

SECTION 115.00 – FHWA OVERSIGHT

115.01 General. This section provides information on:

- The Stewardship and Oversight Agreement between the Department and FHWA for Federal-aid projects that are not designated as FHWA Projects of Interest.
- Federal-aid projects that are designated as FHWA Projects of Interest.
- Federal-aid ineligible cost identification (i.e. FHWA non-participation).

115.02 Stewardship and Oversight Agreement. Per the Stewardship and Oversight Agreement, the Department has full responsibility to design and construct applicable Federal-aid projects in conformance with federal rules and regulations. The only required routine FHWA involvement is shown in the Stewardship and Oversight Agreement Section V. Delegated Responsibilities.

Any questions regarding the Stewardship and Oversight Agreement process should be addressed to the Construction/Materials Section.

115.03 FHWA Projects of Interest. Each year, the Department and FHWA will review the scheduled projects program to determine which projects will be administered as FHWA Projects of Interest. With projects of interest, the FHWA will participate in selected design and construction activities for review and approval. These selective reviews will be in accordance with the annual update of the stewardship and oversight plan for FHWA Projects of Interest Matrix.

115.04 Federal-aid Ineligible Cost Identification. Not all project costs are eligible for Federal-Aid participation. The list below identifies types of costs that may be ineligible for Federal-Aid participation. When costs are determined to be ineligible, the costs will be identified as non-participating and documented in the project records. Ineligible costs should be identified throughout the project. Any questions regarding ineligibility should be referred to the Construction/Materials Section.

- Costs incurred before FHWA change order prior approval (FHWA Projects of Interest only in accordance with [Subsection 104.02](#) of the Standard Specifications).
- Costs not adequately documented (e.g. agreed prices or a lump sum change order was executed without obtaining a detailed price proposal from the Contractor and documentation is in the file that costs were verified as reasonable and justifiable).
- Costs for material that does not meet plan and specification requirements, or the Department's Quality Assurance Manual or [23 CFR 637](#) requirements. These costs may be identified during the construction phase or material summary report reviews, and upon project final acceptance.
- Costs for materials left on hand.
- Costs for work that does not conform to [23 CFR 635 Subpart D](#). Subpart D prescribes the requirements and procedures relating to product and material selection, and use on Federal-Aid highway projects including:

- Use of materials made available by a public agency
 - Restrictions upon materials
 - Buy America requirements
 - Material or product selection
 - Guaranty and warranty clauses
 - Convict produced materials.
- Costs for work that is outside the approved project scope, including outside the approved project limits (a revised ITD-2101 must be prepared, approved and signed by the FHWA before beginning work).
 - Costs related to contract claims that are not justifiable.
 - Costs related to maintenance (both during and after the project is completed).
 - Donations (land, services, materials) that are not identified on applicable State/Local agreements and/or ITD 2101 forms.
 - Federal-aid local project obligation limits.

These guidelines should be used to determine if a cost is ineligible. Usually the district makes the initial determination in consultation with the Construction/Materials Section as appropriate.

Other ineligible federal-aid costs are identified on the project ITD-2101 and in the State/Local agreement, if applicable. All project personnel should be familiar with the State/Local agreement provisions and the most current ITD-2101 to assure that non-participating costs are properly documented. If local agencies are involved, they should be informed of any Federal-Aid ineligible costs as soon as they are identified.