Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**State of Florida, Department of Transportation**

# Application for Assumption of Federal Highway Administration Responsibilities

Pursuant to the Surface Transportation Project Delivery Program, 23 U.S.C. § 327

**October 12, 2026**

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

This is the Florida Department of Transportation (FDOT) application of renewal to assume the U.S. Secretary of Transportation's and Federal Highway Administration's (FHWA) National Environmental Policy Act (NEPA) responsibilities under an Assignment Program authorized by the Surface Transportation Project Delivery Program, 23 United States Code (U.S.C.) § 327.

Submitted by:

DocuSigned by:

862D6B01F4FF447...

Dated: 10/19/2026 | 3:55 PM EDT

Jared Perdue, P.E.
Secretary
Florida Department of Transportation

For questions regarding this application, please contact: the FDOT Chief Engineer of Production, Jennifer Marshall, P.E. at (850) 414-5203 or email: **EMO@dot.state.fl.us**

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## Introduction

The Florida Department of Transportation (FDOT) appreciates the opportunity afforded by Congress to allow states to assume the responsibilities of the Federal Highway Administration (FHWA) for the National Environmental Policy Act (NEPA) and related laws through applying to participate in the Surface Transportation Project Delivery Assignment Program (NEPA Assignment Program) pursuant to 23 U.S.C. § 327. FDOT submitted its initial NEPA Assignment application on May 31, 2016, and the NEPA Assignment Memorandum of Understanding (MOU) between FDOT and FHWA became effective December 14, 2016. FDOT renewed its NEPA Assignment MOU on May 26, 2022.

Since being accepted into the NEPA Assignment Program, FDOT has successfully completed four (4) audits, nine (9) self-assessments, four (4) risk-based assessments and one (1) monitoring event, with the second monitoring event, as required under the MOU, currently underway. FHWA has consistently publicly stated that FDOT continues to meet all requirements of the NEPA Assignment Program and has held FDOT up as an example for other states to follow. FDOT is very proud of our performance under the NEPA Assignment MOU, and we continue to ensure we are a model of compliance. FDOT looks forward to continuing this partnership and successfully implementing FDOT's NEPA Assignment program moving forward. The current MOU will expire May 26, 2027, and per 23 U.S.C. § 327, FDOT must request renewal of the MOU at least one year prior to its expiration.

On May 26, 2026, in accordance with 23 Code of Federal Regulations (CFR) § 773.115, FDOT notified FHWA Headquarters and Florida Division of its intent to renew participation in the NEPA Assignment Program for a ten-year period. Upon renewal, FDOT will continue to be legally responsible and liable for the environmental decisions made regarding FDOT's assumption.

In submitting its renewal application, FDOT confirms our strong commitment to successfully implement the responsibilities assigned to us under the NEPA Assignment Program. This application follows the requirements established in the Final Rule for the NEPA Assignment Program application issued in the Federal Register (Vol. 72, No. 28) on February 12, 2007, and as amended in the Federal Register (vol. 79, No. 179) on September 16, 2014. On June 26, 2026, FDOT submitted a Letter of Intent to Pursue NEPA Assignment Authority for the Federal Railroad Administration (FRA).

NEPA directs federal agencies to consider the environmental effects of their actions, using a systematic, interdisciplinary approach. In the State of Florida, as the agency responsible for providing safe and reliable transportation solutions, FDOT integrates environmental considerations into its project development activities to achieve compliance with applicable laws, regulations, and standards. FDOT is focused on delivering safe, efficient transportation projects and making sound decisions based on a balanced consideration of transportation needs and of the social, economic, and environmental impacts of proposed transportation improvements. FDOT's **Environmental Policy, Topic Number 000-625-001-m** is similar to the philosophy underlying NEPA and FHWA's NEPA policy expressed in 23 CFR § 771.105.

As required by NEPA, FHWA's NEPA regulations at 23 CFR Part 771, and in compliance with FDOT policies and procedures, FDOT examines and discloses the environmental effects of its proposed actions; identifies the ways that environmental impacts can be avoided or minimized;

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

prevents significant, avoidable environmental impacts by modifying its projects and/or implementing mitigation when appropriate; and publicly discloses the impacts of its projects and its project decisions, emphasizing balanced decision-making. As part of this process, FDOT undertakes timely and consistent outreach with the public, local governments, regional transportation planning agencies, resource and regulatory agencies, and Tribal Governments. FDOT will continue to work cooperatively with these entities under the NEPA Assignment Program.

FDOT has participated in the NEPA Assignment Program since 2016. Through this effort, FDOT has worked cooperatively with its federal and state agency partners and with Tribal Governments. In addition, FDOT has developed extensive procedures and tools to support this work. Because of FDOT's experience, expertise, and current level of involvement in consultations, its existing resources will be more than adequate to continue to assume FHWA's responsibilities for resolving issues with external agencies. FDOT's extensive staff capabilities and well-developed environmental compliance program, together with the steps that FDOT has taken and will continue to take to strengthen its implementation of the NEPA Assignment Program, are summarized in this application.

In 2001, FDOT, in partnership with federal, state, and regional agencies, established the Environmental Technical Advisory Team (ETAT) and signed a Master Agreement to develop the Efficient Transportation Decision Making (ETDM) process. The ETDM process was designed to facilitate early environmental review and agency coordination for transportation projects, linking planning and NEPA requirements.

Over the years, the ETDM process has evolved to incorporate statutory requirements under Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Moving Ahead for Progress in the 21st Century Act (MAP-21), Fixing America's Surface Transportation (FAST) Act, and the Infrastructure Investment and Jobs (IIJA) Act. In December 2005, FHWA formally recognized ETDM as satisfying federal requirements for efficient environmental review under Section 6002(b) of SAFETEA-LU. Today, ETDM remains central to FDOT's approach for integrating land use, transportation, and environmental resource planning, enabling early stakeholder input and streamlining project delivery.

As FDOT seeks renewal of its NEPA Assignment, the ETDM process continues to provide a framework for early identification of potential project effects, robust agency and public coordination, and compliance with federal and state environmental laws. The process is regularly updated to reflect best practices and regulatory changes, ensuring that transportation decisions are informed, efficient, and environmentally responsible.

Under the NEPA Assignment Program renewal, FDOT will continue to comply with applicable federal environmental laws and FHWA environmental regulations, policies, and formal guidance. The program will not change or weaken federal environmental protection standards. Under NEPA, FHWA regulation, and state statute and rule, FDOT currently makes decisions on its transportation projects that consider the environment and will continue to apply these same rigorous environmental standards to projects under the NEPA Assignment Program. To ensure the success of the NEPA Assignment Program, FDOT will partner with FHWA to conduct monitoring to gauge the effectiveness of its environmental procedures under the program and to identify the need for any program improvements.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Participation in the NEPA Assignment Program will continue to streamline Florida's environmental review process and project delivery time. This application contains the following components, as required by 23 CFR Part 773:

| **23 CFR § 773.107** | **Pre-application requirements** |
|---|---|
| § 773.107(a): | Coordination meeting |
| § 773.107(b): | Public comments |
| § 773.107(c): | Sovereign immunity waiver |
| § 773.107(d): | Comparable state laws |

| **23 CFR § 773.109** | **Application requirements** |
|---|---|
| § 773.109(a)(1): | Classes of Highway Projects for which FDOT is requests NEPA Responsibility |
| § 773.109(a)(2): | Federal Environmental Laws other than NEPA for which FDOT is Requesting Responsibility |
| § 773.109(a)(3)(i): | Existing Organization and Procedures |
| § 773.109(a)(3)(ii): | Changes to be made for Assumption of Responsibilities |
| § 773.109(a)(3)(iii): | Legal Sufficiency |
| § 773.109(a)(3)(iv): | Prior Concurrence |
| § 773.109(a)(3)(v): | Project Delivery Methods |
| § 773.109(a)(4)(i): | Staff Dedicated to Additional Functions |
| § 773.109(a)(4)(ii): | Changes to the Organizational Structure |
| § 773.109(a)(4)(iii): | Use of Outside Consultants for the Assignment Program |
| § 773.109(a)(5): | Financial Resources under the Assignment Program |
| § 773.109(a)(6): | Certification for Consent to Exclusive Federal Court Jurisdiction and Waiver of Sovereign Immunity |
| § 773.109(a)(7): | Certification that the State of Florida's Public Records Act is comparable to the Federal Freedom of Information Act |

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

| | |
|---|---|
| § 773.109(a)(8)(ii): | Comments Received on the Assignment Program Application |
| § 773.109(a)(9): | Point of contact |
| § 773.109(a)(10): | FDOT Secretary Signature approving application |

**23 CFR § 773.115: Renewals**

| | |
|---|---|
| § 773.115(a): | Notification 12 months before expiration of MOU |
| § 773.115(b): | Coordination for statewide public notice, if required |
| § 773.115(c)(1): | Changes to information submitted in initial application |
| § 773.115(c)(2): | Up-to-date certifications |
| § 773.115(c)(3): | Evidence of statewide public notification, if required |
| § 773.115(c)(4): | Governor's signature approving renewal package |
| § 773.115(d): | Renewal package with Governor's signature submitted 180 days prior to expiration of MOU |

This application also contains the following appendices:

Appendix A. Certifications for Consent to Exclusive Federal Court Jurisdiction and Waiver of Immunity and the State of Florida's Public Records Act is Comparable to the Federal Freedom of Information Act

Appendix B: Copies of Comments Received on the Assignment Program Application and Responses Provided to the Commenters

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## TABLE OF CONTENTS

Introduction ..... i
23 CFR § 773.107: Pre-application requirements ..... 1
§ 773.107(a): Coordination Meeting ..... 1
§ 773.107(b): Public Comments ..... 1
§ 773.107(c) and 23 CFR § 773.107(d): Sovereign Immunity and Comparable State Laws ..... 1
23 CFR § 773.109: Application Requirements ..... 1
§ 773.109 (a)(1): Classes of Highway Projects for Which FDOT is Requesting NEPA Responsibility ..... 1
§ 773.109(a)(2): Federal Environmental Laws Other than NEPA for Which FDOT is Requesting Responsibility ..... 2
§ 773.109(a)(3)(i): Existing Organization and Procedures ..... 3
Existing Office of Environmental Management Organization ..... 6
District Organization ..... 11
Environmental Staff ..... 12
Approach to Environmental Document Preparation ..... 15
FDOT's Existing Project Development Process ..... 16
Efficient Transportation Decision Making (ETDM) Process ..... 17
FDOT's Project Development and Environment (PD&E) Phase ..... 19
Public Involvement Procedures ..... 19
FDOT's Commitment to Quality and Quality Control Procedures ..... 21
Environmental Commitments ..... 24
Tools and Guidance ..... 24
Statewide Environmental Project Tracker System ..... 26
Additional Guidance ..... 27
FDOT's Training Program ..... 27
Programmatic Agreements and Agency Consultation ..... 28
Cultural Resources ..... 28
Natural Resources ..... 29
Physical Resources ..... 31
ETDM Agreements ..... 31
§ 773.109 (a)(3)(ii): Changes to be Made for Assumption of Responsibilities ..... 33
Organization and Procedures under the NEPA Assignment Program ..... 34
Expanded Quality Control Procedures ..... 34

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Independent Environmental Decision-Making ..... 37
Defining the Class of Action ..... 37
Consultation and Coordination with Resource Agencies ..... 37
Issue Identification and Conflict Resolution Procedures ..... 39
Internal and Local Agency Process ..... 39
Process with External Agencies ..... 39
Issue Resolution Process ..... 41
Record Keeping and Retention ..... 43
FDOT and FHWA Monitoring ..... 43
Performance Measures to Assess the NEPA Assignment Program ..... 44
Training ..... 44
§ 773.109 (a)(3)(iii): Legal Sufficiency ..... 45
§ 773.109 (a)(3)(iv): Prior Concurrence ..... 45
§ 773.109 (a)(3)(v): Project Delivery Methods ..... 46
§ 773.109(a)(4)(i): Staff Dedicated to Additional Functions ..... 47
§ 773.109 (a)(4)(ii): Changes to the Organizational Structure ..... 47
§ 773.109 (a)(4)(iii): Use of Outside Consultants for the Assignment Program ..... 47
§ 773.109 (a)(5): Financial Resources under the Assignment Program ..... 48
§ 773.109 (a)(6): Certification for Consent to Exclusive Federal Court Jurisdiction and Waiver of Immunity ..... 48
§ 773.109 (a)(7): Certification that the State of Florida's Public Records Act is Comparable to the Federal Freedom of Information Act ..... 49
§ 773.109 (a)(8)(ii): Comments Received on the Assignment Program Application Outreach ... 49
Notice of Draft Application ..... 49
§ 773.109 (a)(9): Point of contact ..... 49
Appendix A. Certifications for Consent to Exclusive Federal Court Jurisdiction and Waiver of Immunity and the State of Florida's Public Records Act is Comparable to the Federal Freedom of Information Act ..... 50
Appendix B: Copies of Comments Received on the Assignment Program Application and Responses Provided to the Commenters ..... 52

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## LIST OF FIGURES

Figure 1 FDOT Organizational Chart ..... 4
Figure 2 Office of Environmental Management Organization Chart ..... 8
Figure 3 FDOT District Boundaries Map ..... 12
Figure 4 FDOT's Project Development Process Overview ..... 16
Figure 5 FDOT's Project Development Process in Detail ..... 17
Figure 6 Efficient Transportation Decision Making (ETDM) Process ..... 19
Figure 7 NEPA Environmental Compliance and OEM Review Process ..... 23
Figure 8 OEM NEPA Review Process Explained for Type 2 Categorical Exclusion ..... 36
Figure 9 Issue Resolution Process ..... 42

## LIST OF TABLES

Table 1 Total FDOT NEPA Assignment Approvals ..... 13
Table 2 Staff Location, Responsible for Environmental Compliance and Documentation ..... 14
Table 3 FDOT Range of Technical Expertise, by Location ..... 15
Table 4 Current ETDM Agency Operating Agreements ..... 32

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

# 23 CFR § 773.107: Pre-application requirements

## § 773.107(a): Coordination Meeting

As required by 23 CFR § 773.107(a): Coordination meetings, were held on April 14, 2026, June 15, 2026, and July 13, 2026. FDOT met with FHWA Headquarters and Florida Division to participate in pre-application coordination meetings.

## § 773.107(b): Public Comments

Pursuant to 23 CFR § 773.107(b), FDOT's draft application was publicly noticed in the Florida Administrative Register on September 10, 2026, for a 30-day comment period.

While no substantial changes to FDOT's program are being made with the current renewal application, due to the fact that the renewal period is being extended from five (5) to ten (10) years, it was determined that additional public and agency outreach was appropriate. On September 9 and 10, 2026, FDOT notified stakeholders of the renewal, including the American Council of Engineering Companies of Florida (ACEC), our partner agencies, Metropolitan Planning Organizations (MPOs) and FDOT District Offices. FDOT also posted the notice on the NEPA Assignment Website: **NEPA Assignment | Office of Environmental Management Florida | Department of Transportation**. In addition, a noticed 30-day public comment period was provided. No comments were received, see **Appendix B**.

## § 773.107(c) and 23 CFR § 773.107(d): Sovereign Immunity and Comparable State Laws

Per 23 CFR § 773.107(c) and 23 CFR § 773.107(d), FDOT's consent to and acceptance of the exclusive jurisdiction of federal courts and its determination of public records law comparable to the Freedom of Information Act (FOIA) were submitted as a part of FDOT's Application for NEPA Assignment. A recertification in support of this renewal application is included in **Appendix A**.

# 23 CFR § 773.109: Application Requirements

## § 773.109 (a)(1): Classes of Highway Projects for Which FDOT is Requesting NEPA Responsibility

FDOT is requesting the continued assumption of FHWA's NEPA Responsibilities for the following classes of highway projects:

1. All Environmental Impact Statement (EIS) projects, both on the state highway system (SHS), which includes the National Highway System, and Local Agency Program (LAP) projects off the SHS that are funded by FHWA or require FHWA approvals.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Currently, there are no pending Florida highway projects with an issued Draft Environmental Impact Statement (DEIS) and a pending Final Environmental Impact Statement (FEIS).

2. All Categorical Exclusion (CE), projects, both on the SHS and LAP projects off the SHS that are funded by FHWA or require FHWA approvals.

3. All Environmental Assessment (EA) projects, both on the SHS and LAP projects off the SHS that are funded by FHWA or require FHWA approvals.

FDOT would establish appropriate relationships with other Operating Administration(s) involved in a multimodal project, including cooperating agency, participating agency, and lead or co-lead agency relationships under NEPA. In addition, FDOT may use or adopt other federal agencies' NEPA analyses consistent with U.S. Department of Transportation (USDOT) and FHWA regulations, policies, and guidance.

Projects meeting the following criteria will be excluded from the assignment:

1. Transit projects funded, in whole or in part, by the Federal Transit Administration (FTA) under Chapter 53 of Title 49 U.S.C., where FTA is the Lead Federal Agency.

2. Railroad projects funded in whole or in part by the Federal Railroad Administration (FRA) under Subtitle V of Title 49 U.S.C., where FRA is the Lead Federal Agency.

3. Federal Lands Highway projects, unless designed and/or constructed by FDOT.

4. Projects that cross state or international boundaries.

5. Projects under Recreational Trails program (23 U.S.C. § 206).

6. Any project advanced by a non-FDOT Direct Recipient of Federal-Aid Highway Funds.

FDOT's assumption of these responsibilities program-wide will provide for the highest degree of consistency and efficiency in document review and agency coordination. It will also provide the greatest opportunity for streamlining benefits.

## § 773.109(a)(2): Federal Environmental Laws Other than NEPA for Which FDOT is Requesting Responsibility

FDOT requests the continued assumption of all of the US Secretary of Transportation's and FHWA's responsibilities for environmental review (that are eligible per 23 CFR Part 773), interagency consultation, and other regulatory compliance-related actions pertaining to the review or approval of projects for which FDOT is requesting assumption of responsibilities under NEPA. FDOT requests continued assumption of these responsibilities effective upon execution of the renewal NEPA Assignment Program MOU with FHWA.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## § 773.109(a)(3)(i): Existing Organization and Procedures

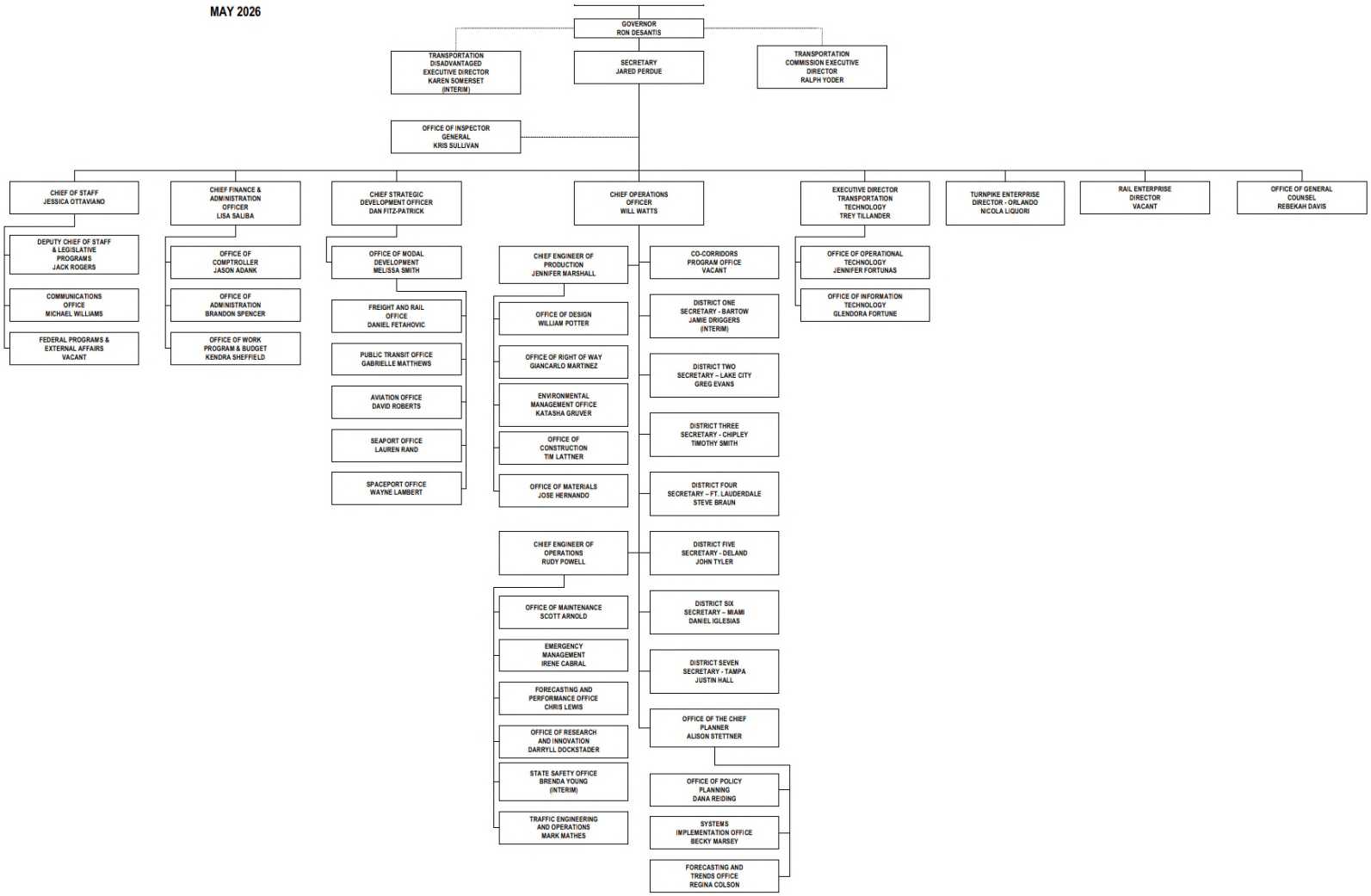
FDOT is the legally authorized transportation department of the State of Florida as described in Sections 20.23 and 334.044, Florida Statutes. FDOT is an executive agency and reports directly to the Governor. The head of FDOT is the Secretary of Transportation, who is located in Central Office in Tallahassee, Florida. The Secretary is appointed by the Governor.

FDOT's primary statutory responsibility is to coordinate the planning and development of a safe, viable and balanced state transportation system serving all regions of the state and to assure the compatibility of components, including multimodal facilities. Florida's transportation system includes roadway, air, rail, sea, spaceports, bus, transit, bicycle and pedestrian facilities.

FDOT is a decentralized agency. It is organized into seven (7) Districts, each headed by a District Secretary, and Florida's Turnpike Enterprise headed by an Executive Director (see the FDOT Organizational Chart in **Figure 1**), who are responsible for proposing and implementing their Work Program. FDOT Districts report to FDOT's Secretary. The Districts vary in organizational structure, but in general each has major divisions for administration, planning, production and operations. Also, each has a Public Information Office that reports to the District Secretary, and a District Chief Counsel who reports to the General Counsel in FDOT's Office of General Counsel (OGC) in Central Office. For purposes of this application, the terms "Districts" or "District Offices" includes the District Offices and Florida's Turnpike Enterprise.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Figure 1 FDOT Organizational Chart**



Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

FDOT has had NEPA Assignment since December 14, 2016, and that program is administered by the FDOT Office of Environmental Management (OEM) which resides in Central Office within the Engineering and Operations section and reports to the Chief Operations Officer, Assistant Secretary. OEM is responsible for developing and implementing FDOT's statewide environmental program. In this capacity, OEM develops and ensures the implementation of environmental policies, procedures and practices in the development of transportation improvements through each of FDOT's core processes: plan, produce, deliver and maintain/operate. OEM provides training to ensure implementation of environmental programs and initiatives of FDOT. Additionally, OEM coordinates with federal and state environmental resource and regulatory agencies in the development and implementation of environmental processes and procedures consistent with environmental laws and regulations to assist FDOT in achieving its mission.

FDOT's OGC is the statewide legal office providing legal advice and representation to all of FDOT's programs and administrative staff throughout Florida. The lawyers of the OGC provide counsel to the Secretary, Florida's Turnpike Enterprise, management and all FDOT employees through nine locations. The OGC also plays an important role in the environmental compliance process. OGC provides legal expertise to support OEM and District environmental offices including NEPA compliance for EISs, EAs, Re-evaluations, and to the broader environmental review process, including issues involving permitting, mitigation, litigation and consultation with other agencies. OGC also provides legal review of OEM environmental manuals and processes; develops and reviews memoranda of understanding, programmatic agreements (PAs) and other agreements between FDOT and federal or other state agencies.

The District Offices oversee development and implementation of District transportation projects and are responsible for maintenance and operation of the state transportation network within their geographic boundaries. Each District includes either a District Environmental Management Office (EMO) or a Planning and Environmental Management Office (PLEMO). For simplicity, the PLEMO will be referred to as EMO in the remainder of this application. In general, during planning and project development the District EMO Office conducts initial environmental surveys, prepares or oversees preparation of environmental documents, performs local interagency coordination, and coordinates public involvement (with the District Public Information Office) as well as other activities related to NEPA compliance. In addition to their general environmental experience, many District environmental staff have advanced degrees and training in environmental, engineering or specialty areas such as biology, geology, cultural resources, and water quality. All Districts have environmental staff who are subject matter experts (SMEs) in various specialty areas such as: history and archeology, contamination, noise, biology, wetland sciences and other areas (see **Table 3**). FDOT has cultural resource management experts either on staff or consultants who meet the Secretary of Interior's standards as qualified professionals.

Each District EMO office is led by a manager/engineer (referred to as the Environmental Administrator). A District Environmental Manager and District Project Development Engineer support the Environmental Administrator. The Environmental Administrator, as the lead NEPA coordinator, is responsible for ensuring environmental compliance during the preparation of environmental studies. The District EMO manager/engineer is ultimately responsible for signing off and certifying to OEM that the environmental study documents are ready to be reviewed. Commitment compliance during construction is the responsibility of the Construction Office, Design Office or EMO office depending on the District.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

FDOT prepares two types of CEs. Type 1 CEs are those listed in 23 CFR § 771.117(c) or (d). These are called C-list or D-list projects. C-list and D-list projects are both assumed to be Type 1 CEs, so if an action is on either of these lists a Type 1 Categorical Exclusion Checklist is prepared in the StateWide Environmental Project Tracker (SWEPT). If the project can be verified to meet the criteria of a CE by completing the checklist, the project is documented as a Type 1 CE and the checklist serves as the NEPA document. The checklist demonstrates that the specific conditions or criteria for these CEs are satisfied and it is signed by the District Environmental Manager or designee.

Type 2 CEs fall under 23 CFR § 771.117(d) but are not specifically listed as examples in the regulation. Type 2 CEs are typically more complex projects, going through an early project screening process, and have a Project Development and Environment (PD&E) phase (see FDOT's Project Development Process Overview in **Figure 4**) resulting in preparation of a Type 2 CE Determination Form in SWEPT. Type 2 CEs are prepared by the Districts but must be approved by OEM. See **Part 1, Chapter 2, Class of Action Determination for Federal Projects** and **Part 1, Chapter 5, Categorical Exclusion** of the PD&E Manual for more information.

Districts prepare, and OEM reviews and approves EAs, EISs, and Re-evaluations in accordance with the applicable chapters of the **PD&E Manual** and other applicable FDOT guidance and procedures. FDOT refers to the process of preparing an environmental document for NEPA, including a Type 2 CE, EA, and EIS, as a PD&E Study.

## Existing Office of Environmental Management Organization

OEM leads FDOT's efforts to plan, develop and implement environmental programs for transportation projects and facilities in support of FDOT's mission to promote and preserve Florida's environmental quality, community values and economic prosperity. OEM provides expertise to FDOT by integrating environmental considerations into FDOT actions to achieve environmental compliance. OEM develops environmental policies and procedures, including those for preparing and processing environmental documents; and a variety of environmental streamlining initiatives. The office provides policy, procedure, training, guidance and technical assistance to other organizational units of FDOT. Subjects of technical support include air quality, archaeology, biology (listed species and habitat), wetlands, contamination, public involvement, history, NEPA, noise, socio-economics, Section 4(f) determinations, permitting and water quality. OEM also manages FDOT environmental programs, works to streamline state and federal environmental processes, and monitors changing laws and regulations.

OEM works with the Districts to ensure environmental compliance and appropriate consideration of environmental issues related to FDOT projects. OEM has a major role in consultation and coordination with state and federal resource agencies and with Federally Recognized Native American Tribes (hereafter referred to as Tribes), for projects as well as for FDOT's environmental program. Under the NEPA Assignment Program, OEM reviews all Type 2 CEs, EAs, EISs and Section 4(f) evaluations. OEM establishes quality control (QC) requirements and environmental compliance quality assurance (QA) standards for environmental document approval.

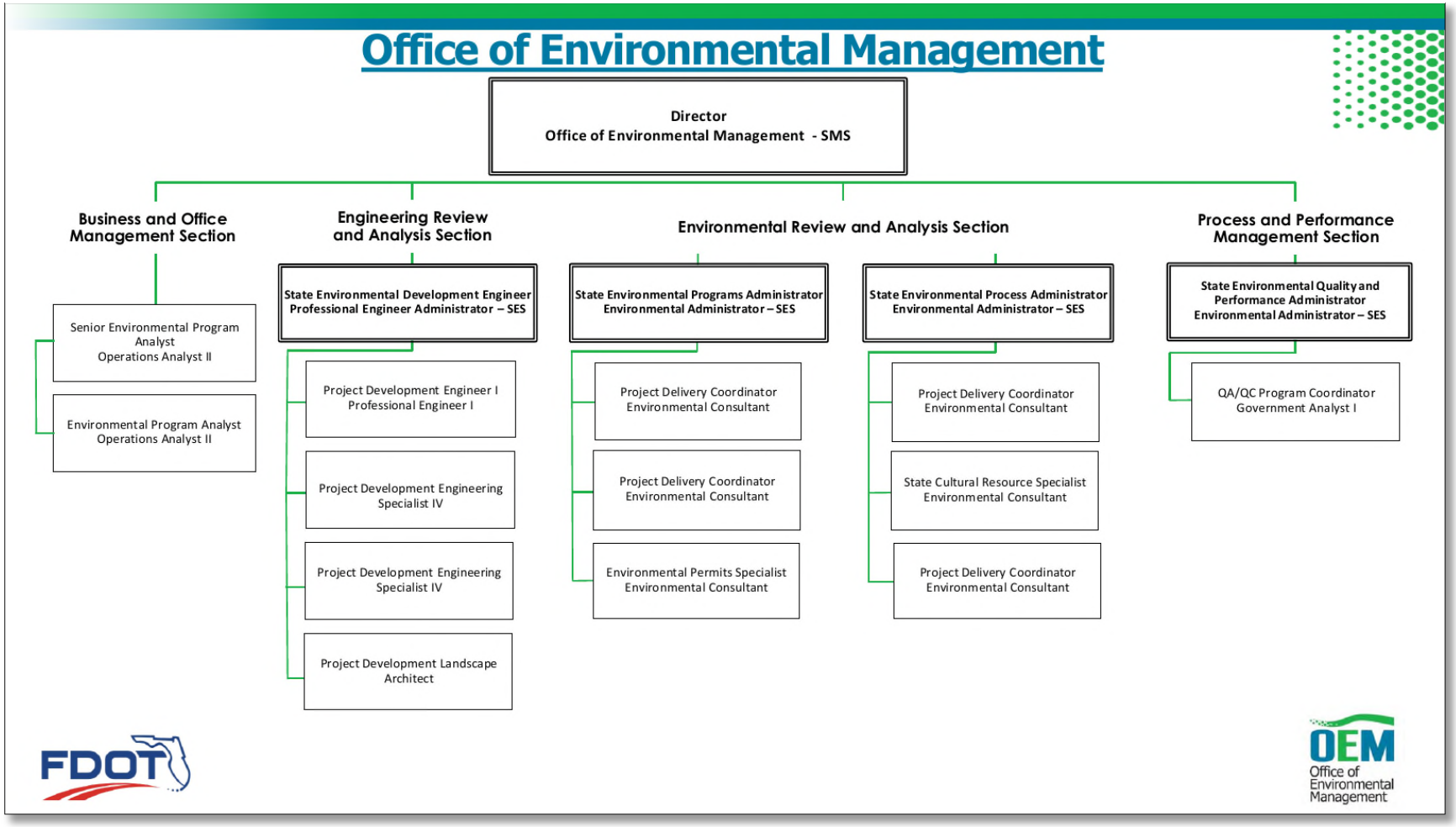
Currently, OEM has a staff of 18 full-time employees, including a Director, a State Environmental Programs Administrator, a State Environmental Process Administrator, a State Environmental Development Engineer, and a State Environmental Quality and Performance Administrator. OEM staff consists of a variety of SMEs using a combination of in-house staff resources supplemented

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

by consultant experts accessible through several on-going statewide support contracts. OEM includes four primary sections: Environmental Review and Analysis, Engineering Review and Analysis, Process & Performance Management, and Business & Office Management. (See the Office of Environmental Management Organization Chart in **Figure 2**). Within their respective disciplines, SMEs provide technical expertise, as requested, throughout the project development process.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Figure 2 Office of Environmental Management Organization Chart**



Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

OEM develops and maintains environmental policy, procedures, manuals and guidelines consistent with ETDM and PD&E statewide planning initiatives and project delivery processes. Each section ensures quality processes are developed and implemented within its functional areas and are verified through performing Self-Assessments. Each section provides training and guidance to FDOT and consultant staff and coordinates with other states, state agencies, federal agencies, FDOT Districts and other stakeholders.

Consistent with the NEPA Assignment Program and the PD&E Manual, OEM staff assist with or conduct resource agency consultation, such as Section 7 of the Endangered Species Act (ESA) and determinations of eligibility and effect under Section 106 of the National Historic Preservation Act. OEM also supports District staff with the review of technical studies and reports prepared in support of projects. FDOT's practice emphasizes collaboration between District and OEM staff at key points during the environmental process to ensure that studies and documents are appropriately scoped and that finished products are acceptable prior to submittal to the OEM Director for approval. Pursuant to Section 334.048, Florida Statutes, Central Office is responsible for establishing policies, rules, procedures and standards which are necessary for FDOT to function properly including establishing accountability for all aspects of FDOT's operations. Central Office monitors the Districts and central office units that provide transportation programs to assess performance; determine compliance with applicable laws, rules and procedures; and provide information for FDOT managers to take corrective action when necessary.

The Process and Performance Management Section is responsible for the administrative and technology-based functions of the ETDM program, the SWEPT and maintains the ETDM Manual, which outlines the ETDM process and implementation, as well as management of the agency operating and funding agreements between resource agencies and FDOT. These agreements provide for expedited project review, technical support and development of PAs. The Process and Performance Management Section tracks environmental milestones for projects by established Project Schedule Management (PSM) codes for environmental activities based on Class of Action (COA).

The Engineering Review and Analysis Section provides statewide technical and engineering expertise in areas related to physical environmental considerations associated with transportation actions in all phases of project development. Physical environmental considerations and program areas include air quality, highway noise, construction impacts, utilities, railroad, water quality and contamination.

The Environmental Review and Analysis Section maintains the PD&E Manual which outlines procedures for adherence to the NEPA and its implementing regulations in addition to applicable state environmental laws. This environmental review team provides statewide technical expertise in areas related to natural, cultural, and community resource considerations in association with transportation actions in all phases of project development, from planning through operation and maintenance. Program areas include wildlife and habitat, wetlands and permitting, historic, archaeological, tribal, and public involvement.

The Business Office Management Section is responsible for contract and budget management, invoicing, and office administration. They coordinate frequently with federal and state regulatory agencies in support of the FDOT ETDM Process and prepare and provide training for the ETDM

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Funded Position Handbook. The group also regularly coordinates with the FDOT Comptroller, Financial Services, Procurement, and Work Program Offices.

In addition to in-house staff, OEM contracts with a variety of consultants on environmental issues, from cultural resources to contamination. Consultants are used for project-specific environmental surveys, technical studies, reviews, and environmental document preparation. Some consultants are used to augment the OEM team, providing environmental and engineering expertise to support OEM functions. OEM staff work with many FDOT divisions and offices on a variety of programs or issues. The following are notable:

- OEM works with the Safety Office to incorporate crash data into NEPA procedures to ensure appropriate analysis including crash rates, severity, number (frequency), types, locations as well as contributing causes and patterns supporting FDOT's Target Zero Policy.

- OEM works with the Right of Way Office on projects involving early Right of Way (ROW) acquisition, and projects requiring continuing coordination regarding resource issues during the acquisition process.

- OEM works with the Office of Policy Planning on planning and environmental linkages (PEL) so that work accomplished through the planning process can be used to streamline environmental project development. The Office of Policy Planning also maintains a critical link with MPOs to help ensure NEPA documents are consistent with MPO long range plans prior to NEPA approvals.

- OEM works with FDOT's OGC to develop state policies/procedures and provide litigation support. OEM coordinates with OGC to obtain legal review of draft environmental documents as needed. FDOT attorneys also provide legal support on project environmental issues as requested by Districts or OEM.

- OEM works with FDOT's OGC and the Legislative Program Office to monitor, and when necessary, review and comment on, legislation that may affect FDOT's environmental program or project delivery.

- OEM works with the Office of Design to ensure project alternatives are developed consistent with FDOT's roadway, structures and drainage design criteria and standards.

- OEM works with the Forecasting and Performance Office to streamline project management activities statewide including development of standard scopes of services and staff hour estimates guidelines.

- OEM works with the Construction Office on establishing procedures and tools for documenting project commitments throughout the PD&E Study, design and construction phases.

- OEM works with the Office of Maintenance on environmental program areas such as the bats in bridges, historic bridges, and the FDOT Wildflower Program.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

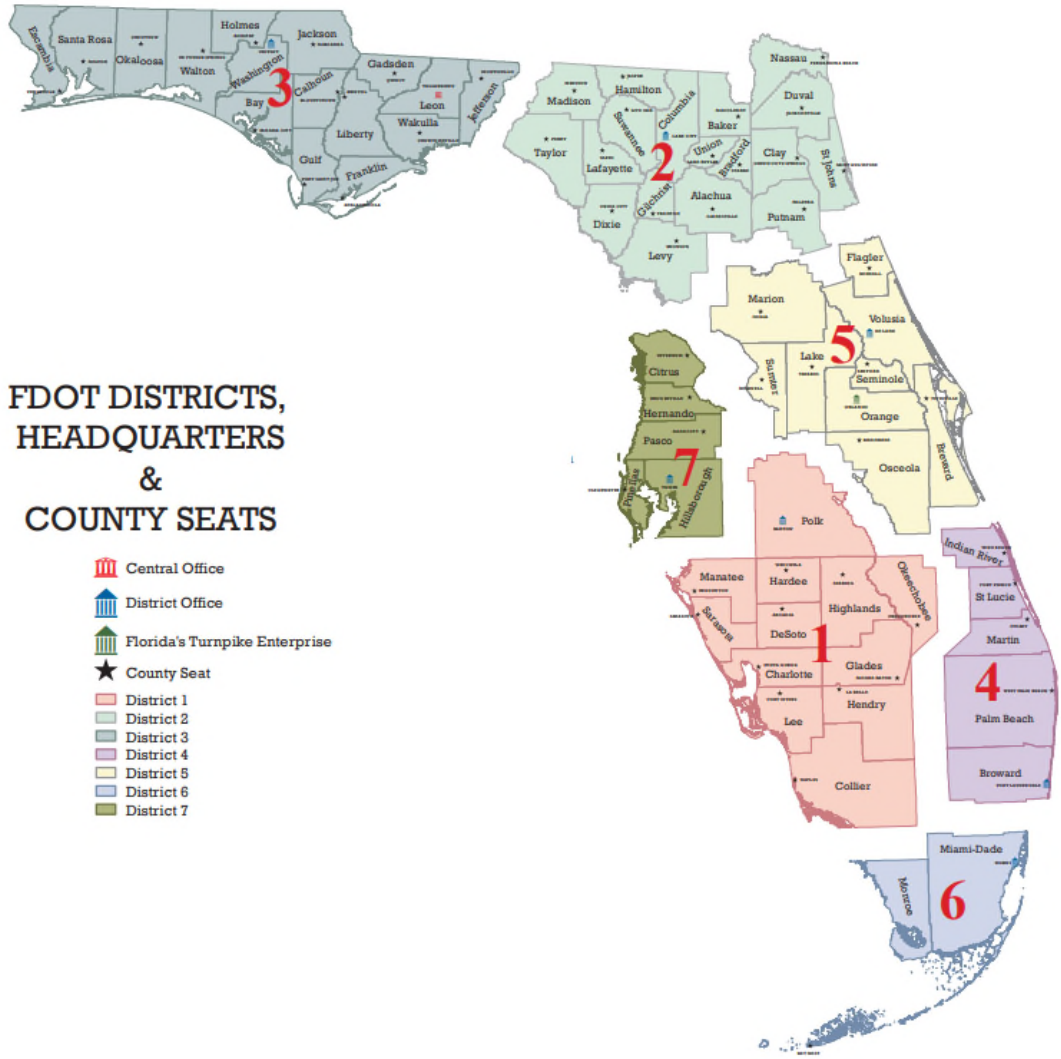
LAP involves a process used by towns, cities and counties to develop, design and construct local transportation facilities with federal funds. FDOT is the steward of the federal funds and is responsible for oversight of funded projects on behalf of FHWA. LAP is administered in each District by a District LAP Administrator. OEM works with the Statewide LAP Administrator and District LAP Administrators to communicate environmental policies, procedures, and guidance to local agencies, and to coordinate training for local agencies.

## District Organization

FDOT is comprised of seven (7) District Offices, each headed by a District Secretary, and Florida's Turnpike Enterprise headed by an Executive Director (see the FDOT District Boundaries Map in **Figure 3**). All Districts have an EMO which is made up of an environmental lead (referred to as the Environmental Administrator) and environmental specialists. Districts also have an Environmental Manager, Project Development Engineer and Project Managers who participate in the environmental review process. District environmental staff report to the District Director of Transportation Development. Districts are accountable for compliance with rules, policies and procedures adopted by Central Office. The District EMO is responsible for reviewing and preparing environmental surveys and studies, completing environmental documents and certifying Type 1 CEs, implementing public involvement and interagency coordination, ensuring environmental commitment compliance and other activities related to NEPA compliance.

Districts also use consultant contracts, either as part of individual project development contracts or general consultant contracts, to prepare environmental documents (e.g., Type 2 CEs, EAs and EISs) or to provide specific technical resource studies (such as archeological surveys/testing, wetland delineation). District environmental staff are responsible for reviewing consultant deliverables and ensuring that the proper interagency coordination and public involvement activities related to NEPA are conducted. District EMOs are responsible for document control, developing quality NEPA documents and maintaining the project files. For each project, District environmental staff work with District planning staff, design engineers and consultant management staff throughout the project development and design process. As the engineers design the project, this coordination supports appropriate consideration of environmental resources, avoidance, minimization, and mitigation of environmental impacts, and environmental compliance. Districts also collaborate with MPOs and local agencies to identify, develop and prioritize transportation projects. LAP projects seeking federal funding follow FDOT's policies and procedures. The primary point of contact for LAP projects is the District Office. Prior to NEPA approval, District staff and as appropriate Central Office staff, coordinate with MPOs and local agencies to ensure fiscal constraint is reflected in their documents.

**Figure 3 FDOT District Boundaries Map**




## Environmental Staff

FDOT currently has a staff of 117 environmental professionals, 102 employees working in the seven (7) Districts and Florida's Turnpike Enterprise located throughout the state and 15 SME/NEPA experts working in OEM. In addition, OEM has two staff positions that provide administrative support functions. FDOT environmental staff is augmented by the flexible use of environmental consultants.

Over the course of nine and a half years of NEPA Assignment, FDOT completed over 6,300 total NEPA approvals and Re-evaluations (see **Table 1**). This is an average of just over 600 Type 1 CEs per year completed by the Districts, an average of 17 higher level environmental documents approved by OEM annually, and almost 40 Re-evaluations approved by OEM annually.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Table 1 Total FDOT NEPA Assignment Approvals**

| NEPA Document Type | Total Number Approved since December 2016 |
|---|---|
| Type 1 CEs | 5,857 |
| Type 2 CEs | 146 |
| Environmental Assessment with Finding of No Significant Impact | 13 |
| Final Environmental Impact Statement/Record of Decision | 1 |
| Re-evaluations | 360 |
| Total Approvals | 6,377 |

Beyond NEPA approvals, in calendar year 2025 FDOT completed:

- 970 reviews under the Section106 Programmatic Agreement
- 240 Section 4(f) reviews
- 278 Section 7 ESA consultations under the Minor Activities Programmatic Agreement

**Table 2** represents the number of staff responsible for environmental compliance and appropriate NEPA documentation statewide by functional role and location.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Table 2 Staff Location, Responsible for Environmental Compliance and Documentation**

| State / District Environmental Staff | STAFF EXPERIENCE | | | | |
|---|---|---|---|---|---|
| | TOTAL NUMBER OF STAFF | Environmental Policy/NEPA Specialist | Environmental Project Manager | Subject Matter Expert (SME) | Environmental Generalist |
| Environmental Management Office | 15 | 5 | 0 | 9 | 1 |
| District 1 | 12 | 4 | 4 | 5 | 4 |
| District 2 | 13 | 4 | 4 | 5 | 2 |
| District 3 | 16 | 5 | 8 | 6 | 6 |
| District 4 | 11 | 2 | 3 | 7 | 3 |
| District 5 | 21 | 2 | 1 | 7 | 8 |
| District 6 | 8 | 3 | 8 | 8 | 5 |
| District 7 | 4 | 4 | 0 | 3 | 0 |
| Florida's Turnpike Enterprise | 17 | 3 | 7 | 12 | 6 |
| TOTALS | 117 | 32 | 35 | 62 | 35 |

**Table 3** shows the range of technical expertise of FDOT's existing environmental staff. The combined capability of OEM and District environmental personnel provides the required expertise to meet the responsibilities of the NEPA Assignment Program.

Most environmental personnel work for supervisors and managers with many years of experience and broad backgrounds in environmental analyses and/or strong technical knowledge in one or more environmental specialty areas. OEM provides technical assistance and expertise to the Districts which may be supplemented by consultant resources under statewide contracts. The

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Districts contract with consultants for the preparation of the majority of environmental documents (e.g., CEs, EAs and EISs) as well as additional environmental technical services.

**Table 3 FDOT Range of Technical Expertise, by Location**

| | STATE / DISTRICT | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| TECHNICAL EXPERTISE | Office of Environmental Management | District 1 | District 2 | District 3 | District 4 | District 5 | District 6 | District 7 | Florida's Turnpike Enterprise |
| Biological Resources / Endangered Species | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Archaeological Resources / Section 106 | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ |
| Historic Preservation | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ |
| Section 4(f) | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | |
| Noise | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Air Quality | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | |
| HazMat / Contamination | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Storm Water / Water Quality | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | | ✓ |
| Wetlands / Section 404 Compliance | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Floodplains / Hydraulics | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | | ✓ |
| Social & Economic Impacts | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Environmental Permitting | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ |

## Approach to Environmental Document Preparation

FDOT integrates environmental considerations into its activities to achieve compliance with applicable laws, regulations, and standards. FDOT values the delivery of safe, efficient transportation projects and makes sound decisions based on the balanced consideration of transportation needs and of community, economic, and environmental impacts of proposed

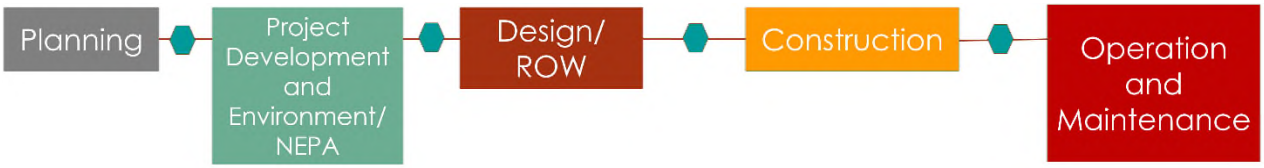
Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

transportation improvements. FDOT complies with NEPA and all other federal environmental requirements on its projects requiring federal funding or approval. Where there are differences between federal and state requirements, FDOT follows federal requirements for projects requiring federal approval. FDOT projects are reviewed and environmental documents are prepared in accordance with the processes described in the **ETDM Manual** and the **PD&E Manual**.

## FDOT's Existing Project Development Process

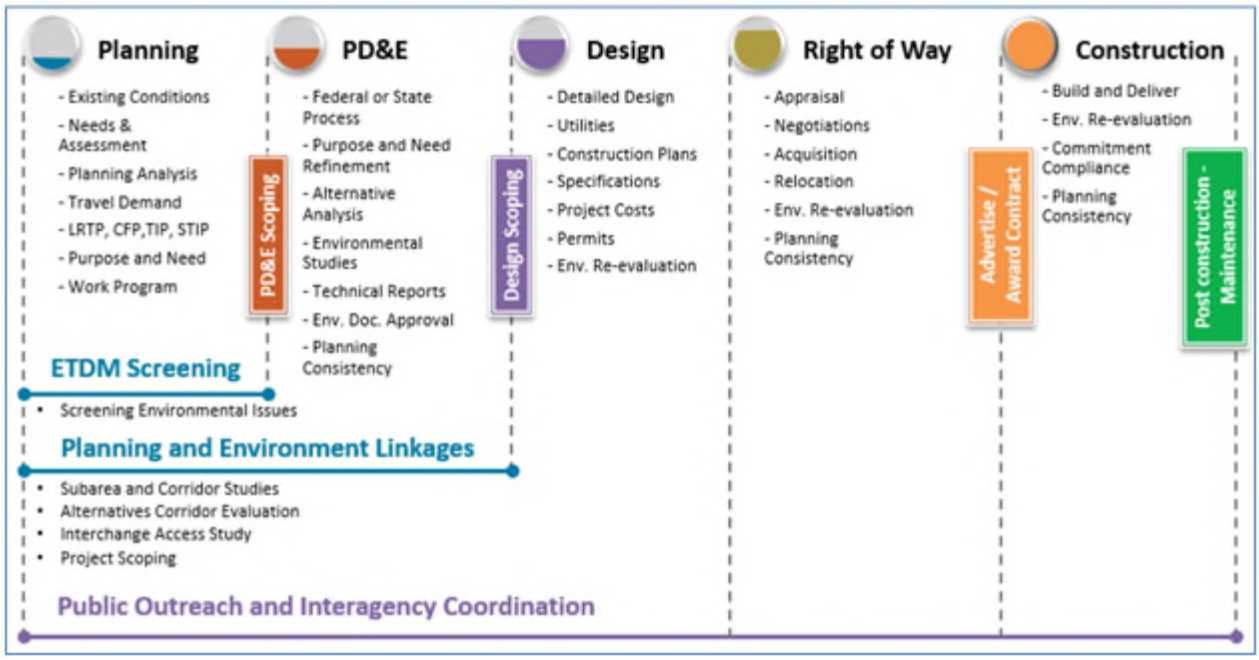
The project development process is a project management and transportation decision-making process that outlines project development from concept through completion. Each activity is timed to facilitate informed decision making based on an appropriate level of project development and risk management. The process encourages communication among disciplines, requires documentation of the reasoning behind project related decisions, eliminates duplicated effort among disciplines, and provides for early identification of potential issues. Involvement of all disciplines during the early stages of project development ensures that issues affecting project type, scope, development schedule, and costs can be correctly evaluated and anticipated.

**Figure 4 FDOT's Project Development Process Overview**



Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Figure 5 FDOT's Project Development Process in Detail**




FDOT's project development process is focused on identifying environmentally sensitive resources early on in the process, allowing time to consider avoidance of direct impacts to such resources and, if avoidance is not reasonable, an opportunity to minimize direct impacts.

More details on the FDOT project development process can be found here: **Part 1, Chapter 4, Project Development Process** of the PD&E Manual. The project development process includes regular communication among technical disciplines, results in quality plans, and minimizes cost overruns during ROW acquisition and project construction. The process includes five phases that projects typically advance through to go from planning to construction (see FDOT's Project Development Process in Detail in **Figure 5**). These phases are Planning, PD&E, Design, ROW, and Construction. Depending on project complexity and/or potential impact to the environment, FDOT transportation projects may not be required to go through each phase.

It is important to note that project development phases represent conceptual groupings of activities. The activities from one phase do not necessarily need to be completed before advancing with activities in the next phase. For example, because ROW acquisition frequently falls on a project's critical path, it may be necessary to begin development of preliminary ROW plans during the Design phase.

## Efficient Transportation Decision Making (ETDM) Process

In December of 2005, FHWA recognized FDOT's ETDM process as satisfying the statutory requirements of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Section 6002(b) and being acceptable for use on federal-aid projects. The

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

ETDM Process has been nationally recognized as a best practice. ETDM is part of FDOT's approach for planning and environmental linkages (PEL).

The ETDM process facilitates early interaction among transportation planners, federal, state and local agencies, Tribes and affected communities (see the Efficient Transportation Decision Making (ETDM) Process in **Figure 6**).

ETDM provides a standard method for communicating and exchanging information that is flexible to the needs of stakeholders. Through this process, FDOT provides the opportunity for early stakeholder input on qualifying transportation projects in such areas as, purpose and need and range of alternatives to support planning decisions and develop the PD&E scope of services with a clearer understanding of the environmental setting and potential concerns. Intergovernmental coordination is accomplished through an Environmental Technical Advisory Team (ETAT). The ETAT includes representatives from the Metropolitan Planning Organizations/Transportation Planning Organizations (MPOs/TPOs), federal and state resource and regulatory agencies and participating Tribes. ETAT members use the Environmental Screening Tool (EST) to review project information, identify potential project effects and submit comments to FDOT. This web-based Geographic Information System (GIS) database and mapping tool provides access to project information and data about natural, physical, cultural and community resources in the proposed project area. A District ETDM Coordinator leads the ETDM process for district projects. Project information is also made available to the public through the **ETDM Public Access Site**.

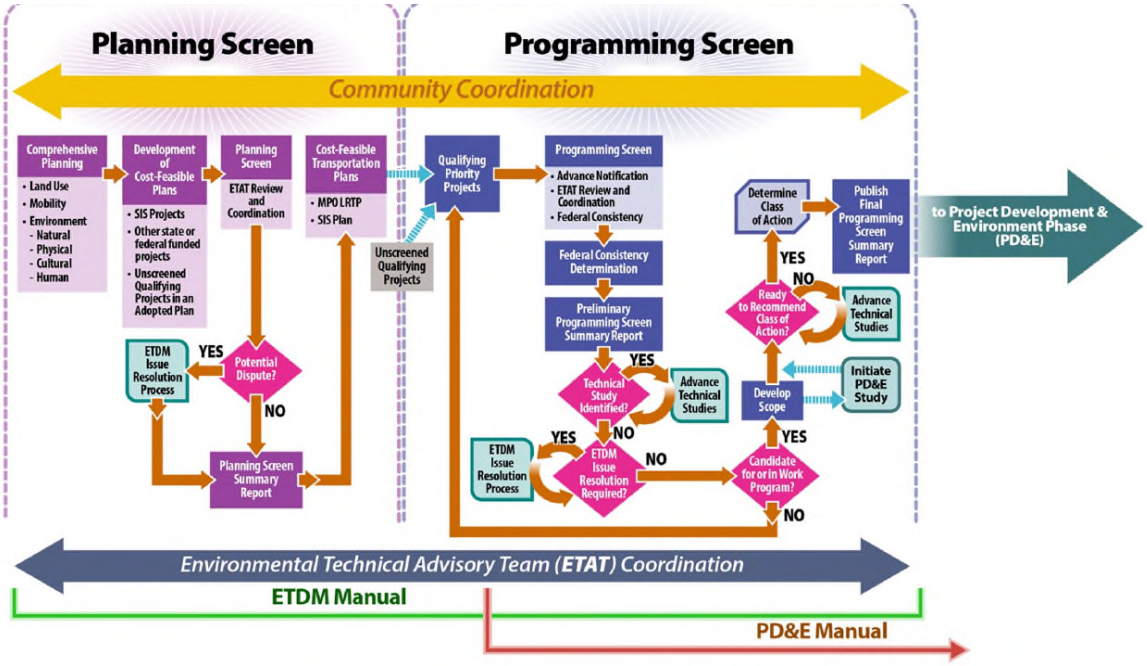
ETAT members perform multidisciplinary reviews specific to their area of expertise (e.g., wetlands, land use). These reviews help to:

- Evaluate the feasibility of a proposed project
- Allow for early identification of potential avoidance, minimization and mitigation opportunities
- Focus the issues to be addressed during the PD&E phase
- Develop documentation and support information which may be carried forward into the PD&E phase

As shown in **Figure 6**, the ETDM Process includes a Planning Screen and a Programming Screen. For additional details, see the **ETDM Manual**. The Planning Screen may occur when considering projects for inclusion or prioritization within a Cost Feasible Long Range Transportation Plan (LRTP). The Programming Screen supports development of FDOT's Five-Year Work Program. The screening events link the transportation Planning phase and the PD&E phase. Each screening event centers on a project review and includes project preparation activities and follow up tasks occurring before and after the review. At the end of the Programming Screen, FDOT summarizes the comments gathered from the reviews and uses this information to focus the issues that need to be addressed during the PD&E phase and develop the scope of services.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Figure 6 Efficient Transportation Decision Making (ETDM) Process**




## FDOT's Project Development and Environment (PD&E) Phase

The PD&E phase builds on the outcome of the ETDM screening, early internal coordination, and prior planning products, as applicable, to further refine the project's purpose and need. The PD&E phase may also identify project alternatives that satisfy the purpose and need for the project. Environmental analyses performed for the PD&E Study evaluate the project's effect on social, cultural, natural, and physical topics/resources. During the environmental analysis, potential mitigation options may be developed based on unavoidable impacts. For an interactive document to aid in the navigation of the PD&E process, see the **PD&E Roadmap**.

Throughout the PD&E process, interagency coordination is conducted to consider project impacts, permitting requirements, project commitments, and funding sources. Commitments established as a result of the PD&E Study and/or agency coordination/consultation are documented as described in **Project Commitment Tracking Procedure, Topic Number 650-000 003** and **Part 2, Chapter 22, Commitments** of the PD&E Manual.

## Public Involvement Procedures

Public participation is the opportunity for active and meaningful involvement of the public in the development of transportation plans and improvement programs. Various federal and state laws and regulations require that state departments of transportation and MPOs proactively seek the involvement of interested parties. FDOT's Community Engagement Policy and Public Involvement Handbook can be found at: **Community Engagement**. Additionally, the PD&E Manual contains specific requirements for public involvement during NEPA and can be found at:

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Part 1, Chapter 11, Public Involvement**. The Public Engagement Resource Kit (PERK) is another PD&E phase tool for practitioners to utilize and can be found at: **PERK**. These guidance documents are based on 23 U.S.C. § 139, 23 CFR § 771.111 and meets federal and state requirements.

As a component of FDOT's environmental process, public involvement aims to:

- Be inclusive of stakeholders, especially those who will be most affected.
- Emphasize partnering and consensus.
- Begin early in the project process, be proactive and ongoing.
- Be defined, structured, transparent, and clearly delineated at the beginning of the project. Use the most appropriate tools for each audience, by identifying the audience and needs for each project and any potential barriers to communication.

In carrying out the Community Engagement policy, the Department commits to:

- Develop and promote effective and efficient opportunities for public engagement early and continuously in each plan or project phase;
- Emphasize a community centric approach to public engagement that incorporates the views and local preferences for key decisions;
- Promote effective communications and enhance relationships with all transportation partners, including affected residents and businesses, state agencies, statewide organizations, community leaders, and other stakeholders;
- Utilize a wide range of methods to engage and collaborate with the community;
- Use plain language to effectively communicate and ensure community understanding;
- Work with the transportation industry to ensure the community is meaningfully involved in transportation decision making; and
- Strengthen partnerships with all of those who are involved in the transportation process in a proactive and collaborative manner.

The requirements for public involvement activities are related to the COA of a project. For Type 1 CEs, Districts typically prepare a Community Awareness Plan. For EAs and EISs, a Public Involvement Plan (PIP) is required and typically prepared for Type 2 CEs. The PIP describes how the project team will establish and maintain communication with the public, ensures the public remains informed about the proposed project, and ensures the public has an opportunity to provide input. Details regarding stakeholder identification (stakeholder database), strategies that will be used to convey information to the public (e.g., social media, newsletters, flyers, websites, newspapers, radio, TV, message boards), and anticipated face-to-face involvement (e.g., meetings, virtual open houses) are described in the PIP. For EISs the PIP is a component of the Coordination Plan required by 23 U.S.C. §139 (g).

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## FDOT's Commitment to Quality and Quality Control Procedures

FDOT's current NEPA Assignment Program focuses on internal and external collaboration, technical tools, and policies, establishing FDOT as a national leader in NEPA practices. FDOT has the foundation, experience and infrastructure necessary to continue these same responsibilities under NEPA Assignment renewal. The following provides an outline of the main components of the FDOT QA/QC process and additional guidance and QA/QC tools can be found here: **Documents & Resources**.

FDOT utilizes a flexible, systematic approach to QA and QC to monitor work processes to implement laws, rules, policies, procedures, and standards. This approach is intended to ensure compliance and quality performance by the Central Office and District staff responsible for the delivery of transportation products, services, and information. Environmental documents go through QA/QC at several stages during their development. Environmental procedures are contained within the ETDM Manual and PD&E Manual. These manuals, combined with training and other guidance documents, form the foundation for QA/QC. They describe how FDOT complies with federal and state laws, rules and regulations and contain FDOT policy and procedure to ensure quality documents.

The OEM and District staff consists of professional engineers, natural scientists, and social scientists. The OEM staff is responsible for the development and management of QA and the District is responsible for development of documents and QC. Together, these management activities ensure quality documents.

Consultants support OEM and District staff and are important members of the project team, providing a wealth of expertise to supplement staffing needs. FDOT has a formal pre-qualification process, established on the **Professional Services Consultant Qualification Website**, in which consulting firms are evaluated and approved before they can begin work on PD&E studies. Professional service consultants conduct PD&E studies and prepare the environmental documents under the direction of an FDOT Project Manager. Consultants must meet the minimum technical qualification standards identified in Rule 14 75.003, Florida Administrative Code (F.A.C.). This rule requires PD&E Study teams to include a professional engineer, a natural scientist, and a social scientist meeting the following minimum qualifications:

- Professional Engineer - must be registered with the Florida State Board of Professional Engineers and must have managed and completed at least one PD&E Study or similar study, including roadway design and environmental engineering. This experience must include conducting environmental studies for transportation projects involving highway projects and public involvement issues.

- Natural Scientist - must have a four-year university or college degree and experience in a natural science such as ecology, biology, environmental science, or wildlife management and have completed at least one PD&E Study or similar study in a natural science area.

- Social Scientist - must have a four-year university or college degree and experience in a social science such as psychology, sociology, statistics, political science, geography, urban planning demographics, archeology, or economics and have completed at least one PD&E Study or similar study in a social science area.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Continued qualification requires annual submittal of a qualification application, and satisfactory work performance. FDOT periodically audits a sampling of qualified consultants to ensure compliance with qualification requirements. In addition, FDOT requires FDOT's Project Manager to evaluate professional services consultants for performance in meeting project requirements related to schedule, management, and quality as discussed in the **Professional Services Consultant Work Performance Evaluation Procedure, Topic Number 375-030-007**.

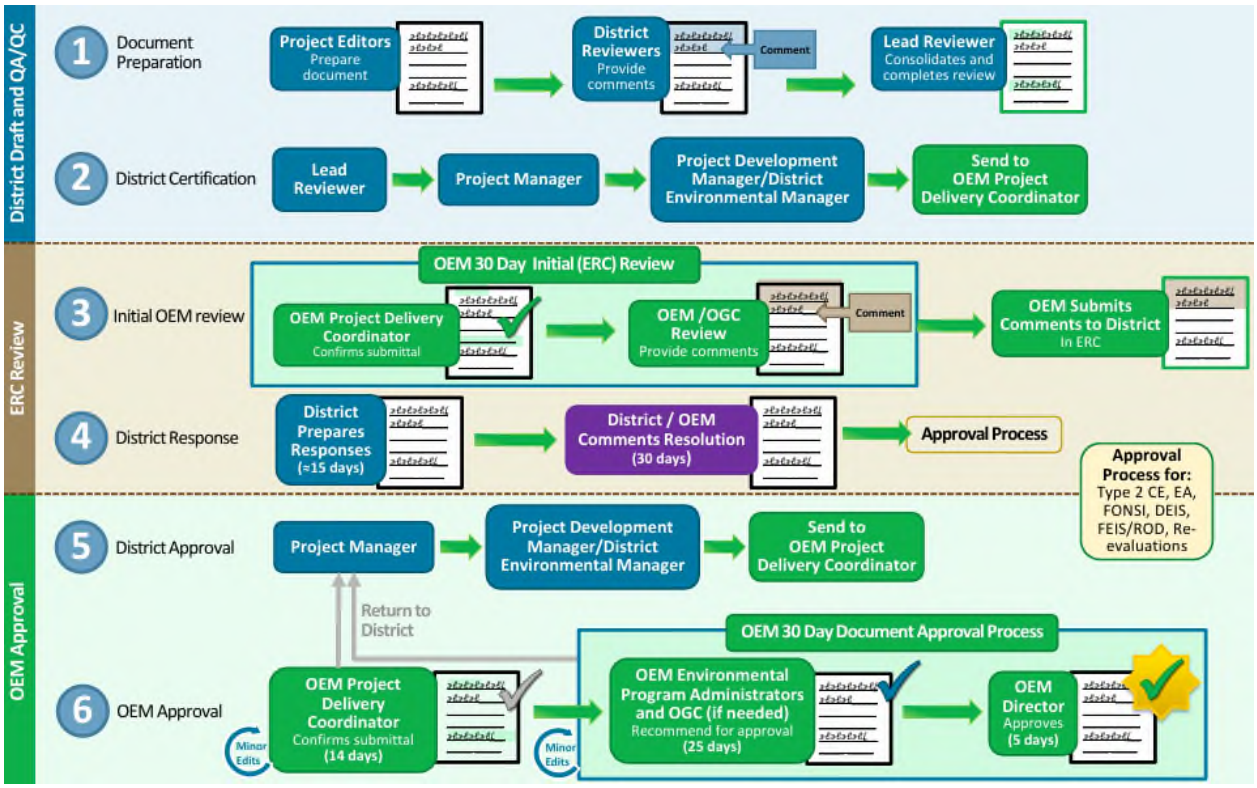
The scope of services for PD&E studies requires the consultant to have a QC Plan which follows FDOT standards and includes internal QA and QC processes. The plan includes checking, reviewing, and monitoring of work activities by objective and qualified individuals who are not directly responsible for performing the initial work.

At the project level, OEM conducts QA and QC reviews for Type 2 CEs, EAs and EISs prior to Director approval. Districts are responsible for the QA and QC of Type 1 CEs. OEM SMEs review certain technical documents including Natural Resource Evaluations, Cultural Resource Assessment Survey Reports when there are adverse effects identified, Section 4(f) documentation, and Preliminary Engineering Reports at a minimum. OEM SMEs are also available for consultation and QC review of other technical studies as requested by District Offices. FDOT's QA/QC procedures are incorporated in the NEPA Environmental Compliance and OEM Review Process shown in **Figure 7**.

There are two steps in the OEM Environmental Document Review process; the initial review and the final review. Districts are responsible for conducting a QC review of documents for both initial and final review prior to submitting the draft document to the OEM. The District uses the SWEPT tool to fill out the Environmental Document Transmittal form certifying that the QC was completed. The OEM Project Delivery Coordinator (PDC) confirms that the document is ready for review and contains the expected elements, as described in the appropriate PD&E Manual chapter. If the document is not ready for review, or information is substandard/insufficient, it is returned to the District to provide the missing information or revise.

If necessary, the District schedules a project briefing for OEM reviewers and the OGC reviewers. The OEM and OGC review team has 30 days to review the draft documents. The District addresses OEM comments and provides responses. The OEM project review team has a 15-day period to confirm that comments have been addressed. If the comments have not been addressed, additional comment resolution time may be needed. If necessary, the District schedules a meeting with the project review team to discuss comments. If there are Cooperating Agencies, the District shares the environmental document with the Cooperating Agencies. This

**Figure 7 NEPA Environmental Compliance and OEM Review Process**




review may be concurrent with OEM review. The District then addresses any Cooperating Agency comments.

Once comments have been addressed, the District submits the revised environmental document along with the Environmental Document Submittal Form for final review and approval in SWEPT. The PDC receives email notification and has 14 days to confirm that the submittal is complete. Following confirmation by the PDC, the document can advance to OEM Environmental Administrators for review, who have 25 days to recommend the environmental document for approval or return for additional information. The Director of OEM, or designee, then has five (5) days to approve the environmental document or return for additional information.

For EAs, this review process happens prior to the public hearing (when applicable) and for a Finding of No Significant Impact (FONSI). For a Draft Environmental Impact Statement (DEIS), this review process happens prior to the public hearing, and then again for the Final Environmental Impact Statement (FEIS)/Record of Decision (ROD), along with the required Legal Sufficiency review prior to the NEPA approval. Individual Section 4(f) documents independent from an environmental document will also have the required Legal Sufficiency review prior to Director approval regardless of the COA.

FDOT's process is structured to include very high levels of QA throughout the project-specific environmental process. FDOT's projects are typically managed in a team format where the Project Manager and SMEs work closely together to foster communication and problem solving. The Project

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Review Team concept itself is a QA feature in that it ensures that the persons producing and approving documents communicate mutual expectations about what is needed for a project. Consistent interaction between the Project Review Team and the District project team is intended to resolve most, if not all, problems before a document is completed and ready for review. As a result, when a document begins review for readiness, it should be close to ready for approval. When requested by District offices, in addition to the technical review described above, a legal review is completed by FDOT's OGC. The primary goal of this review is to assess the document from the perspective of legal standards, litigation risk and legal defensibility.

The SWEPT System has been developed and enhanced to provide internal controls within the application requiring certain selections, documentation, analysis, explanation, or approvals within the application before the NEPA document under development can move through the approval process. SWEPT has quality monitoring and serves as a control tool to identify and capture potential errors and omissions through the use of various forms. The SWEPT system is actively maintained and updated routinely by the SWEPT Development Team.

## Environmental Commitments

Consideration of environmental commitments begins at the earliest phases of project development, although completion of commitments may not occur until the operation and maintenance phase of a project. Depending upon the nature of the commitment, environmental commitments may be implemented during final design; or prior to, during, or after construction is completed.

FDOT also requires environmental commitments be internally communicated from environmental approval through final design, pre-bid conference, project letting, construction, and operation, using the **Project Commitment Tracking Procedure, Topic Number 650-000-003**, **Part 2, Chapter 22, Commitments** of the PD&E Manual, and the Project Commitment Record (PCR) which is developed within the Project Suite Enterprise Edition (PSEE); an electronic project management tool. The PCR itself is an internal communication tool and is not appended to NEPA decision documents. This form is used to identify commitments made during the PD&E Study and track compliance through project implementation. The PCR records each commitment; specifies how each commitment will be met; and identifies responsibility for the commitment. Commitment status is updated in the PCR as the project advances through the different phases, including noting when commitments have been completed.

## Tools and Guidance

To implement NEPA effectively, FDOT has developed a number of tools, PAs, manuals, standards and handbooks that provide guidance on the process for proper environmental document development and provide specific requirements for individual technical subject areas. These tools and guidance ensure that environmental documents and technical reports meet quality standards and satisfy the requirements of NEPA and other related state and federal laws, rules, regulations, and applicable environmental considerations regarding projects. Guidance documents, policies, procedures and other related items are available on the **FDOT OEM website at Office of Environmental Management | Florida Department of Transportation**.

The **PD&E Manual** is the primary resource for addressing the environmental requirements associated with planning and delivering highway projects. The manual is a compilation of environmental procedures and processes related to environmental, cultural, historic, and physical

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

resources. The PD&E Manual provides project analysts and Project Managers with information necessary to develop projects that comply with federal and state laws. It is used by FDOT as the standard measurement for QA in project development. The manual is designed to work in conjunction with FDOT handbooks, guidance documents and Design Standards that are used in FDOT's pre-construction process. The manual and its supporting guidance, handbooks, and Design Standards are intended to be "living" documents, which are regularly evaluated and updated in response to changing environmental requirements, standards and policies.

The **ETDM Manual** covers specifically the planning and programming phases of FDOT transportation projects through the EST. The purpose of this manual is to provide transportation planners, project analysts, project managers and other practitioners with sufficient information to consider as they review qualifying transportation projects during the ETDM Planning and Programming Screens. It sets the standard procedure by which qualifying projects are screened through the ETDM process. This manual also provides direction for the potentially affected community and stakeholder involvement in the transportation planning phase of project delivery and is used in conjunction with resources such as handbooks, the EST, and the PD&E Manual.

The **Design Standards** are intended to support the various engineering processes for construction operations on the State Highway System (SHS). They are established to ensure the application of uniform standards in the preparation of contract plans for construction of roadway and structures. These Standard Plans may be used for maintenance operations or adopted by other authorities for use on projects under their jurisdiction.

The **FDOT Design Manual** (FDM) sets forth geometric and other design criteria, as well as procedures, for all new construction, reconstruction, and resurfacing projects on the SHS and National Highway System. The information contained in the FDM applies to the preparation of contract plans for roadways and structures.

The **Interchange Access Request User's Guide** provides guidance on how to prepare documents that support requests for new or modified access to the Florida Interstate system, Florida's Turnpike Enterprise (FTE), and non-interstate limited access facilities on the SHS. The Interchange Access Request User's Guide is prepared and maintained by the Systems Implementation Office.

The **Construction Project Administration Manual** (CPAM) provides information for administering construction contracts and ensures consistency in carrying out FDOT policies. FDOT provides opportunities for the District Construction Offices to become involved in the design element of the project development process. By taking advantage of this opportunity, the construction offices can provide comments that will improve the design of the transportation facility, improve construction duration and address potential issues which may otherwise arise during the actual construction of the project. The manual provides guidance for conducting these plan reviews including relevant environmental and permit features or issues which should be addressed in the plans. Environmental Permit Compliance is addressed in Chapter 8, Section 8.2 of this manual and addresses compliance with areas of environmental concern (including permits and project commitments).

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## Statewide Environmental Project Tracker System

The FDOT StateWide Environmental Project Tracker (SWEPT) is an interactive web tool that supports activities during FDOT's environmental document review process. SWEPT houses in-progress and approved CEs as well as supporting documentation. It is also used for review and approval of EA/FONSI and EIS/FEIS/ROD environmental documents. It includes the supporting detail for these actions, including assigning and tracking three levels of review, and legal sufficiency when required.

SWEPT contains the official FDOT project environmental file of record for all projects that have a NEPA action. SWEPT has been used since 2015 and has new updates every year to ensure it continues to grow and be improved upon. This system serves as a management and analytical tool, and as a repository for all project-specific environmental technical studies, analyses, agency coordination, environmental documents and decision documents.

The system has capabilities for analyzing performance of the FDOT environmental program as a whole. This system is used for FDOT's NEPA performance measures, project approval report, audits, self-assessments and monitoring events under current NEPA Assignment.

To support record-keeping and retention responsibilities, SWEPT is used in conjunction with FDOT Electronic Document Management System (EDMS), the official record retention repository for the agency. SWEPT provides an interface to the EDMS that is integrated with the document workflow. This gives easy access to the environmental project record throughout the environmental review process. When files are uploaded to SWEPT, they are attributed according to EDMS standards, placed in the appropriate group and type and associated with the required retention and disposal schedule. When an Environmental Document is approved in SWEPT, it is imported into the EDMS with associated supporting documentation.

SWEPT allows for efficiently collecting the records for an Administrative Record. SWEPT also supports NEPA Assignment Audits and Monitoring events. SWEPT also supports the FDOT Self-Assessment events with specific modules developed that include the assessment criteria, team evaluations, and findings.

Over the last 10 years, additional modules to support NEPA Assignment have been built into the SWEPT system including:

- Section 4(f) tool that allows all Section 4(f) review and approvals (with the exception of Individual Section 4(f)) to be completed with the Districts, Subject Matter Experts, and the OEM Director

- FDOT Programmatic Approach for Minor Transportation Activities Section 7 ESA tool that allows consultation to take place on 14 listed species and 27 different project activities within existing transportation ROW, including at a button annual reporting

- Section 106 tool that allows all consultation to occur with the Florida Department of State's State Historic Preservation Officer (SHPO) within the module, including the ability to support quick annual reporting without collating multiple district spreadsheets

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Additional modules include:

- Environmental Permits
- PD&E Scope of Services
- FHWA tool which allows FHWA direct access to review and approved their retained actions (e.g., Recreational Trails Program, 23 CFR § 771.117.d(6) categorical exclusions)

## Additional Guidance

In addition to FDOT's own guidance, FDOT and its consultants use the wealth of FHWA NEPA guidance in developing environmental documents and studies. FHWA provides an on-line set of guidance (**https://www.fhwa.dot.gov/pgc/**), websites (**http://www.fhwa.dot.gov/environment/**), and tools covering a comprehensive listing of environmental topics. Each topic is covered in depth with direction and methodologies for performance of studies and assessments ranging from community impact assessments to air analysis. FHWA's **Environmental Review Toolkit** includes comprehensive guidance on a wide variety of topics such as historic preservation, water, wetlands, wildlife, and Section 4(f).

## FDOT's Training Program

FDOT's training program provides a foundation for an effective environmental project development process. OEM offers a very robust and diverse group of specialty training classes to meet the needs of not only OEM staff, but other FDOT personnel such as district environmental, planning and production staff, PMs, and other central office personnel who work on NEPA projects. Each training course is specially designed to provide the latest regulatory requirements and updates on the FDOT process for completing NEPA documents for transportation projects. The OEM Training Program includes six "training tracks" including:

- **Track 1 - National Environmental Policy Act (NEPA) Assignment Training**
- **Track 2 - StateWide Environmental Project Tracker (SWEPT) Training**
- **Track 3 - Project Development and Environment (PD&E) Training**
- Track 4 - Reserved
- **Track 5 - Environmental Coordination, Consultation and Permitting**
- **Track 6 - Engineering Topics**
- **Track 7 - Efficient Transportation Decision Making (ETDM) Process Training**

Each training track has several relevant training courses and associated materials available for on-demand use. Some training courses have been developed by agency counterparts for sharing as well, such as US Fish and Wildlife Service (USFWS) Endangered Species consultation and species-

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

specific survey protocols, and US Army Corps of Engineers permit trainings. FDOT has trained nearly 6,000 individuals.

OEM hosts Industry Forums twice each year where updates are shared to a broad audience of environmental professionals, which all consultants are encouraged to attend. These meetings are to provide updates on any policy/law/regulation changes that may affect FDOT's program. In addition, OEM subject matter experts host regular meetings with their counterparts throughout the state (either monthly or quarterly) on topics such as Noise, Contamination, Protected Species, Cultural Resources, ETDM and Environmental Permitting. This ensures that everyone has the most up to date information. OEM also holds a monthly statewide environmental leadership meeting to ensure any questions the environmental team may have are discussed and addressed quickly.

OEM hosts an online OEM Academy (typically once a year, for the last 4 years) for on-boarding of new staff, or for other disciplines to learn more about NEPA (e.g., design or construction Project Managers). This program is currently being revamped for more efficient delivery.

Upon renewal of the NEPA Assignment Program, FDOT will continue to develop and conduct training and updates as usual. A detailed list of training courses are available upon request.

## Programmatic Agreements and Agency Consultation

Together with other federal agencies, FDOT has also participated in the development of, and is a signatory to, a number of programmatic agreements (PA) that streamline the environmental review and project delivery process. PAs spell out the terms of a formal agreement between FDOT and other federal or state agencies. A PA may establish a process for consultation, review, and/or compliance with one or more federal or state laws. It may also function as an expression of collaborative intent between agencies. The current FDOT PAs are described below:

## Cultural Resources

- **The Programmatic Agreement Among the Federal Highway Administration, the Florida Department of Transportation, the Advisory Council on Historic Preservation, and the Florida State Historic Preservation Officer Regarding Implementation of the Federal-aid Highway Program in Florida** (Section 106 PA) was executed on September 27, 2023.

  The current agreement addresses documentation and reviews for projects with Minimal Potential to Affect Historic Properties (Stipulation V) and Unlikely to Affect Historic Prosperities (Stipulation VI). Both of these levels of consultation are handled via the appropriate form in the SWEPT tool, and SHPO has 30 days from receipt of notification to respond. The PA also includes the Standard Program Process (Stipulation VII). And, the PA describes tribal coordination and consultation responsibilities, coordination with other consulting parties, public involvement, provisions for Emergency Situations, Post-Review Discoveries, and Treatment of Human Remains.

- The FDOT Native American Tribal Consultation process is described on the OEM website here: **Native American Tribal Consultation**. This site outlines the process FHWA and FDOT follow in carrying out duties prescribed by federal requirements to conduct meaningful tribal consultation with Tribes. The consultation guide also recognizes that

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

government tribal consultation responsibilities lie with the federal agency and may not be delegated to the state or FDOT. However, FHWA may rely on FDOT to carry out day-to-day administrative, project-specific tasks on behalf of FHWA. The site also details the area of interest for each of the six Tribes. These areas of interest are also built into the Advanced Notification process through the ETDM EST.

## Natural Resources

FDOT has three endangered species related programmatic agreements and one Section 7(a)(1) agreement in place with the USFWS:

- **FDOT Programmatic Approach for Minor Transportation Activities** (Original:2021, Updated:2024): This PA allows consultation to take place on 14 listed species (originally 15, but with delisting of the wood stork, it is now only 14) and 27 different project activities within existing transportation right of way. The purpose of this PA is to streamline the consultation of minor transportation projects proposed by FDOT with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended (87 Stat. 884; 16 United State Code [U.S.C.] et seq.). The PA identifies minor transportation projects that are not expected to adversely affect the threatened and endangered species described in this document or their designated critical habitat. The PA also identifies the appropriate effect determinations (i.e., no effect. may affect, not likely to adversely affect) for these species associated with the consultation process and provides the Service's support or concurrence for these determinations. In some instances, conservation measures have been identified to further minimize minor effects that may occur because of these projects. Finally, the PA identifies when the minor transportation projects listed in this document require additional assessment of their effects to the listed species and further consultation with the USFWS. This PA addresses frequent routine projects conducted by FDOT that have predictable, repetitive outcomes, and sets consistent expectations statewide for these activities and any measures needed to avoid or minimize minor impacts to the covered species. This streamlined environmental review process will allow limited staff and resources to be more focused and effective on reviewing projects of greater concern.

- **Freshwater Mussel Programmatic Approach** (Original 2017, Updated 2018 and 2024): This PA addresses routine maintenance and modernization activities carried out by FDOT where there are either no effects or minor effects to specified federally protected mussel species and their critical habitat, protected under the ESA of 1973, as amended. The PA provides consistent expectations and outcomes for FDOT's review of its routine activities that are not expected to adversely affect federally threatened or endangered freshwater mussel species. As a result, the PA streamlines consultation for those minor activities and allow for better allocation of staff resources towards complex projects thereby fulfilling both the USFWS and FDOT missions in a more effective manner.

- **Panama City Crayfish Programmatic Approach** (2022): Programmatic Biological Opinion for FDOT actions within the range of the Panama City Crayfish with reasonable and prudent measures and terms and conditions for these transportation projects.

- **FDOT Conservation Plan for the Florida Panther** (2024): The purpose of this Plan is to provide a net conservation benefit through implementation of the FDOT surface transportation program while supporting the USFWS recovery goals for the panther,

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

specifically by reducing wildlife vehicle collisions, providing opportunities for range expansion, public education and outreach, and other innovative conservation measures. This Plan will provide several tools, a suite of conservation measures, and other processes that can be implemented by FDOT in coordination with the USFWS and Florida Fish and Wildlife Conservation Commission (FWC) which include:

- Methodologies to prioritize locations of wildlife crossings
- Funding mechanisms to support construction of crossings or conservation land acquisition
- Innovative conservation measures to support range expansion
- Innovative conservation measures to support public education
- Partnership and collaboration opportunities with other federal, state, regional, private, and non-governmental organization (NGO) stakeholders
- Adaptive management strategies
- Reporting requirements and regular coordination intervals between FDOT, USFWS, and FWC (and other stakeholders as appropriate)

The scope of this Plan addresses FDOT surface transportation actions within panther habitat ranging from routine maintenance activities to new roadways.

- **Nationwide Monarch Butterfly Candidate Conservation Agreement with Assurances** (CCAA) (2024): The CCAA represents a unique collaboration between the University of Illinois at Chicago (UIC), the USFWS, and more than 30 interested entities from the energy and transportation sectors (including FDOT). These interested companies and organizations represent entities managing lands associated with electric power generation, electric transmission and distribution, oil and gas transmission and distribution, and renewable energy development, as well as a network of individual state departments of transportation, with support from the FHWA. This Agreement embodies the landscape-scale conservation vision that has been recognized as being needed for monarch butterflies.

  The Agreement is administered by UIC, as the Program Administrator and Permit Holder, with regulatory oversight by the USFWS. The Program Administrator is responsible for working with members of the Agreement (Partners) to enroll each respective Partner's lands into the Agreement using Certificates of Inclusion issued by the Program Administrator after verifying an Applicant's eligibility. These certificates will extend the regulatory assurances provided by the Enhancement of Survival permit, and the regulatory predictability provided through this Agreement and the associated Consultation document, and facilitate cooperation from the Partners to provide conservation benefits to the monarch. Through implementation, this Agreement will promote conservation and management of the monarch and its habitat by providing a mechanism to reduce and/or potentially remove key threats related to maintenance and modernization of the nation's energy and transportation infrastructure. The Partners will implement conservation

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

measures described in this Agreement on their enrolled lands and as specified within their individual Certificates of Inclusion. Here is the **FDOT Certification of Inclusion**.

## Physical Resources

**FDOT and Florida Department of Environmental Protection (FDEP) MOU** addressing discharges of petroleum pollutants from off-site source properties to state transportation facilities. FDEP acknowledges that FDOT invests in world class transportation projects which enable Florida to be a global hub for trade and commerce and provide employment and economic benefits for the State of Florida. To this effect, and depending on the availability of funds in the Inland Petroleum Trust Fund or other approved trust fund authorized by law, FDEP has offered to prioritize for assessment and, where warranted, remediation, petroleum pollutants (defined in the MOU) emanating from a discharge located in a discharger's ("discharger") trust fund-eligible source property ("source property") into, onto or under transportation facilities, in advance of regionally economically significant transportation projects such as major future corridor expansions, Statewide Corridors, or Designated Strategic Intermodal System (SIS) Highway Corridor or other significant projects of mutual agreement.

## ETDM Agreements

Since 2003, FHWA and FDOT have signed agreements with several different federal and state agencies to participate in the ETDM and environmental review processes. The agreements are currently established with five-year terms and most are in the fourth or fifth generation, having been renegotiated and executed since inception. The ETDM Agency Operating and Funding Agreement (AOFA) between FDOT and the other federal or state agencies serves as a framework for agency participation in the ETDM process, providing agency requested technical expertise on projects and actively reviewing environmental documents and companion documents during the PD&E phase. The ETDM AOFAs were updated during the original 2016 NEPA Assignment to designate FDOT as the lead agency. Upon renewal of the NEPA Assignment Program MOU, FDOT will confirm whether any additional updates are needed to maintain alignment with FDOT's continued lead agency responsibilities. FHWA continues to review the agreements to verify eligibility for federal fund expenditure. FDOT and each agency negotiate the terms and conditions of the agreement based on the agency's regulatory and statutory requirements and funding resource needs. The agreements not only establish work activities, but also review timeline expectations, performance measures, and issue resolution protocols. Agreements are reviewed and updated when they approach expiration, as needed. FDOT has a long history of working cooperatively with these and other federal agencies, as evidenced by the agreements developed over the years with these agencies. **Table 4** provides a list of the current ETDM Agency Operating Agreements.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Table 4 Current ETDM Agency Operating Agreements**

| Agency Name | Agreement(s) | Dates |
|---|---|---|
| Florida Department of State, State Historic Preservation Officer (SHPO) | Agency Operating and Funding Agreement | 04/15/2023 - 04/14/2028 |
| Florida Department of Environmental Protection (FDEP) | Agency Operating Agreement | 01/1/2007 – 12/31/2011 Actively participating without Agreement |
| Florida Department of Environmental Protection (FDEP) 404 Assumption (Vacated 02/15/2024) | Agency Operating and Funding Agreement | 02/04/2022 - 02/03/2027 (in place pending outcomes of 404 Assumption litigation) |
| Florida Department of Commerce | Agency Operating Agreement | 11/27/2012 – Indefinite |
| Florida Department of Agriculture and Consumer Services (FDACS) | Master Agreement | 3/27/2012 – Indefinite |
| Florida Fish and Wildlife Conservation Commission (FWC) | Agency Operating and Funding Agreement | 06/12/2023 - 06/11/2028 |
| National Marine Fisheries Service (NMFS) | Agency Operating and Funding Agreement | 07/25/2023 - 07/24/2028 |
| National Park Service (NPS) | Agency Operating Agreement | 08/11/2005-Indefinite |
| Natural Resources Conservation Service (NRCS) | Agency Operating Agreement | 01/15/2003 - Indefinite |
| Northwest Florida Water Management District (NWFWMD) | Agency Operating and Funding Agreement | 09/05/2023 - 09/04/2028 |

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

| Agency Name | Agreement(s) | Dates |
|---|---|---|
| Southwest Florida Water Management District (SWFWMD) | Agency Operating and Funding Agreement | 07/31/2021 - 10/30/2026<br>(actively working on renewing agreement) |
| South Florida Water Management District (SFWMD) | Agency Operating and Funding Agreement | 01/15/2024 - 01/15/2029 |
| U.S. Army Corps of Engineers (USACE) | Agency Operating and Funding Agreement | 12/03/2021 - 12/03/2026 (actively working on renewing agreement) |
| U.S. Army Corps of Engineers (USACE) - 408 | Contributing Funds Agreement | 07/05/2023 - 07/04/2028 |
| U.S. Fish and Wildlife Service (USFWS) | Agency Operating and Funding Agreement | 07/08/2020 - 11/07/2026<br>06/10/2026 - 06/10/2031 |
| U.S. Environmental Protection Agency (USEPA) | Agency Operating and Funding Agreement | 08/02/2023 - 08/02/2028 |
| U.S. Coast Guard (USCG) | Agency Operating Agreement | 06/8/2009 - Indefinite |

## § 773.109 (a)(3)(ii): Changes to be Made for Assumption of Responsibilities

Over the years, FDOT has been very aggressive to ensure its PAs, MOUs, guidance, manuals, and training are up to date and go through continuous improvement reviews. These constant updates are designed to further strengthen our well-developed environmental program. Because of this, further procedural changes are anticipated to be few. Additional changes could occur as teams gain experience in using the new procedures and note the need for clarity, adjustment, augmentation, or additional procedures; procedural change would also result when FDOT self-assessments, monitoring or FHWA audits identify the need for additional change.

This section describes how FDOT's existing environmental compliance program has been and will continue to be modified to continue the implementation of the NEPA Assignment Program. As the need is identified, additional procedures will be developed to improve the program.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## Organization and Procedures under the NEPA Assignment Program

As previously stated, FDOT employs a continuous improvement process to all of its environmental procedures, guidance, and tools. This ensures FDOT's environmental analysis and decision-making under NEPA is always up to date and reflects the best practices of today. These standards and procedures, combined with FDOT's expert staff and consultant resources, will continue to provide appropriate tools and expertise in areas where FDOT has requested renewal of assignment of FHWA's environmental responsibilities. The program will rely on the professional experience and knowledge of FDOT's environmental staff in determining the necessary scope and environmental analyses for specific projects, supported by established standards for environmental documents and technical studies, and a strong QA/QC program. This approach continues to strengthen the environmental process FDOT uses for project development and environmental compliance with the NEPA Assignment Program. FDOT will continue strict adherence to FHWA's public outreach requirements and EIS public and agency collaboration requirements at 23 U.S.C. § 139(g).

FDOT will use its procedures, guidance, manuals, policies, and SWEPT tools in undertaking the NEPA Assignment Program responsibilities with the expectation that statewide use of those procedures, internal self-assessment and FHWA audits will identify opportunities to improve those standards and procedures, or staff implementation of those standards and procedures. As appropriate, areas of concern that are identified will be accompanied by development of an improvement plan and adoption of recommendations for continuous improvement of FDOT's environmental program.

The environmental responsibilities being assumed by FDOT will continue to be administered by OEM. Type 2 CEs, EAs, and EISs will be reviewed and approved by OEM. For the NEPA Assignment Program, Districts will continue to prepare and approve Type 1 CEs. On-going project specific collaboration between OEM or the Districts will provide the foundation for an effective and efficient environmental project development process and will result in final environmental documents that comply with NEPA. Appropriate staff from these offices will support audits and monitoring events. This successful outcome will stem from District Offices and OEM professionals developing mutual expectations and maintaining communication throughout the process, following established procedures supported by an effective QA/QC process and a rigorous training program.

## Expanded Quality Control Procedures

FDOT has demonstrated its approach to quality is sound, and that its emphasis on internal collaboration among its District and OEM staff, augmented by environmental technical SMEs as needed, results in quality environmental documents. FDOT will continue to strengthen its reliance on quality assurance emphasis under the NEPA Assignment Program that will further support development of future enhancements and improvements to ensure NEPA-compliant environmental documents and decisions. As part of the NEPA Assignment Program, FDOT developed procedures that outline its QA/QC procedures. Updates, modifications, and expansions of its QA/QC procedures will occur as FDOT determines necessary updates for the continued successful implementation of the NEPA Assignment Program.

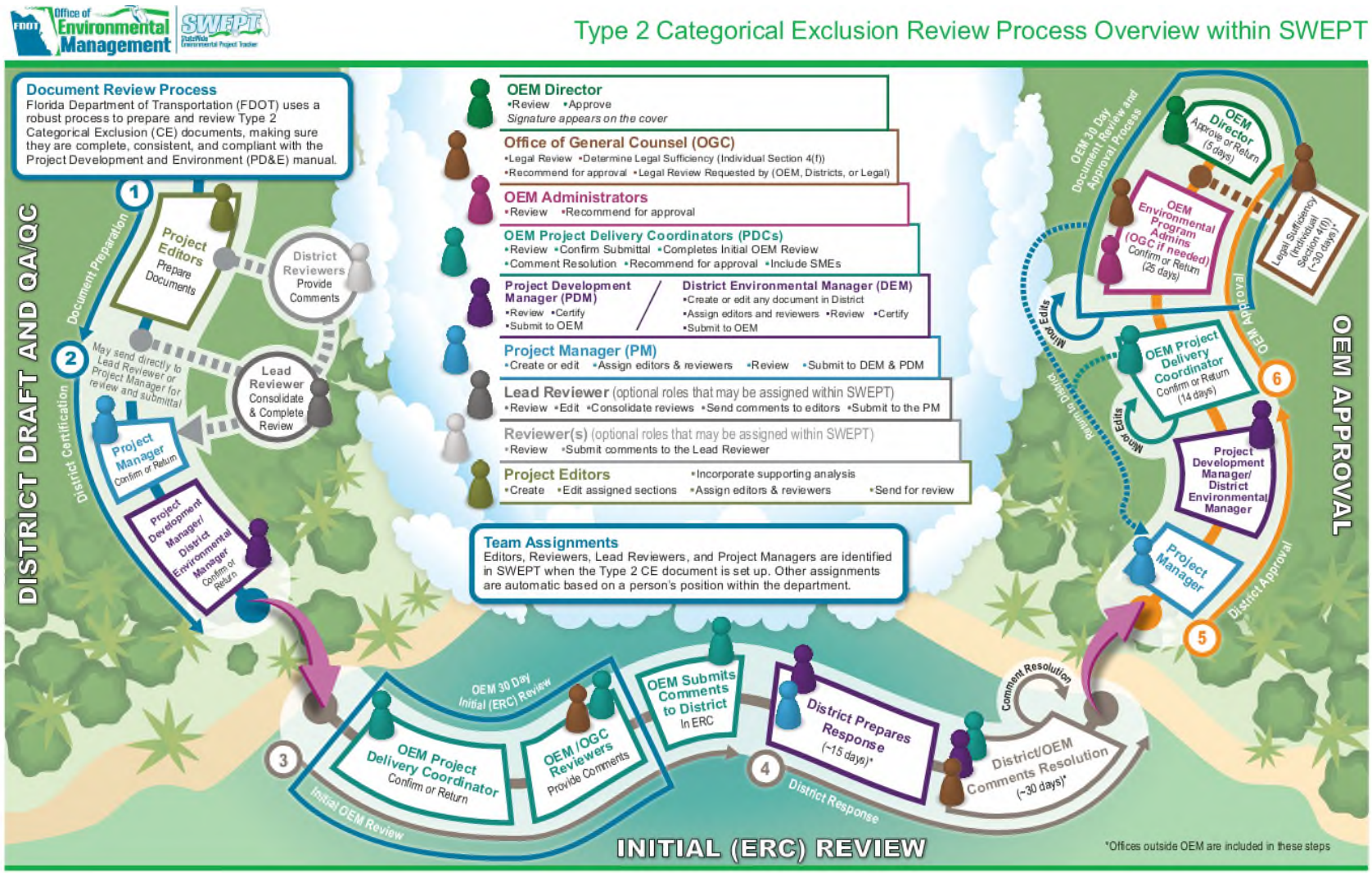
Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

The current process for environmental compliance for environmental documents signed by FDOT OEM under NEPA Assignment is shown in **Figure 7**. All non-Individual Section 4(f) processing options follow a similar procedure involving review by appropriate District environmental staff and OEM SMEs through the SWEPT tool. Once complete, the OEM Director will sign the final document (as applicable and typically with approval of the NEPA document).

The process is different for project activities that qualify as CEs, the Districts document their decision regarding the need for studies to confirm that the project meets the criteria for a CE. If the document is a Type 1 CE [actions listed in 23 CFR § 771.117(c) and identified in 23 CFR § 771.117(d)], the District completes their review of the document and submit it for review and approval by the District Environmental Manager (or designee). At this point, the review is concluded with approval of the Type 1 CE once it has determined that the CE meets all issues required to be addressed per FDOT's CE guidance. If the action is valid, the Type 1 CE is approved. Approval is electronically documented in the SWEPT project file. If the classification needs to be elevated, the project COA is revised and the appropriate level environmental document is developed for review and approval as required under the new classification. The **Guidance for Part 1, Chapter 5** of the PD&E Manual has a sample Type 1 CE Checklist that demonstrates the level of analysis, documentation, and quality control built into this process.

Type 2 CEs are actions not specifically listed or identified as CEs per 23 CFR § 771.117, but which meet the requirements of a CE under 23 CFR § 771.117(a). For these types of projects the District will certify that the action does not result in significant environmental impacts. If a District concludes that the action qualifies for a CE under 23 CFR § 771.117(d) due to its scope and similar in nature, and the action does not involve unusual circumstances that warrant the preparation of an EA or EIS, the District will submit this document to OEM for approval. For Type 2 CEs, OEM will determine whether the project satisfies the criteria in 23 CFR § 771.117 and the PD&E Manual. The approval is electronically documented in SWEPT. The OEM NEPA review process for Type 2 CEs is shown in **Figure 8**.

**Figure 8 OEM NEPA Review Process Explained for Type 2 Categorical Exclusion**



Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Local Area Program projects follow the same approval process as FDOT-sponsored projects. When environmental documents are submitted, they are subject to QC review, legal reviews (if applicable), review for readiness prior to signature, and legal sufficiency review (if applicable).

## Independent Environmental Decision-Making

FDOT's organization supports independent environmental decision-making. Approval for all environmental documents prepared under the NEPA Assignment Program will be independent from project design decisions but usually performed in concurrence. The environmental team will collaborate with project designers throughout the project development process to avoid and minimize impacts to environmental resources of concern. FDOT Districts and OEM, report to the FDOT administration through different chains of command (see FDOT's Organizational Chart in **Figure 1**). The districts report to the District Secretary, while OEM reports to the Chief Operating Officer, Assistant Secretary for Engineering and Operations. Projects will be developed, reviewed, and approved as noted in the previous section, Expanded Quality Control Procedures. OEM will also ensure legal sufficiency reviews are performed by the FDOT environmental attorney or by legal consultants that they oversee and manage as FDOT will be responsible for any future federal lawsuits.

## Defining the Class of Action

The COA determination is described in the PD&E Manual. Typically, the district environmental staff propose the COA as part of the PD&E process once enough information is available or enough analysis has been performed to make an informed decision. For Type 2 CEs, EAs or EISs, a clear rational will be provided through a COA Form in the EST. The approved Type 1 CE checklist in SWEPT acts as confirmation of the COA for those qualifying projects. In situations where the project scope changes or anticipated impacts change, the COA will be reconsidered as appropriate.

## Consultation and Coordination with Resource Agencies

Coordination with resource agencies plays a vital role in project planning and environmental development of proposed projects. FDOT currently performs the primary role in interagency coordination through NEPA Assignment. FDOT maintains a multi-disciplinary staff that works effectively and proactively with federal and state environmental resource and regulatory agencies. Under current FDOT procedures, the OEM SMEs, as well as other pertinent environmental team members, are responsible for interagency coordination during project planning and development. Under the NEPA Assignment Program, FDOT is committed to continue working positively and collaboratively with its federal and state resource agency partners.

This positive, collaborative approach with agency partners will also be evident as FDOT continues responsibility for NEPA scoping on EIS projects. FDOT meets the NEPA scoping requirements of 23 CFR § 771.123(b), as well as the early consultation and coordination plan requirements articulated in 23 U.S.C. § 139. Per federal regulations, FDOT will request agencies, as appropriate, to become cooperating agencies, and will identify agencies to serve as participating agencies. Federal, state, tribal, regional and local government agencies that may have an interest in the project will be invited to be participating agencies. Participating agencies and the public will be given an opportunity for input in the development of the purpose and need and the range of alternatives,

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

and throughout the project development process as appropriate. FDOT collaborates with the cooperating and participating agencies during the environmental study process on methodology used and level of detail required for the analysis of project alternatives.

FDOT biologists or consultants supervised by FDOT currently prepare Section 7 biological evaluations and biological assessments. FDOT district environmental staff perform informal consultation responsibilities with the USFWS or National Marine Fisheries Service (NMFS) on biological evaluations and essential fish habitat assessments. Under the NEPA Assignment Program, OEM conducts formal consultation with USFWS or NFMS under Section 7 of the ESA. FDOT is responsible for informal and formal ESA consultation and for compliance and oversight in general. Formal consultation correspondence and documentation prepared under the NEPA Assignment Program are submitted to the agencies from OEM and specify that consultation is being requested pursuant to 23 U.S.C. § 327.

Under the Section 106 PA with SHPO, Advisory Council on Historic Preservation (ACHP), and FHWA, FDOT is currently entrusted with responsibility for consultation with the SHPO on Section 106 issues.

FDOT will continue to use the procedures outlined on the **OEM Native American Tribal Consultation webpage** to coordinate the meaningful input of Tribes with interests in Florida in the Section 106 process. If, at any time, a Tribe requests FHWA government-to-government consultation, then that request will be honored, and FHWA will be requested to actively participate.

FDOT has an agency operating and funding agreement with the USACE, including funded liaison positions for FHWA surface transportation projects that require Section 10 and Section 404 permits. FDOT follows USACE and US Environmental Protection Agency (USEPA) expedited coordination and permitting procedures for emergency situations. Projects requiring an individual Section 404 permit are required to comply with the Section 404(b)(l) guidelines (40 CFR Part 230). FDOT will continue to follow Section 404(b)(l) guidelines in analyzing project alternatives and determining the least environmentally damaging practicable alternative while working with USACE and USEPA to obtain individual permits. Additionally, FDOT has a Regional General Permit (RGP) with the USACE Jacksonville District, SAJ-92, that prescribes conditions for projects on existing facilities with five acres or less of wetland impacts per mile of project up to ten miles in non-tidal areas. Mitigation in the state of Florida is addressed through Section 373.4137, Florida Statutes. Mitigation requirements, for specified transportation projects, dictate that wetland impacts from transportation projects be mitigated through the use of mitigation banks, or any other option that satisfy federal and state requirements. Under the renewal of the NEPA Assignment Program, FDOT will continue to assume FHWA's responsibility as the lead federal agency to coordinate with USACE and USEPA and will continue to perform this coordination and permitting functions.

FDOT currently coordinates with the U.S. Coast Guard regarding projects within navigable waterways subject to the General Bridge Act of 1946, formerly known as Section 9 of the Rivers and Harbors Act of 1899. As part of the NEPA Assignment Program, FDOT assumes FHWA's responsibilities under the FHWA/USCG Memorandum of Agreement (MOA) and USDOT/USCG MOU. In advancing its projects, FDOT will continue its role and responsibilities as permittee.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

FDOT coordinates storm water quality and hazardous material issues with the Florida Department of Environmental Protection (FDEP), which implements the applicable federal program regulating those environmental matters and with the five Water Management Districts (WMDs) as applicable.

OEM will review and approve project-level air quality analysis as part of its environmental document review. To the extent appropriate, FHWA would retain conformity determinations for NEPA Assignment Program projects. Currently the state of Florida is in attainment.

FDOT is actively involved in coordinating with the U.S. Department of Interior, and, as appropriate, other federal agencies, on Section 4(f) issues and Section 6(f) issues. In addition, FDOT coordinates with the Federal Emergency Management Agency (FEMA) regarding any amendments to National Flood Insurance Program (NFIP) floodplain maps. When necessary and to ensure compliance with the Farmland Protection Policy Act (FPPA), FDOT completes coordination with the National Resources Conservation Service (NRCS). FDOT also is requesting to continue to assume responsibilities for compliance with these acts and would continue to perform these coordination functions under the NEPA Assignment Program.

## Issue Identification and Conflict Resolution Procedures

## Internal and Local Agency Process

When a dispute arises regarding a project or document related decision, the project sponsor and OEM will attempt to informally resolve any dispute concerning environmental document review before relying on other methods of dispute resolution.

If there is a project-level dispute, the District and OEM will attempt to informally resolve such dispute. If a project-level dispute cannot be resolved informally, it will be elevated to the District Director of Transportation Development and the Chief Engineer of Production. If the matter remains unresolved, it will be elevated to the Chief Operations Officer, Assistant Secretary for final resolution.

If a project sponsor is a local agency and a dispute cannot be resolved informally between the project sponsor and FDOT, the same process will be followed with representation from the local agency.

## Process with External Agencies

FDOT has long had a practice of proactive engagement with its resource agency partners. FDOT strives to be transparent in identifying impacts, working with agencies on appropriate mitigation to offset the impacts of its projects, and following through on its commitments. The department seeks to understand the basis for resource agency requirements and to diligently meet those requirements. Following this forthright approach, FDOT is largely successful in avoiding conflicts with external agencies. FDOT expects to continue this general approach under the NEPA Assignment Program and will continue to assume FHWA's role in resolving conflicts with external agencies without FHWA involvement. In this role, FDOT will continue to be diligent in resource and regulatory agency engagement, particularly with cooperating agencies and those agencies

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

designated as participating agencies, following the requirements and spirit of 23 U.S.C. § 139(h). Where issues arise that create conflict between agencies, FDOT will be committed to forthright conflict resolution and good faith efforts to address concerns of the other party. Because of FDOT's experience, expertise, and current level of involvement in consultations, its existing resources will be adequate to continue assuming FHWA's responsibilities for resolving issues with external agencies.

FDOT's long history of working cooperatively with its federal and state partners and with Tribal Governments is evidenced by the numerous PAs and AOFAs developed over the years to entrust certain responsibilities to FDOT or to improve coordination between FDOT and federal and state resource agencies. The areas below specify procedures for resolving conflicts with external agencies. These procedures are included in the NEPA Assignment Program.

- The Section 106 PA specifies procedures for resolving conflicts according to the current Stipulation XI (A) Dispute Resolution. These procedures generally stipulate how a conflict on an eligibility or effect determination will be addressed.

- Endangered Species Act, Section 7 Determinations and Coordination: Under the NEPA Assignment Program:

    - If a difference between staff arises at any point in the process, the issue will be referred to the next higher level for review and decision within 10 working days.

    - If FDOT and USFWS or NMFS are unable to agree on an effect determination during informal consultation, FDOT will initiate formal consultation and will assume FHWA's role in the formal consultation process.

- Native American Tribal Coordination: Under the NEPA Assignment Program:

    - If the Tribes object to FDOT findings, eligibility determinations, effect determinations, or treatment plans, OEM shall review the documentation provided by the Tribe to support its objection and respond to the Tribe.

    - If the objection is in response to a finding of no historic properties, eligibility determination or effect determination, then OEM will review the documentation and will consult with the Tribe or the Keeper of the National Register of Historic Places (NRHP) to resolve the objection and notify all consulting parties of the outcome

    - If the objection is in response to a treatment plan, then OEM will review the documentation and will consult with the Tribe or the ACHP to resolve the objection and notify all consulting parties of the outcome.

    - For emergency discoveries, FDOT will follow appropriate emergency discovery guidelines, which include notifying the culturally associated Tribe, and determine if any additional investigation of the site is needed. If the Tribe objects to additional investigations, OEM shall respond to the Tribe.

    - If FDOT and a Tribe are unable to agree, the parties will follow the dispute resolution processes of FDOT's PA with FHWA, ACHP, Florida Division of Historic Resources

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

(DHR) and SHPO, unless the Tribe requests government-to-government consultation with FHWA.

Where the issue needing resolution falls outside the process described above, FDOT will implement the Issue Identification and Resolution Process under 23 U.S.C. § 139(h), assuming FHWA's role. The regulation provides a formal process for resolving major issues that may delay or result in denial of a required approval or permit for a project. This process may be invoked by the project sponsor or the Governor of the State and requires that the FHWA Administrator, heads of the lead agencies and affected participating agencies, and the project sponsor meet to resolve issues. Under the NEPA Assignment Program, the Secretary of FDOT would assume the FHWA Administrator role. Issues identified for resolution or elevation through 23 U.S.C. § 139(h) would be logistically coordinated with the Office of the Secretary of Transportation at the federal Department of Transportation.

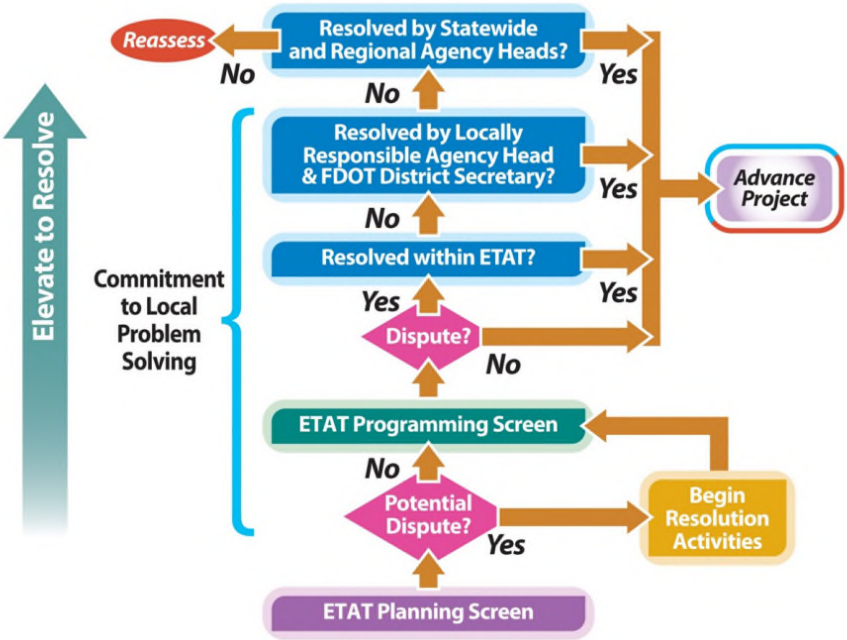
## Issue Resolution Process

The Issue Resolution process in ETDM seeks to find solutions to issues between agencies that address a resource concern while meeting the transportation needs. This issue resolution process is available during planning and remains available through future project delivery phases as detailed analysis begins and more information becomes available. Participation in the ETDM process does not abrogate or limit an agency's authority or responsibility to protect its jurisdictional resources, nor does it require an agency to act in a way contrary to law, regulation, rules, policy or practice.

A strong commitment exists among participants in the ETDM process to resolve issues within the ETAT, prior to elevating them to higher level management (see the Issue Resolution Process in **Figure 9**). To facilitate meeting this goal, potential disputes are addressed as early as possible to make the best use of agency skills and resources. Projects with unresolved issues following the ETAT review and publication of the Preliminary Programming Screen Summary Report require commencement or continuation of the ETDM Issue Resolution process.

Under the NEPA Assignment Program, the informal issue resolution process begins when the District ETDM Coordinator in consultation with OEM assigns a Potential Dispute Summary Degree of Effect (SDOE) in the Planning Screen or Issue Resolution Process Required SDOE during a Programming Screen review.

**Figure 9 Issue Resolution Process**




When assigning the SDOE, the District ETDM Coordinator uses known information including comments and Degree of Effects from ETAT members. The District ETDM Coordinator reviews the potential dispute commentary to determine its consistency with the definition of Potential Dispute or Issue Resolution process required (see the **ETDM Manual**) and in conjunction with the disputing agency's authority.

An ETAT representative may, based on its jurisdictional or regulatory authority, flag a project as potentially needing issue resolution based on the following triggers:

- Project is considered to be unpermittable (applicable to permitting agencies)
- Project is identified to be contrary to a state or federal resource agency's program, plan, or initiative (including Florida's Coastal Management Program or Local Agency Comprehensive Plans)
- Project has the potential for significant environmental cost (e.g., monetary, environmental effects, or quality of life)

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Initially, the District ETDM Coordinator works with the appropriate ETAT representative(s) to informally resolve the disputed issue(s) at the agency staff level before elevating the discussion to the Formal Issue Resolution process. The agency heads (or governing board, as applicable), will make the final decision on how to address unresolved issues.

Any agreements, understandings, and/or recommendations resulting from the ETDM Issue Resolution process in the Planning or Programming Screens are documented and accompany the project as it advances into the PD&E phase.

For issues needing resolution that do not involve the ETDM AOAs described above or one of the regulatory processes in PD&E, FDOT will implement the Issue Identification and Resolution Process under 23 U.S.C. §139, assuming FHWA's role. This provision provides a formal process for resolving issues that may delay or result in denial of the required approval or permit for a project. This process may be invoked by the project sponsor or the Governor of the State and requires that the FHWA Division Administrator, heads of the lead agencies and affected participating agencies, and the project sponsor meet to resolve issues. Under the NEPA Assignment Program, the Director of OEM will assume the FHWA Division Administrator role. Issues identified for resolution or elevation through 23 U.S.C. §139(h) will be coordinated with the U.S. Secretary of Transportation.

## Record Keeping and Retention

FDOT maintains its project and administrative files pertaining to its NEPA Assignment Program responsibilities as required by law and FDOT's retention program per **Part 1, Chapter 15, Project File and Records Management** of the PD&E Manual. To support its recordkeeping and retention responsibilities, SWEPT is used in conjunction with the Electronic Document Management System (EDMS), as the environmental file system of record for NEPA Assignment Program projects. FDOT has a **Records Management Procedure, Topic Number 050-020-025** established by FDOT's Office of Support Services. For documents pertaining to FDOT's discharge of responsibilities under the NEPA Assignment Program, FDOT complies with the requirements of FHWA Records Disposition Manual (Field Offices) Chapter 4 and FHWA Order No. 1324.1B, issued July 29, 2013. FDOT will maintain its project and administrative files pertaining to its NEPA Assignment responsibilities, as required by the program These files will include, but not limited to letters and comments received from governmental agencies, the public, and others related to the program. Project files will include the NEPA document, technical reports and studies, consultation/coordination correspondence, and public comments and responses. E-mails and related documents that support project decision-making, reflect deliberation and other materials or documentation that demonstrates a "hard look" under NEPA will be retained as part of the project file. Any attorney-client privileged documents will be made available as appropriate and will not be made available upon request to the FDOT and FHWA legal teams.

## FDOT and FHWA Monitoring

As required, FDOT and FHWA will jointly conduct one audit and at least one monitoring review during the life of the Renewal MOU, to determine the effectiveness of its standards, guidance, and procedures under the NEPA Assignment Program and its staff's adherence to the NEPA Assignment MOU, and to FDOT's established standards and procedures. Monitoring and audit

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

results will be posted to OEM's website. In addition to problem identification, these reviews will be used to evaluate root causes and to assess whether specific problems are systemic, confined to specific areas of the state or to specific individuals. FDOT and FHWA will use monitoring reports to identify areas that are working well, as well as areas that need improvements; make specific recommendations to improve adherence to standards and procedures; assess the need for corrective action as well as implement necessary corrective actions; evaluate the improvements achieved from previous corrective actions and re-evaluate previous program areas where corrective actions have been implemented. The Audit and Monitoring reviews will be conducted using a variety of tools such as reviews of files in SWEPT and interviews of FDOT and resource agency staff. These will gauge the success of the NEPA Assignment Program.

The FDOT OEM Director will be responsible for overseeing FDOT's implementation of the NEPA Assignment Program, ensuring its success, and reporting on its performance to FHWA. The Secretary of FDOT is the highest-ranking official at FDOT and is committed to the success of the NEPA Assignment Program, as are the entire FDOT administration. FDOT's Process and Performance Management team will be responsible for the QA/QC program (including audits and monitoring), training program, and technology program elements. The Environmental and Engineering Administrators will be responsible for policy/procedural and subject matter areas, along with project support and reviews. The OEM State Environmental Quality and Performance Administrator will serve as liaison to the FHWA Assignment Program audit team.

## Performance Measures to Assess the NEPA Assignment Program

FDOT will continue to monitor a variety of performance measures as part of its self-assessment program to evaluate performance in its management of the NEPA Assignment Program responsibilities.

## Training

FDOT is committed to maintaining a quality training program for its employees, environmental consultant staff, and agency partners. Training is developed to meet the identified needs and is modified over time as necessary to meet evolving staff needs. FDOT's existing environmental training program provides training courses that support development of the knowledge, skills, and abilities of its environmental staff necessary to meet state and federal environmental requirements. To ensure that FDOT environmental staff have the knowledge and skills necessary to meet their responsibilities under the NEPA Assignment Program training is provided as identified and OEM's training program is accessible on-line at: **Training Program | Office of Environmental Management Florida Department of Transportation**. Additional training to build awareness of NEPA Assignment issues for management personnel, project managers, project design engineers, and other relevant offices will be provided as needs are identified.

While not training per se, regular statewide meetings and updates are held for the program to regularly share important NEPA Assignment Program information, communicate any issues and resolutions, and respond to questions.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## § 773.109 (a)(3)(iii): Legal Sufficiency

The FDOT environmental attorney or outside environmental counsel will continue to conduct legal sufficiency reviews of the draft FEISs, draft FEISs/RODs and Individual Section 4(f) evaluations which are the specified document types for which FHWA is required to conduct legal sufficiency reviews under Federal regulation (23 CFR § 771.125(b) and 23 CFR § 774.7(d)). The primary goal of this review will be to assess the document from the perspective of legal standards, litigation risk and legal defensibility. FDOT intends to use the following process:

- OEM will submit the draft FEIS, draft FEIS/RODs or Individual 4(f) evaluation to the FDOT environmental attorney.
- OGC will assign the document to an FDOT environmental attorney or outside environmental counsel for review.
- The reviewing environmental attorney will prepare and submit written comments/suggestions to improve the document's legal defensibility to OEM (these comments would be protected by the attorney- client privilege and would not be shared outside of FDOT and FHWA (if applicable)).
- The reviewing environmental attorney will be available to discuss with OEM staff the resolution of comments/suggestions.
- Once the reviewing environmental attorney is satisfied that OEM staff has addressed the comments/suggestions to the maximum extent reasonably practicable, the reviewing attorney will complete the legal sufficiency within the SWEPT tool.
- OEM will not finalize a FEIS/ROD or the Individual Section 4(f) evaluation before receiving written documentation that the legal sufficiency review is complete.

## § 773.109 (a)(3)(iv): Prior Concurrence

For selected projects, “prior concurrence” pursuant to 23 CFR § 771.125(c) will be obtained before proceeding with key approvals under NEPA. Prior concurrence will come from the Chief Operations Officer, Assistant Secretary or designee, after consulting with OGC if desired, to ensure that the project and environmental document in question are acceptable from a policy and program perspective. Prior concurrence may apply to FDOT approvals of draft or FEISs. Projects that require prior concurrence will be decided on a case-by-case basis, based on input from the Districts and OEM, and may include projects that meet one or more of the following criteria:

- Impacts of unusual magnitude
- High level of controversy

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

- Major unresolved issues
- Emerging or national policy issues
- Issues for which the Districts seek policy assistance

For projects that are anticipated by FDOT to involve a constructive use under Section 4(f) of the USDOT Act, FDOT will coordinate with FHWA on the underlying policy issue before making a final determination of a Section 4(f) constructive use. Section 4(f) constructive use evaluations will undergo legal review before they are signed by the Director of OEM.

Prior concurrence will apply to projects as determined by the Chief Operations Officer, Assistant Secretary or designee. In completing the prior concurrence review, the State Environmental Programs Administrator or the State Environmental Process Administrator or designee will review the EIS at issue in the prior concurrence review and seek advice and input, as appropriate, from technical SMEs and OGC before the EIS that is the subject of prior concurrence is approved by the Director of OEM.

## § 773.109 (a)(3)(v): Project Delivery Methods

FDOT considers a variety of project delivery methods to streamline and improve project delivery and provide opportunities for innovation without compromising the environment, safety or quality, including public-private initiatives. FDOT project delivery is a comprehensive process including planning, design and construction. The delivery methods for design and construction include but are not limited to:

- Design-Bid-Build or traditional delivery
- Design-Build
- Phased Design-Build
- Modified Phased Design-Build
- Innovative Contracting Techniques
- Public-Private Partnership (P3) Concession Agreements

FDOT will consider the appropriate delivery mechanism on a case-by-case basis, considering the nature and status of the project, risk factors applicable to the project, the project schedule, available funding, project goals, and other project-specific factors. To enhance project delivery, the Department is allowing overlap of PD&E and Design phases under appropriate conditions. This allows for preliminary design activities to be completed prior to NEPA Approval. The type of contract will be specified in the procurement solicitation documents. For design-build projects, FDOT will ensure the requirements outlined in 23 CFR Part 636 are met, which include those imposed to protect the objectivity and integrity of the NEPA process.

OEM will ensure all NEPA approvals are fully addressed for any project that uses alternative delivery methods. Per 23 CFR § 771.113, NEPA documents must be cleared prior to authorization for any construction activities.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## § 773.109(a)(4)(i): Staff Dedicated to Additional Functions

FDOTs organizational structure, including OEM and Districts as well as existing environmental staff is described in §773.109(a)(3)(i): Existing Organization and Procedures of this application.

FDOT's existing environmental staff and organizational structure is sufficient to handle the responsibilities assumed under the NEPA Assignment Program and the scale of projects it expects to assume. FDOT completed 790 federal project approvals in FY 2025, and over the course of nine and a half years of NEPA Assignment, has completed 6,377 (December 2016 – May 2026) federal project approvals (all COAs). FDOT anticipates the number of environmental documents/determinations to remain steady in the coming years. FDOT will continue to review environmental staff roles and modify duties, as appropriate, based on the needs of the NEPA Assignment Program. If there are increases in funding or changes in work needs, FDOT's staff is well trained and most are able to address multiple disciplines within the environmental area. FDOT would be able to reassign staff to address areas that have a peak workload as needed. In addition, FDOT has many general contracts with environmental consultants at both the state and District level who can supplement existing resources as needed.

## § 773.109 (a)(4)(ii): Changes to the Organizational Structure

FDOT does not anticipate any changes in the organization structure of OEM or the Districts. FDOT environmental staff will continue to rely on other districts, consultants, and OEM to provide expertise that the district does not have. This structure has been proven effective.

FDOT does not anticipate further organizational change, although roles and responsibilities may be shifted among OEM sections for the successful implementation of the NEPA Assignment Program or as identified through the NEPA Assignment Program's self-assessment, monitoring and FHWA audit process.

FDOT will continue to use the existing organization for legal sufficiency review to the maximum extent possible but specialized outside legal counsel may be required from time to time. This structure has been effective.

FDOT will use the joint monitoring and audit process with FHWA to identify any changes that may be needed in organizational structure.

## § 773.109 (a)(4)(iii): Use of Outside Consultants for the Assignment Program

There will be no change in FDOT's general approach to using consultants due to continued participation in the NEPA Assignment Program. OEM and/or the Districts are responsible for the review of environmental documents prepared by consultants under contract to FDOT. Both districts and OEM have the authority to hire consultants. Consultants may be used for environmental analysis, technical studies, environmental document preparation, review services, administrative record development, and general staff support.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

Consultants will provide NEPA review and support services; but are not authorized to make NEPA determinations under the NEPA Assignment Program. The decision-making responsibility under the NEPA Assignment Program remains with FDOT.

Currently, consultant services fluctuate in proportion to the annual FDOT workload. The level of consultant services used to augment FDOT's project development staff is based on legislative authority and project delivery needs, which vary annually. The practice of using consultants to manage workload fluctuations allows the FDOT workforce to remain stable. The districts provide consultant assistance on an as-needed basis by maintaining "on-call" environmental contracts. This use of consultants to handle workload fluctuation will also effectively serve to manage adjustments in workload that may occur with NEPA Assignment.

## § 773.109 (a)(5): Financial Resources under the Assignment Program

FDOT's 5-Year Adopted Work Program (for FYs 2026-2031) is $62.2 billion dollars. OEM's current annual budget for FY 2026/2027 is $9 million dollars which includes a budget for consultant resources to provide FDOT flexibility in meeting its project and program environmental compliance needs. OEM typically maintains three general consultant contracts, each funded at $5 million over five years to provide environmental/NEPA, engineering, and ETDM/SWEPT support. The Chief Engineers also have several available consultant contracts to supplement NEPA Assignment. The primary costs for operating the NEPA Assignment Program will come from the Chief Engineers or OEM budget. This budget does not include the FDOT environmental staff positions statewide. The staff positions listed below are already on staff to perform activities related to the NEPA Assignment Program, and are covered under current budget allocations:

- Director of OEM
- State Environmental Programs Administrator
- State Environmental Quality and Performance Administrator
- State Environmental Process Administrator
- State Environmental Development Engineer

FDOT considers its budget to be sufficient to cover the costs of additional environmental activities necessary to successfully meet its NEPA Assignment Program responsibilities, including; QC and QA of NEPA documents and supporting technical studies, self-assessments, and preparing for FHWA audits. FDOT commits to making adequate financial resources available to meet the NEPA Assignment Program responsibilities it is assuming and the staff resources needed to successfully execute those responsibilities. FDOT will regularly assess financial and staffing resources available for the NEPA Assignment Program as part of its self-assessments. No new costs to FDOT have been identified for the initial year of the NEPA Assignment Program renewal. The need for any future full-time employees would be identified as part of the routine FDOT budgeting process.

## § 773.109 (a)(6): Certification for Consent to Exclusive Federal Court Jurisdiction and Waiver of Immunity

The certification is included in **Appendix A**.

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## § 773.109 (a)(7): Certification that the State of Florida's Public Records Act is Comparable to the Federal Freedom of Information Act

Waiver of Sovereign Immunity and authority of FDOT to implement NEPA Assignment remain authorized by the State at Section 334.044(34), Florida Statutes, and comparable public records laws remain authorized under Chapter 119, Florida Statutes. Confirmation was provided in letter seeking renewal which is included in **Appendix A**.

## § 773.109 (a)(8)(ii): Comments Received on the Assignment Program Application Outreach

While no substantial changes are being made with the current renewal application, the fact that the renewal period is being extended from five (5) to ten (10) years, it was determined that additional public/agency outreach was required. On September 9 and 10, 2026, FDOT notified our stakeholders of the renewal, including ACEC, our partner agencies, MPOs, Tribes and FDOT District Offices. We also posted the notice on our NEPA Assignment Website: **NEPA Assignment | Office of Environmental Management Florida Department of Transportation**. A 30-day comment period was provided. No comments were received.

## Notice of Draft Application

Public notice of availability of FDOT's application was published on September 10, 2026, in the Florida Administrative Register and on FDOT's website. Comments were due no later than October 12, 2026. FDOT also provided direct notice of availability of the application with request for comment to federal and state resource agencies and Tribes. In addition, FDOT posted the application and how to provide comments on FDOT's website.

Copies of all comments received during the public comment period and FDOT's responses to comments and any changes made to the application in response to the public comments are included in **Appendix B** of this application.

## § 773.109 (a)(9): Point of contact

For questions on this Application or to submit any comments, please contact:

Jennifer Marshall, P.E.
Chief Engineer of Production, Florida Department of Transportation
605 Suwannee Street
Tallahassee, FL 32399-0450
Phone: 850-414-5203
**EMO@dot.state.fl.us**

Additional information on FDOT's NEPA Assignment Program can be found at: **FDOT NEPA Assignment**

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## Appendix A. Certifications for Consent to Exclusive Federal Court Jurisdiction and Waiver of Immunity and the State of Florida's Public Records Act is Comparable to the Federal Freedom of Information Act

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**Florida Department of Transportation**

RON DESANTIS
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

JARED W. PERDUE, P.E.
SECRETARY

Direct No: (850)414-5292
E-Mail: Kathleen.Toolan@dot.state.fl.us

September 15, 2026

Damaris Santiago
Director
Office of Project Development & Environmental Review
U.S. Department of Transportation
Federal Highway Administration
HEPE-1, Bldg. SFC
1200 New Jersey Ave., S.E.
Washington, DC 20590-9898

RE: Florida Department of Transportation's Second Renewal Package –
23 CFR §773.115(c)(2)

Dear Ms. Santiago:

In support of the Florida Department of Transportation's (FDOT's) request to continue is participation in the Surface Transportation Delivery Program authorized by 23 U.S.C. §327, I am confirming that the certification dated April 5, 2016, pertaining to the requirements imposed by 23 CFR 773.106(a)(6) and (a)(7) as provided by the State of Florida's Office of Attorney General remains valid. See attached.

Initially enacted as 2016-181, Laws of Florida, and codified at section 334.044(34), Florida Statutes , the Florida Legislature passed and the Governor signed into law legislation authorizing the FDOT's participation in the NEPA Assignment Program without limitation or time constraint and further providing a limited waiver of sovereign immunity to be sued civilly in federal court as relates to the State of Florida's actions pursuant to 23 U.S.C. 327. This authorization remains in effect at section 334.044(34), Florida Statutes (2026).

Additionally, Florida's robust public records law, Chapter 119, Florida Statutes (2026), continues to serve as one of the State's cornerstones providing public access and transparency to government actions and is comparable to the Freedom of Information Act 5 U.S.C. 552.

Finally, this information is provided as part of FDOT's Second Renewal Package to address 23 CFR §773.115(c)(2) verifying that no up-to-date certifications are needed.

Sincerely,

Kathleen P. Toolan
Special Counsel for Environmental Affairs

KT:jb

*Improve Safety, Enhance Mobility, Inspire Innovation*
www.fdot.gov

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

## Appendix B: Copies of Comments Received on the Assignment Program Application and Responses Provided to the Commenters

Docusign Envelope ID: 2A91994D-B9F5-8982-8272-64A96D72180B

**No comments were received.**