STEWARDSHIP AND OVERSIGHT AGREEMENT ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT BY AND BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, DELAWARE DIVISION OFFICE, AND THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT)

SECTION I. BACKGROUND AND INTRODUCTION

In enacting section 106(c) of title 23, United States Code (U.S.C.), as amended, Congress established authority for a State department of transportation (State DOT) to carry out certain project responsibilities traditionally handled by the Federal Highway Administration (FHWA) through a delegation from the Secretary of the U.S. Department of Transportation ("Secretary"). The authority in 23 U.S.C. 106(c) applies to projects that are subject to the requirements of title 23, U.S.C. ("title 23") because the State DOT receives Federal funding or because the State DOT needs an FHWA action for the project even though the project may not use Federal funds. Congress also recognized the importance of a risk-based approach to FHWA oversight of the Federal-aid highway program (FAHP), establishing requirements in 23 U.S.C. 106(g). In addition to assumptions of responsibility, FHWA-State DOT Stewardship and Oversight Agreements cover certain oversight activities relating to the oversight requirements of 23 U.S.C. 106(g).

The FHWA may not assign its decision making authority to a State DOT unless authorized by law. The authorities FHWA assigns to a State DOT under 23 U.S.C. 106(c)(1) and (2) are listed in Attachment A of the applicable FHWA-State DOT Stewardship and Oversight Agreement. A decision, determination, or action carried out by a State DOT under the authority of a Stewardship and Oversight Agreement ("Agreement") does not constitute an eligibility, participation, obligation, reimbursement, authorization, or compliance decision by or for FHWA.

For clarity, Attachment A also lists certain other actions FHWA may have allowed a State DOT to undertake based on delegation or assumption provisions in other Federal laws. As noted in those Attachment A listings, a State DOT exercise of those authorities is governed by separate agreements between FHWA and that State DOT.

For project responsibilities that are not assumed by a State DOT under 23 U.S.C. 106(c) and are not otherwise delegated or assigned in accordance with another Federal law, FHWA may authorize a State DOT to perform work needed to reach the FHWA decision point, or to implement FHWA's decision. However, such decisions themselves are reserved to FHWA.

SECTION II. INTENT AND PURPOSE OF AGREEMENT

This Agreement establishes the roles and responsibilities of the FHWA Delaware Division Office and the Delaware Department of Transportation (DelDOT) with respect to certain title 23 project approvals and related responsibilities, and FAHP oversight activities. Nothing in this

Agreement affects the Secretary's authority, or authority delegated to FHWA, to oversee compliance with Federal requirements. These authorities include but are not limited to 23 U.S.C. 114, under which the Secretary has the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.

This Agreement carries out 23 U.S.C. 106(c)(3), which requires FHWA and the State DOT to enter into an agreement relating to the extent to which the State DOT assumes project responsibilities pursuant to section 106(c). This Agreement also documents certain oversight activities that FHWA and the DelDOT will use to efficiently and effectively deliver the FAHP.

Section IV of this Agreement covers assumption of project approvals on the National Highway System (NHS). Section V covers assumption of project approvals off the NHS.

The Project Action Responsibility Matrix, Attachment A to this Agreement, describes responsibilities that the DelDOT assumes from FHWA pursuant to 23 U.S.C. 106(c) and other legal authorities.

Upon execution of this Agreement, Attachment A controls and, except as specifically noted in Attachment A (including any amendment thereto done in accordance with section VIII) and sections IV and V of this Agreement, no other agreements, attachments, or other documents shall have the effect of delegating or assigning FHWA approvals to the DelDOT under 23 U.S.C 106(c), or have the effect of altering Attachment A.

SECTION III. PERMISSIBLE AREAS OF ASSUMPTION UNDER 23 U.S.C. 106(c)

FHWA has determined the activities and actions that are assumable under 23 U.S.C. 106(c). Those activities and actions are listed in a template issued by FHWA to create this Agreement and cover only activities or actions in the following areas:

A. Design, which includes preliminary engineering, engineering, and design-related services directly relating to the construction of a FAHP-funded project, including engineering, design, project development and management, construction project management and inspection, surveying, assessing resilience, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services.

B. Plans, specifications and estimates (PS&E), which represents an array of actions and approvals required before authorization of construction and carried out during construction. The PS&E package includes standards, drawings, specifications, project estimates, certifications relating to completion of right-of-way acquisition and relocation, utility work, and railroad work.

C. Contract awards, which include procurement of professional and other consultant services and construction-related services to include advertising, evaluating, and awarding contracts.

D. Inspections, which include general contract administration, material testing and quality assurance, review, and inspections of Federal-aid contracts as well as final inspection/acceptance.

E. Approvals and related responsibilities affecting real property as provided in title 23, Code of Federal Regulations (CFR), section 710.201(h) and any successor regulation.

The DelDOT is to exercise any and all assumptions of the FHWA's responsibilities in accordance with the Federal laws, regulations, policies, Executive Orders, and procedures that would apply if the responsibilities were carried out by FHWA. For all projects and programs carried out under title 23, the DelDOT will comply with title 23 and all applicable non-title 23 Federal-aid program requirements.

SECTION IV. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS ON THE NHS

For projects under title 23 that are on the NHS, including projects on the Interstate System, the DelDOT may assume FHWA's title 23 responsibilities for activities or actions assumable under 23 U.S.C. 106(c) if the FHWA Delaware Division Office determines that assumption of responsibilities is appropriate and the DelDOT agrees.

A. The activities or actions on the NHS assumed by the DelDOT under this Agreement are listed in Attachment A.

B. Activities or actions for which the DelDOT has assumed the FHWA's responsibilities apply program-wide, except when superseded on a project-by-project basis by provisions contained in a stewardship and oversight plan developed by the FHWA Delaware Division Office for a specific project. Additional discussion on FHWA project involvement is included in section VI.D of this Agreement.

C. In accordance with 23 U.S.C. 106(c)(4), the Secretary may define high-risk categories for Interstate projects on a national basis, a State-by-State basis, or a national and State-by-State basis. A State DOT may not assume responsibilities for Interstate projects in a designated high-risk category. Currently, FHWA has not designated any high-risk categories applicable to Delaware in accordance with 23 U.S.C. 106(c)(4). If the FHWA makes a future high-risk designation that applies to Delaware, then that designation will immediately supersede the assumptions of responsibilities elsewhere in this Agreement to the extent of that high-risk designation.

SECTION V. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS OFF THE NHS

For projects under title 23 that are not on the NHS, the DelDOT must assume FHWA's title 23 responsibilities for activities or actions assumable under 23 U.S.C. 106(c) unless the DelDOT determines that assumption of responsibilities is not appropriate (23 U.S.C. 106(c)(2)).

A. The activities or actions off the NHS assumed by the DelDOT under this Agreement are listed in Attachment A.

B. Activities or actions for which the DelDOT has assumed the FHWA's responsibilities apply program-wide, except when superseded on a project-by-project basis by provisions contained in a stewardship and oversight plan for a specific project developed by the FHWA Delaware Division Office. For non-NHS projects, the DelDOT must determine that superseding an assumption listed in Attachment A for a specific project is appropriate. Additional discussion on FHWA project involvement is included in section VI.D of this Agreement.

C. Except as provided in 23 U.S.C.109(o), the DelDOT is to exercise FHWA's approvals and related responsibilities on these projects in accordance with Federal laws, regulations, policies, Executive Orders, and procedures that would apply if the responsibilities were carried out by FHWA.

D. In accordance with 23 U.S.C. 109(o), non-NHS projects shall be designed and constructed in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards, except that a local jurisdiction may use a roadway design guide recognized by FHWA and adopted by the local jurisdiction that is different from the roadway design guide used by the State in which the local jurisdiction is located for the design of projects on all roadways under the ownership of the local jurisdiction for which the local jurisdiction is the project sponsor, provided that the design complies with all other applicable Federal laws.

SECTION VI. FHWA OVERSIGHT PROGRAM UNDER 23 U.S.C. 106(g)

The Secretary must establish an oversight program to monitor the effective and efficient use of funds authorized to carry out the FAHP (23 U.S.C. 106(g)). This includes FHWA oversight of the DelDOT processes and management practices, including those involved in carrying out the approvals and related responsibilities assumed by the DelDOT under 23 U.S.C. 106(c).

Section 106(g) requires, at a minimum, FHWA's oversight program be responsive to all areas relating to financial integrity and project delivery. To carry out the requirements of 23 U.S.C. 106(g), FHWA uses a risk management framework to evaluate financial integrity, project delivery, and other aspects of the FAHP. The objective is to balance risk while considering staffing, budget resources, and the State's transportation needs.

The FHWA Delaware Division Office and the DelDOT may use a variety of methods to identify, analyze, and manage risks and develop response strategies, such as oversight techniques, manuals and operating agreements, stewardship and oversight indicators, and FHWA project involvement.

A. Oversight Techniques

Techniques the FHWA Delaware Division Office and the DelDOT may use to identify and analyze risks and develop response strategies include, but are not limited to, the following:

- Program assessments;
- FHWA Financial Integrity Review and Evaluations reviews;

- Program reviews;
- Certification reviews;
- Recurring or periodic reviews such as the FHWA Compliance Assessment Program;
- Inspections of project elements or phases.

B. Manuals and Operating Agreements

The DelDOT manuals, agreements and other control, monitoring, and reporting documents that are used on Federal-aid projects are listed in Attachment B to this Agreement. At a minimum, this list will include documents required by statute or regulation to be submitted to or approved by FHWA. Additional documents may be included as agreed to by the FHWA Delaware Division Office and the DelDOT.

C. Stewardship and Oversight Indicators

The FHWA Delaware Division Office and the DelDOT have not established indicators as part of this Agreement.

D. FHWA Project Involvement

The FHWA Delaware Division Office may select projects (individually or by type) for risk-based FHWA project involvement and stewardship and oversight activities, based on a risk assessment and the responses to identified threats and opportunities. The FHWA Delaware Division Office will identify the risks and document actions that it will undertake to respond to the risks in a stewardship and oversight plan for the affected project(s).

In some instances, such as in response to elevated risks, the assumption by the DelDOT of project approval actions under Attachment A to this Agreement may be superseded on a project-by-project basis by provisions in the stewardship and oversight plan for those specific projects, per sections IV and V of this Agreement. Stewardship and oversight plans for specific projects will distinguish which project approval actions under Attachment A are superseded by the project specific plan. Project approval actions under Attachment A that are not superseded by the project specific plan remain in effect.

SECTION VII. STATE DOT OVERSIGHT RESPONSIBILITIES

This section addresses how 23 U.S.C. 106(c) assumed authorities are carried out by the DelDOT. The actions include monitoring to assure that the DelDOT is properly carrying out its responsibilities in accordance with this Agreement.

A. The DelDOT is responsible for demonstrating to FHWA how it is carrying out its responsibilities in accordance with this Agreement. The DelDOT will provide information to the FHWA Delaware Division Office upon request.

B. The DelDOT represents that processes, procedures, and practices from manuals, agreements, and other documents listed in Attachment B to this Agreement comply with applicable Federal requirements.

C. The DelDOT is responsible for ensuring that its subrecipients meet applicable Federal requirements. This includes but is not limited to evaluating each subrecipient's risk of ensuring compliance and determining the appropriate oversight and monitoring with respect to both the subaward and any 23 U.S.C. 106(c) assumed responsibilities that a subrecipient has been permitted to carry out on behalf of the DelDOT (2 CFR 200.332). The DelDOT is responsible for determining that subrecipients of Federal funds are suitably staffed and equipped (23 CFR 635.105(c)(3)) and have adequate project delivery systems and sufficient accounting controls to properly manage these funds (23 U.S.C. 106(g)(4)); 2 CFR 200.303).

SECTION VIII. AGREEMENT EXECUTION AND MODIFICATIONS

A. Agreement Execution

This Agreement is effective when fully executed by the FHWA Delaware Division Administrator and authorized representative of the DelDOT. The DelDOT duly-authorized official shall execute this Agreement and then submit it to the FHWA Delaware Division Administrator, who shall sign this Agreement last.

B. Agreement Modifications

The FHWA Delaware Division Office and the DelDOT acknowledge that Agreement modifications (minor revisions or amendments) are needed periodically. Either party may initiate a request to modify this Agreement.

1. Minor Revisions

The FHWA Delaware Division Office and the DelDOT may make minor revisions to this Agreement without an amendment. For purposes of this Agreement, a minor revision makes a technical correction, addresses non-substantive changes such as a change in points-of-contact or document names, or revises aspects of procedures that do not materially change the terms of this Agreement. Changes to Attachments B or C are considered minor revisions. Minor revisions are recorded in a change log by the FHWA Delaware Division Office. Minor revisions may be executed without FHWA legal sufficiency review or coordination with FHWA's Office of Infrastructure.

2. Amendments

Modifications to this Agreement that exceed the definition of a minor revision in paragraph B.1. of this section shall require execution of an amendment to this Agreement. Amendments include any change to Attachment A. The amendment shall follow the execution procedure set forth in paragraph A of this section. Amendments require FHWA legal sufficiency review and coordination with FHWA's Office of Infrastructure.

C. New Agreement

This Agreement will be replaced in its entirety and a new Agreement executed between the FHWA Delaware Division Office and the DelDOT when mutually agreed upon by the parties, or as requested by the FHWA Office of Infrastructure to account for changes to regulations or statute or upon issuance of a revised Stewardship and Oversight Agreement Template. New Agreements require FHWA legal sufficiency review and coordination with FHWA's Office of Infrastructure prior to execution.

The electronic Agreement file shall contain the executed Agreement, any change logs, and amendments.

EXECUTION BY THE FHWA DELAWARE DIVISION OFFICE:

Signature: DOUGLAS S. ATKIN Digitally signed by DOUGLAS S. ATKIN Date: 2024.08.30 09:37:07 -04'00'

Name: Douglas S. Atkin

Title: Division Administrator

Date Executed: August 30, 2024

EXECUTION BY THE DELAWARE DEPARTMENT OF TRANSPORTATION:

Signature: _____

Name: Shante Hastings

Title: Deputy Secretary and Chief Engineer

Date Executed: 8-30-2024

ATTACHMENT A
Project Action Responsibility Matrix

This matrix identifies the Federal-aid highway program (FAHP) project approvals and related responsibilities. The matrix specifies which actions are assumed by the DelDOT pursuant to this Stewardship and Oversight Agreement ("Agreement") and certain other applicable authorities as specified in the tables in this Attachment A.

The DelDOT is responsible for ensuring all applicable elements of the project are eligible for FAHP funding. Where the DelDOT assumes authority to make a decision, approval, determination or action, the DelDOT decision does not constitute an eligibility, obligation, reimbursement, authorization, or compliance decision by or for the Federal Highway Administration (FHWA). Final decisions on those matters must be made by FHWA.

Table 1: Financial Management

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
1	Review and accept initial financial plan for Federal major projects [23 U.S.C. 106(h)]	FHWA	STATE
2	Review and accept financial plan annual updates for Federal major projects [23 U.S.C. 106(h)]	FHWA	STATE
3	Obligate funds/authorize Federal-aid project agreement (including advance construction authorization and conversion), modifications, and project closures (project authorizations) [23 U.S.C. 106(a)(2); 23 CFR 630.106, 630.703, 630.709]	FHWA	FHWA
4	Authorize to advertise for bids when all preconditions are met [23 CFR 635.112(a), 635.309]	STATE	STATE
5	Approve reimbursements including authorizing current bill (23 U.S.C. 121)	FHWA	FHWA
6	Approval of reimbursement for bond-issue projects [23 U.S.C. 122; 23 CFR part 140, subpart F]	FHWA	FHWA

Table 2: Environment

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
7	EA/FONSI, EIS/ROD, 4(f), 106, 6(f) and other approval actions required by Federal environmental laws and regulations (Note: The FHWA may assign these NEPA actions and other environmental responsibilities to a State DOT as provided by 23 U.S.C. 327)	FHWA	FHWA

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
8	Categorical exclusion approval actions [Note: The FHWA may assign this action and other FHWA environmental responsibilities to a State DOT as provided by 23 U.S.C. 326 and 327. The FHWA also may administratively delegate responsibility for categorical exclusion determinations to a State DOT through a programmatic agreement pursuant to section 1318(d) of MAP-21 and implementing regulations in 23 CFR 771.117(g)]	Administered in accordance with Programmatic Categorical Exclusion Agreement	Administered in accordance with Programmatic Categorical Exclusion Agreement

Table 3: Preliminary Design

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
9	Approval before utilizing a consultant to act in a management support role for the contracting agency [23 CFR 172.7(b)(5)(i)]	Administered in accordance with procedures approved per 23 CFR 172.5(c)	Administered in accordance with procedures approved per 23 CFR 172.5(c)
10	Approval of noncompetitive procurement method for engineering and design-related services [23 CFR 172.7(a)(3)]	STATE	STATE
11	Approve exceptions to design standards [23 CFR 625.3(f)]	STATE	Not subject to 23 CFR 625.3(f)
12	Airport highway clearance coordination and respective public interest finding (if required) [23 CFR 620.104]	STATE	STATE
13	Approve project management plan for Federal major projects [23 U.S.C. 106(h)]	FHWA	STATE
14	Approval of Interstate System access change [23 U.S.C. 111]	FHWA	Not subject to 23 U.S.C. 111
15	Determine the engineering and operational acceptability of points of ingress or egress with the Interstate System (justification reports) for new freeway-freeway interchanges (system), modification of freeway-freeway interchanges, and new partial interchanges or new ramps to/from continuous frontage roads that create a partial interchange [23 U.S.C. 111(e)]	FHWA	Not subject to 23 U.S.C. 111(e)
16	Determine the engineering and operational acceptability of points of ingress or egress with the Interstate System (justification reports) for new and modified freeway-to-crossroad (service) interchanges, and completion of basic movements at existing partial interchanges. [23 U.S.C. 111(e)]	FHWA	Not subject to 23 U.S.C. 111(e)
17	Approve innovative and public-private partnership projects in accordance with TE-045, SEP-14, SEP-15, or SEP-16. [23 U.S.C. 502(b)]	FHWA	FHWA

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
18	Approve any betterment to be incorporated into the project for which emergency relief funding is requested (23 U.S.C. 125; 23 CFR 668.109)	FHWA	FHWA
19	Prior written approval of the Federal awarding agency for the direct charge of up-front acquisition cost of equipment (2 CFR 200.439)	FHWA	FHWA

Table 4: Final Design

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
20	Approve retaining right-of-way encroachments [23 CFR 1.23(b)-(c)]	STATE	STATE
21	Approve use of publicly owned equipment [23 CFR 635.106]	STATE	STATE
22	Concur in use of publicly furnished materials [23 CFR 635.407(a)]	STATE	STATE
23	Approve use of more costly signing, pavement marking, and signal materials (or equipment) is in the public interest [23 CFR 655.606]	STATE	STATE
24	Exception to designation of Interstate project as significant for work zones [23 CFR 630.1010(d)]	STATE	Not subject to 23 CFR 630.1010(d)
25	Determination that a United States Coast Guard Permit is not required for bridge construction [23 U.S.C. 144(c); 23 CFR 650.805, 650.807]	FHWA	FHWA

Table 5: Realty

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
26	Completion of ROW clearance, utility, and railroad work concurrently with construction: Make feasibility/practicability determination for allowing authorization to advertise for bids or to proceed with force account construction prior to completion of ROW clearance, utility and railroad work [23 CFR 635.309(b)]	STATE	STATE
27	Approve non-highway use and occupancy of real property interests [23 CFR 1.23(c), 710.405]	FHWA for Interstate; STATE for Non-Interstate NHS	STATE
28	Approve disposal at fair market value of real property interests acquired with Federal-aid assistance, including disposals of access control [23 CFR 710.403(e), 710.409]	FHWA for Interstate; STATE for Non-Interstate NHS	STATE

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
29	Approve disposal at less than fair market value of real property interests acquired with Federal-aid assistance, including disposals of access control [23 U.S.C. 156; 23 CFR 710.403(e)]	FHWA	FHWA
30	Approve advertisement for bids based on a conditional ROW certification, unless it is not in the public interest to proceed. [23 CFR 635.309(c)(3)(i)]	STATE	STATE
31	Approve physical construction under a contract or through force account work based on a conditional ROW certification, only if there are exceptional circumstances that make it in the public interest to proceed. [23 CFR 635.309(c)(3)(ii)]	FHWA	FHWA
32	Approve hardship and protective buying [23 CFR 710.503]	FHWA	FHWA
33	Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations or other contributions applied to a project [23 U.S.C. 323; 23 CFR 710.507]	FHWA	FHWA
34	Federal land transfers [23 CFR part 710, subpart F]	FHWA	FHWA
35	Functional replacement of property [23 CFR 710.509]]	FHWA	FHWA
36	Waiver of the policy of the availability of comparable replacement dwelling before displacement under specified circumstances [49 CFR 24.204(b)]	FHWA	FHWA

Table 6: PS&E and Advertising

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
37	Approve PS&E [23 CFR 635.309(a)]	STATE	STATE
38	Approve utility or railroad force account work (23 CFR 140.916, 645.113, 646.216)	STATE	STATE
39	Approve utility and railroad agreements (23 CFR 140.916, 645.113, 646.216)	STATE	STATE
40	Approve use of consultants by utility and railroad companies [23 CFR 645.109(b), 646.216(b)]	STATE	STATE
41	Approve exceptions to maximum railroad protective insurance limits (23 CFR 140.916, 646.111)	STATE	STATE
42	Approve use of guaranty and warranty clauses for projects other than design-build projects [23 CFR 635.413(b)]	STATE	STATE
43	Recovery of railroad material - Approval of additional measures for restoration of areas affected by the removal of salvaged material for Railroad work (23 CFR 140.908)	STATE	STATE

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
44	Approve use of lump sum payments to reimburse railroad for work by its forces [23 CFR 646.216(d)(3)]	STATE	STATE
45	Waive Buy America provisions (23 CFR 635.410)	FHWA	FHWA
46	Training special provision - Approval of new project training programs [23 CFR 230.111(d)-(e)]	FHWA	FHWA

Table 7: Contract Advertisement and Award

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
47	Approve cost-effectiveness determinations for construction work performed by contract awarded by other than competitive bidding or by force account (23 CFR 635.104, 635.204)	FHWA	STATE
48	Approve emergency determinations for construction work performed by contract awarded by other than competitive bidding or by force account (23 CFR 635.104, 635.204)	FHWA	STATE
49	Subrecipient project administration - Approve arrangements for local agency to serve as the supervising agency for the project (23 CFR 635.105)	STATE	STATE
50	Approve advertising period less than 3 weeks [23 CFR 635.112(b)]	FHWA	STATE
51	Approve addenda during advertising period [23 CFR 635.112(c)]	STATE	STATE
52	Concur in award of contract or rejection of all bids (23 CFR 635.114)	STATE	STATE
53	Approval of design-build requests-for-proposals (RFP) and addenda for major changes to the RFP during solicitation period [23 CFR 635.112(i)(4)]	STATE	STATE
54	Approve award to the next low bidder [23 CFR 635.114(f)]	STATE	STATE

Table 8: Construction

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
55	Approve contract changes and extra work (23 CFR 635.120)	STATE	STATE
56	Approve contract time extensions [23 CFR 635.120, 635.121(b)]	STATE	STATE
57	Concur in use of mandatory borrow/disposal sites (23 CFR 635.407)	STATE	STATE

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
58	Approval of administrative settlements and contract claim awards and settlements (23 CFR 140.505, 635.124)	FHWA	STATE
59	Concur in termination of construction contracts [23 CFR 635.125(b)]	FHWA	STATE

Table 9: Construction Manager/General Contractor (CM/GC) and Indefinite Delivery/Indefinite Quantity (ID/IQ) Contracting

#	ACTION	AGENCY RESPONSIBLE NHS	AGENCY RESPONSIBLE Non-NHS
60	Approval of advertising for bids or proposals for a CM/GC construction services phase contract [23 CFR 635.504(b)(6)]	STATE	STATE
61	Determination of indirect cost rate for preconstruction services for a CM/GC project in accordance with [23 CFR 635.504(e)(2)]	STATE	STATE
62	Approval of preconstruction price and cost/price analysis for preconstruction services for a CM/GC project [23 CFR 635.506(b)(2)]	STATE	STATE
63	Approval of price estimate for construction costs for the entire project for CM/GC project [23 CFR 635.506(d)(2)]	STATE	STATE
64	Approval of construction price analysis and agreed price for construction services of a CM/GC project or portion of the project [23 CFR 635.506(d)(4)]	STATE	STATE
65	Approval of CM/GC project preconstruction services contract award [23 CFR 635.506(e)]	STATE	STATE
66	Concur in advertising an ID/IQ solicitation prior to completion of NEPA [23 CFR 635.605(a)(2)]	STATE	STATE
67	Concur in awarding an ID/IQ contract prior to completion of NEPA [23 CFR 635.605(a)(3)]	STATE	STATE
68	Approve a time extension of an ID/IQ contract [23 CFR 635.604(a)(6)(i)]	STATE	STATE

ATTACHMENT B
Manuals, Agreements, Control, Monitoring, and Reporting Documents

This attachment lists manuals, agreements and other control, monitoring, and reporting documents that are used on Federal-aid projects per section VI.B of this Agreement.

Documents that include items that must be submitted to FHWA for review and/or approval	
1.	Manuals, Agreements, Control, Monitoring and Reporting Documents necessary for the management of Federal-aid projects. Supplemental changes that conflict with, override, or supersede an approved manual will be sent to Division for FHWA review/approval.
2.	American with Disabilities Act (ADA) Transition Plan
3.	Construction Manager/General Contractor (CMGC) Procedures
4.	Data Quality Management Plan
5.	Disadvantaged Business Enterprise (DBE) Program Plan
6.	Delaware Manual on Uniform Traffic Control Devices (MUTCD)-State DOT manuals, agreements and other control, monitoring and reporting documents influencing the manual contained therein are submitted to FHWA Division Office for approval.
7.	Indefinite Delivery/Indefinite Quantity (IDIQ) Procedures
8.	Materials and Research Manual
9.	Noise Analysis and Abatement Policy
10.	On-the-Job-Training (OJT) Program Guidelines
11.	Professional Services Procurement Manual
12.	Project Development Manual
13.	Public Involvement Procedures
14.	Quality Assurance Program
15.	Right of Way Manual
16.	Road Design Manual
17.	Standard Construction Details
18.	Standard Specifications
19.	State Freight Plan-Any updates/changes to the plan requires FHWA approval
20.	Statewide Transportation Improvement Plan (STIP)
21.	Strategic Highway Safety Plan (SHSP) Process
22.	Title VI Plan
23.	Transportation Asset Management Plan (TAMP)-Certify the State approved Asset Management Plan meets all the requirements and annually cerify the plan is being followed in accordance with the requirements established by 23 U.S.C. 119 and 23 CFR part 515.
24.	Operating Agreements: Categorical Exclusions Programmatic Agreement, Section 106 of the Naitional Historic Preservation Act Programmatic Agreement