



**“Big Sky” Regional Peer
Exchange on
Federal-aid Highway Program
Financial Management**

Summary Report

MAY 9-10, 2018

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Salt Lake City, UT (UDOT Learning Center)

Overview

This customized exchange brought together financial professionals from five upper Midwest / northern Rocky Mountain peer states (ID, MT, ND, SD and UT) to discuss common issues, compare best practices, and engage in a facilitated dialogue about managing and strengthening selected financial aspects of their Federal-aid Highway Program (FAHP).

Day I:

Project Funding

Advance Construction (AC)

AC has been around for a long time; what are current issues or policies affecting how states use AC?

- Utilization of AC requires having sufficient state (non-federal) funds to advance projects that later may be converted to Federal-aid projects. The participants noted that states have federal programs of widely different sizes.
- States that use AC find it to be a useful tool for managing uncertain availability of federal funding, including amounts that become available late in the federal fiscal year through the August Redistribution process.
- Participants talked about deciding which projects get designated as AC projects. Some states have a programmatic approach (e.g., GARVEEs); others focus on a particular project in a certain situation (e.g., a major project with a multi-year payout period or an emergency relief (ER) project when federal ER funds are not immediately available).
- The discussion also touched on the presentation of AC projects in the Statewide Transportation Improvement Program (STIP) and closing out a project once it has been fully converted.

Federal Share

For what phases of work does your state use federal aid (e.g., Preliminary Engineering (PE), Right of Way (ROW), Utilities, Construction)?

- States vary in their approach to federalizing projects. Some states with more robust state funding reserve federal funds for preservation and rehabilitation projects that offer fewer environmental hurdles. States where the federal share accounts for most of their total program federalize most or nearly all projects. Some states in the latter group noted that federalizing projects early in development can complicate them and contributed to delays; they now apply state funds to early development costs and reserve federal funds for construction.
- Some states are more aggressive about targeting activities that can receive a higher federal share (e.g., certain safety, innovative delivery, workforce development, federal lands, and rail-highway crossings projects). The discussion included those Section 130 rail-highway crossings that were erroneously authorized with a 100% federal share and now must be modified to reflect the correct 90% federal share. Some states have already resolved this problem and FHWA remedy guidance is forthcoming.
- The group briefly discussed the use of bridge and toll credits. Some states expressed that it was a lot of work to satisfy the Maintenance of Effort (MOE) test for the modest benefit and did not focus on these credits as they don't grow the program.

- The states compared key characteristics of local fund swapping programs, including whether the DOT or locals retain unused funds, whether they operate on a project or programmatic basis, and the ‘exchange rate’ for swapping funds (which varied from 62% to 91%). Fund swapping typically occurs with small, rural projects where it does not make sense for the local project sponsor to take on a federalized project.
- A robust discussion on indirect cost recovery focused on the administrative effort relative to the benefit to DOTs. Nationwide, a little more than half of DOTs claim indirect costs. The group present was similarly split. Of those states that do, most required a ¾ to full-time position to manage the process. The group talked about how small local projects (less than \$35 million) can qualify for a flat 10% “de minimis” indirect cost rate. FHWA participants also described how a ‘narrative cost allocation’ process, whereby a state DOT develops a short document identifying certain costs specific to a unique program that can be allocated to local projects, might be a simpler and more cost-effective option than developing an Indirect Cost Allocation Plan (ICAP) and dedicating personnel to oversee its implementation. This option was explored as a ‘TE-045’ experiment with several states and now can be implemented under FHWA uniform policy.

Project Delivery

How effective are alternative project delivery methods such as design-build, public-private partnership (P3)?

- Some of the participating states are using design-build for some portion of their programs. Challenges include obtaining robust legislative authority, right-sizing procurements to maintain a competitive environment for local bidders and estimating payout curves for major projects. The primary benefit of a D-B approach was identified as project acceleration.

General Fund Appropriations

How is this funding allocated within the states?

- Discussion of this newly-appropriated (but not authorized in the FAST Act) \$1.9 billion federal highway program focused on its similarities to the STBG program and ARRA funding. Its sub-allocation into small portions makes it costly to administer. Reducing the number of sub-allocations was identified as a potential opportunity for improvement / simplification in any future appropriation.

Project Management

Grouped or Multi-State Projects

What is your state’s experience with grouped / umbrella projects or multi-state projects (special challenges and practices)?

- The group agreed that multi-state projects are typically worked out on a case by case basis, usually by transferring funds to a single state which then takes the lead on project delivery. Some of these are bridge projects (or groups of bridges).
- One state noted that it uses umbrella projects for various wetlands mitigation activities subject to ongoing monitoring after construction completion by the Army Corps of Engineers. This allows the state to close the main project in a timely fashion.

Project Modifications

What are the primary issues regarding the modification of project scope and funding?

- The focus of FHWA guidance is state policy and process for developing a “best cost estimate” and adjusting the project authorization as appropriate throughout the life of the project.
- States typically have cost thresholds for undertaking a reprogramming or otherwise modifying a project.
- Some states modify frequently; others on a less-regular basis depending on circumstances. In the case of AC projects, for example, the frequency of modifications may depend on whether there is a single conversion to federal aid or numerous partial conversions.

- Most states fully convert AC unless they don't have the funds to do so. One state shared that it frequently makes partial conversions and doesn't obligate federal funds for projects without expenditures as a strategy for reducing the number of inactive projects.

Inactive Projects / Project Closeout

How do states manage inactive projects and project closeouts?

- A project without any billing activity for 12 months may be considered inactive. A project is "complete" after final acceptance of construction – after the final change order and final pay estimate and any excess obligations have been eliminated (de-obligated down to zero balance). The performance period end date (the time period between project completion and project closeout) varies by state, project / phase, and other circumstances.
- FHWA will be issuing more guidance on closing out projects. It is developing a new process for old projects (not applicable to newer ones, after December 2014, because those all have performance end dates).
- A risk-based closeout process refers to the risk of federal requirements not being met. It is up to the state to define a low risk project that might be eligible to avoid the full-blown closeout review process.
- Some states meet monthly to review end dates and the (potential) inactive list. One state executes a separate project agreement for each phase. Other states just have a single project agreement and modify the agreement for each phase of the project.
- FHWA monitors inactive projects, expects them to be under the 2% level.
- There was a general discussion about the 10-year requirement for preliminary engineering projects.

Working Lunch

Communicating with Policy Makers

Utah DOT Executive Director Carlos Braceras visited the group over lunch to talk about his state's recent experience in communicating with state legislators. An important step was to engage the business community through the Utah Chamber of Commerce, which created an effective transportation coalition. It was noted that a recent NCHRP study addressed communicating with policy makers and that a prior NCHRP presentation focused on building trust with legislators.

Director Braceras also described the "RUC-West" coalition involving 14 western states that are participating to various degrees in a wide-ranging exploration of road user charges. He emphasized that effective communication with the legislature enabled Utah to realize several significant achievements, including an increase in state revenues (gas tax with indexing), delegation of NEPA authority, primary seatbelt law, and authority for studying road user charges.

FMIS Feedback

The group had a lively lunch discussion about their experiences and problems with FHWA's Fiscal Management Information System (FMIS).

- There were questions as to the necessity of some of the data: is it essential, actually being used? There seem to be lots of unused (hardly used) data fields.
- Business objects/ reports are a good feature but don't always work.
- FMIS 5 started out fine but after the updates last summer the system became unstable and slow.
- Errors don't offer any guidance on what went wrong, and support requests or documentation of issues sometimes go unanswered.
- The current bill module works well.
- States and division offices have different interfaces; this can create challenges when working together to resolve issues.
- Electronic Data Submittal (EDS) seems to have better customer service and performance, and it populates all the fields and deals with FMIS errors.

- FMIS training could be improved to be more timely (relative to updates) and practical.
- Participants were invited to join the newly-formed AASHTO Funding and Finance working group on FMIS.

Managing AC

- There is now a period of performance requirement for each project and DOTs cannot incur additional costs after the end date. This excludes the conversion of federal funds on AC projects, which can occur after the end date. There's a blanket extension on closeout periods with a request to the division office; it's not necessary to modify the end date for this purpose. Once the last dollar is converted the project must be closed within 90 days.
- The 2 CFR 200 Implementation Guide Funds Management memo will be reissued soon with Q&As that cover this topic (and others).

Program Management

Lapsed Funds, Rescissions, Transfers

What is the impact of lapsed funds or rescissions on your state?

- The group noted that sometimes it is necessary to transfer funds among categories, but all the states manage to avoid lapsing.
- States frequently transfer funds to “protected” categories, such as safety programs, in order to reduce the impact of rescissions.
- One state discussed its process of converting TAP funding or enhancement money to STP funding and then providing state funding to local entities for those projects.
- There was discussion of whether the 2020 rescission built into the FAST Act (of \$7.6 billion) could have a material impact on some states and whether general-funded appropriations also are at risk of rescission.

August Redistribution

What is the state's strategy regarding August Redistribution?

- The group noted the very large redistribution amounts in recent years (\$2-3 billion) resulting primarily from large amounts of discretionary grant (INFRA) and loan (TIFIA) spending authority unobligated by USDOT.
- There was some discussion about whether states are making concerted efforts to increase their chances of receiving supplemental obligation authority through the August Redistribution process.
- It was noted that FHWA looks at a state's percentage of the national unobligated balance of apportioned funds so “padding” requests for additional authority does not necessarily increase the amount a state receives.

Forecasting use of Federal-aid Funds

To what extent is your state concerned about future federal funding levels?

- While the state DOTs acknowledge concern about the future of the Federal-aid Highway Program after the FAST Act authorization period, they uniformly are still preparing funding forecasts that assume flat apportionment levels beyond 2020.
- Many DOTs have regular contacts with their legislatures about this issue so that state policy makers are informed and hopefully prepared to address the potential “funding cliff” at the federal level.
- The group also discussed whether it would be preferable to have a lower but more certain federal funding level in the future instead of a highly uncertain federal program that faces potential rescissions, general fund transfers, and other uncertainties from year to year.

Oversight

FIRE Program

What are the primary issues relating to FHWA's Financial Integrity Review and Evaluation (FIRE) Program?

- The FIRE program was developed to address concerns about financial management. Most of the components affect FHWA division offices; the state DOTs must address obligations and payments.
- States have to go through a transaction review process:
 - Third party audit for improper payments
 - OCFO testing based on risk analysis
 - Optional (for this year) transaction testing by the division office
- The major challenge with FIRE is that some divisions and states don't have the resources to do what is being asked of them under this program. However, it was acknowledged that FIRE has helped FHWA receive clean audits and has protected the states against some claims of fraud.

Project Audits

The group briefly discussed their experiences with project audits.

- Many states conduct their own project audits or internal reviews that fall short of audits.
- It is effective to have a third party come in to review things from a different perspective.
- Statewide audits tend to treat the FHWA program as a major program with a focus on big-ticket projects.
- Although most state-level audits do not involve a deep exploration of federal payments, auditors are guided by the FHWA Compliance Supplement on the FAHP.
- Challenges for DOTs include auditors' lack of familiarity with federal-aid program issues and frequent turnover of auditors from year to year.

FAHP Penalties

To what extent do states face program penalties?

- The group briefly discussed some of the program penalties their states have faced and to what extent they have influenced state highway policy debates and decisions.
- It was noted that in a couple of cases the penalties resulted from legislative oversights or misinterpretation.

Additional Discussion

Cost Estimates and Project Delivery

- Some states are noticing a growing gap between their engineers' cost estimates and actual project bids, which may be attributed to DOT engineers' risk aversion and/or the current economic environment resulting in more competition. This disparity disrupts program planning. One state is now hiring an outside estimator.
- State participants also talked about the challenge of keeping projects on track with respect to lettings. Some hold regular (e.g., monthly) meetings with program managers and district level directors to hold districts accountable for expending funds and delivering projects as programmed.

Day 2:

Other Discussion Topics

Forecasting Cash Needs

How do you forecast cash needs for your program?

- One state is currently revamping its approach for using Excel to look at payout curves based on historical data and compare forecasts to actuals. It forecasts out 4-5 years and each forecast is just a once a year snapshot.
- Another state uses a proprietary system from a private company.
- Identified challenges include forecasting bid and start dates for numerous projects in a multi-year plan, obtaining accurate data, and accurately forecasting beyond 6 months.

TIFIA Loans to SIB Lenders

The BATIC Team reviewed a presentation prepared by FHWA's Center for Innovative Finance Support on the State Infrastructure Bank (SIB) Rural Projects Fund: A TIFIA Loan to a SIB Lender.

- Most states do not have active SIB programs; although one state present has a de-federalized SIB, which serves as a convenient tool for helping to finance legislative priorities.
- The discussion focused on what might qualify as a "rural infrastructure project" under the statutory definition and whether such projects might be suitable for debt financing from a SIB account capitalized with a TIFIA loan.

Institutional Capacity Assessment

Participants engaged in a "Question Storming" exercise to identify capacity building needs.

Think ahead to a year or two years from today. What questions, if you were able to answer them in the coming months, would help you to be more successful in your job and/or help your organization to be more successful in meeting your goals during that timeframe? What answers could be transformative in large ways or small?

After independently developing individual questions, the participants were organized into small groups (by discipline or focus area) to discuss their ideas and report out their top three questions to the full group. Many groups had similar questions.

Workforce

- Who will our successors be (within the DOT and industry broadly, across all transportation disciplines)?
- New generation works differently and has different expectations
 - Leadership
 - Culture
 - Workflow and systems – do we need to upgrade our systems/ tech?
- How do we transfer knowledge and ensure continuity of operations?
- How much are we willing to spend on training an employee who is more likely to leave?
- How can we change our cultures to retain employees?
 - Family friendly
 - Remote work arrangements
 - How else can we reward employees (beyond higher pay)?

Forecasting

- How do we accurately forecast so we can plan appropriately?
- Better data?
- Better methods?
- Better timing of information flow?

FMIS

- How can we make FMIS entry a smoother process?
- More consistent data requirements?
- Less redundant reporting processes?
- Can we have better training and support?

Cost Accounting Systems

- What are the future requirements of cost accounting systems?
 - Have to be able to interface with FMIS
 - Requirements to use state systems or interface with them
- How can we fund system/ IT needs?
- What is the potential for economies of scale?
- Why can't we all use the same system?
- Are the states really that different?
- Is there an AASHTOware opportunity?
 - Limited for states that are required to use state systems
 - Consistent data requirements are a threshold issue

Public Engagement/ Transparency

- How can we better engage with the public to help them understand the importance of transportation investment?
 - Involving stakeholders
 - Showing link between investment levels and forecast outcomes can help build credibility with legislators
- How can we help the public understand the importance of O&M and safety functions?
- Public dashboards are a common approach, including:
 - Project cost
 - Funding source
 - Geographic location
 - Strategic goals
 - Performance measure dials
- Tying funding to performance and outcomes is a common goal
 - Development of logical and measurable performance metrics is a challenge

Program Flexibility

- Could we increase flexibility in calculating indirect costs?
 - FHWA has authority to negotiate rate with state DOT
 - Perhaps just base indirect costs on administrative costs

- How could we be more flexible overall, simplify the federal program?
 - Streamlining of federal requirements
 - Data simplification (fewer fields, more consistent use)
- Could we eliminate non-federal match at a project level?
 - Arguments about needing non-federal investment to assure quality and avoid displacement are not valid
 - Focus on program-wide maintenance of effort with respect to investment levels

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