

**Agency Operating Agreement for
Continuing the Efficient Transportation Decision Making Process in Florida**

Between

Florida Fish and Wildlife Conservation Commission

and the Florida Department of Transportation

and the Federal Highway Administration

November 1, 2011

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Florida Fish and Wildlife Conservation Commission**

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Section 1.0 Introduction

The Efficient Transportation Decision Making (ETDM) Process is designed to accomplish the streamlining objectives identified in Section 1309 of the Transportation Equity Act for the 21st Century (TEA-21) and Section 6002 of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The ETDM Process creates linkages between land use, transportation, and environmental resource planning initiatives, through early, interactive agency involvement. Florida established its ETDM Process on December 14, 2001 through entry into a Memorandum of Understanding with affected state and federal agencies. These agencies endorsed the ETDM concept and agreed to support, establish and implement the ETDM Process within their respective agency to the extent feasible, within existing legal authority, staffing capabilities and budget. Agency participation in the ETDM Process will be as a member of an Environmental Technical Advisory Team (ETAT).

Section 2.0 Agreement Framework and Regulatory Authority

This Agency Operating Agreement (AOA) is entered into voluntarily by the Florida Department of Transportation (FDOT), Federal Highway Administration (FHWA), and Florida Fish and Wildlife Conservation Commission (FFWCC or agency) and has been designed to outline how transportation projects in the state of Florida will be planned, programmed and developed using the ETDM Process. FFWCC shall serve as an ETAT member and participate pursuant to the laws and regulations cited in Appendix A. This AOA describes the ETDM Process, the Environmental Screening Tool (EST), the establishment of an ETAT for each FDOT geographic District, the Planning and Programming Screens and automated summary reports, agency resource requirements, the ETDM Dispute Resolution Process, the training and educational components, and ETDM performance measures. It also identifies the Metropolitan Planning Organization (MPO) and FDOT deliverables and the specific agency reviews and responsibilities during the Planning and Programming and Project Development phases, and includes the information to be uploaded into the EST, the necessary Geographic Information Systems (GIS) datasets, the deliverables and review responsibilities of the MPO and FDOT, and the review responsibilities of the Agency representatives. This AOA also includes language for agreement modifications, renewals, and termination.

By way of this AOA and supporting Funding Agreement (FA), FFWCC agrees to provide its expertise and assist FDOT in streamlining the review and evaluation of transportation projects for those matters within its jurisdiction. FFWCC will provide for the following:

- Review FDOT projects for potential species and habitat effects based on FFWCC's statutory and regulatory authorities
- Provide FDOT focused comments identifying potential issues with the project including recommendations for avoidance and minimization
- Provide FDOT plans, programs, and technical reports that are part of FFWCC's resource management and protection initiatives and may affect a proposed project
- Identify issues that can be eliminated from further study
- Coordinate with FDOT in a timely manner on potential issues
- Review technical documents and provide technical support as needed
- Participate in interagency Dispute Resolution team as needed
- Provide information that helps expedite FFWCC permits (e.g. gopher tortoise and bald eagle)
- Inform FDOT on FFWCC's initiatives, rule changes, species management plans, and regulations that may impact FDOT
- Inform FDOT on any training opportunities regarding FFWCC's jurisdictional responsibilities
- Attend and participate in District ETAT meetings and project coordination meetings
- Provide detailed comments as requested by FDOT to help satisfy requirements and refine project scopes

Section 3.0 ETDM Process

The ETDM Process is used by MPOs and FDOT in developing, evaluating, and prioritizing transportation plans and projects. Most importantly, the ETDM Process provides resource agencies the opportunity for early and continuous review of potential project effects and enables the FDOT to receive focused comments that allow it to make better transportation decisions based on information from advanced coordinated review, resulting in cost efficient and timely decisions. In implementing the ETDM Process, all ETAT agencies are responsible for reviewing and commenting on proposed transportation projects consistent with their respective agency's statutory and regulatory authority. ETDM Process objectives include effective/timely decision making without compromising environmental quality, full and early public and agency participation, integrating into National Environmental Policy Act (NEPA) process and

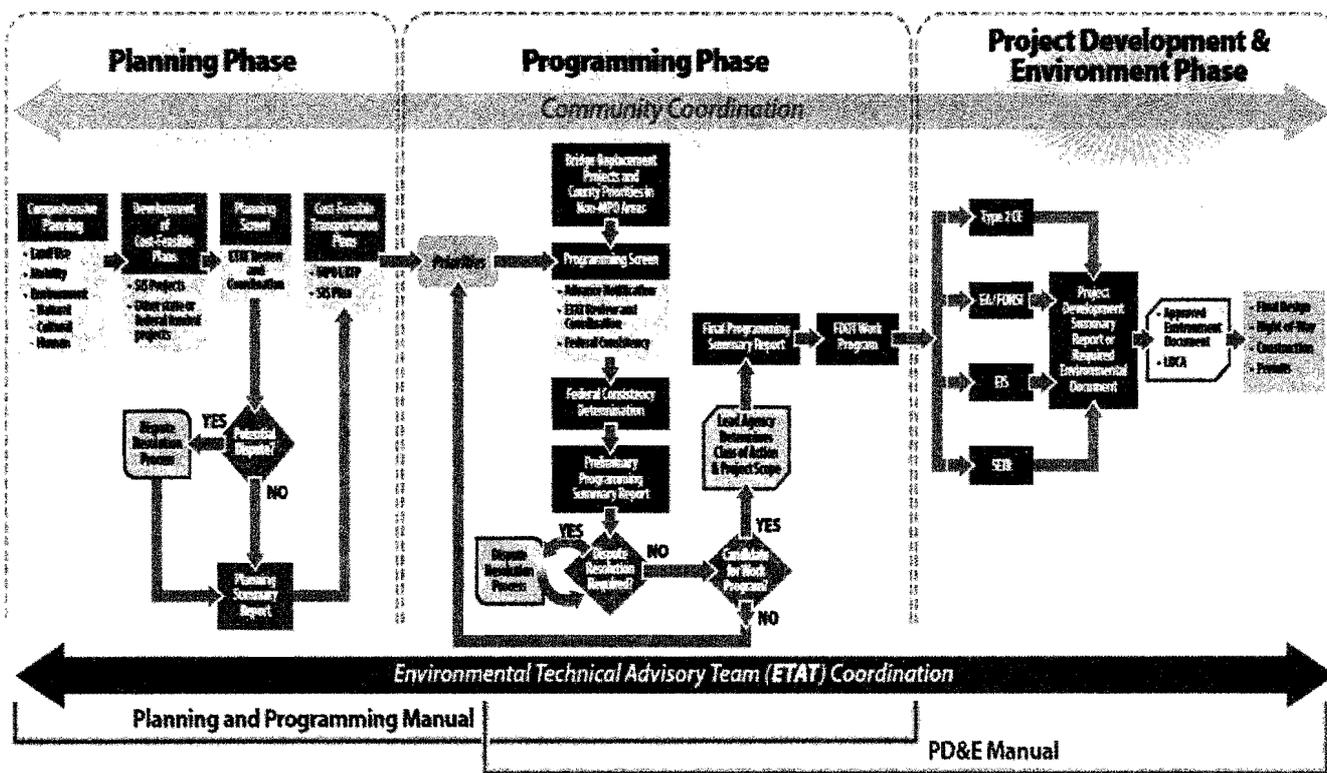
implementing meaningful dispute resolution mechanisms. The goals of the ETDM Process include concurrent actions and approvals, interactive planning, efficiency gained from technology, and ultimately better transportation decisions.

The ETDM Process described in this AOA follows the guidelines set forth in the FDOT ETDM Planning and Programming Manual and FDOT's Project Development and Environment (PD&E) Manual. The ETDM Process is composed of three phases: Planning, Programming, and the PD&E Phase. During the Planning and Programming Phase, qualifying projects are entered into the EST, an Internet-accessible interactive database mapping application and decision support tool. Project review requests, also known as Screening events are requested through EST generated email notifications. The Planning and Programming Screens apply only to qualifying capacity improvement projects, including roadway widening, new roadways, new rail systems and bridge projects (PD&E Manual, Part 1, Chapter 10). The ETDM Process is diagrammed in Figure 1.

During the Planning Screen, agency comments assist FDOT and MPO assess project viability and cost feasibility for the inclusion in their adopted Long Range Transportation Plans (LRTP). During the Programming Screen, qualifying priority projects under consideration for funding and inclusion in the FDOT Work Program or MPO Transportation Improvement Program are screened and agency comments assist with scoping the project as it moves toward implementation. Information gathered in the Planning and Programming screens give ETAT member agencies the opportunity to identify potential project specific environmental issues; allows early consideration of avoidance, minimization and mitigation measures; assists with the identification of fatal flaws alternatives or projects; and informs and supports the PD&E study.

The tables on the following pages identify the information available from the project's purpose and need statement to technical reports and environmental documents. The tables also detail activities in Planning, Programming, PD&E and subsequent reevaluation phases. As a project advances, the ETAT representative's role is expected to intensify, as appropriate, to address and resolve relevant issues.

Figure 1 – ETDM Process Flow Chart



Section 4.0 Environmental Screening Tool

The State of Florida has developed a comprehensive digital information database, the Florida Geographic Data Library (FGDL), which is housed at the GeoPlan Center at the University of Florida. The EST is a web based tool which utilizes the FGDL and

provides for an interactive review of proposed transportation projects by ETAT representatives. FDOT and MPOs rely on information entered into the EST to develop transportation plans and projects.

The EST performs standardized GIS analyses and queries using information supplied by agencies and contained in the FGDL, along with the transportation planning and project information provided by MPOs and FDOT. The EST is used to:

- Integrate data pertinent to land use, human and environmental resources, and transportation programs from multiple sources into standard format
- Analyze GIS data within the project buffers and supports development of agency commentary
- Disseminate information among ETAT representatives and to the public
- Store and report results of the ETAT review which identifies the potential effects of proposed projects on the environment

FGDL provides automated electronic notices through the EST whenever new data or analyses are available and when agreed-upon review time frames have been exceeded. ETAT representatives provide new and updated agency GIS data layers to the FGDL for use within the EST.

User's Guides and various training programs have been developed by FDOT describing all functions within the EST and are provided to FFWCC to assist with navigating the tool. A staffed Help Desk is also available during normal business hours to provide technical assistance.

Section 5.0 Planning Phase

During the Planning Phase screening event, FFWCC has its first opportunity to review and comment on qualifying transportation projects, which are candidates for inclusion or are contained within the MPO's LRTP. LRTPs are updated by the MPOs every five years, depending on the air quality designation by the U.S. Environmental Protection Agency. An exception is the Florida Intrastate Highway System (FIHS) facilities or Strategic Intermodal System (SIS) facilities. FIHS and SIS facilities will be screened during the development of the FIHS/SIS Cost Feasible Plan, by FDOT, for both the MPO and non-MPO areas. FDOT staff is responsible for uploading the FIHS/SIS project information into the EST Database. The SIS Cost-Feasible Plan is updated by FDOT every five years depending on funding and legislative issues.

This Planning Screen requires the agency to comment on the potential effects of projects very early in the planning process. It also allows the agency to provide plans, programs, and technical reports that are an important part of an agency's resource management and protection initiatives and may affect a proposed project. Early coordination can promote identification of FFWCC resources of concern and identify potential mitigation opportunities for possible unavoidable effects.

The table below identifies the information available to FFWCC during the Planning Phase (via the EST Database). Table 1 addresses FHWA, FDOT and the FFWCC ETAT representative review and coordination responsibilities. The review and comments will take place within the EST.

**Table 1
Planning Phase Information & Responsibilities**

| EST Database (MPO, FDOT, FGDL) | FHWA/FDOT | FFWCC |
|---|--|--|
| <ul style="list-style-type: none"> • Purpose and Need Statement • Project limits and logical termini • Mobility Alternatives • FFWCC plans and programs • Agency-specific Geographic Information Systems (GIS) Resource Data | <ul style="list-style-type: none"> • In MPO areas, assist in developing the Purpose and Need Statement and establishing logical termini • In non-MPO areas, FDOT in consultation with FHWA establishes Purpose and Need Statement and logical termini, as appropriate • In MPO and non-MPO areas, establish Purpose and Need Statement for FIHS/SIS projects • Ensure project information is available for ETAT review | <ul style="list-style-type: none"> • FFWCC assigns project manager • Review Purpose and Need Statement and indicate understanding, provide comments if not understood • Provide a list of State listed species and habitat or agree through commentary, as appropriate • Review and comment on potential project effects on wildlife and habitat resources • Identify important FFWCC |

Table 1
Planning Phase Information & Responsibilities

| EST Database (MPO, FDOT, FGDL) | FHWA/FDOT | FFWCC |
|---------------------------------------|--|---|
| | <ul style="list-style-type: none"> • ETDM Coordinator will consult and address project issues, as appropriate • Produce the Planning Screen Summary Report which will include the following key components: <ul style="list-style-type: none"> – Project Description – Purpose and Need Statement – Agency comments, issues and recommendations for potential direct effects – System-wide GIS mapping depicting social, cultural, and natural resources – Potential indirect and cumulative effect issues and recommendations – Summary degree of effect comments including actions to address issues – Summary of public involvement comments and identification of any community desired features | <p>jurisdictional resource issues</p> <ul style="list-style-type: none"> • Evaluate and comment on the potential direct effects of the project • Evaluate and comment on the potential indirect and cumulative effects at the resource level, as appropriate • Assign a degree of effect based on the magnitude of potential project impacts • Provide project recommendations and identify need for future agency involvement and anticipated agency coordination and consultation • Identify resource management plans, policies, goals and objectives • Identify potential species and habitat avoidance and minimization recommendations, permitability issues and mitigation needs • Submit comments electronically within 45 calendar days of notification • Request consultation with ETDM Coordinator to resolve issues, as appropriate • Review the Planning Screen Summary Report and verify agency comments are addressed |

Section 6.0 Planning Screen Summary Report

The Planning Phase is completed when the ETDM Coordinator publishes the Planning Screen Summary Report. This report serves as feedback to the ETAT agencies and documents the results of the screening including, the summary of key project information, considerations, recommendations, and agency commentary, as well as describes how FDOT or the MPO will address issues as the project advances. The report is accessible during the development and adoption of LRTPs and Cost Feasible FIHS/SIS Plans. Email notifications announce the availability of the report and provide a link to access or download it through the EST and public access site (hardcopies available upon request).

Section 7.0 Programming Phase

The Programming Phase builds upon the Planning Phase, if applicable. The Programming Screen initiates the Advance Notification (AN) process, Federal Consistency Review (FCR) and project scoping. This screen initiates the NEPA scoping process for federal

projects or provides preliminary information for the preparation of State Environmental Impact Reports (SEIR) for state funded projects. The table identifies the information and responsibilities of all parties during the Programming Screen (via the EST).

Programming Screens are performed on bridge replacement projects that do not qualify as Programmatic Categorical Exclusions and all other qualifying projects (PD&E Manual, Part 1, and Chapter 10) contained in the MPO's list of priority projects or in FDOT's Five-Year Work Program. The FIHS/SIS facilities for MPO and non-MPO areas will be screened during FDOT's development of the FIHS/SIS Ten-Year Plan. FDOT staff will be responsible for uploading the FIHS/SIS project information into the EST Database.

During the Programming Screen FFWCC representatives shall provide comments about potential project effects on wildlife and habitat resources, or indicate "no effect," provide technical assistance and assist FDOT in scoping technical studies necessary to satisfy the requirements of the PD&E Phase. Table 2 identifies the information available to the FFWCC during the Programming Phase. The table also addresses FHWA/FDOT responsibilities and FFWCC representative review and coordination responsibilities.

**Table 2
Programming Phase Information & Responsibilities**

| EST Database (MPO, FDOT, FGDL) | FHWA/FDOT | FFWCC |
|---|--|--|
| <ul style="list-style-type: none"> • Purpose and Need Statement • Project limits and logical termini • Mobility Alternatives • AN process • Coastal Zone Consistency Determination (only federal projects) • Local Government Comprehensive Plan Consistency • Clean Air Act Conformity Designation (only federal projects) • FFWCC plans and programs • Agency-specific GIS Resource Data can be found in the EST | <ul style="list-style-type: none"> • In MPO areas, assist in developing the Purpose and Need Statement and establishing logical termini • In non-MPO areas, FDOT in consultation with FHWA establishes Purpose and Need Statement and logical termini, as appropriate • In MPO and non-MPO areas, establish Purpose and Need for FIHS/SIS projects • ETDM Coordinator will consult and address project issues, as appropriate • Distribute AN package to agencies including all ETAT representatives • Determine type of Environmental Documentation/Class of Action • Establish an interdisciplinary project team, as applicable • Consult with FFWCC on wildlife and habitat resources and reach concurrence on listed species and habitat resources • Produce Programming Screen Summary Report which will include the following key components: | <ul style="list-style-type: none"> • FFWCC assigns project manager • Review and comment on Advance Notification package and perform scoping activities • Review Purpose and Need Statement and indicate understanding, provide comments if not understood • Review and comment on potential project effects on wildlife and habitat resources • Provide a list of State listed species and habitat or agree through commentary, as appropriate • Identify important FFWCC jurisdictional resource issues • Evaluate and comment on the potential direct effects of the project • Evaluate and comment on the potential indirect and cumulative effects at the resource level, as appropriate • Assign a degree of effect based on the magnitude of potential project impacts • Provide project recommendations and identify need for future agency involvement and anticipated agency coordination and consultation • Identify resource management plans, policies, goals and objectives • Identify species conservation recommendations, permit and mitigation requirements • Request consultation with ETDM Coordinator to resolve issues, as |

**Table 2
Programming Phase Information & Responsibilities**

| <i>EST Database (MPO, FDOT, FGDL)</i> | <i>FHWA/FDOT</i> | <i>FFWCC</i> |
|---------------------------------------|--|--|
| | <ul style="list-style-type: none"> - Project Description - Purpose and Need statement - Class of Action Determination - System-wide mapping depicting social, cultural, and natural resources - Agency comments, issues, and recommendations for potential direct effects - Dispute resolution issues - Summary degree of effect comments including actions to address issues - Summary of public involvement comments and identification of any community desired features - Technical Studies, Permits, commitments and recommendations | <p>necessary</p> <ul style="list-style-type: none"> • Identify required technical studies prior to the beginning of the project development phase • FFWCC may become Participating or Cooperating Agency, if appropriate based on coordination with lead agency (on federal projects) • Submit comments electronically within 45 calendar days of notification • Participate in dispute resolution, if necessary, to assist the ETDM Coordinator in identifying solutions to project concerns. • Participate in ETAT Review Committee, as needed, to review and resolve conflicts at an informal level • Review the Programming Screen Summary Report and verify agency comments are addressed |

Section 8.0 Programming Screen Summary Report

The Programming Phase is completed when the ETDM Coordinator publishes the Final Programming Screen Summary Report. The report serves as feedback to the ETAT agencies and documents the results of the screening. The report supports development of a project’s scope of work based on the ETAT reviews, considerations, recommendations and available project information. The project’s Class of Action Determination, [i.e., Type 2 Categorical Exclusion, Environmental Assessment (EA) or Environmental Impact Statement (EIS)], summary degree of effects, summary of public comments, and dispute resolution issues are also addressed in this report. Email notifications announce the availability of the report and provide a link to access or download it though the EST and public access site (hardcopies available upon request).

Section 9.0 Project Development & Environment Phase

During the PD&E Phase, FFWCC, upon request, will work closely with FDOT to satisfy statutory and regulatory requirements. The table below identifies the reports and coordination responsibilities for FDOT, FHWA and the FFWCC ETAT representative. When available, the EST will have links to project web sites.

Federal environmental documents will be developed in compliance with the Council on Environmental Quality (CEQ) regulations implementing NEPA and 23 CFR 771(PD&E Manual, Part 1, Chapter 2). For projects, which do not individually or cumulatively have a significant environmental effect on the human and natural environment, a CE will be prepared. For those projects that do not qualify for a CE, an EA or EIS will be completed. Non-federal transportation requiring a SEIR will follow a similar process to that used for federal documents.

**Table 3
PD&E Information & Responsibilities**

| FDOT | FHWA | FFWCC |
|---|---|---|
| <i>Preliminary Alternatives Analyses</i> | | |
| <ul style="list-style-type: none"> • Develop and analyze alternatives • Assess major impacts of alternatives • Consult with FFWCC regarding potential impacts and Best Management Practices (BMPs) | <ul style="list-style-type: none"> • Participate in development of alternatives | <ul style="list-style-type: none"> • Review and comment on preliminary alternatives and analysis from the resource perspective |
| <i>Technical Reports</i> | | |
| <ul style="list-style-type: none"> • Complete technical studies as defined by ETAT agency and scope of services, such as: <ul style="list-style-type: none"> – Wetland Evaluation Report (WER) – Cultural Resource Assessment Survey (CRAS) – Endangered Species Biological Assessment (ESBA) – And others as necessary | <ul style="list-style-type: none"> • Review ESBA and relevant technical reports within 30 calendar days | <ul style="list-style-type: none"> • Review and comment on ESBA and relevant technical reports within 30 calendar days of notification • Provide technical assistance, as needed • Review, comment, or provide recommendations and species permit issues coordinated with appropriate agency specialists |
| <i>Type 2 CE/EA/DEIS</i> | | |
| <ul style="list-style-type: none"> • Incorporate ESBA and other relevant technical reports into Environmental Document • Complete Draft Environmental Impact Statement (DEIS) and submit for review to FHWA/FTA and when appropriate, to FFWCC as a Participating or Cooperating Agency • Complete Environmental Document and make it publicly available • Identify opportunities, constraints and feasibility of joint permit public notice and hearing, if appropriate • Hold public hearing and prepare transcript and certification, as appropriate • Publish NOA of DEIS in Federal Register | <ul style="list-style-type: none"> • Publish Notice of Intent for EIS, as applicable • Review and act on Type 2 CE/EA/DEIS with comments incorporated (30 calendar days of notification) • Attend public hearing and participate, as appropriate | <ul style="list-style-type: none"> • Review and comment on Type 2 CE, EA within 30 calendar days or DEIS within 45 calendar days of notification, as appropriate • Review, comment, or provide recommendations and species permit issues coordinated with appropriate agency specialists • Upon request, provide technical assistance on relevant public hearing topics • Upon request, attend joint public hearing and participate, as appropriate |
| <i>SEIR</i> | | |
| <ul style="list-style-type: none"> • Incorporate ESBA and other relevant technical reports into SEIR • Complete SEIR and make publicly available • Identify opportunities, constraints and feasibility of joint permit public notice and hearing, if appropriate • Hold public hearing and prepare transcript and certification, as appropriate | (State document no FHWA involvement) | <ul style="list-style-type: none"> • Review and comment on publicly available SEIR within 30 calendar days, as appropriate or upon request • Upon request, provide technical assistance on relevant public hearing topics • Upon request, attend joint public hearing and participate, as appropriate |
| <i>FONSI/FEIS</i> | | |
| <ul style="list-style-type: none"> • Document decisions in Finding Of No Significant Impact (FONSI) or | <ul style="list-style-type: none"> • Review and act on FEIS or FONSI within 30 calendar | <ul style="list-style-type: none"> • Review publicly available FEIS within 30 calendar days, as |

**Table 3
PD&E Information & Responsibilities**

| | | |
|--|---|---|
| <p>Final Environmental Impact Statement (FEIS)</p> <ul style="list-style-type: none"> • Complete Final Environmental Impact Statement (FEIS) and submit for review to FHWA/FTA and when appropriate, to FFWCC as a Participating or Cooperating Agency • Respond to comments • Obtain project permits concurrent with NEPA approval, as appropriate | <p>days of notification</p> <ul style="list-style-type: none"> • Publish notice of FEIS availability in Federal Register (FR) • Issue Record of Decision (ROD) | <p>appropriate</p> |
| <i>Environmental Reevaluation</i> | | |
| <ul style="list-style-type: none"> • Environmental reevaluation and consultation with FFWCC on design modifications and /or any changes to SEIR, Type 2 CE, EA with FONSI or FEIS commitments • Coordinate with FFWCC when submitting permits, as appropriate | <ul style="list-style-type: none"> • Review and act on Environmental Reevaluation • Participate in reviews to monitor implementation of Type 2 CE, EA with FONSI or FEIS commitments (FHWA does not review SEIRs) | <ul style="list-style-type: none"> • Consult with FDOT on project impact determinations and mitigation measures to assure compliance with SEIR, Type 2 CE, EA with FONSI or FEIS commitments • Review, comment, or provide wildlife and habitat related recommendations and species permit issues coordinated with appropriate agency specialists, other state and federal permit processes |

Section 10.0 Public Involvement

Public involvement is continuous throughout the ETDM Process. The EST read-only public website provides project data to the general public and non-government organizations (NGOs), as well as non-ETAT agencies. The project information includes the project description, summarized GIS analysis graphics, summarized results of the agency project effects analyses, previously submitted public comments, and other information related to the project. Public comments to the MPO or FDOT will be submitted using existing public involvement channels during development of the LRTP and FDOT Five-Year Work Program. The public can also provide comments directly to Community Liaison Coordinators (CLCs) or project manager, which can then be summarized by the CLCs as part of the information provided for the Planning and Programming Screens.

Section 11.0 Participating/Cooperating Agency

FFWCC may serve as a Participating or Cooperating agency and partner with FHWA and FDOT on federal projects, when approved based on agency expertise consistent with 40 CFR 1500, *et seq* and SAFETEA-LU.

Section 12.0 ETAT Representative

Agency ETAT representatives are responsible for coordinating and performing all agency reviews to ensure the project satisfies the statutory and regulatory requirements of the agency. This responsibility requires excellent communication skills, especially the ability to function effectively within the agency and to coordinate with other ETAT agencies. The agency ETAT representatives are responsible for all agency jurisdictional issues and functions related to transportation projects, as detailed in Tables 1, 2 and 3 above. The person(s) selected as the agency ETAT representative should be:

- Well-versed in agency statutory authority and regulatory requirements
- Knowledgeable of agency's role in reviewing transportation projects (e.g., planning, PD&E, permitting, construction, post-construction, monitoring)
- Able to perform and understand environmental effects analyses
- Respected within the agency; afforded access to key decision makers; able to achieve informed consent internally; and entrusted to represent the agency

- Cognizant of the different, yet related, perspectives of other agencies and able to create solutions and function as a problem solver
- Effective in dispute resolution functions within the ETAT
- Proficient in computer usage, including the Internet
- An effective verbal and written communicator
- Able to anticipate agency actions required as projects proceed through phases and to prepare those responsible for prompt, efficient participation in the project to minimize delays
- Coordinate and expedite agency permitting process
- Able to effectively communicate within the agency and convey agency comments and positions on projects

Persons possessing these attributes should be dynamic and motivated within the agency. Through their previous agency successes they will have achieved a level of recognition, trust, and effectiveness that will ensure their success as an ETAT representative.

Appointment as an ETAT representative is considered an acknowledgement by agency leadership of their successful contribution to the agency's mission. Their subsequent actions as the agency ETAT representative should receive high visibility and endorsement by agency leaders to ensure that this position is highly sought after in the future.

If the agency representative is unable to perform their duties, the agency will identify an alternate to complete review responsibilities in the agreed upon time frames.

Section 13.0 FDOT ETDM Coordinator

FDOT's seven District offices and Florida's Turnpike Enterprise (FTE) have identified an "ETDM Coordinator" who is responsible for implementing the ETDM Process, as specified in Tables 1, 2 and 3 above. The FDOT ETDM Coordinator duties include the following:

- Coordinates with FDOT management, MPOs, project management teams, and individual project managers to ensure appropriate development of the ETAT screening events during both the Planning and Programming phases. Submits projects to be screened to the interagency ETAT representatives for integrated planning, early consultation and coordination, environmental review, and interagency technical assistance in satisfying and complying with state and federal regulations.
- Coordinates with project managers, ETAT representatives, MPOs, and FHWA during PD&E to help ensure transportation projects and technical studies are developed in full compliance with the ETDM and PD&E Manuals.
- Coordinates with FDOT Permit Coordinator and Design Office to ensure efficient transition and exchange of information to support subsequent project phases.
- Coordinates and consults with FDOT offices and ETAT representatives in the review of federal and state legislation, federal and state regulations, environmental ordinances, rules, executive orders, and internal agency procedures which affect the ETDM Process.
- Conducts ETDM training and provides technical assistance to support ETAT representatives, the MPOs, and FDOT Planning, Environmental Management, Design, and other offices, where appropriate.
- Where appropriate, reviews and comments on ETAT agency invoices.

If the ETDM Coordinator is unable to perform their duties, FDOT District Offices or FTE will identify an alternate ETDM Coordinator to complete the FDOT/FTE responsibilities in the agreed upon time frames.

Section 14.0 Agency Resource Requirements

The success of the ETDM Process will in part be based on the quality of the interactive EST Database information, agency coordination and consultation, timeliness and regulatory nature of review comments, and technical assistance provided to satisfy statutory and regulatory requirements. ETAT agency needs, including personnel, equipment, review responsibility and funding requirements will be determined based on existing agency resources.

Each agency's ETAT representative is the single point of contact and is responsible for obtaining digital information about the resources their agency regulates (e.g., wetlands, endangered and threatened species, and critical habitat) and for ensuring that this information remains current and is made available to the University of Florida GeoPlan Center for use with the ETDM Process. Also, new resource information obtained from agency plans, initiatives, biological assessments, research projects, and field reviews shall be made available to FGDL within 90 calendar days of completion. The ETAT agency shall provide digital information to the University of Florida GeoPlan Center at no cost. The information will include documentation that describes the format, intent, and source material used to develop and maintain the information. ETAT representatives will coordinate with the GeoPlan Center to ensure that new data meets the quality and format protocols of the EST database.

ETAT representatives shall have access to a desktop computer with Internet connectivity adequate to ensure the effective use of the EST and to exchange e-mail messages with other ETAT members. The *minimum* hardware and software requirements for ETAT representative desktop computers are as follows:

Computer Operating System

- Microsoft Windows XP Professional or Home edition (32 bit & 64 bit Windows 7 and Vista Professional or Home edition, or 2000 will also work))

Hardware

- 2 GHz, Intel or equivalent AMD Processor (3 +GHZ dual core processors recommended)
- 1024 X 768 video card resolution
- 30 -Gigabyte of free disk space
- 1 Gig RAM (2-8 Gig RAM recommended)
- 17-inch color monitor (19+inch recommended)
- 128 KB Internet connection (T-1 recommended)
- Access to color printer recommended, but not required

Software

- Microsoft Internet Explorer, version 7.0 or 8.0
- Adobe Acrobat Reader, version 7.0 or higher

Section 15.0 ETAT Agency Performance Standards

ETAT Agency Performance Standards include fulfillment of agency responsibilities and level of involvement, quality of submittals, number of revisions, number of requests for additional substantive information, interagency communication and coordination, and review delays. Performance guidelines for project reviews include responding to FDOT notifications within 30 or 45 calendar days, depending on the request. Other guidelines include providing specific information about data needs to achieve compliance with the statutory and regulatory requirements contained in Appendix A; documentation of the consultation process; documentation of all formal/informal commitments to protect resources and mitigation plans; and documentation of all actions designed to expedite NEPA and permit approvals.

Performance standards established for FDOT and ETAT agencies include:

- ETAT member agency review of Planning and Programming Screens within 45 calendar days
- FDOT response to comments and inquiries within 30 calendar days
- FDOT response to requests for additional information within 30 calendar days
- Establishment of quality assurance protocols for digital information. Quality checks on GIS data performed by ETAT agency within 90 calendar days of completing field reviews and technical reports
- Completion of Dispute Resolution Process within 120 calendar days
- Review of all environmental documents and technical reports within 30 calendar days, with the exception of the DEIS, which is 45 calendar days

The performance standards will be tracked and monitored in the ETDM Performance Management Program. FDOT will provide the agency with periodic performance reports from the ETDM Performance Management Program.

Section 16.0 ETDM Dispute Resolution Process

In an effort to timely advance projects, the parties agree to the dispute resolution process described herein for projects with “substantial adverse effects” to develop mutually agreeable solutions before the project advances into the final design or construction phase within the FDOT Work Program. The ETDM Dispute Resolution Process (as shown in Figure 2) shall be used to facilitate meeting this commitment. A potential for dispute may be identified as early as the Planning Phase in the ETDM Process. Disputes can also be identified in the Programming Phase where the dispute resolution process first proceeds with an informal process followed by a formal process, if necessary.

The dispute resolution process begins when the ETDM Coordinator assigns a Summary Degree of Effect as “Potential Dispute” in the Planning Phase or “Dispute” in the Programming Phase. The ETDM Coordinator is responsible for working with the appropriate ETAT representatives to try to address the disputed issue(s) at the agency staff level before elevating to the formal dispute resolution

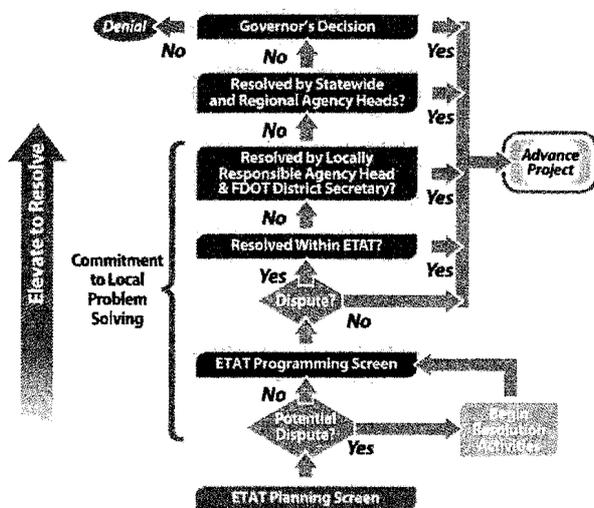
process. The following are “triggers” an ETAT agency may use for flagging a project as needing “Dispute Resolution” (or red flag) that may subsequently initiate the dispute resolution process:

- Project is non-permittable (applicable to permitting agencies)
- Project is contrary to a state or federal resource agency’s program, plan, or initiative
- Project has significant environmental cost (apply a broad interpretation of the term cost) such as funding, environmental effects, or quality of life
- Project Purpose and Need Statement is disputable (only applicable to FHWA/FTA)

Any agreements, understandings, and/or recommendations resulting from the dispute resolution process in the Planning or Programming phases are entered in the Dispute Log and incorporated into the project record as it advances into PD&E. The agency heads, in consultation with the Governor, will make the final decision on unresolved disputes. Should a federal agency disagree with the State’s decision, the federal dispute resolution process may be initiated.

Nothing in the Dispute Resolution Process affects the statutorily and constitutionally prescribed duties and obligations of any agency or any agency’s responsibility or ability to discharge fully such duties and obligations under all applicable laws and regulations. The Dispute Resolution Process seeks to fulfill all statutory obligations by seeking solutions to complex issues among agencies. Additional information regarding this process can be found in the Dispute Resolution brochure and the ETDM Planning and Programming Manual.

Figure 2 – Dispute Resolution Process



Section 17.0 Training and Educational Programs

FDOT offers training to ETAT agencies to fully explain the ETDM Process, PD&E process and the use of the EST. ETAT representatives, to the extent feasible, are expected to attend relevant ETDM and PD&E training. An educational component has also been developed to inform NGOs, local governments, and citizens about the ETDM Process and how they can participate in the transportation decision making process. Other training opportunities may be made available to ETAT representatives and FDOT staff in the context of natural, historic, and sociocultural resources or issues on an as available, as needed, basis to enhance the transportation decision making process.

Section 18.0 Periodic Agency Coordination

The ETAT representative will meet regularly with the ETDM Coordinator and FDOT Central Environmental Management Office (CEMO) to review program issues and concerns, including, without limitation, workload, staffing, and resource needs. At these meetings and any District-wide ETAT meetings, the participants will exchange information related to the efficiency of the ETDM

Process, FFWCC sponsored training opportunities, rule changes, program updates, development of management plans, as well as identifying ways to improve the process.

Section 19.0 Modification of Agency Operating Agreement

This AOA is between FDOT, FHWA and FFWCC. This AOA may be modified in writing at any time by mutual agreement of the parties. Any amendment may be made in whole or in part, and upon execution and adoption by the parties, such amended AOA shall supersede the corresponding provision(s) of previous versions. Any changes, amendments, corrections, or additions to this AOA shall be executed and approved by the same parties (or their designees) who executed and approved the original AOA, in accordance with applicable laws. No addendum, modification, or waiver of any of the terms of this AOA shall be effective unless in writing, signed by the parties, and executed in the same manner as the AOA. The parties agree that any attempt to modify this AOA orally or by conduct shall be ineffective. The failure of any party to insist in any one or more instances upon the strict performance by the other party of any of the terms or provisions of the AOA shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect.

Section 20.0 Conflict between Agreements

This AOA and the FA entered into with the FFWCC shall supersede any prior understanding, agreement, memorandum, letter, or other written or oral arrangement between the parties relating to the matters covered herein. In the event of a conflict between the FA and this AOA, the latter shall govern, except that the FA shall govern with regard to the services the FFWCC may be reimbursed for and the period of performance.

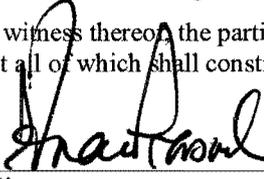
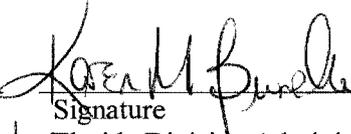
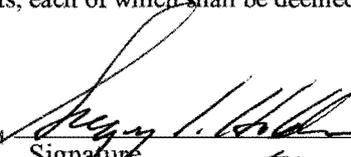
Section 21.0 Term, Renewals and Period of Performance

This AOA shall not expire unless specifically requested by the FFWCC, FHWA or FDOT, but is contingent upon the performance period in the FA.

Any party may terminate its participation in the AOA without cause upon 60 calendar days prior written notice to the other party or parties and the FDOT CEMO Environmental Manager or designee. During the 60 day notification period, the parties will endeavor to resolve any pending issues or conflicts, as applicable.

Section 22.0 Signatures

In witness thereof the parties hereto have caused this AOA to be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

| | | | | | |
|---|----------------|---|-----------------|---|-----------------|
|  | <u>11/1/11</u> |  | <u>10/25/11</u> |  | <u>10-24-11</u> |
| Signature | Date | Signature | Date | Signature | Date |
| Secretary | | Florida Division Administrator | | Executive Director | |
| Florida Department of Transportation | | Federal Highway Administration | | Florida Fish and Wildlife Conservation Commission | |

| | | | | | |
|--------------------------------------|----------------|--------------------------------|-----------------|---|-----------------|
| ANANTH PRASAD | <u>11/1/11</u> | KAREN M. BRUNELLE | <u>10/25/11</u> | Crescent L. Halla | <u>10-24-11</u> |
| Printed Name | Date | Printed Name | Date | Printed Name | Date |
| Secretary | | Florida Division Administrator | | Executive Director | |
| Florida Department of Transportation | | Federal Highway Administration | | Florida Fish and Wildlife Conservation Commission | |

| | | | |
|---|-----------------|--------------------------------------|-----------------|
|  | <u>10/31/11</u> | Kathleen Toolan | <u>10/31/11</u> |
| Signature | Date | Printed Name | Date |
| Legal Counsel | | Legal Counsel | |
| Florida Department of Transportation | | Florida Department of Transportation | |

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Commission Attorney

Appendix A
Florida Fish and Wildlife Conservation Commission – Agency Statutory Authority

| <i>Agency</i> | <i>Citation</i> |
|--|---|
| Florida Department of Transportation & Federal Highway Administration | <ul style="list-style-type: none"> • National Environmental Policy Act (NEPA) of 1969 • 40 CFR 1500-1508 • Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) • Chapters 334 -339 Florida Statutes • USDOT Order 5610.1C • USDOT Order 5650.2 • E.O. 11990/USDOT Order 5660.1A • Technical Advisory 6640.8A • Title VI of the Civil Rights Act of 1964 (42 USC 2000(d)-2000(d)(1)) • Title II of the Americans with Disabilities Act of 1990 (42 USC12131-12165) • Title 23, CFR 771 • Federal Aid Policy Guide. • Section 4(f) of the USDOT Act of 1966 • National Historic Preservation Act of 1966 (36 CFR Part 800) • EO 11990- Protection of Wetlands • EO 11988- Floodplain Management • 23 CFR 650- Bridges, Structures and Hydraulics- Basic standards for design. • Section 109(h) of Title 23U.S.C. (Highways). • The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended • 49 CFR Part 24 • Executive Order 12898 • Executive Order 13166 • 23 CFR 772 • Section 335.17, F.S. • 23 CFR 774 • 23 CFR 777 • 23 CFR Part 450 |
| Florida Fish and Wildlife Conservation Commission | <ul style="list-style-type: none"> • Article IV Section 9, FS – Fish and Wildlife Conservation Commission • 16 USC 661-Fish and Wildlife Coordination Act of 1956 • 16 USC 1536-Section 7 of Endangered Species Act of 1973, as amended • 16 USC 703-711-Migratory Bird Treaty Act • Chapter, 68A-27, FAC-Rules Relating to Threatened or Endangered Species • State Endangered Species Act, (379.2291, FS) • Chapter 68A-16 FAC – Rules Related to Birds • 16 USC 1361 – Marine Mammal Protection Act • 379.2431(1), FS - Protection of Marine Turtles • 379.2431(2), FS - Protection of Manatees • 68A-9.010, FAC – Taking Nuisance Wildlife |