



# Stewardship & Oversight Report Fiscal Year 2022

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Federal Highway Administration,  
Texas Division

December 2022

## 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 set 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 seventh of the annual reports under the S&O Agreement and provides summary information on TxDOT's Federal Fiscal Year 2022 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 701 federally funded projects during Federal Fiscal Year 2022 (Oct-Sept) totaling \$7.904 billion.
  - 592 Statewide Lets (\$5.618 billion)
  - 45 Local Public Agencies (LPAs) Lets (\$558 million)
  - 1 Design Build Lets (\$1.590 billion)
  - 63 Other Lets (\$138 million)
- TxDOT processed 810 construction project preliminary engineering plan sets for letting in Fiscal Year 2022
- TxDOT managed approximately 1,722 active construction projects during Federal Fiscal Year 2022

### 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 2022 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 Federal FY 2022 end of year report (data collected at the end of September 2022 from TxDOTCONNECT) includes 1001 active LG projects with total funding in the amount of \$7.12 billion. The total amount of federal funds committed to these projects is \$4.56 billion (64.01%).
- During Federal FY 2022 there were a total of 109 LG projects let (either by TxDOT or local governments) totaling \$825 million in construction costs. The breakdown of LG projects let in Federal FY 2022 includes:
  - 45 LG projects let by TxDOT totaling \$558 million in construction dollars
  - 63 projects let by local governments totaling \$267 million in construction dollars
- During Federal FY 2022, LGs were reimbursed approximately \$103.99 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 2022, 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 (Preliminary Engineering and PS&E)

On an annual basis, FHWA Texas Division develops a list of TxDOT projects known as Texas Division Involved Projects (TxDIP) 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 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. 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. During FY 2022, updates were made to the TxDOTCONNECT Major Project page to enhance the use of the page, including a cascade feature that allows the user to enter status information for the environmental main control-section-job (CSJ) whereby TxDOTCONNECT will then populate the information for any environmental associate CSJs identified in TxDOT's Environmental Compliance Oversight System (ECOS). As status data becomes available for each Major Project, the TxDOTCONNECT Major Project page will 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).

During this reporting period, TxDOT continued through the Design Division to enhance the delivery of Interstate projects that involve the need for Interstate Access Justification Reports (IAJR). TxDOTCONNECT was enhanced to include an IAJR Milestone in the Project Management Page's Project Planning Tab, as well as the Project Details Page. Design Division also worked with the Districts to ensure early/timely coordination occurred with FHWA regarding IAJR methodologies and assumptions (known as M&A) for better opportunity of receiving FHWA review / approval in advance of FPAA for letting. Additionally, Design Division and FHWA partnered and hosted an FHWA-facilitated IAJR - Traffic Simulation and Safety Analysis Workshop in May 2022.

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 continued to update and maintain an improved webpage with many 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, Environmental Affairs Division, Financial Management Division, Right of Way Division, Rail Division, Transportation Programs Division, Construction Division, Transportation Planning & Programming 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: Cost Estimating Guidance (12/2021); Plan Review SOP (4/2022); Early Plans Posting for Contractor Review SOP (5/2022). Additionally, during this reporting period, TxDOT has coordinated with FHWA on the staged development of the Design Exception SOP with a revised Design Exception Template and a comprehensive Design Exception checklist.

Design Division continued their peer reviews with the Districts and held two more 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 Austin, San Antonio, and Waco Districts (1/2022), and the second included Atlanta, Paris, and Tyler Districts (5/2022).

### 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 2022, TxDOT executed a total of 250 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 250 projects that TxDOT certified in Fiscal Year 2022, TxDOT let nine (9) projects without associated agreements. The status of these nine projects is shown in the following table.

### **2022 Reporting**

CSJ	Road Name	Expected Agreement Execution Date	Actual Agreement Execution Date
0026-06-035	US 90	1/31/2022	1/13/2022
0049-09-088	BS 6-R	11/30/2021	1/5/2022
0049-14-014	FM 46	5/1/2022	4/21/2022
0049-15-014	SH 14	11/30/2021	12/4/2021
0009-06-052	SH 66	2/28/2022	3/11/2022
0063-11-054	SH 149	6/1/2023	TBD
0176-04-056	US 59	1/2/2023	TBD
0338-04-060	SH 105	10/30/2024	TBD
0739-02-140	IH 10	6/1/2022	7/1/2021

The individual projects that are not cleared as of 11/17/2022 are summarized below:

- 0063-11-054. Agreement execution expected on 12/2/2022. Agreement was delayed due to BNSF Railway re-evaluation of all template agreements.
- 0176-04-056. 1 of 2 overpass agreements have been executed as of 11/18/2022. 2<sup>nd</sup> agreement is expected to be executed on 12/2/2022. Agreements were delayed due to Union Pacific Railroad staff and engineering changes.
- 0338-04-060. Project let prior to plans being provided by the district to Rail Division. Project design and review in process with BNSF railway for multiple preempted intersections.

The following table contains a summary of the outstanding Railroad items from the 2021 report:

CSJ	Road Name	Expected Agreement Execution Date	Actual Agreement Execution Date
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	11/10/2021
0523-09-009	FM 1488	12/1/2021	7/31/2022
0389-05-087	SH 146	6/1/2022	5/31/2022
0015-09-194	IH 35	12/1/2021	11/18/2021
0587-01-060	FM 1495	6/1/2022	12/1/2022
0049-14-014	FM 50 etc.	11/1/2021	2/28/2022
0916-00-217	US 181 etc.	11/1/2021	8/6/2022

Explanation of projects that are not cleared:

- 0001-01-062 is a sidewalk project that started railroad coordination close to the letting date. 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. The City of El Paso is in the process of signing the final preemption forms. A fully executed agreement is anticipated in the Spring of 2023.
- 2452-02-128 direct connector agreement was signed 12/1/2022. The district has also added sidewalk and drainage work during the summer of 2022, requiring additional agreements. These agreements are expected to be executed by the summer of 2023.

Design Build projects are not included in the above summary. Currently one (1) design build project has been executed without having the required railroad agreement executed. The Union Pacific Railroad changed their policy during 2021, requiring full 100% plans to be approved by them prior to executing a construction and maintenance agreement.

### Construction Oversight and Inspections

The Construction Division (CST) participates in monthly meetings with FHWA to address any ongoing issues or questions and continues to address observations and recommendations from FHWA's Time Suspension and Change Order Process reviews.

Internal oversight efforts include:

- reviewing proposals to verify inclusion of recently updated Form FHWA-1273,
- auditing pre-bid Q&A responses to ensure the integrity of the competitive bidding process and transitioning to a new interface to improve user experience,
- performing periodic in-depth project reviews and central monitoring of contract administration requirements,
- collecting, reviewing, and auditing prime contractor evaluations for all districts and providing feedback on any findings, and
- providing 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.

CST continues to drive improvements through training opportunities for engineering, inspection, and recordkeeping staff. Areas of focus for FY 2022 include the following.

- Instruction has continued for CON511, "Basic Construction Schedule Analysis," and CON512, "Time Impact Analysis."
- CON320, "Construction Recordkeeper Bootcamp," continues to be 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,” across the state and CON305, “Inspector Development Workshop,” virtually and in person for inspection topics requested by the Districts. CST has also provided role-based resources for staff in all roles 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 began developing a Project Management course, specific to construction projects. The project timeline is approximately 18 months to 2 years for implementation.

In addition to formal trainings, CST provides direction through other avenues, as follows:

- CST updates the *Construction Contract Administration Manual* annually and participates in clarifying and updating policies with other TxDOT Divisions, such as the recent Errors and Omissions policy.
- New for FY 2022, the internal Project Manager Development webpage provides supplemental training to assist construction project managers with policies and procedures.
- The internal Construction Support webpage includes guidance on change orders and other contract administration topics.
- CST conducts quarterly Director of Construction meetings to communicate FHWA findings, reports, and other updates related to the construction program.
- CST staff also supports the Districts by providing one-on-one guidance for issues including the newly revised Buy America requirements.

### *Materials Testing and Quality Assurance*

The Materials and Tests Division’s (MTD) 134 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 2022, MTD’s laboratories tested 14,234 samples and performed 51,830 tests to determine conformance of roadway material with established specifications. MTD’s Flexible Pavements Section field offices oversaw the testing and production of over 1.4 million tons of materials used on TxDOT’s roadways. In addition, MTD’s Prefabricated Structural Materials Section performed Quality Assurance oversight encompassing more than 60.9 million pounds of steel bridge members, 1.3 million linear feet of prestressed concrete bridge girders, and 5.6 million square feet of concrete 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 2022, MTD implemented 37 special specifications

and provisions and 1,023 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 35 test procedures and department material specifications (DMS) during Fiscal Year 2022.

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 2022, a five-week workshop was conducted in October 2021 and a three-week workshop was conducted in April 2022, reaching a total of 62 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 was revised and published with an effective date of January 2022. This document is available at the following link:

[Materials \(txdot.gov\)](https://www.txdot.gov/materials)

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:

[Design-bid-build guide schedule \(txdot.gov\)](https://www.txdot.gov/design-bid-build-guide-schedule)

#### *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:

[Materials \(txdot.gov\)](https://www.txdot.gov/materials)

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. 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 2021 (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 220 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 2022, ROW accomplished the following:

#### Acquisition

- 1,764 parcels acquired:
  - 1,510 acquired by negotiation
  - 254 acquired by condemnation (14.4% eminent domain rate)
- 780 relocation displaces:
  - 393 residential
  - 123 Business/Farm/Non-Profit Organization
  - 264 personal property only moves

#### Utility Accommodations

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

#### Commercial Signs

- 32 Commercial Sign permits were issued for relocation (does not include number of commercial signs impacted by highway projects)
- 54 Signs became “Pending Relo” (used to determine “Acquired” status)
- 23 Impacted Signs on Construction Projects
- 274 new permits issued
- 126 Illegal signs identified
- 158 Illegal Sign Notifications sent
- 59 Notices of Signs Subject Regulation (MAP 21)
- 16 illegal signs removed
- 71 enforcement cases with the Office of the Attorney General
- 14,017 Active Permits
- 192,891 Inspection Miles
- 33 Certified Cities
- 4,013 Certified City Signs

#### Real Estate Dispositions

- 43 disposals (Non-Interstate) approved

#### *ROW Use Agreements*

From October 2021-September 2022, TxDOT executed 26 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.

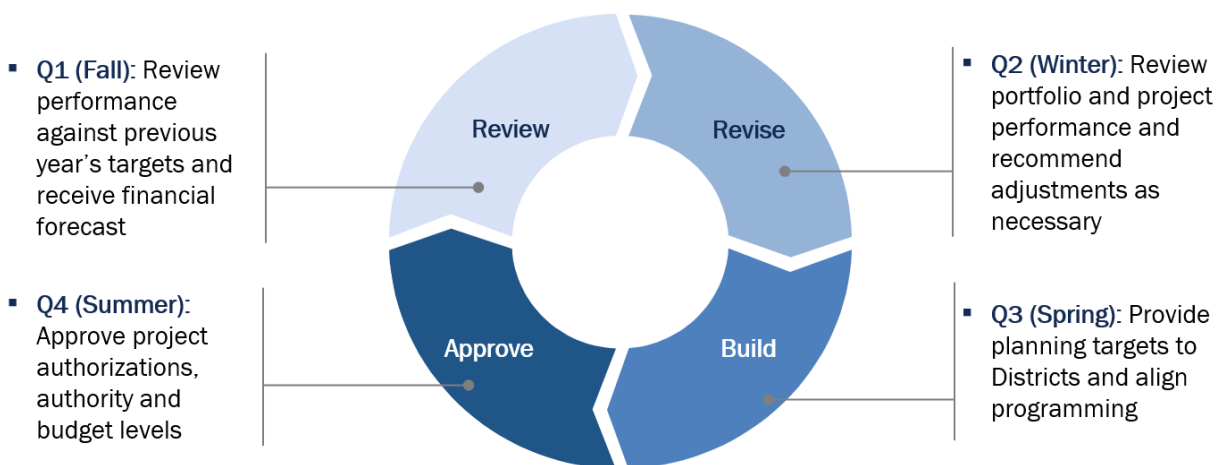


Figure 2. QRP Development Stages

### 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 third 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 2021	Fiscal Year 2022
Categorical Exclusions	2,062	2,335
Environmental Assessment/FONSI	11*	12**
Environmental Impact Statement/ROD	1*	0

\* 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.

\*\* One of the 12 environmental assessment projects that received a FONSI in Fiscal Year 2022 was started prior to Assignment (12/16/2014).

Assigned Federal Projects	Annual Average Time Fiscal Year 2021	Annual Average Time Fiscal Year 2022	Time Savings improvement over previous fiscal year (days)
Environmental Assessment/FONSI	656 (days)	914 (days)	-258
Environmental Impact Statement/ROD	3,390 ***	n/a	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 2022 because there were no records of decision issued in Fiscal Year 2022.

*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. Although the average time to complete an environmental assessment increased in Fiscal Year 2022 over Fiscal Year 2021, ENV attributes the average duration increase to a single project which started the environmental review process prior to the effective date of Assignment (December 16, 2014). The average duration for those 11 environmental assessment projects that started after the effective date of Assignment resulted in essentially the same overall average duration as the prior FY (660 in FY 2022 vs 656 in FY 2021).

*Training:* ENV provides training to department staff as well as local government, consultant, and other agency staff. In Fiscal Year 2022, ENV provided training to 557 persons (878 in Fiscal Year 2021) through 44 classes in the subjects of Air, Biology, Water, Noise, Hazmat, NEPA, and ECOS. Additionally, TxDOT's EMS training program trained over 9,200 in Fiscal Year 2022 (over 8,100 in Fiscal Year 2021). ENV hosted the annual Environmental Conference in September 2022, and it was attended by over 500 (compared to over 400 in Fiscal Year 2021).

*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.

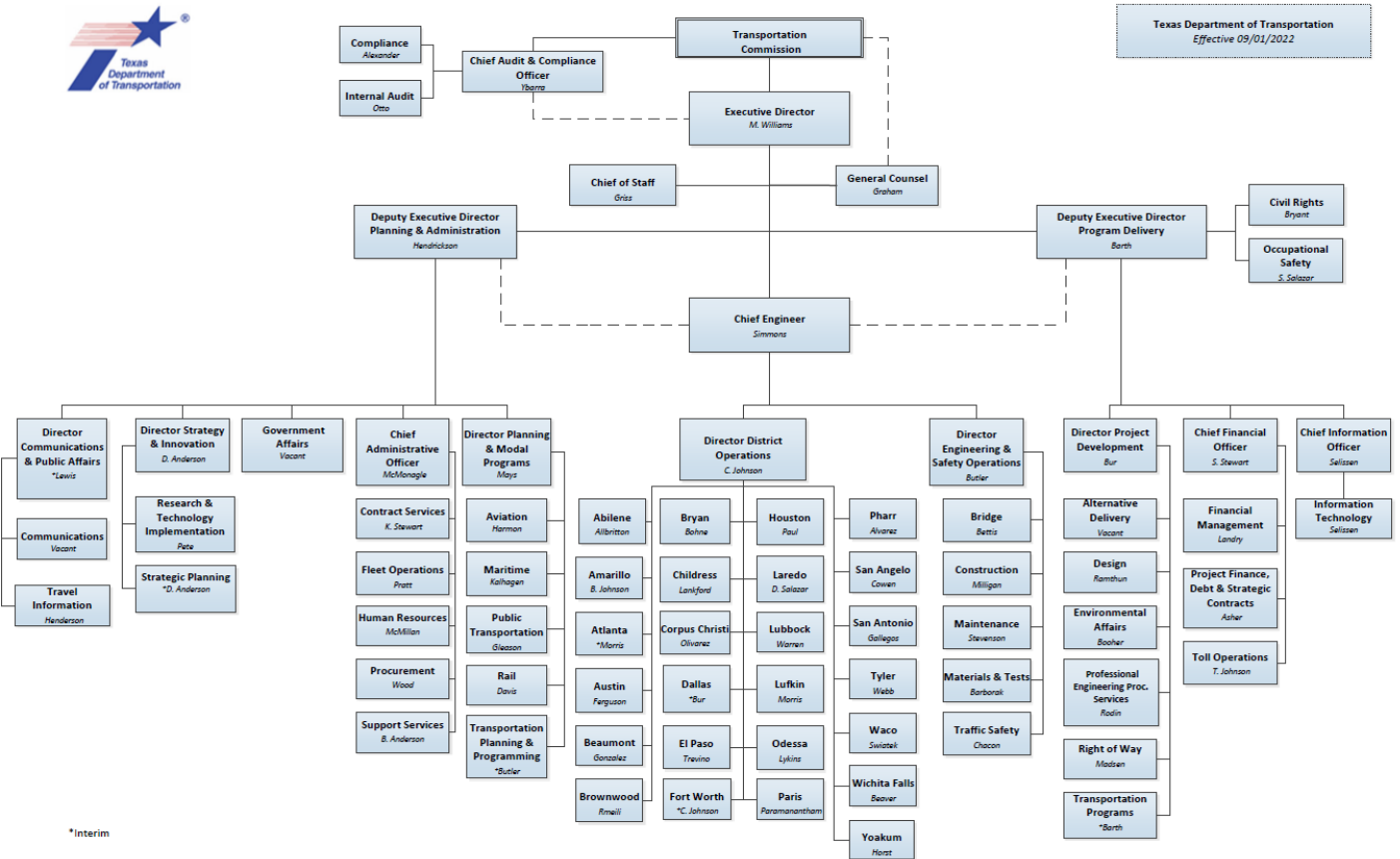
The first lawsuit on the basis of the NEPA determination is Harris County, Texas v. Texas Department of Transportation et al., filed in the United States District Court for the Southern District of Texas, Houston Division, on March 11, 2021. This lawsuit involves the North Houston Highway Improvement Project in Houston. As of the date of this report's preparation, the lawsuit remains pending.

The second lawsuit on the basis of the NEPA determination is Rethink35 et al. v. TxDOT et al., filed in the United States District Court for the Western District of Texas, Austin Division, on June 26, 2022. This lawsuit involves the I-35 Capital Express South and I-35 Capital Express North projects in Austin. As of the date of this report's preparation, the lawsuit remains pending.

## Changes or Enhancements to TxDOT's Organizational Structure

During Fiscal Year 2022, TxDOT implemented a new organizational structure as depicted in TxDOT's organizational chart.





\*Interim

### Changes included:

- Alignment of planning and administration operational divisions under the Deputy Executive Director of Planning & Administration
  - Creation of TxDOT's new Director of Planning & Modal Programs
- Alignment of program delivery operational divisions under the Deputy Executive Director of Program Delivery
  - Creation of TxDOT's new Director of Project Development
  - Creation of TxDOT's new Alternative Delivery Division

### 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 100 ARs during 2022.

Module	Number of ARs
Asset Management (AM)	3
Accounts Payable (AP)	7
Accounts Receivable (AR)	4
Billing (BI)	1
Inventory (IN)	4
Project Costing (PC)	1
Purchase Order (PO)	4
Projects (PR)	6
PeopleTools (PT)	63
Travel and Expense (TE)	7
<b>Total</b>	<b>100</b>

#### *Enhancements to Federal Authorization Funding Obligation System (FAFOS)*

FAFOS is an internal TxDOT application that serves as a platform to facilitate electronic data sharing (EDS) efforts between TxDOT and FHWA's Financial Management Information System (FMIS) 5.0. There were 7 application requests during Fiscal Year 2022. These enhancements to FAFOS during 2022 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 FY2022.

#### *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 2022.

### **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 2022**

Construction Project Payments Review and Approval

[https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Construction Project Payments Review and Approval Audit Final Report.pdf](https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Construction%20Project%20Payments%20Review%20and%20Approval%20Audit%20Final%20Report.pdf)

Professional Engineering Budget Management

[https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Professional Engineering Budget Management Audit Final Report.pdf](https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Professional%20Engineering%20Budget%20Management%20Audit%20Final%20Report.pdf)

Letting Management Effectiveness

[https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Letting Management Effectiveness Final Internal Audit Report.pdf](https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Letting%20Management%20Effectiveness%20Final%20Internal%20Audit%20Report.pdf)

Grant Management – Aviation

[https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Grant Management-Aviation Audit Final Report.pdf](https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Grant%20Management-Aviation%20Audit%20Final%20Report.pdf)

## **TxDOT External Audits Completed in Fiscal Year 2022**

State of Texas Federal Portion of the Statewide Single Audit Report for the Year Ended August 31, 2021

<https://sao.texas.gov/SAOReports/ReportNumber?id=22-320>

Audit of the Laredo & Webb County Area Metropolitan Planning Organization

[https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Final Report Audit of the Laredo MPO.pdf](https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Final%20Report%20Audit%20of%20the%20Laredo%20MPO.pdf)

No relevant SAO audits in FY 2022 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 2022-2024 reporting period.

Area of Focus	Assumed (Delegated) Actions per S & O Agreement Attachment A	S&O Indicator(s)	Federal FY 2022 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.	0
		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.	1
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.	3
		Number of projects closed utilizing Good Faith Efforts.	25

Area of Focus	Assumed (Delegated) Actions per S & O Agreement Attachment A	S&O Indicator(s)	Fiscal Year 2022 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.	47.56%
	Approve PS&E. [23 CFR 630.201]	Percent of construction projects completed on budget (within +/- 10% of awarded amount).	83.47% (596 of 714)
	Approve PS&E. [23 CFR 630.201]	Percent of construction projects completed on time (within +/- 10% of the contract time).	71.15% (508 of 714)
	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 = 5 (0 req. CMP); Utility only = 106 (30 req. CMP); Both = 12 (8 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 - 4.04 Medium - 3.97 Large - 3.73
	Concur in settlement of contract claims. [23 CFR 635.124]	Number of contracts using Federal funds for settlement of contract claims.	0

Area of Focus	Assumed (Delegated) Actions per S & O Agreement Attachment A	S&O Indicator(s)	Fiscal Year 2022 Result
	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
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.	22.3%
	Approve utility and railroad agreements [23 CFR 645.113 & 646.216]	Number of projects with railroad agreement not executed, work during construction certificates.	9 out of 250 (3.6%)
	Approve exceptions to design standards. (Interstate). [23 CFR 625.3(f)]	Number of Design Exceptions processed by TxDOT on the Interstate.	26
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.	0
		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.	123 out of 775 (15.9%)

Area of Focus	Assumed (Delegated) Actions per S & O Agreement Attachment A	S&O Indicator(s)	Fiscal Year 2022 Result
	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)	43
	Approve non-highway use and occupancy [23 CFR 637.207]	Number of ROW use agreements approved. (Non- Interstate)	26
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.	7 of 629 projects (1.1%)
		Percentage of Materials Certification Letters with no exceptions to the plans and specifications.	77%
Utility	Approve utility and railroad agreements. [23 CFR 645.113 & 645.119]	Number of TxDOT reviews on utility projects (with executed agreements).	238
	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: -258 days from prior year EIS: N/A  See ENV section's <a href="#">Key Assignment Metric</a> for more details