



**DATE:** March 16, 2016

**TO:** Transportation Commission

**FROM:** Herman Stockinger, Office of Policy & Government Relations Director

**SUBJECT:** Department and Commission Compliance with Recommendations of the Colorado Office of the State Auditor “Collection and Usage of the FASTER Motor Vehicle Fees” dated August 2015

**Purpose and Action**

Provide a “deeper dive” into the actions taken by CDOT to comply with the FASTER Audit recommendations, improve the FASTER program overall and report on the impact of those actions. This month, we will focus on the Safety programs.

**Audit Recommendations #3, #4, and #5 Summary:**

The purpose for these recommendations was to determine whether CDOT and the TC had adequate controls in place to ensure FASTER safety revenue is allocated to allowable road projects, in accordance with legislative intent and Commission direction. The Audit focused on three key requirements:

1. Rec #3: Per statute, safety funds may only be used for “construction, reconstruction, and maintenance projects that the Commission determines is needed to enhance the safety of a state highway.” In looking at 282 projects, the audit noted 6 projects where the auditors questioned the eligibility. Towing programs, for instance, do enhance safety, but are operational in nature and are not construction, reconstruction, or maintenance projects.
2. Rec #4: FASTER Safety revenue must be used to complete projects “strategically and quickly.” Of the 282 projects, the auditors identified 11 projects that were not seen as strategic or timely. For instance, one project used safety funds to design a project that was ultimately not built and another used FASTER funds for a study that eventually concluded the construction work should *not* be performed.
3. Rec #5: CDOT needs to provide enough oversight, including financial oversight, to ensure the FASTER revenue is expended effectively. The auditors found the department does not have accurate or complete data on safety allocation and expenditures, and had difficulty identifying \$6 million of \$434 million the auditors analyzed. The audit included the recommendation of establishing a formal FASTER Safety Program, enhancing SAP controls, developing better performance measures, and instituting better supervisory control over regional projects.

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Bottom Line: The auditors found these problems occurred because neither the Commission nor CDOT clearly laid out eligibility for safety projects. Selection of projects were handled differently in different years, and most guidance by the Commission was informal, allowing staff to potentially make broader interpretations of what kinds of projects “enhance the safety of a state highway.”

**How is this resolved?**

Policy Directive 704.0 (PD 704.0) (Attachment A) was adopted by the Board in January. Here's what the Board did by passing this new Policy:



- Took a very broad view in the definition of FASTER Safety Project, allowing most aspects of a project (including things like design and planning) to be eligible elements of construction, reconstruction or maintenance projects.
- Effectively split the FASTER Safety program into two parts, the FASTER Safety Mitigation Program and the FASTER Asset Management projects, with the funding amount allocated to Asset Management to be determined during the annual budget setting process (the Commission previously allocated \$40 million of FASTER Safety revenue to the Asset Management program, and while we expect that amount to stay the same, the Commission has an annual option to change the amount without requiring a change to the Policy).
- FASTER Safety Mitigation Program:
  - Similar in structure to the program created in 2014/2015 (just outside the audit's analysis period).
  - Sets the goal of reducing the severity and number of highway crashes.
  - Establishes a FASTER Safety Mitigation Executive Steering Committee to review and approve projects.
  - Further defines more detailed project eligibility criteria (including the need to meet minimum benefit-to-cost ratios).
  - Requires an annual report on the effectiveness of the program.
  - The corresponding Procedural Directive, 1504.1 provides much greater specificity as to the evaluation and selection process for projects (including detailing project evaluation metrics), roles and responsibilities, and training. (Attachment B provides an excerpt from PD 1504.1 regarding the evaluation and selection process)
- FASTER Safety Asset Management Projects:
  - Previously the Commission did not detail which asset projects (or even categories) should receive FASTER funds. Project staff did not have written instruction for prioritizing the projects, leaving the project selection decisions to OFMB staff rather than a "strategic prioritization". In PD 704.0, the Commission defines those asset classes that have a clear nexus to safety and are deemed eligible for Safety funds as Geohazards, Signals, Culverts, Tunnels and Surface Treatment. The list excludes MLOS, ITS, Road Equipment, Buildings, and Walls.
  - Policy clarifies the inspection portion of eligible programs (such as Geohazard inspections) are not eligible for Safety funds as they may or may not result in an actual construction, reconstruction, or maintenance project.
  - The Policy requires staff to select a priority order of the eligible asset classes. This is done in Procedural Directive 1608.2 with the priority order being Geohazards, Signals, Culverts, Tunnels, and Surface Treatment.
  - Requires that the Asset Management Executive Oversight Committee prioritize eligible asset classes for FASTER Safety Asset Management funding; Executive Director, Deputy Executive Director Chief Engineer and Chief Financial Officer approve the project lists.
  - Requires an annual report on the effectiveness of the program
- Overall Financial Management of FASTER Revenues:
  - Besides creating the SAP codes for the FASTER program as recommended in the audit, Procedural Directive 704.1 provides a significant amount of technical direction to staff in the areas of revenue reconciliation, project budgeting and expenditure reporting (among other items).

**Transportation Commission “Hands-On” versus “Hands-Off” Options**

- Project Selection: Like most programs, the Commission previously took a "hands-off" approach to project selection of FASTER Safety projects. In the new Policy, the Commission continues to allow staff to select FASTER Safety projects, but now sets forth the criteria for project eligibility and also provides more direction on the kinds of projects that are eligible. Alternatively;



- The Commission, as a result of this audit, may want to take a more hands-on approach and proactively approve FASTER Safety projects for a time, until they are comfortable that projects being selected by staff are consistent with Commission policy direction.
- The Commission could narrow the universe of projects or elements of projects that it deems eligible. The broad universe of projects could leave CDOT and the Commission open to criticism that "anything" is eligible, making the program "not strategic," while limiting FASTER funds for only certain project phases/elements would require that each project receive funds from other sources.
- FASTER Safety Mitigation Program: This program was already created by the Transportation Commission in 2014/2015. The new Policy and Procedures mostly memorialize previous Commission decisions and provide more specificity to the program. Alternatively;
  - The Commission may want to reassess the program and request a "refresher course" on the program in 2016, with the possibility of making changes to the program following workshops.
- Funds to Asset Management: Unlike the FASTER Safety Mitigation Program, which has detailed eligibility, selection and prioritization criteria, the FASTER Asset Management projects are selected by staff prioritizing each asset category with the oversight of the Asset Management Executive Oversight Committee and management; prioritization within each category of eligible projects is not specified. Alternatively;
  - The Commission could prioritize each asset category, rather than leaving it up to staff.
  - Additionally, the Commission could require all projects within the Asset Management Program to be specifically prioritized within each category.

Lastly, it is important to note that while staff's efforts have mostly been to memorialize informal Commission direction and existing practice, the fact that FASTER Safety has now been addressed cumulatively in 33 new pages of Policies and Procedures is a clear indication that staff has greatly increased the specificity on how to properly conduct the program.



<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>		<input checked="" type="checkbox"/> <b>POLICY DIRECTIVE</b>	<input type="checkbox"/> <b>PROCEDURAL DIRECTIVE</b>
<b>Subject</b> <b>Policy Governing the Efficient Use of FASTER Revenue</b>		<b>704.0</b>	
<b>Effective</b> <b>01.26.16</b>	<b>Supersedes</b> <b>n/a</b>	<b>Originating Office</b> <b>OFMB/TSM&amp;O/DTD/DTR</b>	

## I. PURPOSE

The purpose of this Policy Directive is to allocate FASTER funding and set forth the criteria the Department must follow to select eligible projects in order to effectively and efficiently use FASTER revenue.

## II. AUTHORITY

Transportation Commission pursuant to § 43-1-106(8)(h), C.R.S.

§ 43-4-801, et seq., C.R.S. “Funding Advancement for Surface Transportation and Economic Recovery” “FASTER”

§ 43-4-206(3), C.R.S.

§ 43-1-117.5, C.R.S.

§ 43-4-811, C.R.S.

§ 43-1-1104(1)(b), C.R.S.

## III. APPLICABILITY

This Policy Directive applies to all divisions, offices and regions of the Colorado Department of Transportation, and where applicable, to the Bridge Enterprise and the High Performance Transportation Enterprise.

## IV. DEFINITIONS

“Asset Management Executive Oversight Committee” shall mean an advisory committee comprised of members of CDOT executive management who advise on the Asset Management Program.

“DTR” shall mean the Division of Transit and Rail established pursuant to § 43-1-117.5, C.R.S. within the Colorado Department of Transportation.

“FASTER Safety Project” shall mean a construction, reconstruction, or maintenance project that enhances the safety of a state highway and may include all aspects of delivering a safety mitigation project: planning, financing, study, analysis, designing, engineering, mitigation, acquisition, contracting, installation, and construction activities that result in repair, reconstruction, new construction, maintenance, or operation of a highway to enhance safety. The definition of FASTER Safety Project shall apply to all road or road related improvements set forth in § 43-4-803(14), C.R.S.

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This definition shall include projects referred to as “FASTER Safety Asset Management Project” and “FASTER Safety Mitigation Project.”

“FASTER Safety Mitigation Executive Steering Committee” shall mean an advisory committee comprised of members of CDOT executive management who will review and approve FASTER Safety Mitigation projects.

“Statewide Transit Project” shall mean a Transit Project or Transit Related Project that provides services or benefits to a substantial portion of the state.

“Transportation Commission” or “Commission” shall refer to the Commission established pursuant to § 43-1-106, C.R.S.

“Transit and Intermodal Committee” or “T&I Committee” shall mean the committee comprised of members of the Transportation Commission with oversight of the Division of Transit and Rail.

## V. POLICY

A. The Transportation Commission (hereinafter “Commission”) shall determine the funding allocation and criteria by which projects eligible for FASTER funding are selected.

### 1. Office of Financial Management and Budget (“OFMB”) Oversight of FASTER Revenues

- a) The Commission shall oversee OFMB’s allocation of FASTER revenue by reviewing and approving the annual budget and budget supplements pursuant to § 43-1-105(8)(h), C.R.S.
- b) The OFMB shall allocate and reconcile FASTER revenue provided to the Department of Transportation. The allocation shall be made to the following programs:
  - (1) Pursuant to § 43-4-811, C.R.S., \$5 million annually to the DTR to provide grants to local governments for local transit projects;
  - (2) Pursuant to § 43-4-206(3), C.R.S., \$10 million annually to statewide transit projects administered by the DTR;
  - (3) Pursuant to direction of the Commission, a portion of FASTER Safety revenue shall be allocated to safety-related Asset Management program; and
  - (4) Pursuant to direction of the Commission, the FASTER Safety Mitigation Program shall receive the balance of the FASTER Safety fund after distribution to the FASTER Transit Program and Asset Management program.
  - (5) All FASTER Bridge Safety surcharge revenues shall be distributed to the Statewide Bridge Enterprise.
- c) The OFMB shall use the process and methodology set forth in Procedural Directive 704.1 “Financial Management of FASTER Revenues” to accurately and efficiently track FASTER revenues from revenue forecasting, annual budget setting, program allocation, project budgeting,

project funding and expenditure to reconciliation.

d) The OFMB shall continue to utilize both SAP (CDOT's financial management system) and CORE (the state financial management system) to account for all FASTER revenues received, allocated and budgeted throughout CDOT.

e) For all projects using FASTER funding, if the project exceeds the approved budget by the amount specified in Policy Directive 703.0, the process set forth in Policy Directive 703.0 must be followed.

## 2. FASTER Safety Mitigation Projects

a) The Commission herein creates the CDOT FASTER Safety Mitigation Program which is charged with improving highway safety through the use of FASTER Safety funds in accordance to § 43-4-802(2)(b), C.R.S.

b) The Commission determines what types of projects and components of projects are considered eligible to be funded. Construction, reconstruction or maintenance projects that enhance the safety of a state highway by reducing the severity and number of highway crashes are considered eligible projects for the FASTER Safety Mitigation Program. The Commission further determines that eligible project components may include all aspects of delivering a safety mitigation project: planning, financing, study, analysis, designing, engineering, mitigation, acquisition, contracting, installation, and construction activities that result in repair, reconstruction, new construction, maintenance, or operation of a highway to enhance safety.

c) The Commission further defines eligible FASTER Safety Mitigation Projects as projects that meet the following criteria:

- (1) Applicant is either a CDOT region or an eligible public entity with authority to enter into a contract with CDOT;
- (2) Sufficient information is provided in the application for analysis of the program criteria;
- (3) The application demonstrates that the proposed project addresses a safety need related to Colorado's state transportation system; and
- (4) The proposed project meets the minimum benefit-to-cost ratio as determined by the FSM Executive Steering Committee.

d) The Commission directs the FASTER Safety Mitigation Program to select FASTER eligible projects with the goal of reducing the severity and number of highway crashes and working toward zero deaths for all users.

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- e) The Commission further directs that the FASTER Safety Mitigation Program use the metrics set forth in Procedural Directive 1504.1 to develop the projects for inclusion in the Statewide Safety Mitigation Plan.
- f) The Commission herein directs the FASTER Safety Mitigation Executive Steering Committee to review and approve projects to be funded under this program.
- g) The FASTER Safety Mitigation Program with the support of the Division of Accounting and Finance shall compile an annual report and provide it to the FASTER Safety Mitigation Executive Steering Committee and the Commission in order to assess the effectiveness of the FASTER Safety Mitigation Program.

### 3. FASTER Safety Asset Management Projects

- a) The Commission herein recognizes that a number of CDOT asset classes within the Asset Management Program have such a clear nexus to safety that it is appropriate for an amount of FASTER Safety funds to be utilized to fund projects within those asset classes.
- b) Eligible asset classes to use FASTER Safety funds include Geohazards, Signals, Culverts, Tunnels, and Surface Treatment. All projects that meet the definition of FASTER Safety Project are eligible for funding. Inspection programs within the asset classes are not eligible for FASTER Safety funds.
- c) The Commission herein directs the Asset Management Executive Oversight Committee to prioritize the eligible asset classes for FASTER Safety Asset Management Program funds.
- d) CDOT Division of Transportation Development with the support of the Division of Accounting and Finance will compile an annual report and present it to the Asset Management Executive Oversight Committee and the Commission in order to assess the effectiveness of the FASTER Safety Asset Management Program.

### 4. FASTER Transit Projects

- a) The Commission, having oversight of the DTR, determines what types of projects and components of projects are considered eligible to be funded.
- b) The Commission directs that the Department fund FASTER Transit Projects from the “local” or “statewide” pool of FASTER revenues based on the following sub-pool structure.

#### Local Pool

\$4.1 Million small agency<sup>1</sup> capital expenses  
\$0.9 Million large urban<sup>2</sup> capital expenses

<sup>1</sup> This excludes Mountain Metropolitan Transportation in Colorado Springs, Transfort in Fort Collins, and RTD in the Denver Metro area.

<sup>2</sup> This includes only Mountain Metropolitan Transportation in Colorado Springs, Transfort in Fort Collins.

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\$5.0 Million Local Pool

Statewide Pool

\$1.0 Million for DTR Administration, Planning, Technical Assistance  
 \$3.0 Million for CDOT Interregional Express (IX) Bus Service (aka Bustang)  
 \$1.0 Million Operating Assistance for Other Regional / Interregional Bus Service  
 \$3.0 Million for large urban capital expenses (RTD)  
 \$2.0 Million Statewide Competitive Capital Pool

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\$10.0 Million Statewide Pool

c) Pursuant to Resolution TC#3167, the funding criteria set forth above must be reconsidered and approved or modified prior to the distribution of FY 2019 FASTER funding. The DTR shall recommend continuation or modification of the statewide and local pool allocations set forth above on or before April 30, 2017.

d) The Commission further directs that eligible FASTER Transit Projects must meet the following criteria:

Statewide Pool	Local Pool
Extent to which project provides statewide or interregional services or benefits.	Criticality
Extent to which project is multimodal in nature.	Financial capacity
Extent to which project provides regional services or benefits.	Financial need
Criticality	Project impacts
Financial capacity	Readiness
Financial need	
Project impacts	
Readiness	

e) The Commission directs the DTR to base its selection of FASTER Transit Projects on the metrics set forth in Procedural Directive 1608.1.

f) The DTR Director shall approve the FASTER Transit Projects following the procedure set forth in Procedural Directive 1608.1.

g) Procedural Directive 704.1 outlines CDOT’s management of FASTER Transit funding. For projects that exceed the approved project budget by the amount specified in Policy Directive 703.0, DTR shall submit the FASTER Transit Project to the OFMB, which will then include the project in the budget supplement request and submit it to the Commission utilizing the process set forth in Policy Directive 703.0.

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- h) The Transit and Intermodal Committee (“T&I Committee”) shall advise the DTR on any proposed changes to the FASTER Transit metrics.
- i) The T&I Committee shall review quarterly reports submitted by DTR which contain the expenditures and status of all FASTER funded projects and the reconciliation of FASTER funding.
- j) DTR shall annually apprise the T&I Committee of the Transit Projects recommended for FASTER funding for the next fiscal year.
- k) DTR shall submit any proposed changes in funding for FASTER Transit Projects to the OFMB, which shall include the request in the budget supplement pursuant to Policy Directive 703.0.
- l) FASTER Transit Projects shall be tracked by the DTR budget analyst and the OFMB in SAP as set forth in Procedural Directive 704.1 and 1608.1. The Commission directs DTR staff to work with the OFMB to routinely reconcile transit revenue expenditures and other transfers in and out of the Transit Fund.

**VI. IMPLEMENTATION PLAN**

- A. This Policy Directive shall be effective immediately upon signature.
- B. Each Originating Office shall provide within one week of the effective date a copy of this Policy Directive to all employees within their respective division/office. The Directive shall also be disseminated to all members of Executive Management Team to be provided to all staff impacted by its requirements.

**VII. Review Date**

This Policy Directive shall be reviewed on or before April 2017.

Herman F. Stockinger III  
Herman Stockinger  
Transportation Commission Secretary

1-26-16  
Date

**Excerpt from Procedural Directive 1504.1**, regarding FASTER Safety Mitigation Program Project Selection. Full Procedural Directive was provided to Commission in January, and was also approved by the Executive Director in January.

### **FSM Project Eligibility and Selection Process**

1. The FSM Program will use a two-step evaluation method to determine if a project is eligible for FSM program funding.
  - a) The FSM Project must meet the eligibility criteria established by the Transportation Commission and set forth in Policy Directive 704.0; and
  - b) The FSM Project must be evaluated by the FSM Program staff using the following metrics:
    - (1) Reduce existing crashes. Mitigate a documented crash problem and/or addresses predominate crash pattern(s).
    - (2) Reduce existing crash severity. Mitigate a documented severe crash problem and/or addresses predominate severe crash pattern(s).
    - (3) Address system weaknesses. Reduce the risk of crashes, especially life-changing crashes, and/or reduce exposure to segment and/or intersection crash risks.
    - (4) Enhance other highway features and/or functions. Enhance traffic operations, communication, implement new technologies, and extend design life.
    - (5) Provide proven safety measures for a systematic/preventative location. Mitigate predicted crash types for a facility and/or improve engineering standard conformance for the project location.
    - (6) Improve pedestrian/bicycle safety. Mitigate documented pedestrian/bicycle crashes, remove pedestrian/bicycle traffic from shared way, link existing pedestrian/bicycle facilities, and/or implement Public Right-Of-Way Accessibility Guidelines (PROWAG).
    - (7) Leverage funding opportunities with an existing project. Address safety recommendations and/or incorporate safety improvements with limited independent utility into other CDOT projects.
    - (8) Encourage cooperative efforts with local agencies to improve safety. Encourage local agency participation, coordinate with local transportation planning documents, and/or encourage local agency maintenance.