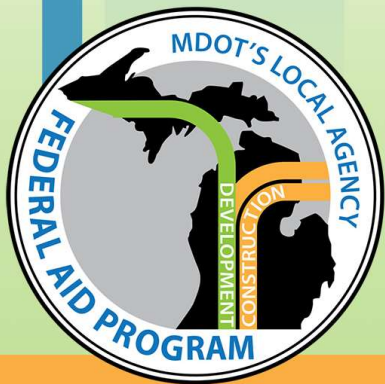


# Federal Aid 101 Basics

**Local Agency Program  
2020 County Engineers Workshop**



# Presentation outline

- **Module 1: Federal-Aid Highway Program Overview – Ted Burch**
- **Module 2: Funding Federal-aid Highways – Eric Purkiss**
- **Module 3: Planning & Project Development – Tracie Leix**
- **Module 4: Project Delivery & Closeout – Kelly Crannell**



# **MODULE 1:**

## **Federal-Aid Highway Program Overview**

**Ted Burch, P.E**  
**Deputy Division Administrator**  
**FHWA Michigan Division**



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# Federal-Aid Highway Program Overview

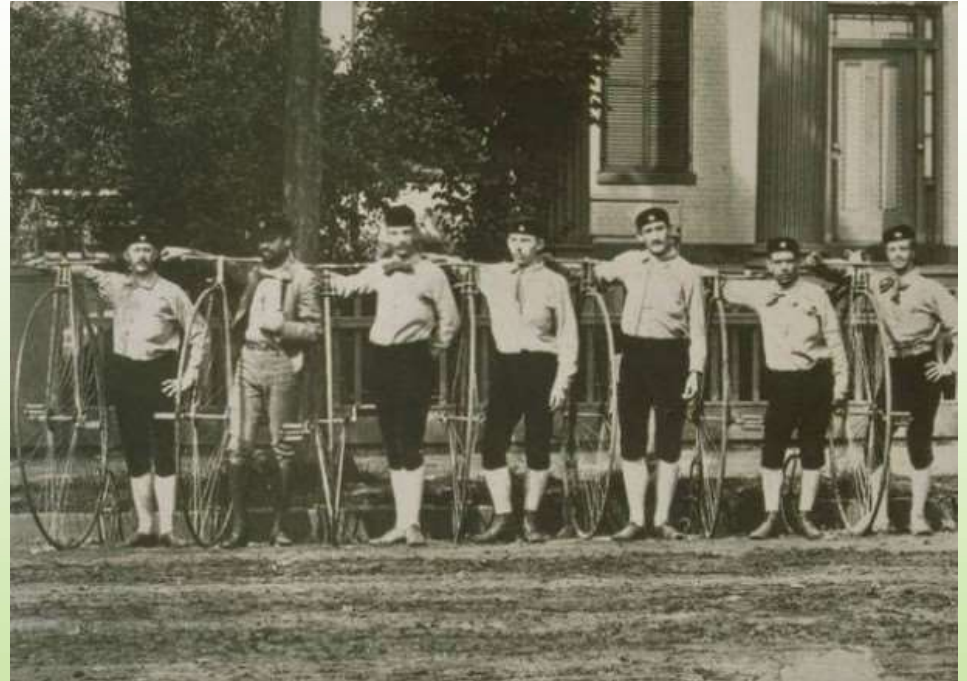
- **What is the Federal-Aid Highway Program (FAHP)?**
- **Laws Governing Federal-aid Program?**
- **What is FHWA's Role?**
- **What is MDOT's Role?**



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# What is FAHP?

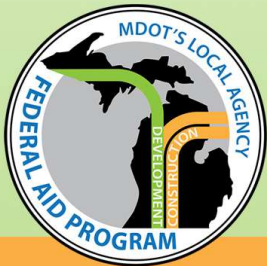
- **History**
  - 1893
  - 1916
  - 1956
  - 1967
  - 2015



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# Characteristics of the FAHP

- Federally-assisted, State-administered
- Funding tied to specific systems
- Each State must have a highway agency
- States pay for maintenance
- Matching requirements
- Contract Authority



# FAHP Laws and Regulations

- **Law: FAST Act**
  - Passed by Congress and signed by President (Public Law 114-94)
  - Authorization of Federal-aid Highway Program
- **Codified in Title 23 United States Code - Highways (23 USC)**
- **23 Code of Federal Regulations - Highways (23 CFR)**
  - Implementation of law
- **A regulation has effect of law it implements.**



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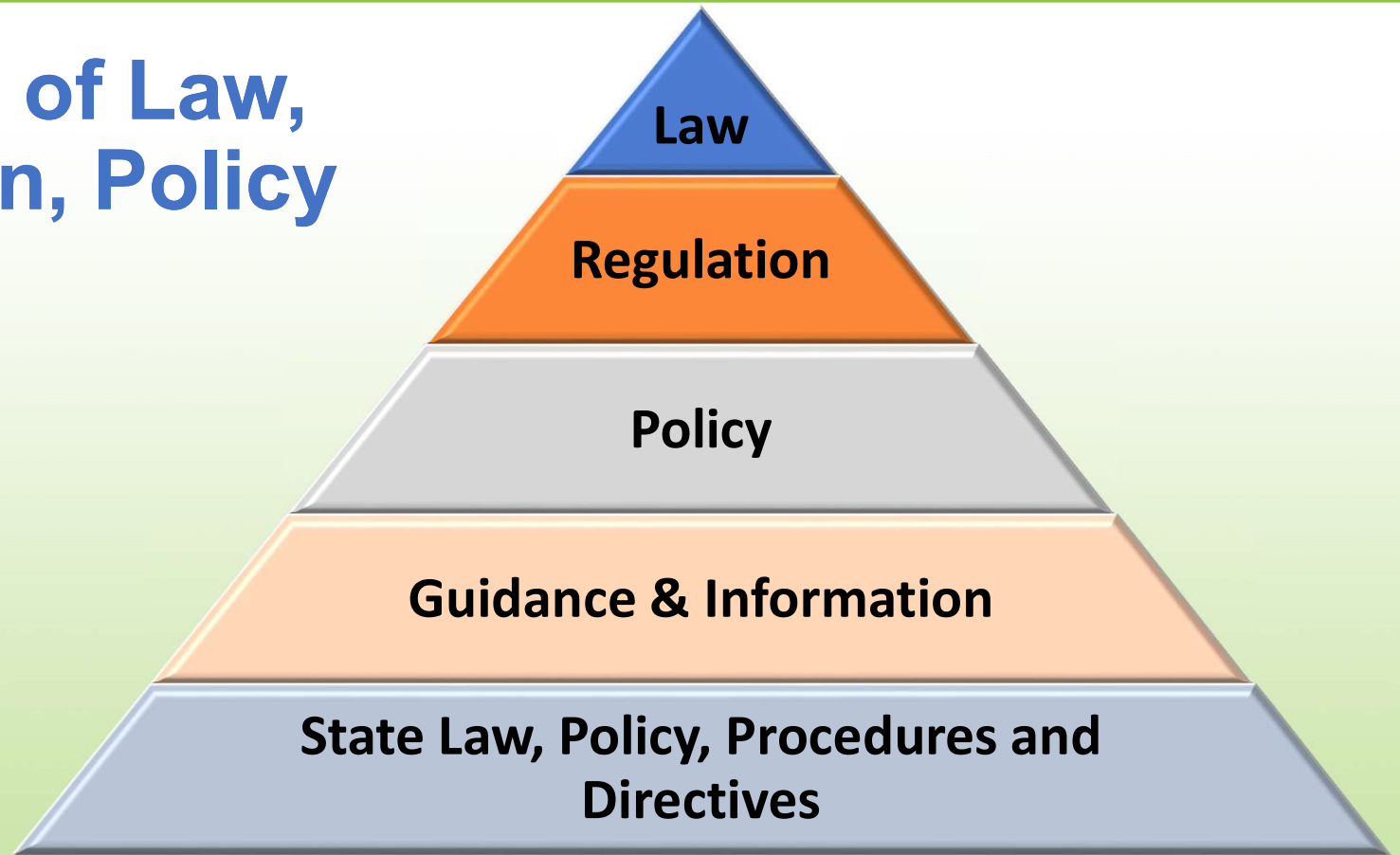
# Other Applicable Federal Requirements

- **49 CFR – Transportation**
  - **Nondiscrimination**
  - **Disadvantaged Business Enterprises (DBE)**
  - **Uniform Relocation Assistance And Real Property Acquisition**
- **National Environmental Policy Act (NEPA)**
- **2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**
- **Improper Payments Elimination and Recovery Improvement Act (IPERIA)**
- **Others?**

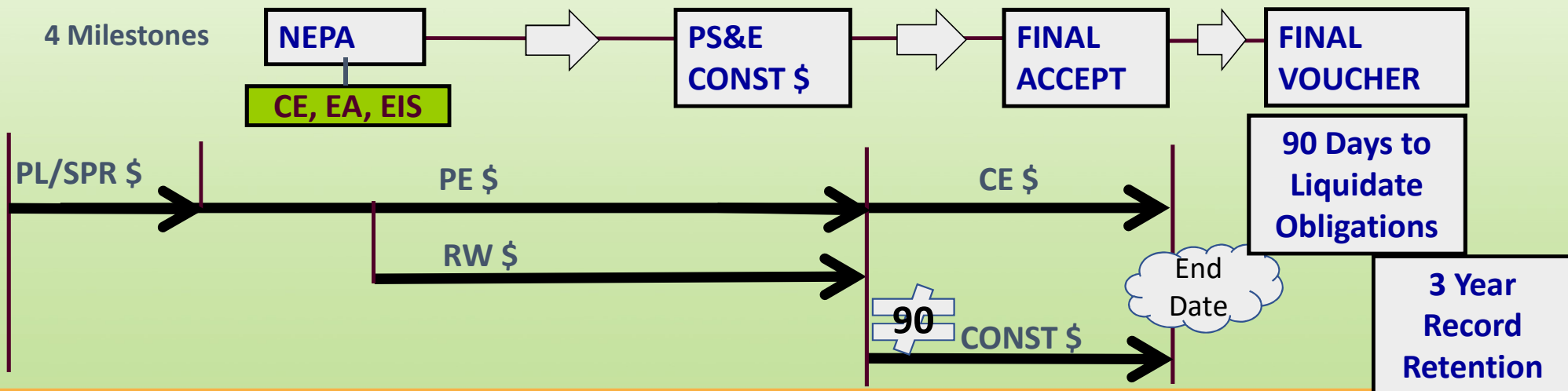
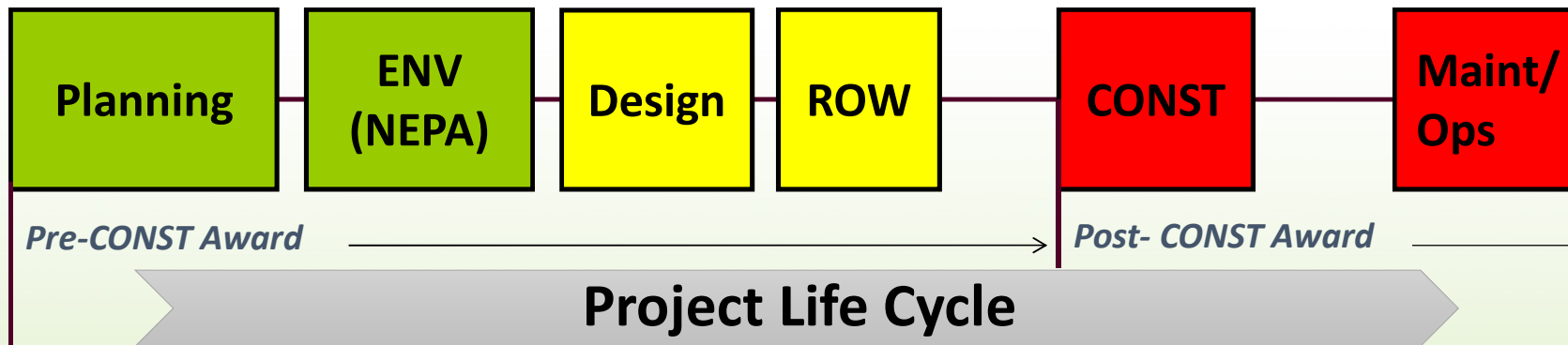




# Hierarchy of Law, Regulation, Policy

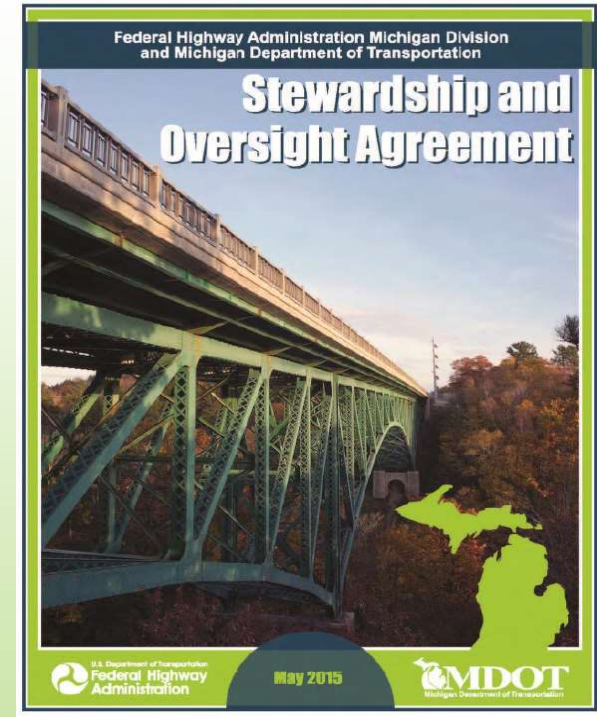


# Project Life Cycle



# FAHP Delivery

- 23 U.S.C. Section 106
- Supervising Agency (23CFR 635.105)
- Stewardship and Oversight Agreement (SOA)
- Risk Based Oversight:
  - FHWA Tools: CAP, PoDI, Program Review
  - MDOT Tools: LAP Oversight, Final File Review, TSC Oversight



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# Federal-Aid Highway Program Overview

- **Federal-Aid Highway Program (FAHP)**
- **Laws Governing Federal-aid Program**
- **Roles and Responsibilities**



# MODULE 1: Federal-Aid Highway Program Overview

## Questions?

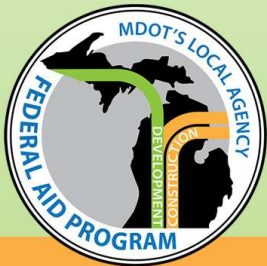


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# **MODULE 2:**

## **FAHP Basics: Funding Federal-aid Highways**

**Eric Purkiss**  
**Transportation Finance Manager**  
**FHWA Michigan Division**



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# Federal-Aid Basics: Funding & Laws

- FAHP Funding Terminology
- Life Cycle of Federal-aid Highway Funding
- Select Requirements





- **Six Key Words (four “A”s and two “O”s)**

**A**uthorization

**A**ppropriation

Legislative actions

**A**pportionment

**A**llocation

Distribution of funding

**O**bligation

**O**utlay

Commitment and expenditure



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# Lifecycle of Federal-aid Highway Funds

1. Authorize

Congress authorizes funding



2. Distribute

FHWA distributes funding



3. Limit obligation

Congress limits obligation of funding



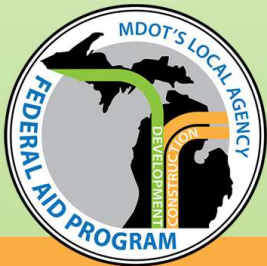
4. Obligate

FHWA obligates funding (at State request)



5. Outlay

The U.S. Treasury pays States



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# Authorization Act (example, FAST Act)

1. Authorize

- Typically covers multiple years



2. Distribute

- Authorizes programs and funding



3. Limit obligation

- Sets program-specific requirements



4. Obligate

- Provides formulas for distribution

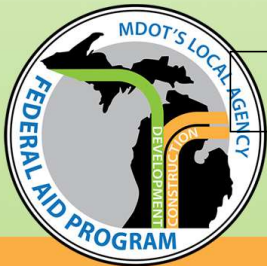
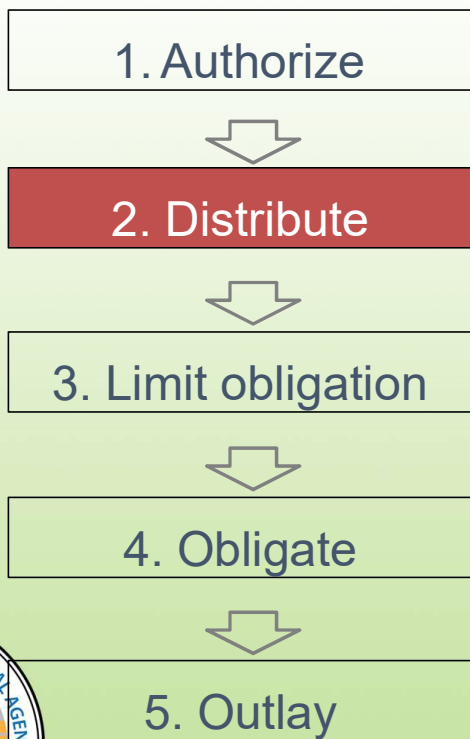


5. Outlay



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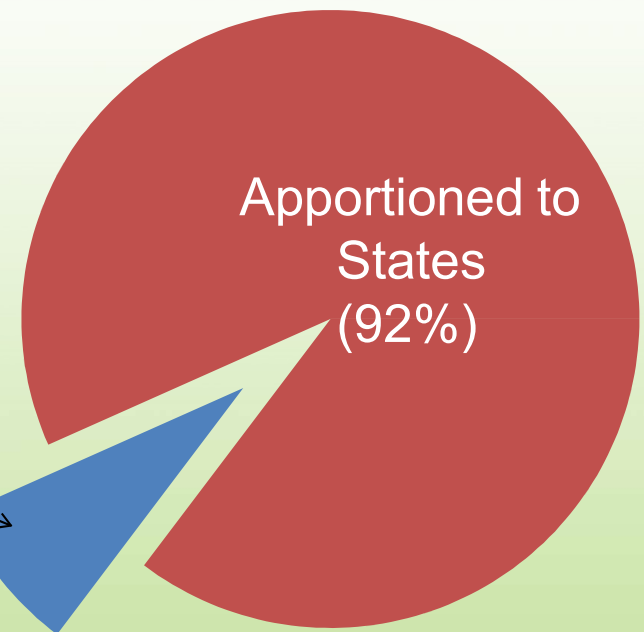
# Distribution of Funds



- Apportionments
  - Formulas
  - All States Receive
  - Receive Oct 1

- Allocations
  - No set Formula
  - E.g. BUILD, TIGER

Allocated  
(8%)



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# Overview of Apportionments

## Step 1.

Set lump sum for all apportioned programs & States



\$43.4 B nationwide

## Step 2.

Calculate State's total (Each State receives at least 95% of its HTF Contributions)



\$1.2 B for Michigan (MI)

## Step 3.

Distribute among State's apportioned programs

\$ million for MI

NHFP	40
CMAQ	79
Metro Plan	11
NHPP	639
STBG	320
HSIP	62

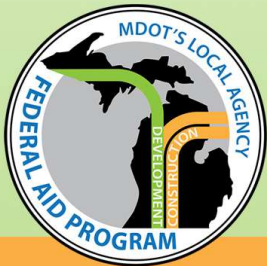


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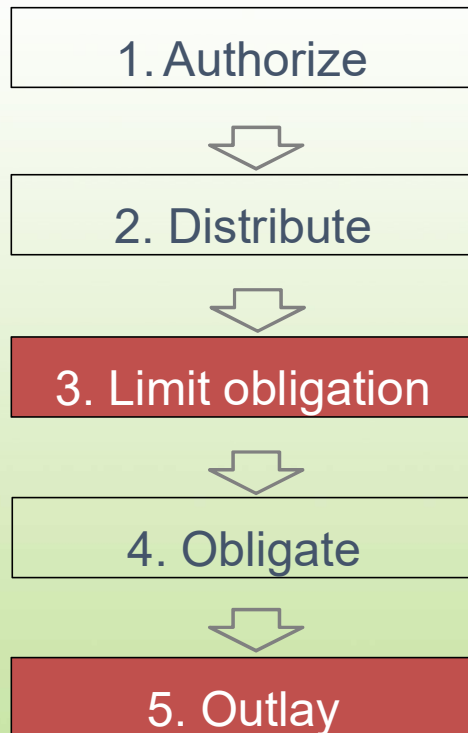
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# Federal Share

- Base Rate
  - 80%, 90%
- Special Rates
  - Sliding Scale
    - Michigan 81.85%
  - 100% for Certain Safety Projects
  - $\leq 100\%$  for Innovative Delivery Methods



# Appropriations Act



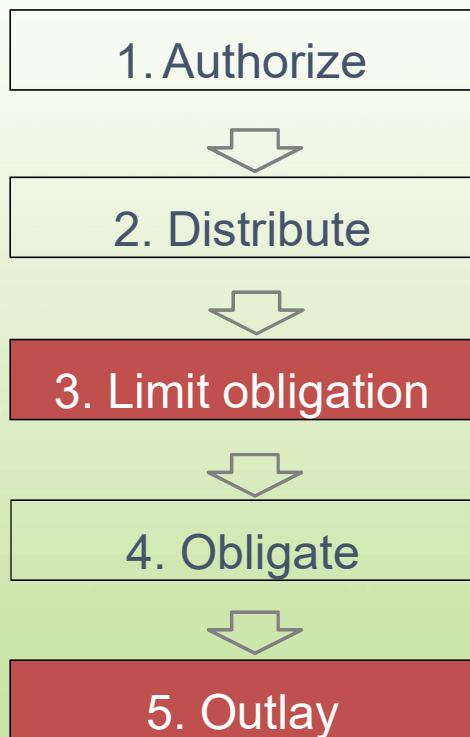
- Enacted for each year
  - Continuing Resolutions – extension lasting less than a year
- Establishes obligation limitation
  - Applies to entire FAHP
- Provides liquidating cash



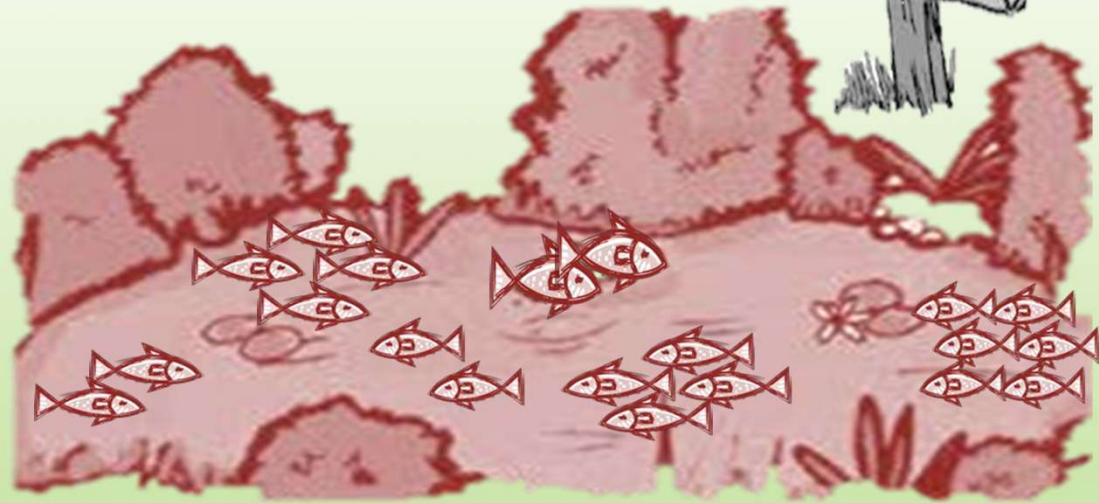
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# Obligation Limitation functions like a “catch limit”

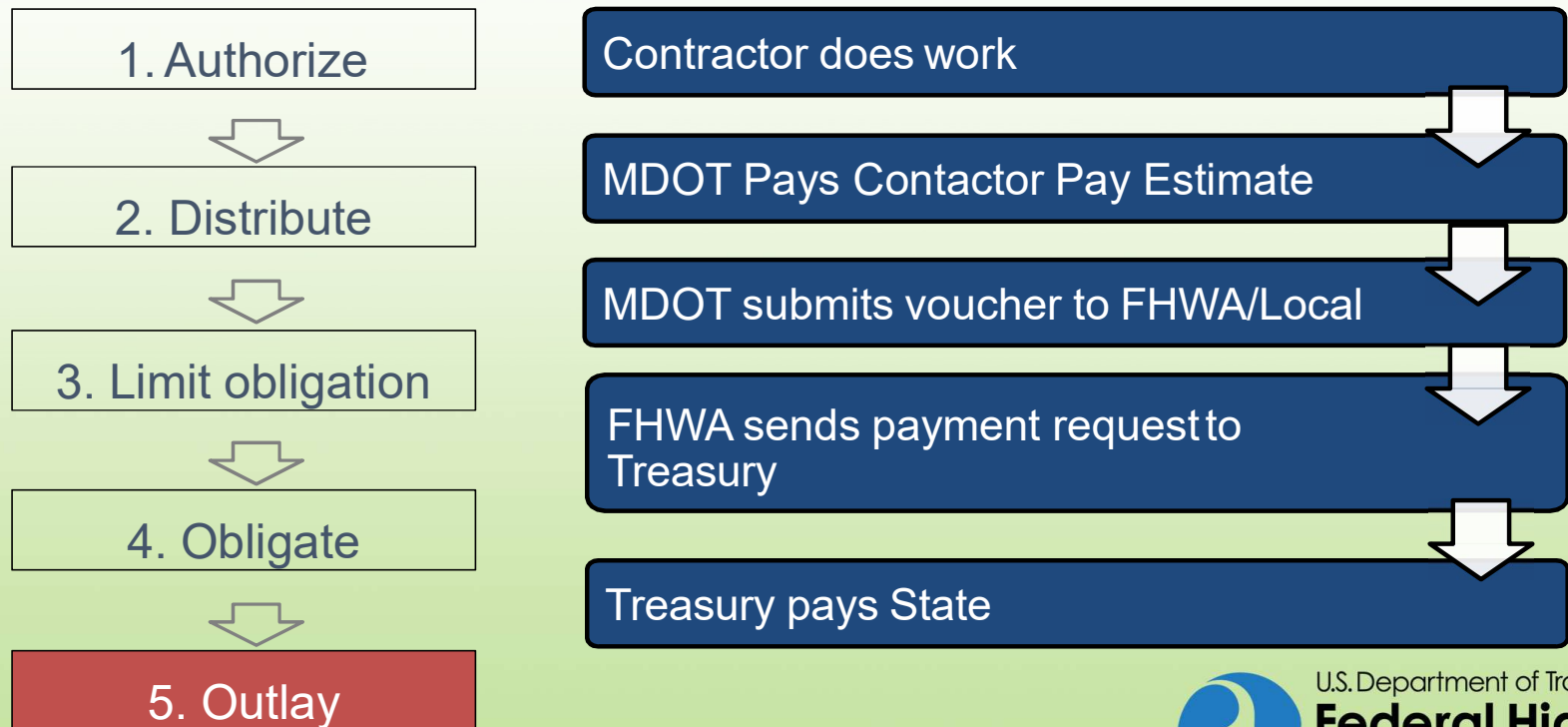


20 fish (formula funds in pond)

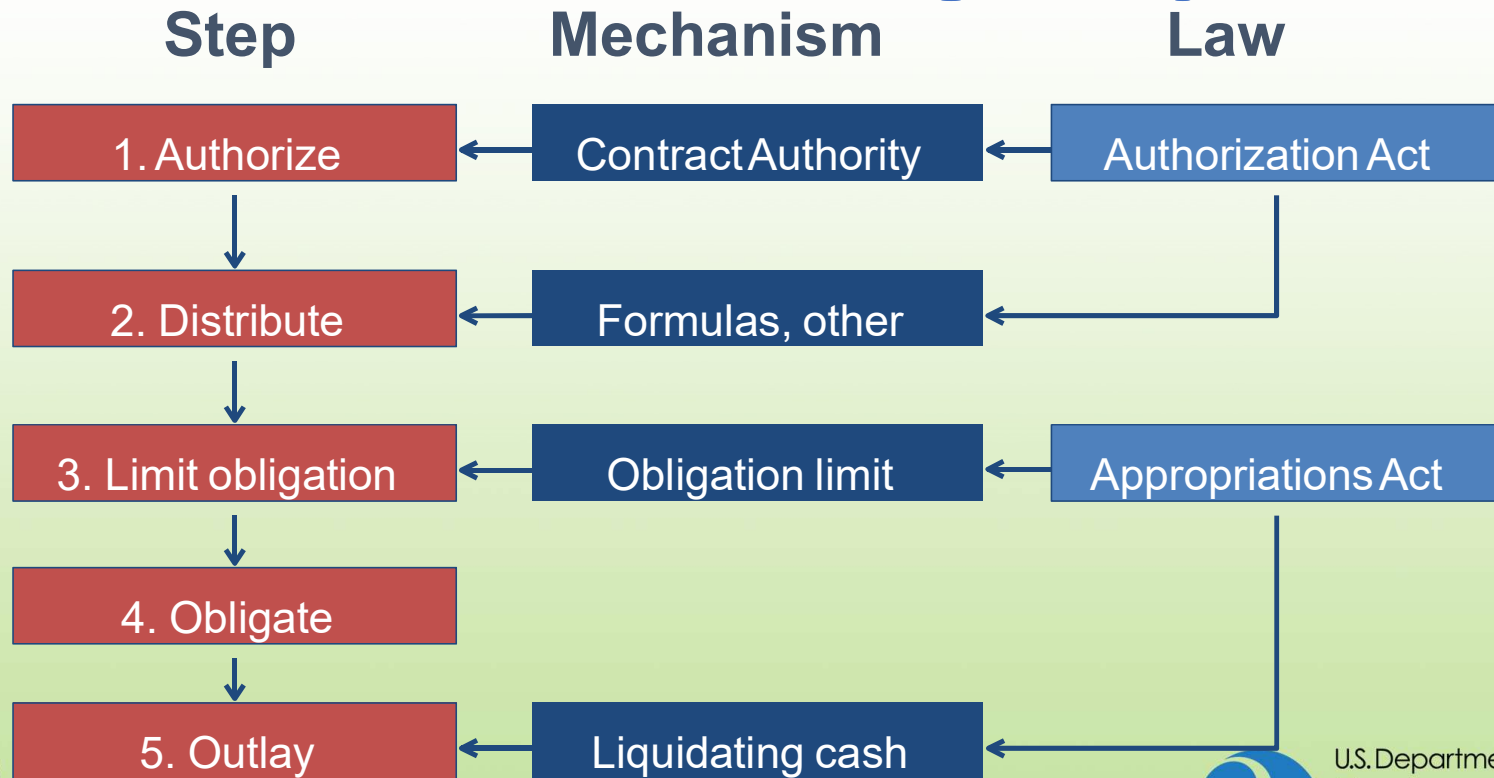


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# MDOT Process for “Reimbursement” rather than up front cash



# Lifecycle of Federal-aid Highway Funding



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# Requirements, Programmatic vs Uniform

- Programmatic Requirements
  - Applies to specific program of funds (NHPP, STBG, CMAQ)
  - 23 & 49 CFR for FAHP
- Uniform Requirements – 2 CFR 200
  - Applies to all Federal Awards
- Both Uniform and Programmatic requirements **must be followed on all** FAHP



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# 2 CFR 200: Subpart E

## Policy Guide

- **Non-Federal entities will be responsible for:**
  - **Administering Federal funds efficiently and effectively**
  - **Complying with programmatic requirements and other terms of the Federal award**
  - **Maintaining internal accounting policies consistent with the cost principles**
  - **Support cost charged with adequate supporting documentation**

# Post Federal Award Requirements

## 2 CFR 200: Subpart D

- **Remedies for noncompliance:**
  - **Temporarily withhold payment until correction of deficiency**
  - **Disallow all or part of the cost of the activity not in compliance**
  - **Wholly or partly suspend or terminate the Federal award**
  - **Initiate suspension or debarment proceedings (2 CFR Part 180)**
  - **Withhold further Federal awards for the project or program**
  - **Take other remedies that may be legally available.**

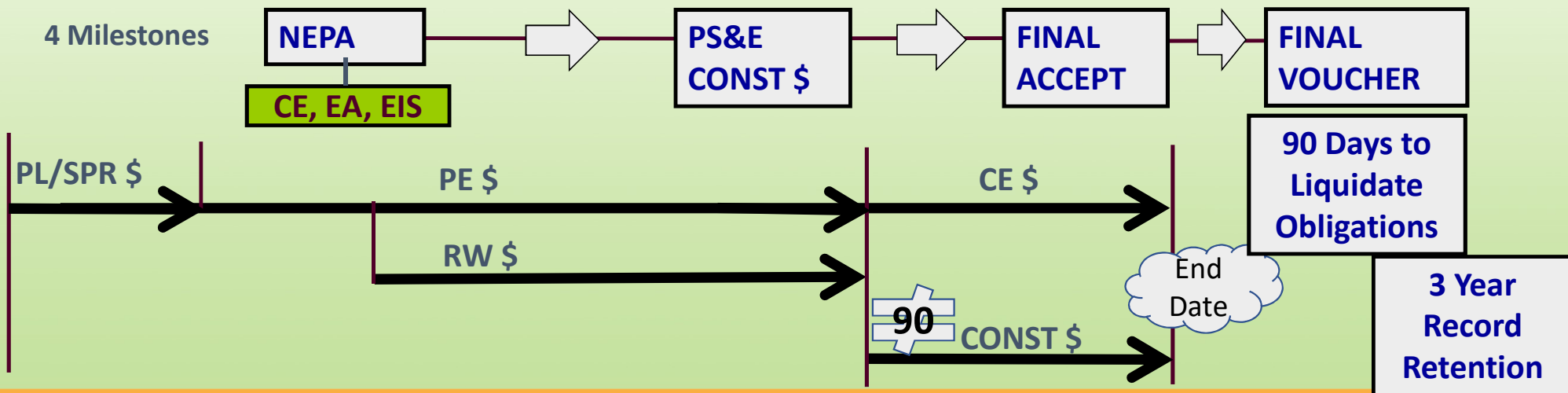
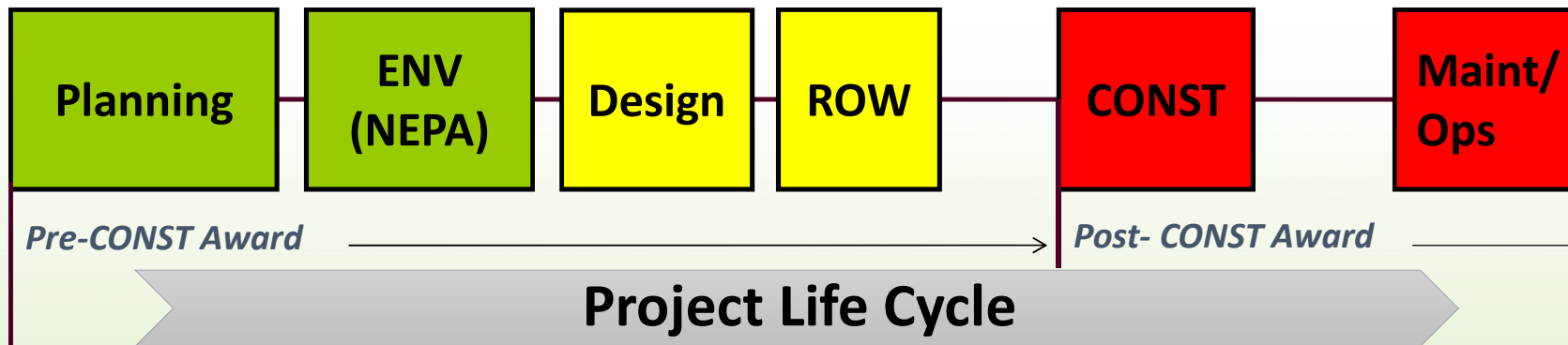
# Eligible and Allowable

- Eligibility
  - Location of Projects
  - Activities
    - A Guide to Federal-aid Programs and Projects (website)
  - MDOT LAP Eligibility Guidelines
- Allowable
  - Administrative Requirements (2 CFR 200, Cost Principles)
    - Necessary/Reasonable Costs
    - Allocable Costs
    - Applicable Credits





# Project Life Cycle



# MODULE 2:

## FAHP Basics: Funding Federal-aid Highways

### Questions?



# **MODULE 3:**

## **Planning & Project Development**

**Tracie Leix, P.E.**  
**Local Agency Program Engineer-Manager**  
**Michigan Department of Transportation**

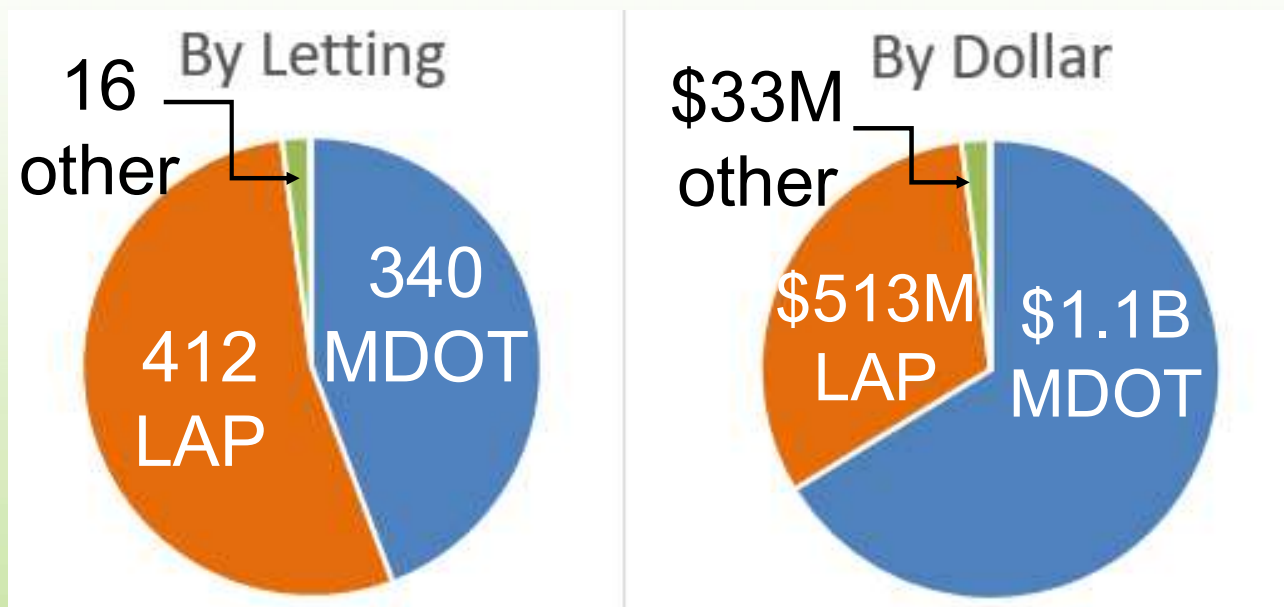


# Local Agency Program Stats

- Local Agencies own 110,000 miles of roads
  - 1,200 miles on NHS
- LAP process 450-550 projects annually
- Average project cost \$500,000 (federal amount)



# Planning & Project Development

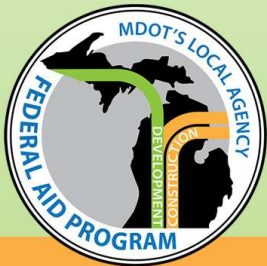


FY19 - Does not include Force Account



# Federal Requirements; State Law

- State law can determine how federal requirements are implemented
  - Federal fund sharing: 25% to local agencies
  - Agency force account limitation
    - FHWA requirements regarding cost effectiveness
    - State law regarding per project cap
    - Industry negotiation regarding overall cap



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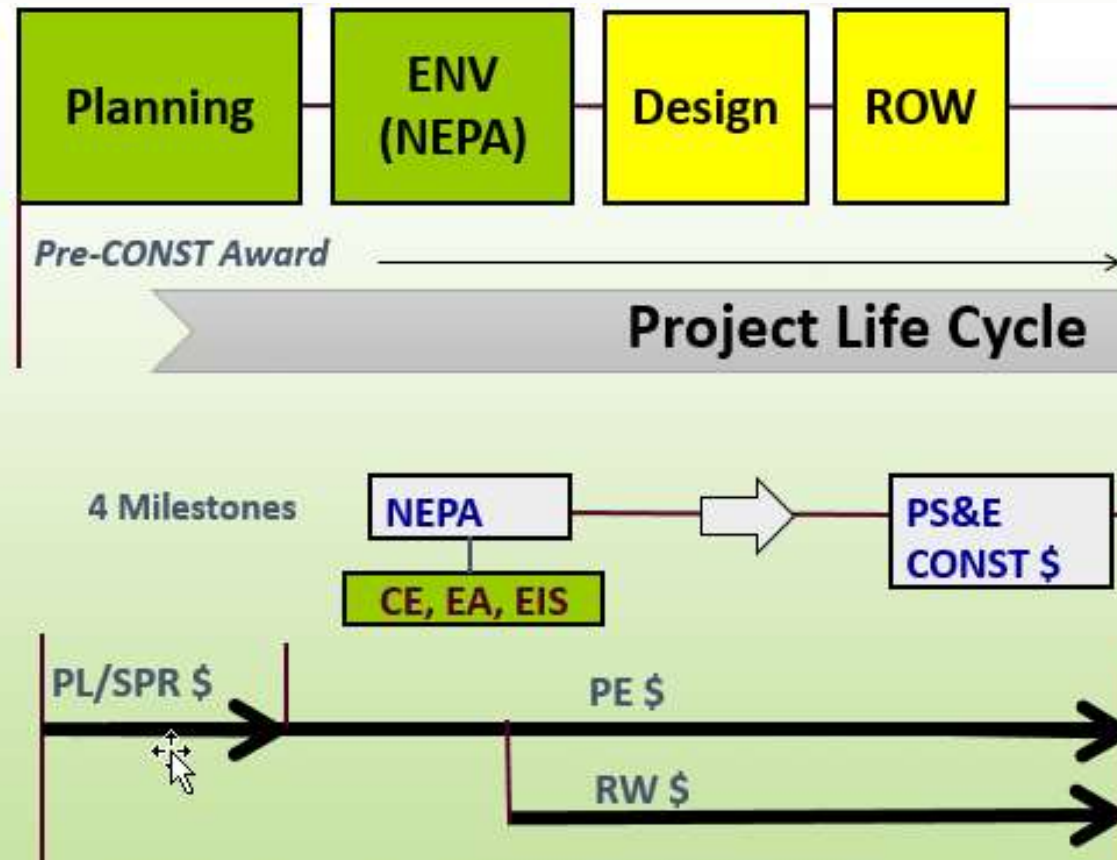
# Federal Law; Implications for LAP

- Authorization Act – FAST Act
- Appropriations Act – Annual Obligation Limitation/Authority (OA)
  - Not always annual – Continuing Resolutions
  - LAP previous: If OA ran out program stopped
  - LAP current: MDOT loans local agencies OA





# Project Life Cycle: Pre-Construction



# Scoping

- Responsibility of local agency
  - Work type, permit needs, NEPA classification, utility coordination
  - Funding may limit or require more



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# Planning

- Work with Planning entity on S/TIP
  - Statewide Transportation Improvement Program
  - 4-year cycle; 1-year overlap
- Consider NEPA
- Local agency certifies fully funded project
  - Certification via Program Application



# National Environmental Policy Act

- New 5323 process
- Local agency determines classification
  - Categorical Exclusion, Environmental Assessment, Environmental Impact Statement
- MDOT approval, FHWA concurrence and/or approval



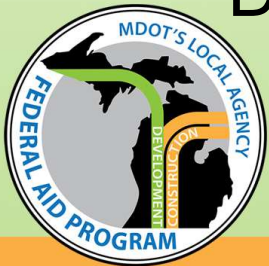
# Real Estate Certification

- Local agency determines need for right of way
  - Americans with Disabilities Act compliance
- MDOT reviews and approves certification
- Changes coming to Mutual Benefit



# Design

- Local agency responsibility
  - Plans, specifications, estimate
    - FHWA approved design guidelines
    - Incorporation of permit and NEPA requirements
    - Identification of ROW
- MDOT responsibility
  - DBE, SBA, obligation, advertising, letting, award



# Obligation

- S/TIP
- Apportionment/Allocation and Obligation Authority
- Engineer's Estimate  $\pm$  25% STIP
  - Eligible vs. Participating
  - Eligible vs. Allowable

MDOT LAP requests 1<sup>st</sup> come/1<sup>st</sup> serve



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# Letting

- Advertisement
  - Progress clause
  - Bidder's Inquiries
  - Addendum
  - Expedited award
- Low Bid





# Award

- Project Contracts
  - Construction contract and cost sharing agreement
- Bids: FY19 1.92% over EE
  - < 10% over engineer's estimate
  - $\geq$  10% Justification or Rejection
- Bid reviews



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# State Processes

- 120 days to letting
- State Transportation Commission approvals
- State Ad Board approvals
- 2 CFR 200 compliance



# Inactive Obligations – FIRE List

- Zero expenditures in previous **12 months**
  - MDOT starts monitoring at 6 months – Inactive list
- Facts and circumstances causing the project inactivity
  - Beyond DOT's Control Examples
    - Litigation
    - Unforeseen utility relocations
    - Catastrophic events
    - Unforeseen environmental concerns

# **MODULE 4:**

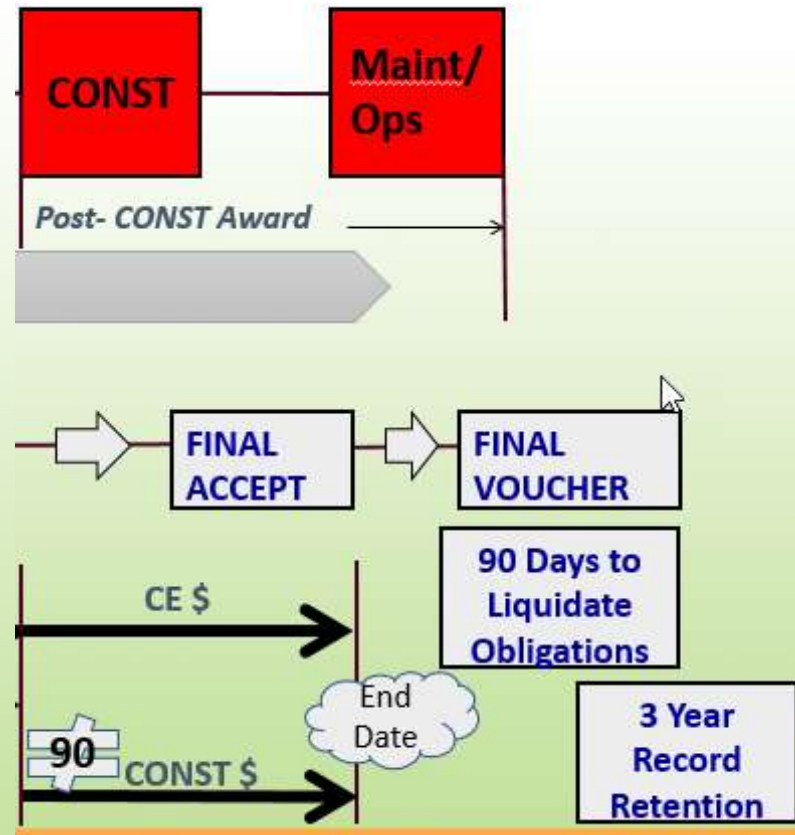
## **Project Delivery & Closeout**

**Kelly L. Crannell, P.E.**  
**Local Agency Construction Engineer**  
**Michigan Department of Transportation**



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# Project Life Cycle: Post-CONST Award



# Risk Based Oversight

## Available Tools to Monitor Risk

- MDOT construction oversight of LAP projects
  - TSC Oversight
  - Project Documentation Reviews
  - Certified Engineer Program
  - Contract administration procedures – Division 1 of Spec Book
- FHWA oversight of MDOT
  - Compliance Assessment Program (CAP)
  - Project of Divisional Interest (PoDI)
  - Program Reviews

# Construction Oversight Roles

- MDOT Responsible Charge/Designed Representative
- Local Agency Responsible Charge
- Engineer of Record

# Publications included by reference in Standard Specifications for Construction

The following MDOT publications are included by reference in these Standard Specifications as if the same were repeated herein in their entirety:

Field Manual of Soil Engineering (out of print)  
Materials Quality Assurance Procedures Manual  
Michigan Manual on Uniform Traffic Control Devices  
Michigan Test Methods  
Procedures for Aggregate Inspection  
Procedures Manual for Mix Design Processing  
Road and Bridge Standard Plans  
HMA Production Manual  
Soil Erosion and Sedimentation Control Manual  
Density Testing and Inspection Manual  
Work Zone Safety and Mobility Manual

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Soil Erosion and Sedimentation Control Manual  
Density Testing and Inspection Manual  
Work Zone Safety and Mobility Manual



# Risks which are monitored . . .

## Federal Compliances including:

- Davis Bacon Wage Rate
- Buy America
- American with Disabilities Act
- Disadvantaged Business Enterprise Program
- US Small Business Administration
- Law/Regulation – FAST Act and CFR

## MDOT Specification Compliances/Special Provisions

## Local Unique Special Provisions

# **Risk Mitigation Measures: Built into Specifications**

- Scope of Work - 103
- Control of Work - 104
- Control of Materials - 105
- Quality Assurance Acceptance Program – 106
- Legal Relations and Responsibilities to the Public – 107
- Prosecution and Progress – 108
- Measurement and Payment – 109
- MDOT publications included by reference

# Non-Compliance Remedies

## 2 CFR 200 – remedies for non-compliance

- Temporarily withhold payment until correction of deficiency
- Disallow all or part of the cost of the activity not in compliance
- Wholly or partly suspend or terminate the Federal award
- Initiate suspension of debarment proceedings (2 CFR Part 180)
- Withhold further Federal awards for the project or program
- Take other remedies that may be legally available

# **MDOT's Local Agency Program Vision Statement**

MDOT will assist local agencies with preserving state and federal aid in a fair and consistent manner and serve as an information resource.

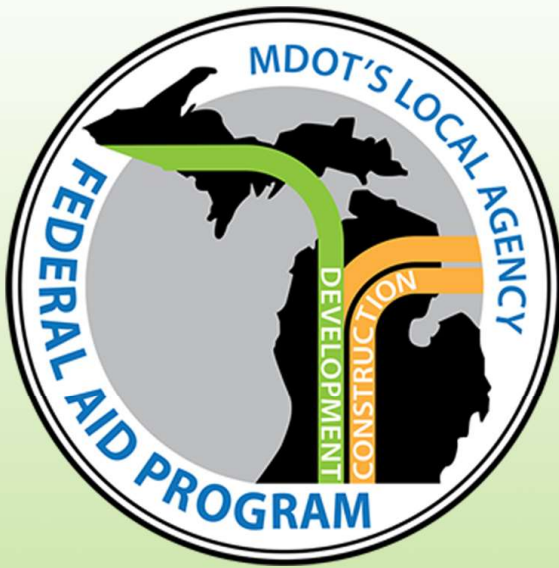
# Improper Payments

- What is an Improper Payment?
  - made to an incorrect recipient
  - an incorrect amount (e.g. incorrect Federal share)
  - not in accordance with Federal laws, regulations, or terms and conditions of the Federal award
  - for ineligible, unallowable, or unauthorized goods or services (includes charging to incorrect program code, improvement type/activity)
  - insufficiently documented

**Navigating  
Federal Aid  
requirements  
is not an easy  
task!**



# Wrap-Up: Federal Aid 101 Basics



**Tracie Leix**  
**Kelly Crannell**



U.S. Department of Transportation  
**Federal Highway  
Administration**

**Ted Burch**  
**Eric Purkiss**