

Federal Lands Access Program Program Decisions Committee Charter State of Utah

Purpose

The purpose of this Statewide Agreement is to establish the procedures to be used in implementing the Federal Lands Access Program (Access Program) in the State of Utah pursuant to the provisions of 23 U.S.C §§ 201 and 204.

Parties to the Agreement

The Programming Decisions Committee (PDC) within each State is comprised by a representative of the Federal Highway Administration (FHWA); a representative of the State Department of Transportation; and a representative of any appropriate political subdivision of the State.

The PDC for the State of Utah includes:

- Federal Highway Administration (FHWA): UT Federal Lands Access Program Manager, FHWA – Central Federal Lands Highway Division (CFLHD), or designated representative;
- Utah Department of Transportation (UDOT): Director, Financial Programming, Utah Department of Transportation (UDOT), or designated representative; and
- State Political subdivision: Commissioner, Utah Association of County Engineers, or designated representative.

Use of Access Program Funds

In accordance with 23 U.S.C. § 204, funds made available under the Federal Lands Access Program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal Land Management Agencies (FLMAs) for:

- (A) Transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, context-sensitive solutions, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and
 - i. adjacent vehicular parking areas, including interpretive panels in or adjacent to those areas;
 - ii. acquisition of necessary scenic easements and scenic or historic sites;
 - iii. provisions for pedestrians and bicycles;
 - iv. environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
 - v. construction and reconstruction of roadside rest areas, including sanitary and water facilities;
 - vi. contextual wayfinding markers;
 - vii. landscaping;
 - viii. cooperative mitigation of visual blight, including screening or removal; and
 - ix. other appropriate public road facilities, as determined by the Secretary.
- (B) Operation and maintenance of transit facilities; and

- (C) Any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, Federal land.

Eligible applicants include State, county, tribal, municipal, and local governments. In making programming decisions, the PDC shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators.

The Access Program funds are allocated to the State by formula in accordance with 23 U.S.C. § 204(b)(1).

Loan/credit funding transfers, both between Access Program states and other allowable FLH programs, may be necessary to ensure the allocated amount will maximize utilization of available funds and to facilitate the delivery of the approved program of projects. CFLHD, on behalf of the PDC, will coordinate and execute loan/credits as needed. Although rare circumstances may warrant exceptions, new loan-credit arrangements are prohibited during the last year of the Transportation Act since the expiration of the Act is imminent and the length and funding levels of possible extensions are unpredictable. All loans will be paid back by the end of the Transportation Act.

Program of Projects, Project Solicitation and Project-Level Consultation with FLMAs

Per 23 U.S.C. § 204(c), programming decisions shall be made within each State by the PDC, which is required to cooperate with applicable FLMAs before any joint discussion or any final programming decision.

FLMAs include, but are not limited to:

- (a) The National Park Service
- (b) The Forest Service
- (c) The United States Fish and Wildlife Service
- (d) The Bureau of Land Management
- (e) The Bureau of Reclamation
- (f) The United States Army Corps of Engineers
- (g) Other Federal agencies such as the Department of Energy, Department of Defense, etc.

Accordingly, the PDC will solicit for Access Program proposals, develop selection criteria, a ranking system and evaluation process, select projects for award within the limit of available funding and develop a multi-year program of projects. While the PDC will administer the project selection process, CFLHD on behalf of the PDC will also cooperate with the applicable FLMA's during this process. Projects eligible for Federal Lands Access Program funding must be those projects or activities that are within, adjacent to, or provide access to Federal land. All proposals submitted for review by the PDC must show a commitment for ongoing and long-term maintenance.

The PDC will generally meet annually. The meeting may be held face to face, via video, web or telephone conference as deemed appropriate by the PDC. The objective of the meeting will be to develop a five-to-seven-year program of projects that can be accomplished with the amount of funding that may reasonably be expected based upon current and past appropriations. After the projects and project priorities have been approved by the PDC, the CFLHD will assemble the approved program and provide copies to the PDC.

All projects included in the Federal Lands Access Program will be added into the FLH Transportation Improvement Program (FLH-TIP). The FHWA Utah Federal-Aid Division office will ensure the FLH-TIP is included in the UDOT maintained statewide transportation improvement program (STIP), either directly or by reference. Central Federal Lands Highway Division will make the FLH-TIP available to the UDOT,

which subsequently included without change into the STIP. If necessary, the UDOT will forward a copy of the program to the appropriate metropolitan planning organization (MPO) for incorporation into its transportation improvement program (TIP).

Project Agreements

A project agreement shall be entered into between the FHWA and the other appropriate entities responsible for the facility. Responsible parties may include: the UDOT, FLMAs, or other governmental or local governing agencies. The purpose of the project agreement will be to document specific project responsibilities and commitments. A project agreement will be entered into between the FHWA and a public agency on every project.

For Access Program projects programmed by the PDC for delivery by the UDOT and projects carried out by local public agencies (LPA) through the UDOT, CFLHD will prepare detailed project selection and programming letters outlining the scope of work, programmed funding including year funds are available, maintenance commitment, leveraged funding arrangements, and other important project / program information. The authorizing document approved by the UT Federal-Aid Division in the Fiscal Management Information System (FMIS) will serve as the project agreement and the UT Federal-Aid Division and UDOT Stewardship and Oversight Agreement will apply.

Non-Federal Share

There is no longer a match requirement for projects carried out under the Federal Lands Access Program if those projects were approved after the enactment of the Infrastructure Investment and Jobs Act (IIJA) on November 15, 2021; In accordance with 23 U.S.C. § 201(b)(7)(B), the Federal share of the cost of a project carried out under the Access Program shall be up to 100 percent. An applicant may bring local or other Federal funds to supplement Access Program funds on a project. Other Federal funds leveraged for Access Program projects may have their own match requirements. Funding from sources other than the Access Program, while allowed, will not be used as a factor in the evaluation process. Sources of project funding should be documented in the project agreement or detailed project selection and programming letter.

Development of Projects

A signed project agreement will be required for all projects selected for award by the PDC. The project agreement will establish a scope of work for a programmed project, roles and responsibilities of all parties involved in the delivery of a project award and establish a commitment for ongoing and long-term maintenance of the completed project. For projects delivered by the UDOT and projects carried out by an LPA through the UDOT, detailed project selection and programming letters will be issued, and the authorizing document approved by the Federal-Aid Division in FMIS will serve as the project agreement and the Federal-Aid Division and UDOT Stewardship and Oversight Agreement will apply.

All projects will be delivered in accordance with FHWA procedures; commitments for ROW acquisition, utility relocation, and railroad coordination must be documented in the project agreement, as applicable. Where appropriate, design exceptions will be documented.

Unless there is justification for an alternate delivery agency and that agency demonstrates an ability to satisfy FHWA project delivery requirements, then project delivery will be provided by CFLHD. The CFLHD maintains strong relationships with Federal, State, local, and tribal partners. The CFLHD provides program stewardship and transportation engineering services for planning, design, construction, and rehabilitation of transportation facilities on and providing access to Federal and tribal lands. The final decision for project delivery resides with the CFLHD.

Please see: www.fhwa.dot.gov/federal-aidessentials for information and additional guidance for the project development and delivery process under Title 23.

Maintenance

After construction of a project, the public authority with jurisdiction over the facility will operate and maintain, or cause to be maintained, the facility at their expense in accordance with 23 U.S.C. Section 116 and 23 CFR Section 660.115.

The project needs to be accepted by the jurisdictional agency for operation and maintenance when all construction work has been completed in substantial conformity with the approved plans and specifications and the project has been inspected by the jurisdictional agency and accepted.

Stewardship and Oversight

The FHWA UT Federal-Aid Division Office has Stewardship and Oversight responsibility and will conduct periodic program reviews. Information on individual projects, project performance and/or management may be provided to a stewardship and oversight committee for their review.

Where Access Program projects are programmed for delivery by the UDOT or carried out by LPAs through the UDOTs, stewardship and oversight (S&O) will be governed by the S&O agreement executed between the FHWA UT Federal-Aid Division and the UDOT and in accordance with 23 U.S.C. 106.

Modifications

Any modifications to the Agreement must be made in writing and agreed to by all parties. Such authorizations are not binding unless they are in writing and signed by personnel authorized to bind each of the agencies.

Signatures

Utah Department of Transportation

Name: Ivan Hartle

Title: Director, Financial Programming, Utah Department of Transportation (DOT)

Signature: _____

Date: _____

**Federal Highway Administration
Central Federal Lands Highway Division**

Name: Melissa Jucha

Title: UT Federal Lands Access Program Manager


Signature: _____

Date: _____

Utah Association of County Engineers

Name: Dennis Blackburn

Title: Wayne County Commissioner, UT Association of Counties

Signature:  _____

Date: **11/13/23** _____

Addendum 1: Definitions

- (a) **Federal Lands Access Transportation Facility** is defined as "a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands, for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government" (23 U.S.C. 101(a)(7)).
- (b) **Jurisdiction** means the legal right or authority to control, operate, regulate use of, maintain, or cause to be maintained, a transportation facility, through ownership or delegated authority. The authority to construct or maintain such a facility may be derived from fee title, easement, written authorization, or permit from a federal agency, or some similar method.
- (c) **Metropolitan Planning Organization (MPO)** means the policy board of an organization created and designated to carry-out the metropolitan transportation planning process, pursuant to the provisions of 23 U.S.C. 134 and 23 CFR Part 450, subpart C.
- (d) **Open to public travel** means except during scheduled periods, extreme weather conditions, or emergencies, open to the general public for use with a standard passenger auto, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.
- (e) **Public road** means any road or street under the jurisdiction of and maintained by a public authority and open to public travel (see definition above).
- (f) **Statewide Transportation Improvement Program (STIP)** means a statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans, and transportation improvement programs, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C., Chapter 53.
- (g) **Long-Range Statewide Transportation Plan** means the official statewide multimodal transportation plan covering a period of no less than 20 years developed through the statewide transportation planning process, pursuant to the provisions of 23 U.S.C. 135 and 23 CFR Part 450, Subpart B.
- (h) **Metropolitan Transportation Plan** means the official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated through the metropolitan transportation planning process.