Bryan, and Corpus Christi Districts (7/2021).

Railroad Agreements in PS&E Packages

The Rail Division is responsible for providing information to the districts regarding the status of the execution of the railroad agreements, which are required in the PS&E packet. This certification is done by the District and submitted to the Design Division. The districts prepare railroad certification letters for the PS&E packet, which are required for each project, whether there is a railroad within the project limits or not. There are four (4) possible Railroad certification types: 1) *No Railroad Work*, 2) *Agreement Executed-Work prior to Construction*, 3) *Agreement Executed-Work during Construction*, and 4) *Agreement not Executed-Work during Construction*. In Fiscal Year 2021, TxDOT executed a total of 124 railroad agreements in support of construction and maintenance projects.

Under Item 4 in the certification letter, “Agreement not Executed- Work during Construction,” the Rail Division will determine how quickly the railroad agreement can be executed, and the district engineer will confirm that the contractor can work outside of railroad right of way until the agreement is executed without any delay to the contractor. For situations when the estimated execution date of the Railroad agreement is beyond the three months after letting, the district works with the Design Division and prepares and submits to TxDOT’s Administration a construction management plan for approval to proceed to letting with the unexecuted agreement. This standard operating procedure will confirm approval with administration prior to letting the projects and issuing a notice to proceed.

Of the 124 projects that TxDOT certified in Fiscal Year 2021, TxDOT let eleven (11) projects without associated agreements. The status of these eleven projects is shown in the following table.

2021 Reporting

CSJ	Road Name	Expected Agreement Execution Date	Actual Agreement Execution Date
0540-04-005	Holleman	4/1/2021	9/1/2021
0908-12-031	FM818	11/1/2020	7/15/2021
0001-01-062	Country Club	8/1/2021	TBD
2452-02-128	Lp 1604	6/1/2022	TBD
0041-01-048	US 84	12/1/2021	TBD
0523-09-009	FM 1488	12/1/2021	TBD
0389-05-087	SH 146	6/1/2022	TBD
0015-09-194	IH 35	12/1/2021	TBD
0587-01-060	FM 1495	6/1/2022	TBD
0049-14-014	FM 50 etc.	11/1/2021	TBD
0916-00-217	US 181 etc.	11/1/2021	TBD

The individual projects that are not cleared as of 10/26/2021 are summarized below:

- 0540-04-005 and 0908-12-031 were cleared after letting. These are new, innovative Section 130 projects to mitigated humped crossings issues at the railroad. Delays were caused by change in railroad right of way management and procedures. Rail Division has now started to coordinate all railroad agreement processing and directed affected districts to work through Rail Division instead of contacting the railroad directly.
- 0001-01-062 is a sidewalk project that started railroad coordination close to letting. The railroad has identified issues not directly related to the project that need to be corrected prior to allowing the work. Section 130 funds are being programmed to address the issues.
- 2452-02-128 involves new bridge construction adjacent to an existing railroad bridge. The railroad confirmed later in the coordination that their bridge will need to be protected. A construction management plan was implemented to allow the majority of underlying work to occur and for the railroad agreement to be finalized.
- 0041-01-048 is a sidewalk and traffic signal project involving two (2) railroad crossings. Section 130 funds are being used to cover the railroad coordination. Final railroad approvals and estimates are expected in Fall 2021.
- 0523-09-009 involves widening and traffic signal preemption. Change in railroad right of way and project management has caused delays. Project anticipated to clear in early 2022.

- 0389-05-087 involves work added by the district well into the design phase that impacts the railroad and railroad evaluation was delayed as a result. The project let with a construction management plan to mitigate the railroad impact.
- 0015-09-194 involves bridge maintenance work and the project was added close to the letting date, delaying railroad review and approval. The project let with a construction management plan to mitigate the railroad impact.
- 0587-01-060 involves replacement of a bridge over a 3rd party rail yard. Railroad coordination has been taking place, and ownership of the rail yard changed after letting. A management plan is in process to mitigate rail impact.
- 0049-14-014 and 0916-00-217 are striping projects. Rail Division staff delays as well as changes in railroad right of way management have delayed the project clearance.

Design Build projects are not included in the above summary. Currently three (3) design build projects have been executed with one (1) having the required railroad agreement executed, while two (2) others have not had plans advanced to a stage to allow for the agreement to be submitted to the railroad. The Union Pacific Railroad is affected by all three (3) plus other proposed projects and changed their policy during 2021, requiring full 100% plans to be approved by them prior to executing a construction and maintenance agreement.

The following table contains a summary of the outstanding Railroad items from the 2020 report:

CSJ	Road Name	Expected Agreement Execution Date	Actual Agreement Execution Date
0018-06-136	IH 35	5/1/2021	8/11/2021
0039-07-256	IH 69E	11/15/2020	10/15/2021
0500-04-103	IH 45	10/30/2020	1/11/2021
3559-02-007	SH 170	9/1/2020	6/21/2021

Construction Oversight and Inspections

CST continues efforts to perform periodic in-depth project reviews and central monitoring of contract administration requirements.

CST conducted audits of contractor evaluations and labor compliance and provided districts feedback on findings.

CST continues to drive improvements through training opportunities for engineering, inspection, and recordkeeping staff. New and refreshed training courses released in FY 2021 include the following.

- Development and implementation of two new schedule analysis courses: CON511, “Basic Construction Schedule Analysis,” and CON512, “Time Impact Analysis.” Each training is refreshed after six sessions based on in-class surveys and policy or procedural updates. Newly developed training effectiveness surveys are scheduled to deploy to class participants and their managers six (6) months after training completion.
- CON320, “Construction Recordkeeper Bootcamp,” was facilitated to provide basic TxDOT Construction Recordkeeper guidelines, tools, and best practices for new recordkeepers within the agency.
- The Inspector Development Program continued instruction of CON304, “Construction Inspector Bootcamp,” regionally and CON305, “Inspector Development Workshop,” virtually for inspection topics requested by the Districts. CST provided role-based resources for staff to access.
- The annual recordkeeper meeting was held to discuss focused contract administration issues.

CST continues to schedule and conduct change order peer reviews between districts, facilitating discussion of strengths and weaknesses for a specific sample.

CST also continues its monthly and quarterly reporting to TxDOT administration and the Texas Transportation Commission to provide routine oversight opportunities and elevate awareness of significant issues that may require high-level intervention.

Materials Testing and Quality Assurance

The Materials and Tests Division’s (MTD) 133 employees help ensure quality construction and maintenance of transportation facilities by testing material for compliance with specifications; developing and maintaining TxDOT’s test procedures and specifications; and administering the Quality Assurance Programs.

MTD performs testing of material samples taken from ongoing TxDOT projects, as well as quality monitoring samples, to assess quality of materials being provided to TxDOT projects. During Fiscal Year 2021, MTD’s central laboratories tested more than 14,000 samples and performed more than 59,000 tests to determine conformance of roadway material with established specifications. MTD’s Flexible Pavements Section field offices oversaw the testing and production of over 1.5 million tons of materials used on TxDOT’s roadways. In addition, MTD’s Prefabricated Structural Materials Section performed on-site Quality Assurance inspections encompassing more than 54.3 million pounds of steel bridge girders, 1.3 million linear feet of prestressed concrete bridge girders, and 8.1 million square feet of concrete wall and bridge deck panels.

MTD manages the development of TxDOT’s Special Specifications and Provisions to modify TxDOT’s Standard Specifications, as well as provides oversight for one-time use provisions

submitted by districts. During Fiscal Year 2021, MTD implemented 13 special specifications and provisions and over 1,032 one-time use special specifications and special provisions. MTD also establishes TxDOT's test procedures as a standard of practice for performance of material tests. MTD developed or revised 25 test procedures and department material specifications (DMS) during Fiscal Year 2021.

MTD partners with the Texas A&M Transportation Institute and the University of Texas Center for Transportation Research to present TxDOT Materials Academy Workshops. The workshops are tailored to the needs of TxDOT personnel involved in the design, construction, rehabilitation, and maintenance of TxDOT's roadways. During Fiscal Year 2021, the three-week workshop was conducted virtually in April 2021, reaching 29 professional engineers or engineering assistants.

Quality Assurance Program for Design-Bid-Build Projects

MTD maintains the TxDOT Quality Assurance Program (QAP) for Design-Bid-Build (DBB) Projects. The QAP for DBB Projects has been published at:

<http://www.txdot.gov/inside-txdot/division/materials-and-tests.html>

MTD also maintains the Guide Schedule of Sampling and Testing for Design-Bid-Build Projects (DBB Guide Schedule). The DBB Guide Schedule has been published at:

<https://www.txdot.gov/inside-txdot/division/materials-and-tests/guide-schedule.html>

Quality Assurance Program for CDA/Design-Build Projects:

- MTD maintains the TxDOT "Quality Assurance Program for Comprehensive Development Agreement (CDA)/Design-Build Projects" (the "DB QAP"). The DB QAP was revised and published with an effective date of October 27, 2020.
- MTD also maintains the "Guide Schedule of Sampling and Testing for Design-Build Projects by the Independent Quality Firm (IQF)" (the "DB Guide Schedule"). The DB guide schedule was revised and published with an effective date of May 27, 2020.

These two documents are available at the following link:

<http://www.txdot.gov/inside-txdot/division/materials-and-tests.html>

MTD provides oversight for CDA/DB projects by conducting training, participating in inspection/material risk workshops, and reviewing quality management plans and reports, including:

- Conducting Quality Management Training on alternative delivery projects for project personnel, including DB contractors' Quality Control and Independent Quality Firm; TxDOT's General Engineering Consultant; Independent Assurance Firm; Owner Verification Firm; and TxDOT project personnel. Training addressed TxDOT's DB QAP, including federal and state requirements, quality roles and responsibilities, and the QAP implementation process.

- Participating in DB project Inspection/Material Risk Workshops in conjunction with FHWA to review project-specific risks and identify appropriate levels of TxDOT verification for testing as well as assessment of high-risk items/elements for inspection oversight.
- Reviewing and approving Construction Quality Management Plans and Owner Verification Testing and Inspection Plans for DB projects.
- Reviewing and approving Owner Verification (OV) reports for federal funded projects prior to submission to FHWA by the DB project team. Also, reviewing and approving OV reports for non-federal funded projects.
- Reviewing project-specific deviations on DB Specifications.

MTD reports to FHWA annually on the Independent Assurance Program, a component of the Quality Assurance Program used by districts to test and approve materials at the district level. TxDOT submitted the annual report for 2020 (the most current) to FHWA for approval.

Right-of-way Acquisition; Business, Residential, and Utility Relocation

The Right of Way Division continues to further its mission: *Delivering right of way solutions for Texas.*

There are 265 employees in the Right of Way Division (ROW) and in the TxDOT districts who are responsible for the delivery of State right of way. ROW has established protocols for training and taken measures to ensure compliance with state and federal laws and regulations, including the Uniform Relocation Assistance and Real Property Acquisition Act (Uniform Act). ROW personnel monitor Local Government Agencies and consultants acquiring right of way for compliance with the Uniform Act in acquisitions, relocations, and eminent domain.

Utility accommodations are a cost of right of way acquisition. Therefore, ROW is also responsible for developing policies and procedures related to the reimbursement of utility accommodation costs, as well as ensuring compliance with state and federal laws and regulations. Training is provided to stakeholders in the areas of utility conflict management, utility accommodation policies and procedures, and Buy America compliance.

ROW continues training utility company representatives, TxDOT staff involved in utility coordination activities, and consultants across the state on the latest Buy America guidelines as well as utility conflict management procedures.

During Fiscal Year 2021, ROW accomplished the following:

Acquisition

- 2,401 parcels acquired:
 - 1,819 acquired by negotiation
 - 582 acquired by condemnation (24.2% eminent domain rate)
- 860 relocation displacees:
 - 402 residential
 - 124 Business/Farm/Non-Profit Organization
 - 334 personal property only moves

Utility Accommodations

- 236 Utility Agreements executed
- 100% of utility relocations reviewed were Buy America compliant

Commercial Signs

- 6 Commercial Sign permits were issued for relocation (does not include number of commercial signs impacted by highway projects)
- 102 Signs became “Pending Relo” (used to determine “Acquired” status)
- 17 Impacted Signs on Construction Projects
- 259 new permits issued
- 298 Illegal signs identified
- 147 Illegal Sign Notifications sent
- 126 Notices of Signs Subject Regulation (MAP 21)
- 43 illegal signs removed
- 33 enforcement cases with the Office of the Attorney General
- 13,975 Active Permits
- 192,891 Inspection Miles
- 32 Certified Cities
- 4,000 Certified City Signs

Real Estate Dispositions

- 34 disposals (Non-Interstate) approved

ROW Use Agreements

From October 2020-September 2021, TxDOT executed 17 ROW use agreements (non-interstate). Right-of-way use agreements, also known as Multiple Use Agreements (MUAs), are agreements TxDOT executes with local and federal governments for the use of state right-of-way for a non-highway purpose that serves a public interest. Some examples of right-of-way use agreements include parking facilities, shared use pathways, boat ramps, and law enforcement functions. These agreements stipulate that the local or federal government is responsible for the construction and maintenance of the facility at hand.

Performance-Based Planning and Programming

Performance-based planning and programming is the practice of using data to inform decision-making about investments in the transportation system. Performance-based planning and programming provides a link between the state’s transportation strategy and the real-world operations of the highway network. TxDOT relies on this approach to select transportation projects that demonstrate the greatest needs and potential benefits to the state system based on objective measurement. Data inputs include traffic levels, freight volumes, crash counts, and pavement quality scores. Performance-based planning and programming help safeguard taxpayer dollars by helping TxDOT develop and build the right projects to address the needs of the entire state.

The performance-based planning and programming process begins with the development of a statewide long-range transportation plan. During the long-range planning process, the state establishes goals, develops performance measures, and establishes targets for the statewide transportation system, which set the direction for future infrastructure investment. Figure 1 shows the performance-based planning and programming process.



Figure1. Performance-Based Planning and Programming Process

Monitoring Performance

TxDOT’s [performance dashboard](#) provides a transparent way to show how we are doing as an agency. Performance measures are monitored that relate to the seven strategic goals that guide our mission of Connecting You with Texas: Promote Safety, Optimize System Performance, Preserve Our Assets, Deliver the Right Projects, Focus on the Customer, Foster Stewardship and Value Our Employees.

Quarterly Review Process

As part of the performance-based planning and programming process, TxDOT applies a portfolio management process to comply with Federal and State legislation. A major element is the Quarterly Review Process (QRP), a rigorous four stage process (see Figure 2) involving monthly data collection, data analysis and quarterly meetings between TxDOT Divisions and Districts to monitor the agency's performance in terms of budgeting, planning, and programming the department's project portfolio within a 10-year window that is aligned with its Unified Transportation Program. The objective of the QRP is to develop a healthy statewide portfolio supported by the right projects, developed in individual districts, and given resources provided by divisions to meet TxDOT's strategic initiatives. Specifically, the QRP aims to ensure:

- Portfolio health - Deliver TxDOT's strategic initiatives per latest financial forecast through building the right volume and mix of projects with cleared milestones;
- Project health - Monitor progress towards clearing milestones to ensure letting projects on time; and
- Resource health - Coordinate resource budgets and future staffing needs.

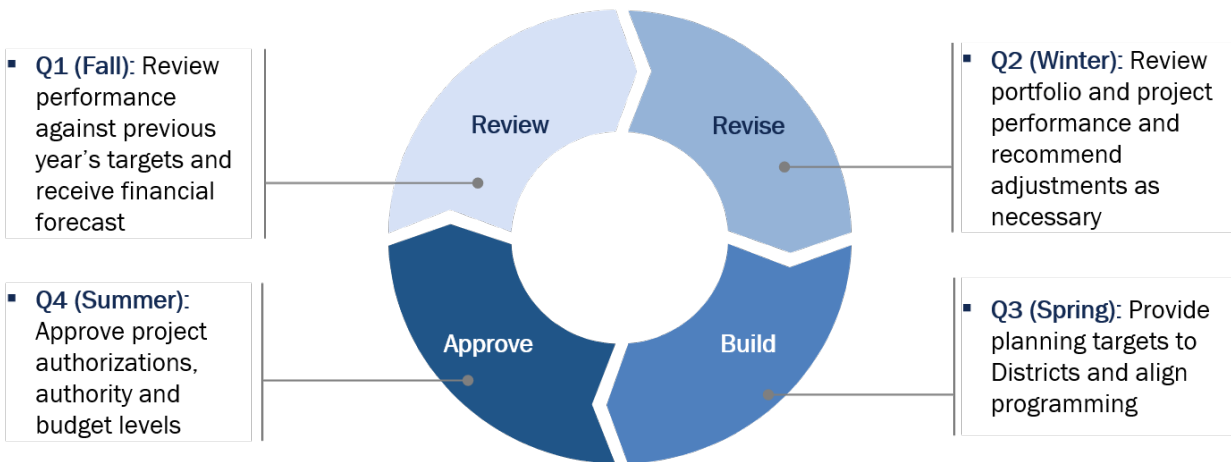


Figure 2. QRP Development Stages

The QRP process

- facilitates the timely request and accurate planning for centralized resources;
- provides early guidance and approved strategic guidance to districts on their volume and mix of projects, enabling improved planning;
- is used to engage stakeholders, including Metropolitan Planning Organizations; and
- provides transparency to TxDOT leadership on their role and required decisions.

Statewide Transportation Improvement Program (STIP)

The 2021-2024 STIP was approved by FHWA in FY 2021.

Environmental Compliance

TxDOT is in its second year working under the First Renewed NEPA Assignment Memorandum of Understanding (MOU) between the FHWA and the department concerning State of Texas' participation in the Project Delivery Program pursuant to 23 U.S.C. 327, commonly known as the National Environmental Policy Act (NEPA) Assignment Program.

Classes of Actions	Fiscal Year 2020	Fiscal Year 2021
Categorical Exclusions	2,657	2,062
Environmental Assessment/FONSI	22	11*
Environmental Impact Statement/ROD	0	1*

* All environmental assessment projects that received a FONSI in Fiscal Year 2021 were started after NEPA Assignment (12/16/2014). The one environmental impact statement that received a ROD in Fiscal Year 2021 was started before NEPA Assignment.

Assigned Federal Projects	Annual Average Time Fiscal Year 2020	Annual Average Time Fiscal Year 2021	Time Savings improvement over previous fiscal year (days)
Environmental Assessment/FONSI	768 (days)	656 (days)	112
Environmental Impact Statement/ROD	n/a	3,390**	n/a**

**This value for a single record decision is not an annual average; it is the actual time to complete environmental analysis from publication of the notice of intent (prior to NEPA Assignment) to the record of decision. No time savings comparison can be made to Fiscal Year 2020 because there were no records of decision issued in Fiscal Year 2020.

Key Assignment Metric: Key to the foundation of the Assignment Program is streamlining and shortening the environmental review and approval process for federal aid projects while assuring projects are environmentally compliant. The average time to complete an environmental assessment decreased in Fiscal Year 2021 over Fiscal Year 2020, and since the effective date of Assignment (December 16, 2014) the days to complete environmental assessments has decreased significantly.

The Environmental Affairs Division (ENV) calculated the average number of days to complete environmental assessments (EA) with a project decision of a Finding of No Significant Impact (FONSI). The reduction in time to develop and complete an environmental document is a direct result of improved efficiencies, guidance, training, and the authority assigned to TxDOT to make project decisions on assigned federally funded projects (NEPA Assignment).

Training: ENV provides training to department staff as well as local government, consultant, and other agency staff. In Fiscal Year 2021, ENV provided training to 878 persons (997 in Fiscal Year 2020) through 44 classes in the subjects of Air, Biology, Water, Noise, Hazmat, NEPA, and ECOS. ENV hosted the annual Environmental Conference in October 2021 and it was attended by over 400. Because of coronavirus concerns this conference was not held in 2020.

Staffing: ENV has a total of 66 technical subject matter experts and 12 business operations staff who guide overall program activities and assist district personnel on federal aid projects.

Projects in Active Litigation on the Basis of NEPA Determination: The department is currently in active litigation in two lawsuits on the basis of the NEPA determination.

The first lawsuit on the basis of the NEPA determination is Save Barton Creek Association et al. v. Texas Department of Transportation et al., filed in the United States District Court for the Western District of Texas, Austin Division, on July 29, 2019. This lawsuit involves the Oak Hill Parkway project in Austin. On September 13, 2021, the court issued an order denying all the plaintiffs' requests for relief. The plaintiffs have indicated that they intend to appeal the court's decision. As of the date of this report's preparation, the plaintiffs have not yet filed a notice of appeal. The deadline for doing so is November 12, 2021.

The second lawsuit on the basis of the NEPA determination is Harris County, Texas v. Texas Department of Transportation et al., filed in the United States District Court for the Southern District of Texas, Houston Division, on March 11, 2021. This lawsuit involves the North Houston Highway Improvement Project in Houston. As of the date of this report's preparation, the lawsuit remains pending. The deadline for TxDOT to file the administrative record with the court is December 3, 2021.

Additionally, although it is not a lawsuit on the basis of the NEPA determination, the department is in active litigation involving TxDOT's compliance with Section 7 of the Endangered Species Act on the Oak Hill Parkway project in Austin. The lawsuit is Save Our Springs Alliance, Inc. v. Texas Department of Transportation and the United States Fish and Wildlife Service, filed in the United States District Court for the Western District of Texas, Austin Division, on July 29, 2019. As of the date of this report's preparation, the lawsuit remains pending. TxDOT filed its cross-motion for summary judgment and response to plaintiff's motion for summary judgment on October 5, 2021.

Changes or Enhancements to TxDOT's Organizational Structure

At the beginning of fiscal year 2021, there were no changes to TxDOT's organizational structure. However, TxDOT had the following changes during fiscal year 2021, as depicted in the latest [organizational chart](#) dated 9/1/21:

- Retirement of TxDOT's Executive Director in May 2021.
- Appointment of TxDOT's new Executive Director in June 2021.
- Appointment of TxDOT's Deputy Executive Director of Planning and Administration in July 2021.
- Appointment of TxDOT's Deputy Executive Director of Program Delivery in August 2021.

Changes or Enhancements to Financial Management Systems

Enhancements to TxDOT's Oracle PeopleSoft Financial Supply Chain Management System (FSCM) Application

Through TxDOT's internal application request (AR) process, TxDOT implemented enhancements to the FSCM through a total of 105 ARs during 2021.

Module	Number of ARs
Asset Management (AM)	1
Accounts Payable (AP)	8
Accounts Receivable (AR)	2
Financial Supply Chain Management (FSCM)	1
General Ledger (GL)	6
Inventory (IN)	6
Commitment Control (KK)	1
Project Costing (PC)	2

Purchase Order (PO)	18
Projects (PR)	10
PeopleTools (PT)	41
Travel and Expense (TE)	9
Total	105

Enhancements to Federal Authorization Funding Obligation System (FAFOS)

FAFOS is an internal TxDOT application that serves as platform to facilitate electronic data sharing (EDS) efforts between TxDOT and FHWA’s Financial Management Information System (FMIS) 5.0. There were 3 application requests during Fiscal Year 2021. These enhancements to FAFOS during 2021 have increased system effectiveness and increased communication capabilities with FMIS 5.0.

Enhancements to TxDOT Project Close-Outs with FHWA

TxDOT did not make any significant changes/enhancements to the project close-out process with FHWA in FY2021.

Responding to Quarterly Audits of Inactive Projects

TxDOT did not make any significant changes/enhancements to the process for responding to the quarterly audits of inactive projects in FY 2021.

Key Findings Related to Delivery of the FAHP from Internal, State, or Federal Audits and Any Related Action Plans to Ensure Compliance

The following audit reports and related action plans relevant to the delivery of the FAHP are available online at the locations listed below.

TxDOT Internal Audits Issued in Fiscal Year 2021

Local Government Projects Pre-award

https://ftp.txdot.gov/pub/txdot-info/aud/reports/LG_Project_Pre-Award_Final_Internal_Audit_Report.pdf

Facility Management – Improvement Assessment, Selection, and Oversight

https://ftp.txdot.gov/pub/txdot-info/aud/reports/Facility_Management_Audit_Final_Report.pdf

Plan Review and Bid Estimation Effectiveness

https://ftp.txdot.gov/pub/txdot-info/aud/reports/Plan_Review_and_Bid_Estimation_Effectiveness_Final_Internal_Audit_Report.pdf

Professional Engineering Procurement Services: Consultant Performance

https://ftp.txdot.gov/pub/txdot-info/aud/reports/PEPS_Consultant_Performance_Audit_Final_Report.pdf

Materials Testing – Soils and Aggregate

https://ftp.txdot.gov/pub/txdot-info/aud/reports/Materials_Testing_Soils_and_Aggregate_Final_Internal_Audit_Report.pdf

TxDOT Internal Audits Completed in Fiscal Year 2021

State of Texas Federal Portion of the Statewide Single Audit Report for the Year Ended August 31, 2020

<https://sao.texas.gov/reports/main/21-015.pdf>

Audit of the El Paso Metropolitan Planning Organization

https://ftp.txdot.gov/pub/txdot-info/aud/reports/Audit_of_the_El_Paso_Metropolitan_Planning_Organization.pdf

Audit of Traffic Safety Grant Recipients – Grand Prairie Police Department

https://ftp.txdot.gov/pub/txdot-info/aud/reports/Audit_of_Traffic_Safety_Grant_Recipients-Grand_Prairie_Police_Department.pdf

No relevant SAO audits in FY 2021 other than the Single Audit.

Stewardship and Oversight Indicators

This section provides performance indicator information as it pertains to the Stewardship and Oversight Agreement between the Texas Department of Transportation and the Federal Highway Administration. The FHWA will use these indicators to monitor the assumed project level actions and to track statewide trends. The FHWA may also obtain and use the source data for these indicators to conduct data analysis at the district level to determine the health of the FAHP. This data analysis and visualization will also serve as the basis for gathering information from the districts to identify areas where the FHWA can provide services and technical assistance, as appropriate.

TxDOT, in coordination with the FHWA Texas Division, updates the set of stewardship and oversight indicators included in this report every three years. We may also modify the indicators when there is an update to the S&O agreement within the three-year cycle. The following indicators are effective for the Fiscal Years 2019-2021 reporting period.

Area of Focus	Assumed (Delegated) Actions per S & O Agreement Attachment A	S&O Indicator(s)	Fiscal Year 2021 Result
Structures	Provide approval of preliminary plans for unusual/complex bridges or structures (non-Interstate). [23 USC 109(a) and FHWA Policy]	Number of approved preliminary plans for unusual/complex bridge or structures.	3
		Number of significant design comments requiring resolution for an unusual/complex bridge/structure.	1
		Number of construction change orders attributed to the design of an unusual/complex bridge/structure.	3
Civil Rights	Acceptance of Bidder's Good Faith Efforts to Meet Contract Goal or of Prime Contractor's Good Faith Efforts to Find Another DBE Subcontractor When a DBE Subcontractor is Terminated or Fails to Complete Its Work. [49 CFR 26.53(g)]	Number of projects awarded utilizing Good Faith Efforts.	0
		Number of projects closed utilizing Good Faith Efforts.	47

Area of Focus	Assumed (Delegated) Actions per S & O Agreement Attachment A	S&O Indicator(s)	Fiscal Year 2021 Result
Construction	Concur in award of contract. [23 CFR 635.114]. Approve PS&E. [23 CFR 630.201]	Percent of projects with low bid within +/- 10% engineer's estimate.	45%
	Approve PS&E. [23 CFR 630.201]	Percent of construction projects completed on budget (within +/- 10% of awarded amount).	81% (645 of 795)
	Approve PS&E. [23 CFR 630.201]	Percent of construction projects completed on time (within +/- 10% of the contract time).	69% (549 of 795)
	Make feasibility/practicability determination for allowing authorization of construction prior to completion of ROW clearance, utility and railroad work. [23 CFR 635.309(b)]	Number of projects with ROW/utility delay based on the Ready to Let Definition	ROW only = 2 (1 req. CMP); Utility only = 109 (33 req. CMP); Both = 23 (14 req. MP)
	Concur in award of contract/rejection of all bids. [23 CFR 635.114]	Average number of bidders per small, medium, and large projects (Small - Below \$15M; Medium in Between, Large - \$50M and Above).	Small - 5.4 Medium - 5.9 Large - 4.7
	Concur in settlement of contract claims. [23 CFR 635.124]	Number of contracts using Federal funds for settlement of contract claims.	0
	Approve cost-effectiveness determinations for construction work performed by force account or by contract awarded by other than competitive bidding. [23 CFR 635.104 & 635.204]	Number of Federal-aid projects by force account or by contract awarded by other than competitive bidding.	0

Area of Focus	Assumed (Delegated) Actions per S & O Agreement Attachment A	S&O Indicator(s)	Fiscal Year 2021 Result
Design	Approve Changes and Extra work. [23 CFR 635.120] Approve PS&E. [23 CFR 630.201]	Percent of change orders resulting in increased cost due to design errors.	38%
	Approve utility and railroad agreements [23 CFR 645.113 & 646.216]	Number of projects with railroad agreement not executed, work during construction certificates.	11 out of 124 (8.9%)
	Approve exceptions to design standards. (Interstate). [23 CFR 625.3(f)]	Number of Design Exceptions processed by TxDOT on the Interstate.	10
Emergency Relief	Approve emergency determinations for contracts awarded by other than competitive bidding. [23 CFR 635.104. & 204]	Number of Emergency Determinations (TxDOT's Certification of Emergency) approved per event.	1 event: 8/23/2020 and the contract was awarded 9/15/2020
		Number of Emergency Determinations (TxDOT's Certification of Emergency) per event that was Let 3 months after the event.	0
Right-of-Way	Ensure compliant ROW certificate is in place. [23 CFR 635.309.309 (c)]	Percent of projects with conditional ROW certifications.	134 out of 771 (17.4%)
	Approve disposal at fair market value of federally funded right-of-way, including disposals of access control [23 CFR 1.23(c)]	Number of Disposals approved. (Non-Interstate)	34
	Approve non-highway use and occupancy [23 CFR 637.207]	Number of ROW use agreement approved. (Non- Interstate)	17

Area of Focus	Assumed (Delegated) Actions per S & O Agreement Attachment A	S&O Indicator(s)	Fiscal Year 2021 Result
Pavement and Materials	Accept materials certification. [23 CFR 637.207]	Number and percentage of final accepted Federal-aid construction projects lacking a Materials Certification Letter.	2 (0.3%) of 691 projects
		Percentage of Materials Certification Letters with no exceptions to the plans and specifications.	80%
Utility	Approve utility and railroad agreements. [23 CFR 645.113 & 645.119]	Number of TxDOT reviews on utility projects (with executed agreements).	236
	Approve utility and railroad agreements. [23 CFR 645.113 & 645.119]	Percent of projects in compliance with Buy America requirements.	100%
Environment	All CE, EA/FONSI, EIS/ROD, 4(f). 106, 6(f), and other approval actions required by Federal environmental laws and regulations included in the FHWA-TX 327 NEPA Assignment MOU.	Average number of days of time savings/efficiency of TxDOT issuing NEPA approvals (CE, EA, EIS) from the prior year.	EA: 112 days from prior year EIS: N/A See ENV section for more details