

February 13, 2018

Dear Counties and Cities,

The purpose of this note is to inform you of some very important information regarding the Federal-aid swap for state funds (Swap).

The Iowa Transportation Commission approved the Swap Policy at its February 13, 2018 meeting. That Swap Policy is attached. October 16, 2018 will be the first swap project letting.

The Iowa DOT worked with a wide variety of stakeholders in developing the Swap policy. This included cities, counties, planning agencies, the Federal Highway Administration (FHWA), other state agencies, and environmental groups. In cooperation with a lot of input from the representatives from the cities, counties and other Iowa DOT Offices, the Office of Local Systems has developed some additional guidelines below, to assist with implementing the Swap. More detailed guidance will be provided in the future, but this information is being provided now to help local agencies begin making plans for their future Swap project development.

Swapped Programs

Surface Transportation Block Grant (STBG)

- Funding will be targeted to Regional Planning Affiliations (RPAs) and Metropolitan Planning Organizations (MPOs), per Fixing America's Surface Transportation (FAST) Act Implementation Policies.
- System Classification eligibility has been expanded to include Minor Collectors and Farm-to-Market roads, in addition to Major Collectors, which were included per the FAST Act.
- Eligible for 100% reimbursement, but subject to MPO and RPA match requirements.
- Bridge replacement or rehabilitation on any public road.

County Highway Bridge Program (HBP)

- 100% funding – no match is required.
- Current requirements - SD or FO, SR 80 or less, 25 or more ADT.

- Programming through RPA's is not necessary – projects will be extracted from CFYP and put into Transportation Improvement Plan (TIP) / Statewide Transportation Improvement Plan (STIP) or a “Swap Project List”.

City Bridge Program

- This program will be 80% Swap funding. A 20% local match is still required.
- This program will remain as is, per the program guidance in [I.M. 2.020](#), but will utilize Swap funds instead of Federal-aid.
- Further details will be forthcoming.

Highway Safety Improvement Program - Secondary (HSIP-S)

- Continue the program per program guidance.
- However, the program guidance is currently being reviewed to meet the needs and intent of the program with the swapped funding.

Federalized Projects - TPMS Programming and Development

“Federalizing” a project requires the project to remain Federal-aid, and follow all Federal regulations that apply. First, a determination will need to be made as to whether a project has been “Federalized”.

A project is Federalized when any of the following activities have occurred:

- The project has been authorized by FHWA, or utilized Federal-aid for any phase of work, such as Preliminary Engineering, purchasing Right-of-Way, Utility work, Construction, etc.
- The project has received FHWA Environmental Concurrence (NEPA Clearance). However, if a project was given NEPA clearance as a Programmatic Categorical Exclusion (PCE), it has **NOT** been Federalized. An analysis on whether a project is assumed to be Federalized has been run; the analysis looked at whether TPMS Development showed a NEPA Clearance and whether that NEPA Clearance was granted under a PCE. The Federalization information can be found in TPMS Development, next to the map icon, stating the project is “Federalized”. However, that is not an all encompassing list; there are likely projects that haven't been included in that analysis.
- The project has had a Planning Study, that has utilized Federal-aid, the project may be Federalized. If you've had or are considering a federally-funded planning study, contact your MPO/RPA and the Office of Systems Planning to discuss whether any subsequent work would make it Federalized.
- If the project has had an Interchange Justification Report, the project has likely been Federalized. Contact the Iowa DOT Administering Office for further guidance.

- Any other “Federal Action” by FHWA has been granted. If you believe your project has had a “Federal Action”, but are unsure if it has been Federalized, please contact Nicole Fox in Local Systems at 515.239.1506.

If the project has **not** had any of these activities happen, **then it most likely has not been Federalized**. If it has a project number, but hasn’t met any of the above criteria, it may be switched to a Swap project number.

Programming a project in the STIP, but not having any of the above activities happen, generally does **NOT** Federalize a project.

If a Concept Statement has been submitted, but the project has not yet received FHWA Environmental Concurrence, and the desire is to have the project be a Swap project, send an email to Deeann.Newell@iowadot.us to see if this is achievable.

Project Numbering

The Swap projects will get different project numbers than the normal Federal project numbers. In order to switch projects from a Federal project number to a Swap project number, or to program new projects with Swap funds, follow the attached Swap Project Numbering Guidelines. The project numbering information will also be in TPMS, to assist with programming of projects.

Project Development

The Swap project development process will be as follows:

- For counties, program projects County Five Year Plan (CFYP).
- For cities, work with the RPA or MPO to get swap projects programmed into the (TIP) or “Swap Projects List”.
- Activate the project in TPMS Development.
- The Iowa DOT Administering Office will send a Project Funding Agreement.
- Begin working on the Environmental Clearances, per the [I.M.s in Section 3.1. These are in the process of being updated.](#) See below for further information on the Environmental Process for Swap projects.
- Begin working on plans for the project.
- Follow [I.M. 3.005](#) and [I.M. 3.505](#) to submit “Check Plans”- Check Plans will be the first plan submittal for Swap projects. Also utilize [I.M. 3.510](#) as appropriate, for Bridge or Culvert Plans.
- **THE FIRST LETTING FOR SWAP PROJECTS WILL BE OCTOBER 16, 2018.**

Environmental Process

Threatened and Endangered Species - [I.M. 3.111](#)

- The Endangered Species Act is a Federal Law that applies to all projects, regardless of funding. The United States Fish and Wildlife Service (USFWS) is the agency charged with enforcing this law.
- For Federal-aid projects, Section 7 of the Endangered Species Act applies. This allows the Iowa DOT to consult with USFWS, on behalf of the LPA.
- For Swap projects, Section 10 of the Endangered Species Act applies. This does not allow the Iowa DOT to consult; therefore, a LPA must consult with USFWS on their own, if affecting a Threatened or Endangered Species. However, the Iowa DOT can assist at the LPA's request.
- Fill out the Determination of Effect for Threatened and Endangered Species for Local Public Agencies (DOE) form ([Form 760005](#)).
 - If "No Effect", no consultation with USFWS is required.
 - If "May affect - not likely to adversely affect", consultation with USFWS is required, but see [I.M. 3.111](#) for details. If the project needs a Corps Permit, the Corps will consult with USFWS on the LPA's behalf, and include provisions in the Corps Permit to ensure protection to the Threatened and Endangered Species affected by the project.
 - If "May affect - likely to adversely affect", consultation with USFWS is required. The LPA should initiate this process, but the Iowa DOT can assist if desired.
- It is recommended the DOE form be filled out for all locally funded projects. It is recommended the form be put in the project file, to ensure the LPA is following this Federal law.

Cultural Resource Regulations - [I.M. 3.114](#)

- Iowa Code has requirements governing cemeteries, burials, cultural resources and historic properties. The Iowa DOT also is charged with "taking action" to ensure that historical objects not be destroyed. Therefore, the following swap process has been developed:
 - If the project does not involve ground disturbance, then the LPA needs to work with a Historic Preservation Commission or Professional Historian to fill out the new Cultural Resources Assessment ([CRA form](#)), looking for historic bridges, districts, structures, sites, etc.
 - If the project does involve ground disturbance, then the LPA needs to work with a Secretary of Interior (SOI) Qualified Person to do a "desktop review", which may or may not recommend further action, like a Phase 1. Those of you familiar with the University of Iowa I-sites website and working with the Office of the State Archaeologist, the "desktop review" is the same thing. If a Phase 1 is recommended, then the LPA works with OLE to navigate this process.

404 Permit Process - [I.M. 3.130](#)

- The following changes are due to U.S. Army Corps of Engineers policy, and not due to Swap. However, they are worth mentioning here. The changes are now shown in [I.M. 3.130](#).
 - The U.S. Army Corps of Engineers is encouraging LPAs to use the Nationwide Permits without sending a Pre-Construction Notice (PCN) to the Corps, if the project does not impact any special

aquatic sites (i.e. wetlands, riffle-pool complexes, etc) and places less than 0.1 acres of fill into a Water of the U.S. However, the Corps will require the LPA to do a wetlands delineation in order to automatically authorize a project under a Nationwide Permit (usually NWP 3, 13 or 14).

- The Corps is strongly recommending a wetlands delineation when submitting a PCN.
- If a PCN is required, submit the DOE form ([Form 760005](#)) with the Joint Application.
- If a PCN is required, submit any documentation found as part of the Cultural Resource Review.
- All these pieces of documentation will help the Corps to issue your permit in a timely manner.
- See [I.M. 3.130](#) for further details.

Construction and Project Close-out

The construction and project close-out processes have not been fully defined and there are a lot of details to be worked out. The Project Development and Environmental processes occur before Construction, and therefore those processes are what we have focused more of our efforts on to date. The construction and project close-out processes will continue to be worked on and more communication on this subject will follow.

Here are a few things we know:

- LPAs shall continue to inspect construction projects, and follow all Materials Inspection requirements for the Project Engineer.
- There will be some sort of “systems approach” to DOT reviews on Swap projects.

Reimbursement for Swap Projects

- For projects paid through the County’s Farm-to-Market (FM) Account, the funds will continue to be paid through Contractor Pay at the Iowa DOT. Swap funds will then reimburse the county’s FM account.
- For projects not eligible to use the County’s FM Account, the LPA will make the initial payments and request periodic reimbursements. Final reimbursement request can be made after retainage is paid.