



U.S. Department  
of Transportation

**Federal Highway  
Administration**

545 John Knox Road, Suite 200  
Tallahassee, Florida 32303

(850) 942-9650

December 13, 2005

In Reply Refer To: HDA-FL

**RECEIVED**

DEC 15 2005

ENVIRONMENTAL MANAGEMENT OFFICE

Mr. Denver Stutler,  
Secretary of Transportation  
Florida Department of Transportation  
605 Suwannee Street  
Tallahassee, Florida 32399

Dear Mr. Stutler

Subject: SAFETEA-LU Section 6002(b)

The Florida DOT November 21, 2005 request to approve the Efficient Transportation Decision-Making (ETDM) Process under provisions of Section 6002(b) is granted. The ETDM process meets the statutory requirements of Section 6002 and may be used for the development of federal-aid projects. A copy of our headquarters approval memorandum is enclosed.

Sincerely,

/s/ David Gibbs  
David C. Gibbs  
Division Administrator

Enclosure

cc: Ms. Ysela LLort, Assistant Secretary for Internodal Systems Development  
Ms. Carolyn Ismart, Manager, Environmental Management Office





## Florida Department of Transportation

JEB BUSH  
GOVERNOR

605 Suwannee Street  
Tallahassee, FL 32399-0450

DENVER J. STUTLER, JR.  
SECRETARY

November 21, 2005

Mr. David Gibbs, Florida Division Administrator  
Federal Highway Administration  
545 John Knox Road, Suite 200  
Tallahassee, Florida 32303

Re: Florida Department of Transportation's "Efficient Transportation  
Decision-Making" Process

Dear Mr. Gibbs:

Pursuant to Section 6002(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), this letter is to confirm that the Florida Department of Transportation (FDOT) intends to continue to advance projects under the "Efficient Transportation Decision-Making" (ETDM) process which was approved under Section 1309 of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21). Interim Guidance produced by the Federal Highway Administration on September 2, 2005 relative to Section 6002 of SAFETEA-LU instructs that this confirmation be accompanied by an explanation of how ETDM may continue to be used by FDOT from a legal standpoint. This explanation is provided, below.

Section 6002(b) of SAFETEA-LU states:

Existing Environmental Review Process.--Nothing in this section affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary under section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232; 23 U.S.C. 109 note) as such section was in effect on the day preceding the date of enactment of the SAFETEA-LU.

FHWA interprets Section 6002(b) to apply to State Department of Transportations that have reengineered environmental review practices for streamlining purposes under TEA-21. This letter presents information documenting that the EDTM meets this intent and the legal criteria established that ETDM was approved by the Secretary of United States Department of Transportation (USDOT).

ETDM is a reengineered environmental review process that required extensive effort by the State and its partners. The State of Florida has completely revamped its procedures for planning transportation projects, conducting environmental reviews, and developing and permitting projects. These changes were initiated in response to the "Streamlining" provisions in TEA-21, passed by Congress in July 1999.

Referring to Exhibit 1, 24 federal, state, and regional agency heads signed the Memorandum of Understanding on December 14, 2001, agreeing to develop and implement a new process for Florida

designed to accomplish the streamlining objectives. The initiative has come to fruition with the implementation of ETDM.

The objective of the ETDM process is to produce good transportation projects in a timely manner, while simultaneously protecting the valuable environmental resources which make Florida so unique. Resource agencies and the public have the opportunity to provide input to the Department on a project's potential impacts to the natural, cultural, and human environment early in the planning stages, through a series of "screening" events. Comments from agencies and the public are utilized to focus the issues that need to be addressed during the Project Development and Environment (PD&E) and Design phases. ETDM does not substitute for, but enhances and streamlines, subsequent permitting review processes by involving resource agencies well before their regulatory involvement traditionally begins.

To accomplish the ETDM process each of FDOT's seven geographic Districts has an "Environmental Technical Advisory Team" (ETAT) consisting of representatives from the participating agencies which have statutory responsibility for conducting consultation under NEPA or issuing permits. The Metropolitan Planning Organizations in each District are also ETAT members. During the Planning screen ETAT members are asked to review and comment on purpose and need; review direct impacts; recommend avoidance and minimization options; suggest mitigation strategies; provide secondary and cumulative effects commentary; assess the degree of effect the project may have on their resource or community; and participate in dispute resolution if necessary. These same items are again reviewed during the Programming screen, based on updated information. During Project Development and subsequent Design phases, coordination by ETAT members occurs on a continual basis to ensure that environmental issues are addressed and that others within their respective agency understand the project concept, potential environmental impacts, and the basis for project design. It is the intent of the process to concurrently develop environmental information for both NEPA and permitting purposes, and apply for permits at the end of the Project Development phase.

After each screening phase a Summary Report is developed which summarizes all agency and public comments received during the Screening review; and which documents all commitments made. This becomes part of the "Project Diary", which will follow the project through all subsequent phases. A similar Summary Report is developed at the end of the project development phase to document results and to include permits and commitments made, and becomes part of the Project Diary.

The screening process is expedited through use of a GIS web-based application and an Environmental Screening tool (EST). The Environmental Screening Tool (EST) is an Internet-accessible interactive database and mapping application. The EST integrates resource and project data from multiple sources into one standard format and provides quick and standardized analyses of the effects of the proposed project on natural and human resources. The tool also supports communication among agencies, planners, engineers and the affected public. When projects are sent out for ETAT review they are also accessible via a public information website for public review and comment. Once the Summary Report is developed at the end of the screening phase, the report is also available via the Public Information site.

The overarching benefit of the screening process in ETDM is early identification and interagency dialogue regarding the potential impacts a project under consideration might have on the natural, cultural, and human environment; and a better understanding of what those potential costs might be. Specific benefits include concurrent reviews, earlier permitting, interactive planning, efficiency gained from technology, better cost estimating, and better transportation decisions. Ready access to standardized project analyses, coupled with early and continuous involvement by agencies and the public, are expected to expedite the environmental review and permitting processes. Unexpected disputes arising in later phases of project development should be reduced or eliminated, resulting in faster delivery of transportation projects at less cost to the State of Florida.

With respect to the legal requirement set forth in Section 6002(b), the Secretary of the USDOT approved of ETDM pursuant to Section 1309 in multiple respects. A review of the language of Section 1309 indicates that there were requirements that the Secretary be involved in the formation, operation and funding of an environmental review process. The Secretary was to "develop and implement" the process. Agreements were to be entered between USDOT and other Federal and state agencies. The Secretary was to determine which agencies would participate, and was to develop review time limitations along with those agencies. If extensions to an approved review time limitation were needed, those extensions were to be approved by the Secretary. The Secretary initiated the dispute resolution process. Finally, the Secretary approved the funding (and amounts) requested by States and Federal agencies participating in the process.

All documents creating ETDM refer to Section 1309 either directly or indirectly. Attached hereto are five agreements signed by a representative of the Secretary of USDOT:

1. ETDM Memorandum of Understanding executed by 24 participating agencies;
2. Federal Highway Administration and Federal Transit Administration Master Agreement;
3. Federal Highway Administration and Federal Transit Administration Agency Operating Agreement;
4. US Fish and Wildlife Service Funding Agreement;
5. Florida Department of Community Affairs Funding Agreement.

The Memorandum of Understanding, the Agency Operating Agreement, and the Funding Agreements refer to Section 1309 specifically. The Master Agreement refers to the Memorandum of Understanding. Thus, ETDM was approved, and is operated and funded, by the Secretary of USDOT under the authority of Section 1309.

In sum, ETDM is a fully reengineered environmental review process which was formed by FDOT in partnership with USDOT and approved by the Secretary. ETDM has been operational since early 2004, and, to date, over 150 major capacity projects have been screened by ETATs. Accordingly, ETDM meets both the intent and legal standard for grandfathering under Section 6002(b).

ETDM involves multiple Federal and state agencies, with multiple agreements signed by each participating agency, including funding agreements. This letter also confirms that nothing in Section

Mr. David Gibbs  
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6002(b) impacts the validity of any of these agreements, all of which have been signed by a representative of the Federal Highway Administration.

This is also to confirm for ETDM the applicability of 23 USC 139(j) which states:  
Assistance to Affected State and Federal Agencies.—

(1) In general.--For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under this title or chapter 53 of title 49, the Secretary may approve a request by the State to provide funds so made available under this title or such chapter 53 to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery for projects in that State. [Emphasis added.]

Since ETDM has been approved by the Secretary of USDOT for Florida, funding pursuant to this subsection should be available for ETDM “to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and development for projects in that State” (23 USC 139 (j)(1)); and for “transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements” as provided by 23 USC 139(j)(2).

Finally, it is the intent of FDOT to continue to refine and improve ETDM. Periodically, the agreements with the participating agencies are renewed, and as this is done FDOT will be examining whether it would be appropriate to transition the authorization for ETDM to Section 6002(a) of SAFETEA-LU. If this is determined to be an advisable course of action, FDOT will, with the concurrence of FHWA and the participating agencies, make the necessary modifications to the agreements to accomplish the transition at the appropriate juncture.

Thank you for your attention to this matter. The Florida Department of Transportation looks forward to continued success working with USDOT and the Federal Highway Administration on this ground-breaking environmental streamlining initiative.

Sincerely,



Ysela Llort  
Assistant Secretary  
for Intermodal Systems Development

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cc: Denver Stutler, Jr., Secretary, Florida Department of Transportation  
Pamela S. Leslie, General Counsel, Florida Department of Transportation  
Stan Cann, District One Secretary, Florida Department of Transportation  
Charles Baldwin, District Two Secretary, Florida Department of Transportation  
Edward Prescott, District Three Secretary, Florida Department of Transportation  
Jim Wolfe, District Four Secretary, Florida Department of Transportation  
George Gilhooley, District Five Secretary, Florida Department of Transportation  
John Martinez, District Six Secretary, Florida Department of Transportation  
Donald Skelton, District Seven Secretary, Florida Department of Transportation  
Jim Ely, Executive Director, Florida's Turnpike Enterprise  
Carolyn Hyland Ismart, Manager, Environmental Management Office  
Robert Downie, Assistant General Counsel, Florida Department of Transportation

YL: cdm