North Dakota Asphalt Conference
April 3, 2012

FHWA Update

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Division Administrator
FHWA North Dakota Division
Discussion Areas

• FHWA Briefly
• Federal Funding
• FHWA Focus
  – Oversight (DBE)
  – Performance-Based Federal Highway Program
  – Every Day Counts
FHWA Briefly: Who are we?

- **Money:** About $40B Federal Highway Funds
- **Legislated Mission:** “...provide for a strong and vigorous national economy...” 23 USC 101(b) *(and associated regulations)*
- **What we aspire to:** Improve Mobility on our Nation’s Highways Through National Leadership, Innovation, and Program Delivery.
- **What the public expects:** Safety and fiscal integrity, emergency response...
North Dakota Division

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Administrative Assistant

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Operations Engineer
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Olivia Becker
Student Aide

Leah M. Wetch
Administrative Assistant
Federal Funding: Critical Issue

• Transportation Reauthorization
  – SAFETEA-LU expired September 30, 2009
  – Extension until June 30, 2012
  – Senate Bill 1813 (MAP-21) passed March 14, 2012

• FY2012 Appropriations Act
  – September 30, 2012
  – North Dakota’s Apportionment $119,636,649 [50%]
  – North Dakota’s Obligation Limitation is $112,957,202 [50%]
Ending balance for FY 2008 includes $8.017 billion transferred from the General Fund in September pursuant to Public Law 110-318.

Ending balance for FY 2009 includes $7 billion transferred from the General Fund in August pursuant to Public Law 111-46.

Ending balance for FY 2010 includes $14.7 billion transferred from the General Fund in April pursuant to Public Law 111-147.
Emergency Relief

• Four separate events in both 2009 and 2010
• Five separate events in 2011
• About 775 detailed damage inspection reports
• Total damage to the federal-aid system at a cost of about $740 million
• Current emergency relief about $490 million (doesn’t include pending request)
FHWA: Our Role Today

A Partner…
In “A Federally Assisted, State Administered Program”
FHWA Focus: Oversight (DBE)

- RC: 6.63%
- RN: 0.94%
- Total Achieved to Date: 7.57%
- Annual Goal: 7.40%
• 49 CFR §26.53(f) has been expanded
  – Prime contractors may not terminate for convenience a DBE that it relied upon to obtain the contract without:
    • Good Cause
    • State DOT written approval
What Constitutes Good Cause?

- DBE fails or refuses to sign contract
- DBE fails or refuses to perform to normal industry standards
- DBE fails to meet prime’s reasonable bond requirements
- DBE goes bankrupt
- DBE is suspended or debarred (ineligible for fed. contracts)
- DBE is not a responsible contractor (in opinion of recipient)
- DBE voluntarily withdraws
- DBE is ineligible to receive DBE credit for work type
- DBE death or disability
- Other documented good cause
What Does Not Constitute Good Cause?

- Prime wants to self-perform the work
- Prime want to substitute with another DBE or non-DBE subcontractor
- Prime contractor makes it impossible for DBE to perform its work in an acceptable manner
• Request to Terminate for Good Cause
  – Prime gives written notice to DBE of intent to terminate with copy to State DOT.
  – DBE has 5 days to respond to notice and explain why it objects and why State DOT should not approve prime’s request (shorter period if public safety involved).
  – Applies to post-awards and pre-award deletions and substitutions
FHWA Focus: Performance-Based Federal Highway Program
## Performance Goals

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<th>Senate Version</th>
<th>House Version</th>
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| **Performance Goals** | 5 national goal areas:  
- Safety  
- Infrastructure Condition  
- System Reliability  
- Freight Mov/Economic Vitality  
- Environmental Sustainability | - 1 national performance management goal  
- Nation’s highway and public transportation systems  
- Ensure:  
  - economic growth  
  - safety improvement  
  - increased mobility |

| Measures | Measures for 5 national goal areas  
- USDOT establishes measures | Measures for 11 categories (22 max measures)  
- States recommend measures  
- USDOT establishes measures |
## Side-by-Side Comparison

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| **Targets** | - States & MPOs establish targets  
- USDOT certifies target  
- Accountability to meeting targets | - States establish & adjust targets  
- USDOT sets process |
| **Plans** | - Investment plans required  
- Integrated into planning process  
- USDOT certifies plans | - Investment plans required  
- Integrated into planning process  
- USDOT sets process  
- Plans required to use funds |
| **Reporting** | - States required to submit performance progress report  
- USDOT required to produce national performance report | - States required to submit performance progress report |
Common Authorization Themes

• National performance areas
• National performance measures
• State performance targets
• Plans to document investment strategies
• Transparent performance reporting
• Performance based planning and programming
• Performance accountability
FHWA Focus: Every Day Counts (EDC)

• Shortening Project Delivery
• Accelerating Technology and Innovation Deployment

http://www.fhwa.dot.gov/everydaycounts/
EDC Implementation Teams
North Dakota

- Planning and Environmental Linkages
- In-Lieu Fee and Mitigation Banking
- Flexibility in Utility Relocation and Accommodation
- Warm Mix Asphalt
Additional EDC Effort
North Dakota

• Adaptive Signal Control (research)
• Safety Edge (performance evaluation)
• Geosynthetic Reinforced Soil (LTAP training)
Safety Edge

**Goal 1:** By December 2011, 40 State DOTs will have used the Safety Edge™ on projects

**Goal 2:** By December 2011, 15 State DOTs and all Federal Lands Divisions have adopted Safety Edge™ specifications.

**Goal 3:** By December 2012, 40 State DOTs will have adopted as a standard for paving projects

- **52 implementing organizations**
- **602 projects nationwide since October 2010**
- **5 more states with first time use in 2012**
- **24 states adopted specifications for statewide use**

[Map showing states with different deployment status]
Warm Mix Asphalt

**Goal 1:** By December 2011, 40 State DOTs and all Federal Lands Divisions will have a specification &/or contractual language that allows WMA on Federal-aid or Federal Lands projects.

**Goal 2:** By December 2012, at least 30 State DOTs will have achieved set targets for WMA usage.

- 54 implementing organizations
- 34 DOTs and all FLH have adopted standard specifications
- 14 DOTs have usage goals set
Programmatic Agreements

**Goal 1:** States will expand, revise or create 15 programmatic approaches at the state and regional scale by December 30, 2011.

**Goal 2:** FHWA will assess potential for and initiate where feasible development of regional programmatic approaches by December 30, 2011.

Types of Agreements

- 106 Process
- Endangered Species
- 404 Merger Process
- Cat Ex
- NEPA Processing
- Historic Roads & Bridges
- Water Depletion
- Archaeological
- Others

Deployed
Actively Deploying
Not Selected
North Dakota's EDC Model

STIT Advisory Group
- American Council of Engineering Companies of North Dakota
- Federal Highway Administration - North Dakota Division
- North Dakota Association of Counties
- North Dakota Association of General Contractors
- North Dakota Department of Transportation
- North Dakota League of Cities
- North Dakota Metropolitan Planning Organization
- Upper Great Plains Transportation Institute/Mountain-Plains Consortium

North Dakota Local Technical Assistance Program & Northern Plains Tribal Technical Assistance Program

State Transportation Innovation Team (STIT)

Federal Resource Interagency Group
STIT Advisory Group

- American Council of Engineering Companies of North Dakota
- Federal Highway Administration - North Dakota Division
- North Dakota Association of Counties
- North Dakota Association of General Contractors
- North Dakota Department of Transportation
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- North Dakota Metropolitan Planning Organization
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Thank You!

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Buckle Up, Every Trip, Every Time