

# Ohio Department of Transportation NEPA Assignment Program Audit #1 Close-Out Report

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On December 28, 2015, ODOT assumed Federal Highway Administration's (FHWA) National Environmental Policy Act (NEPA) responsibilities and liabilities for the Federal-aid highway program funded projects in Ohio, specified in a Memorandum of Understanding (MOU) signed on December 11, 2015. As part of responsibilities specified in 23 U.S.C. 327, and amended by the Fixing America's Surface Transportation Act (FAST Act), the Ohio Department of Transportation conducted their first Self-Assessment and the FHWA Review Team conducted their first Audit of ODOT's environmental and NEPA processes, and of projects approved between December 28, 2015 and May 31, 2016. Both the self-assessment and the audit examined ODOT's performance under the MOU regarding responsibilities and obligations assigned therein.

Both review teams focused on NEPA processes, roles, and responsibilities. The ODOT Self-Assessment Review Team reviewed projects from all 12 districts, and conducted interview with 3 districts (Districts 6, 7, and 10). The FHWA Audit Review Team reviewed projects from all 12 Districts, and conducted interviews with 3 Districts (Districts 4, 5, and 9). The ODOT Team assessed ODOT's program management processes and interviewed two state resource agencies (Ohio Department of Natural Resources and Ohio History Connection's State Historic Preservation Office). The FHWA Team also assessed ODOT's program management processes and interviewed two federal resource agencies (U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service). Please refer to the "Ohio Department of Transportation NEPA Assignment Self-Assessment 12/28/15 through 04/01/16" and the "Surface Transportation Project Delivery Program FHWA Audit of the Ohio Department of Transportation December 28, 2015 through August 5, 2016" reports for details regarding the findings.

The following is ODOT's implementation of findings from both the ODOT Self-Assessment and FHWA's Audit #1.

Immediately following the Self-Assessment and Audit, the ODOT Team met with executive leadership to brief them on the initial findings. Afterward, ODOT-OES presented the results at a District Environmental Coordinators (DEC) meeting and at a consultant Environmental Update Meeting (EUM). Both of these meetings offered ODOT-OES an opportunity to provide an overview of the review's findings. The goal of this initial outreach was to provide the state's environmental workforce an opportunity to start addressing the review findings while OES continued to develop and refine an overall implementation plan to address the review findings

in more detail. Each district was sent a copy of the ODOT Self-Assessment and FHWA's Audit #1 for review and consideration.

ODOT-OES held meetings with each district individually to review the Self-Assessment and audit results specific to their district and to discuss what action should be taken to address the areas identified for improvement. All districts were provided information regarding areas for improvement but three districts were placed on action plans to correct areas deemed to need improvement.

Both ODOT's Self-Assessment and FHWA's Audit #1 identified several areas for improvement from a statewide perspective. Those areas focused on: EJ and Title VI, Public Involvement and overall NEPA documentation. To address these areas, ODOT took the following actions:

**EJ and Title VI:**

- ODOT-OES presented audit results and updated guidance at a DEC meeting and EUM.
- ODOT-OES (key staff) attended Title VI training held by ODOT's Office of Diversity, Opportunity, and Inclusion.
- ODOT-OES (key staff) participated in a national meeting on EJ and incorporated information from this conference into our guidance and training.
- ODOT-OES updated its guidance and training to merge and emphasize Title VI for NEPA actions.
- ODOT-OES began the development of EJ and Title VI on-line training that is expected to be available by June 2017.

**Public Involvement:**

- ODOT-OES presented audit results and updated guidance at a DEC meeting and EUM. At these meetings, ODOT-OES re-emphasized the PI process and documentation required.
- ODOT updated the PI minimum requirements and guidance after a considerable amount of coordination with ODOT's environmental and communications staff. Additional changes to the PI guidance are being made and the guidance, as a whole, will be resubmitted to FHWA for approval by June 2017.
- ODOT-OES stepped up coordination and oversight with the districts on their PI activities. This was done to increase awareness and training statewide.
- ODOT-OES coordinated with ODOT's Office of Roadway Engineering and Office of Communications to update and roll out new minimum PI requirements for communicating Maintenance and Operations of Traffic issues to the public.
- ODOT approved a new PI comment system. This system will be part of ODOT's website redesign project and will be available by June 2017.
- ODOT-OES provided specific one-on-one targeted training with three districts (those that had the highest number of findings regarding PI issues).

### **NEPA Documentation:**

- ODOT-OES presented audit results and updated guidance at a DEC meeting and EUM. At these meetings, ODOT-OES re-emphasized the process and documentation required.
- ODOT-OES began development of detailed guidance on how to properly develop a Purpose and Need Statement as this area continues to have a high number of comments. This guidance will be available by November 2017.
- ODOT-OES will roll out new Purpose and Need on-line training. This class will be available by June 2017.
- ODOT-OES provided specific one-on-one training with two districts (those that had the highest number of findings regarding NEPA documentation).
- ODOT-OES will be asking for the districts that had overall very positive review findings (District 7 and 11) to present their documentation approaches to the other DEC's. This will allow for a peer-to-peer training and learning opportunity.
- ODOT-OES stepped up coordination and oversight with the districts on their NEPA documentation and overall PDP management. Staff in OES was reassigned to help coach districts in overall PDP management. This was done to increase awareness and offer training statewide.
- ODOT-OES will provide EnviroNet Skype Labs as needed for focus areas like documentation of PI, de minimis, etc.). These trainings will be available via the WEB and will be quick, focused training sessions with the goal of increasing awareness and knowledge on various tasks. These labs will be available beginning in the fall 2017.
- ODOT-OES presented a Wetland Findings Statement training module in advance of enhancements to EnviroNET as part of a DEC Meeting and EUM
- ODOT made changes to require consultant certification to ensure prequalified staff have reviewed and managed documents prior to submittal to ODOT. This certification will help to ensure the staff who are fully trained in environmental are the ones who have to "certify" that the necessary documentation was developed by them.

### **District-Specific Action Plans:**

The ODOT Self-Assessment and FHWA Audit #1 identified a number of opportunities to improve ODOT's overall environmental performance. Based on these reviews, three ODOT districts showed a negative performance trend or had an overall higher number of issues than others in specific areas. For these three districts, ODOT-OES developed targeted action plans to help them improve in these specific areas. For all three districts, ODOT-OES first briefed the district management team, then followed up with discussions and training for the environmental staff. Following is a summary of the identified issues and corrective action plan put into place for each of these three districts:

#### District 9

#### Self-Assessment

- One Finding of Non-Compliance
- Several Observations in various areas were identified

#### FHWA Project File Review

- Several Valid Comments related to Documentation, Public Involvement, Environmental Commitments, EJ and Title VI,

#### Areas for Improvement

- Include more detail in Purpose & Need Statements such as quantifiable desirable conditions in addition to the existing conditions
- Include more detailed discussion regarding alternatives and reasons for elimination of alternatives such as type of impacts that would occur
- Include more detailed discussion of Section 106 determination and impacts
- Include all agency correspondence in project file
- Include all public involvement documentation in project file
- Include environmental commitment for obtaining Waterway Permits, if applicable, and name responsible party
- Ensure endangered species present is appropriately marked
- Follow Section 4(f) Guidance and SOPs and use standard language and templates provided by OES
- Follow File Management and Documentation Guidance for where documents are to be uploaded into EnviroNET
- Include Environmental Commitment to contact emergency and public services 14 days prior to start of construction
- Address MOT as part of Public Involvement during NEPA
- Follow PI Minimum Requirements especially as they related to Title VI and EJ populations and be sure to include documentation of these activities in the project file
- Follow Floodplain Guidance and include appropriate documentation in the project file

#### Action Plan

- One-on-one training and follow up in-person with OES staff to assess the level of understanding on the part of the district staff (focus on CE, PI, Sec 4(f), and PDP).
- All C2 Level and above documents must be peer reviewed at the district and then submitted to OES for review prior to approval until May 28, 2017, at which time we will re-assess whether or not to continue with the in-depth reviews, whether or not to require that district environmental staff retake training courses, and whether or not to add items to district environmental staff performance evaluations.

#### District 10

##### Self-Assessment

- Satisfactory, No Findings of Non-Compliance
- Several Observations in various areas

#### FHWA Project File Review

- Overall, did well
- One valid comment related to Public Involvement

#### Areas for Improvement

- Environmental Commitments
  - Include environmental commitment for obtaining Waterway Permits, if applicable
  - Do not include CMS items as environmental commitments
- Public Involvement
  - Follow Public Involvement Manual
  - Follow up on Public Involvement activities
  - Include NEPA Assignment Language on all PI materials
  - Ensure all documentation is uploaded to project file or memo to file if no comments received
  - Follow EJ Guidance and ensure correct mapping and documentation is uploaded into the project file
  - Ensure Title VI requirements are being met

#### Action Plan

- Meet with OES staff in-person to review project examples and discuss areas for improvement in-depth as it relates to Public Involvement
- Based on recent project examples there is a need to also retake the Section 106 course and follow up in-person with OES staff to review project examples and discuss areas for improvement in-depth as it relates to Section 106

#### District 12

##### Self-Assessment

- Satisfactory, no findings of non-compliance
- Several Observations in various areas were identified

##### FHWA Project File Review

- Overall, good job.
- Several valid comments regarding Environmental Commitments, Public Involvement, and Floodplains
- Three best practices identified
  - Public Involvement for Floodplains was through District 12 website posting. Summary of Floodplain Impacts was posted on the ODOT District 12 website
  - Well written P&N
  - DEC prepared notification to PM regarding Environmental Commitments and documented this in project file

##### Areas for Improvement

- Include more detail in the following areas:

- project descriptions
- Logical Termini
- Independent Utility
- Alternatives Analysis
- Efforts to identify historic properties
- Public Involvement
- Ensure mapping is included in project file and that it is appropriate
  - Farmland
  - EJ
- Public Involvement
  - Follow the Public Involvement Manual and ensure Minimum Requirements are being met
  - Follow File Management and Documentation Guidance
  - Include all PI materials in project file
  - Ensure Title VI requirements are met
  - Address MOT during NEPA
- Environmental Commitments
  - Ensure all appropriate items are included as an Environmental Commitment (aesthetics, PID 22213)
  - Ensure all environmental commitments requested by agencies are addressed
  - Do not include non-relevant commitments
  - Environmental Commitments to obtain Waterway Permits should name responsible party
- Follow Floodplain Guidance and ensure appropriate documentation and mapping is included in project file
- Ensure all relevant documents are in the project file

#### Action Plan

- One-on-one training and follow up in-person with OES staff to assess the level of understanding on the part of the district staff (focus on including more detail, ensuring appropriate mapping is included in the project file, PI, Environmental Commitments, Floodplains, and documentation).

#### **District Summaries:**

As mentioned above, the ODOT Self-Assessment and the FHWA Audit #1 identified a number of opportunities to improve ODOT's overall environmental performance. Based on these reviews, nine ODOT District offices had good results overall but there were areas identified for improvement. For these nine districts, ODOT-OES brought these items to their attention and provided guidance and coaching regarding how to improve. For these nine districts, ODOT-OES held discussions with the environmental staff. Following is a summary of the areas identified for improvement:

## District 1

### ODOT Self-Assessment

- Overall did great, no Findings of Non-Compliance
- Observation Areas were Documentation and Public Involvement

### FHWA Project File Review

- Overall, did great
- Two valid comments regarding lacking documentation (one for an LPA project)

### Areas for Improvement

- Follow File Management Guidance
  - Naming Conventions & Dropdowns
  - Uploading documents into EnviroNET
- Follow Public Involvement Manual & Guidance
  - Ensure meeting the minimum requirements
    - Addressing MOT
    - Including proper EJ mapping
  - Include all PI activity documentation in project file – even for lower level projects
  - Ensure NEPA Assignment Language is included on PI Materials (even for LPA projects)

## District 2

### ODOT Self-Assessment

- Overall, did well, No Findings of Non-Compliance
- Observation Areas were Documentation and Public Involvement

### FHWA Project File Review

- Overall, did great
- One instance of non-compliance regarding PI not meeting minimum requirements
  - PI was completed but no documentation uploaded to EnviroNET

### Areas for Improvement

- Public Involvement
  - Follow PI Manual for minimum requirements and be sure to document all PI in project file
  - Address MOT and contact emergency and public services during NEPA
- File Management
  - Follow File Management and Documentation
    - PI items listed above
    - Finalize all documents and use correct completed/approved date
    - Be sure all documents are uploaded and follow guidance for naming conventions and when to check “Part of CE”

- Upload all documents immediately (i.e., as they are developed and/or received) with the appropriate date

### District 3

#### Self-Assessment

- Satisfactory, No Findings of Non-Compliance
- Several Observations in various areas

#### FHWA Project File Review

- Overall, did great
- No valid comments

#### Areas for Improvement

- Include more detail in project descriptions
- Include NEPA Assignment Language
- Include documentation of all decisions in the project file
- Include all environmental commitments – especially those stemming from agency and stakeholder comments
- Review plan notes carefully

### District 4

#### Self-Assessment

- Overall did well, No Findings of Non-Compliance
- Observation areas were EJ Mapping and Documentation

#### FHWA Project File Review

- Overall, did great
- No valid comments
- Two best practices
  - Good example of Programmatic Wetlands Finding
  - PI documentation included good Sec 106 Resource discussion

#### Areas for Improvement

- Include entire project area in mapping for all NEPA study areas (EJ)
- Include all PI activity documentation in project file
- Follow File Management Guidance for naming conventions
- Do not include CMS items as environmental commitments

### District 5

#### Self-Assessment

- Overall, did great. No Findings of Non-Compliance
- Areas of Observation were Documentation and Public Involvement

#### FHWA Project File Review

- Overall, did great.



- Two valid comments regarding Wetlands Findings and Public Involvement
- Two best practices identified
  - Well written P&N
  - Good example of PI activities commensurate with scope of project

#### Areas for Improvement

- Use block group for EJ mapping, rather than census tract
- Document all PI activities in project file
- Address MOT and contact emergency and public services during NEPA
- Environmental Commitments to obtain Waterway Permits should name responsible party

### District 6

#### Self-Assessment

- Satisfactory, No Findings of Non-Compliance
- Several Observations in various areas

#### FHWA Project File Review

- Overall, great job.
- Two valid comments regarding PI – Floodplains and Eco – Wetlands
- One best practice identified
  - Good example of a P&N for a bridge rehab project

#### Areas for Improvement

- Include more detail in project descriptions
- Follow PI and Floodplain public notice requirements
- Address MOT and include Environmental Commitment to contact emergency and public services 14 days prior to start of construction
- Include greater detail regarding PI and all upload all PI activity documentation in project file
- Include Environmental Commitment for locals to obtain Waterway or Floodplain Permits, if applicable
- Include documentation in project file for wetlands impacts discussions
- Follow File Management and Documentation Guidance for naming conventions and use drop-downs

### District 7

#### Self-Assessment

- Overall, excellent job. No Findings of Non-Compliance.
- Observation areas were Public Involvement (EJ & Title VI) and File Management and Documentation

#### FHWA Project File Review

- Overall excellent job.

- All projects were in compliance
- Two best practices were identified
  - Commitments checklist included in project file and emailed from DEC to PM
  - DEC did nice job of informing PM of environmental concerns with potential scope changes including possible requirements related to installation of ADA curb ramps

#### Areas for Improvement

- More extensive PI activities required for Title VI and EJ populations
- Follow File Management and Documentation Guidance for naming conventions

### District 8

#### Self-Assessment

- Overall, good job. No Findings of Non-Compliance.
- Observation areas were Public Involvement and Documentation

#### FHWA Project File Review

- Overall, good job.
- Four valid comments related to Public Involvement (Floodplains), Environmental Commitments, Section 4(f) and documentation for ESA (typo)
- Two best practices identified
  - Public Awareness commitments included in Environmental Commitments Section of D1 CE for Construction Phase
  - Good alternatives discussion

#### Areas for Improvement

- Include appropriate maps in project file
- Public Involvement
  - Follow PI Manual for minimum requirements
  - Document all PI in project file
  - Address MOT and contact emergency and public services during NEPA
  - Ensure LPAs are following PI minimum requirements
- Include all decision documents in project file
- Follow File Management and Documentation Guidance for naming conventions and ensure consultants are doing so as well

### District 11

#### Self-Assessment

- Overall, great job. No findings of non-compliance.
- Areas of concern were public involvement and environmental commitments

#### FHWA Project File Review

- Overall, good job.

- Two valid comments regarding Environmental Site Assessments and Wetland Findings Statement

#### Areas for Improvement

- Ensure Title VI requirements are being met
- Environmental Commitments to obtain Waterway Permits should name responsible party
- Ensure documentation is correct and free from typos (Ex: new ROW should have been no ROW)
- Ensure wetland findings statement is included, if applicable

#### ORDC

##### ODOT Self-Assessment

- Overall, excellent job
- No Findings of Non-Compliance

##### FHWA Project File Review

- Overall, excellent job
- All projects were in compliance

#### Areas for Improvement

- Keep up the good work!

#### **Conclusion:**

ODOT will continue to monitor the NEPA Assignment Program and update guidance and training as necessary. ODOT will pay particularly close attention to areas needing improvement that were identified in both the Self-Assessment and Audit #1.