

**An AASHTO Center for Environmental Excellence Report**

**on**

**DOT-Funded Positions and Other Support to Resource and  
Regulatory Agencies, Tribes, and Non-Governmental Organizations  
for Environmental Stewardship and Streamlining Initiatives**

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## Introduction

Over the last decade, state and federal agencies have been pressed to accomplish more with less. Workloads have increased while staff resources often have remained flat or declined, a trend that has occurred at transportation and resource agencies alike. To increase efficiencies, state Departments of Transportation (DOTs) have turned to innovative partnerships with resource agencies and non-governmental organizations. Starting in the early 1990s, some DOTs began to fund additional staff positions at resource agencies to expedite project delivery.

This trend accelerated after the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) was enacted in 1998. Section 1309(e) of TEA-21 gave DOTs the option to spend federal-aid highway dollars to fund positions at other agencies in order to meet cooperatively determined timeframes, if such amounts are “necessary...to meet the time limits for environmental review” and “if such time limits are less than the customary time necessary for such review.”

This authority was extended and broadened in 2005 with enactment of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The law retained and broadened the funding authority, allowing transportation agencies to support activities outside the National Environmental Policy Act (NEPA) process.

SAFETEA-LU allows agencies to fund “transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements” (23 U.S.C. 6002(j)). SAFETEA-LU specifies that funds may be directed to the U.S. DOT and tribes.

Brief studies to analyze the number and types of positions funded by DOTs at various state and federal agencies were conducted in 2001 and 2003. Following up on those studies, AASHTO’s Center for Environmental Excellence sponsored an additional survey and interviews in 2005. The effort focused on DOT-funded positions with resource agencies and tribes and also collected information on other types of external support and partnerships that DOTs fund.

DOTs from all 50 states, the District of Columbia, and Puerto Rico were contacted to:

1. Identify types of DOT-funded external support to resource agencies, local governments and non-governmental organizations (both for funded positions and wider support/partnerships).
2. Identify DOT use of funded positions for streamlining/stewardship initiatives and projects, determining the number of positions funded at federal, state, tribal, and local governments for each state and trends since 2003.
3. Compile management information on the use of DOT-funded positions.
4. Identify lessons learned and useful practices regarding use of DOT-funded positions.
5. Identify program development and management needs.

The 2003 study recorded positions that DOTs were planning to fund for that calendar year. As all of those plans did not come to pass, adjustments to 2003 data were necessary to show accurate trends over the past two years. The 2005 data show positions currently funded and/or anticipated by summer 2005. Program management resources collected during the study are available in conjunction with this report through AASHTO’s Center for Environmental Excellence Web site ([www.environment.transportation.org](http://www.environment.transportation.org)).

## Executive Summary

An increasing number of state transportation agencies are expediting project review times by funding government positions outside their own agencies to focus on transportation projects and programs, according to data collected in a 2005 survey sponsored by AASHTO's Center for Environmental Excellence. Most states with DOT-funded positions have found these arrangements are helping to achieve the process efficiency and timeliness goals set forth by law as a condition of such funding.

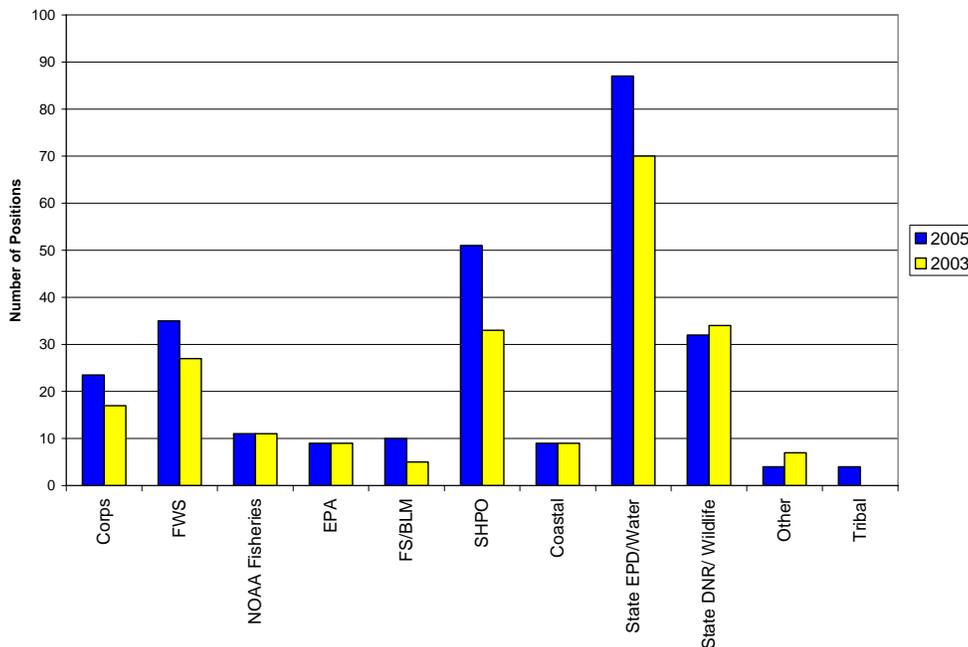
Citing heavy workloads as the primary reason they fund positions, most DOTs are reaping the benefits of these funded positions through better, faster reviews that enable them to meet project deadlines. In general, funded positions are helping DOTs in problem avoidance, early consultation and development of programmatic approaches, and trouble-shooting when problems arise.

### Increases Continue in 2005

Since 2003, 18 state DOTs have increased the number of positions they fund at resource agencies, bringing the total number funding positions to 34 states (68 percent of states). Some state DOTs fund this work through contracts for services rather than positions or personnel.

More than 80 percent of state DOTs have some sort of DOT-funded external support underway for environmental purposes; this figure includes the 68 percent of states that fund positions and 15 percent more funding other types of programs or partnerships. Mapping, database development, and identification of sites for advance mitigation are among the most common services funded by partnerships. Efforts with non-governmental organizations also are growing.

**DOT-Supported Positions at Resource Agencies, 2003 and 2005**

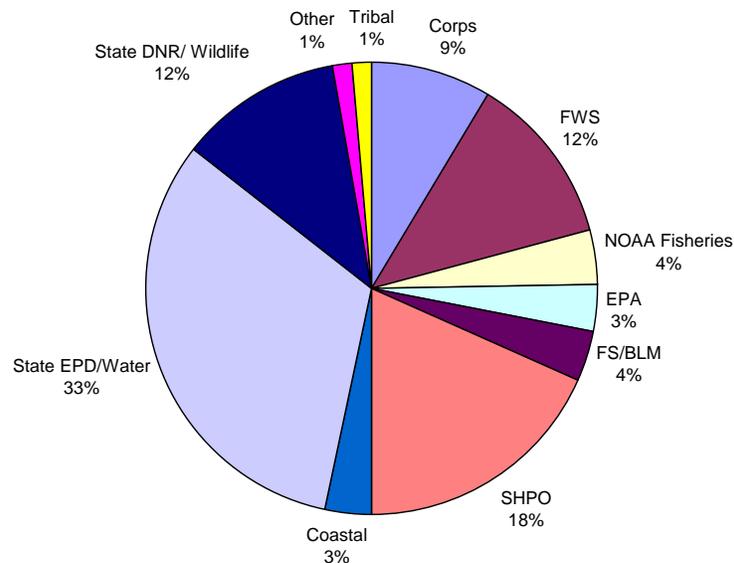


## Distribution of DOT-Funded Positions

Regarding the distribution of DOT-funded positions, the 2005 data reflected the following trends:

- One third of all DOT-funded positions are at federal agencies; two-thirds are at state resource agencies, consistent with previous years' findings.
- Positions at natural resource agencies comprise 79 percent of all positions. Those at tribes and/or state community or planning agencies or the SHPO total 21 percent.
- State Historic Preservation Offices (SHPOs) continued to add DOT-funded positions at a relatively high rate, 53 percent since 2003, for a total of 50.5 nationwide.
- State environmental protection departments or agencies with water quality administration responsibilities have the largest number of DOT-funded positions, 86 in 2005, a 22 percent increase from 2003.
- State DNRs, with a much smaller total of 32 positions, lost two positions since 2003, producing a 6 percent decrease.
- The U.S. Fish and Wildlife Service (FWS) continues to have the largest number of DOT-funded positions of any federal agency, 34 nationally, a 26 percent increase from 2003.
- The U.S. Army Corps of Engineers (Corps) increased their number of DOT-funded positions by 38 percent, with a 2005 total of 23.5 funded positions.
- The Environmental Protection Agency (EPA) and National Oceanic and Atmospheric Administration (NOAA Fisheries) have the same number as in 2003.

### Distribution of DOT-Supported Positions at Resource Agencies and Tribes



## **Functions Performed by Funded Positions**

States reported that DOT-funded positions are conducting a variety of tasks to help comply with permitting, review, and consultation requirements under laws including the Endangered Species Act (ESA) Section 7; Clean Water Act (CWA) Sections 404 and 401; National Historic Preservation Act (NHPA) Section 106; U.S. Coast Guard (USCG) bridge clearances, as well as state regulations.

A few of the positions perform project inspection, erosion and sedimentation control oversight, or programmatic work as a primary portion of their job duties. Several DOTs reported plans to increase use of DOT-funded positions at resource agencies to review projects and provide environmental input in the planning phase.

## **Administrative Aspects**

Regarding administrative aspects of funding arrangements, the survey found that most positions are executed with custom Memoranda of Agreement (MOAs). Increasingly, DOTs are developing formal approaches for requesting positions and evaluating their success. Performance measures and dispute resolution mechanisms are included in many of the funding agreements. Collected examples are provided in Appendices D and E.

Agencies are working to improve baselines for agency services (permits approved, projects reviewed, consultations performed, etc.) prior to implementing funded positions. In most cases, the DOT and the resource agency jointly conducted performance reviews, although assessment approaches varied widely.

The most commonly mentioned challenges in employing funded positions were lack of functional performance measures and staffing and budget reductions at the resource agencies.

## **Lessons Learned**

DOTs identified a number of “lessons learned” and recommendations for successful management of funded positions:

- Devote sufficient DOT effort to prioritizing projects and ensuring funded position attention to those priorities.
- Provide clear expectations through position descriptions and quarterly or annual performance reviews.
- Provide accountability measures and joint review.
- Develop guidance for funded position programs at resource agencies.
- Keep lines of communication open.
- Designate a program management person at the DOT; where multiple DOT-funded staff are employed, designate/fund the position of a program manager within the resource agency.
- Provide orientation to the DOT transportation planning and project development process for funded positions.
- Support ongoing professional training for the position.
- Realize the limits of satisfaction evaluation scales.

DOTs generally reported that the positions they funded helped save time and avoid delays, although they had not tracked data. For example, NCDOT indicated their improved permitting process “couldn’t exist without resource agency positions to get discussions and information exchange going early on.” However, the agency said the transportation development “process takes so long, we haven’t had most of the positions and performance in place for the whole process length for an Environmental Impact Statement, so we haven’t had data to track. There is a gross absence of performance data.” Nevertheless, DOTs appreciate the ability to reach a resource agency staff person on the phone, sit down with them at a meeting and prioritize DOT projects, and have a dedicated staff person at the resource agency who understands the DOTs.

# **Chapter 1: DOT-Supported Positions Improve Project Delivery**

## ***What Are DOT-Funded Positions Doing?***

DOT-funded positions are primarily focused on project delivery. These positions conduct a variety of tasks, including ESA Section 7 consultations, Clean Water Act Sections 404 and 401 permitting, NHPA Section 106 consultation and coordination, USCG bridge clearances, and compliance with many state regulations, i.e., the actual work of the resource agency in many cases.

Of the 275 positions now in existence, almost all are devoted to project delivery; just 15 individuals (11 in Wisconsin) have project inspection and erosion and sedimentation control as a key portion of their job duties. Approximately ten DOT-funded positions are devoted to process or procedure development or programmatic considerations.

A complete breakdown of positions by agency and state agency type is located in Appendix A. An overview of the laws and regulations that federal agencies are implementing and overseeing is included in Appendix B.

## ***Predictability and Turnaround Times Increasing***

Every DOT with funded positions said the primary purpose of the positions was to improve project delivery and predictability and speed up permit/consultation turnaround times. DOTs reported positive outcomes from their funded positions, stating that they were better able to:

- Complete better quality reviews more quickly and achieve scheduled project deadlines.
- Eliminate any potential bottlenecks that could result from an agency's inability to respond to DOT needs in a timely manner.
- Eliminate problems that could occur late in the process by having the agencies involved early to identify and work through such problems.
- Improve permit/consultation turnaround times through a more efficient coordination process.
- Keep things on track and get back on schedule quickly when the unexpected occurs.

DOTs also set goals for funded positions to:

- Increase involvement in a timely fashion and reduce late interagency conflicts.
- Solve problems related to project delivery.
- Be a resource for the DOT regarding regulatory requirements of the other agency.
- Establish a better, more workable and efficient process.
- Provide good "downline" results related to transportation decisions and environmental impact reduction, resource conservation, and preservation.

- Produce permanent full-time positions at the resource agency who know the DOT's process.

DOTs generally communicated their expectations during the hiring process and through performance evaluation, meetings, and in a few cases, guidance. DOTs reported frequent communication regarding priorities and progress; this typically included daily to weekly phone and e-mail correspondence and formal meetings less frequently, such as monthly or quarterly.

### ***Positions Provide Increased Capacity and Value***

Beyond resolution of problems on a project-by-project basis, DOTs reported a long list of benefits from funded positions, including increased abilities to:

- Attend inter-/intra-agency meetings and have the funded agency be at the table.
- Get input from others in the resource agency when needed.
- Generate resource agency responses that were “more comprehensive and focused on project specifics rather than boilerplate responses.”
- Understand resource agency mission and needs and have DOT mission and needs better understood by resource agencies.
- Prioritize review of transportation projects with the resource agency.
- Improve process efficiency and develop project-tracking systems.
- Work on Executive Order 13274 streamlining projects.
- Reach a resource agency contact on the phone to discuss an issue or resolve a problem.
- Respond immediately in case of emergencies.
- Review transportation programs and activities as well as project plans.
- Improve transportation and environmental decision-making processes and procedures, and develop and recommend related draft policies.
- Participate in agency scoping and needs analysis review and comment.
- Participate in wildlife resource inventory and impact assessment activities.
- Review environmental studies and documents.
- Participate in the development and implementation of written guidance.
- Coordinate and provide training on natural resource issues.
- Identify and resolve environmental issues early in the transportation development process.
- Supplement project inspection.
- Coordinate the resource agency's review and response to DOT requests and DOT contractors' requests for information involving potential environmental constraints.
- Begin looking at ecoregional, watershed, or otherwise aggregated mitigation.

- Maintain or complete resource databases.
- Identify enhancement opportunities.

Some states reported that newly developed, more efficient permitting processes they had developed would “come to a standstill” without the funded positions. A number of DOTs indicated that they appreciated the qualitative improvements the positions afforded, even when efficiency gains had not yet been documented. DOTs also noted better relationships between the agencies.

### ***Increasing Focus on Linking Planning and NEPA***

Several DOTs said they are investing in training for funded positions and internal staff to focus on linking planning and NEPA. As one DOT said, “(we) hope to see conscientious efforts to determine appropriate agency involvement yielding effective results, given limited resources.” A number of states and FHWA are hosting planning and NEPA workshops and requiring funded positions at resource agencies to attend.

In Florida, DOT-funded positions are fully employed in project reviews conducted at the long-range planning and programming levels, so that issues are resolved and agreements reached on needed studies attained prior to project development. Metropolitan Planning Organizations play a very important role in Florida’s Efficient Transportation Decision Making (ETDM) process and are utilizing the FDOT developed Environmental Screening Tool and Florida Geographic Data Library to evaluate environmental aspects of projects at the earliest stages. FDOT has also been involved in crafting FHWA’s Planning and NEPA initiative, and shares a key lesson learned: planning and environmental needs to be as closely connected as possible; reporting to the same individual, both on the region/district and headquarters level can help. (See Appendix C for further details of Florida’s process.)

Colorado DOT added a common reporting point for its Planning and Environment Branches. CDOT also is including environmental concerns for all major corridors in the statewide plan. CDOT’s funded position at FWS has played an important role in developing programmatic approaches, including a conservation plan and Biological Opinion to address current and potential ESA Section 7 issues for 36 species in the eastern third of the state, based on the 20-year plan. This effort is now referenced in CDOT-FHWA NEPA documents for projects, and the advance mitigation serves to enhance habitat for the species and minimize negative impacts to the species, resolving issues in advance to a large degree. Colorado DOT and FHWA also funded Strategic Transportation, Environmental and Planning Process for Urbanizing Places (STEP UP) to MPO, a new model planning process to incorporate environmental data and agency review at the earliest stages in transportation planning.

## **Chapter 2: Trends in DOT-Funded Positions**

### ***Positions at Resource Agencies Increase***

The 2005 census found that 18 state DOTs increased the number of positions they fund at resource agencies between 2003 and 2005. In 2003, the increase in positions over the previous two years was heavily concentrated at three state DOTs: California, Florida, and Washington. Between 2003 and 2005, Alaska, North Carolina, Ohio, Pennsylvania, Washington each added five or more positions. These states account for 48 percent of the total increase since 2003. These figures do not include support for other agencies which either does not go directly for positions or the state DOT does not consider part of their funded position program, such as North Carolina's Ecosystem Enhancement Program (EEP) at their state DNR and Florida's Geographic Data Library at the University of Florida.

California, Florida, North Carolina, Pennsylvania, and Washington are underwriting the greatest amount of external support to other agencies. The largest of these programs, which are engaged in extensive, multi-agency process improvement efforts, are described in greater detail in Appendix C. Florida funds 36 positions at state, regional, and federal resource agencies to provide early comment, review, and coordination as part of its Efficient Transportation Decision Making (ETDM) process. PennDOT funds 22 positions at federal and state resource agencies and Caltrans funds 20 positions. Washington State DOT (WSDOT) funds 25 positions, several of which are scheduled to sunset with the state's Transportation Efficiency and Accountability Committee (TPEAC) in 2006. NCDOT supports another 31 positions at the North Carolina Department of Environment and Natural Resources (DENR) and other state and federal agencies focused on advance mitigation of NCDOT projects.

### ***Over Two-Thirds of DOTs Now Support Positions at Resource Agencies***

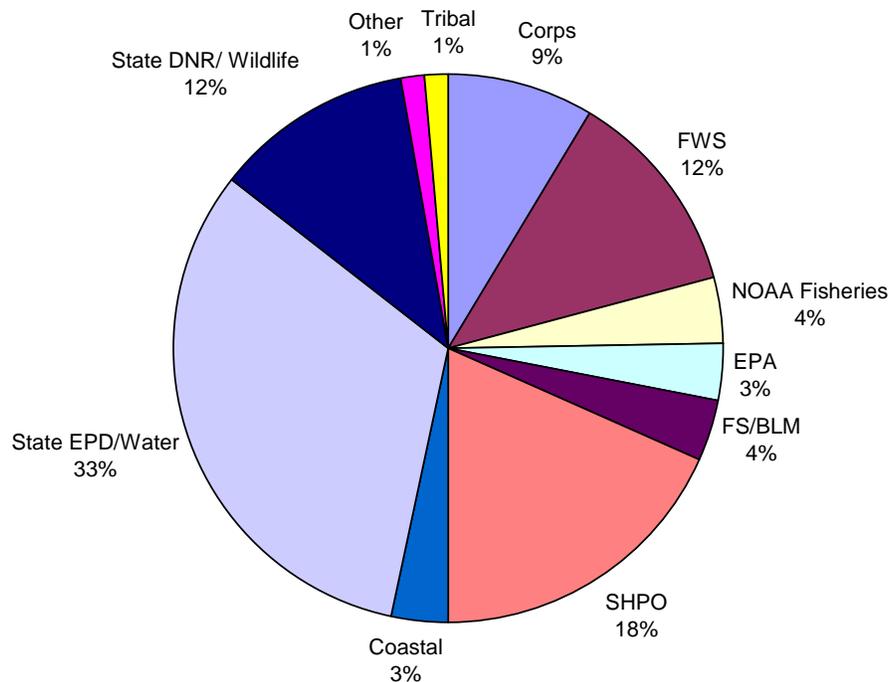
Thirty-four DOTs (68 percent) support positions at resource agencies, a slight increase from 2003. Only a couple states joined the ranks of those funding positions, whether directly or through services contracts of some sort. States accomplished the increases in a wide variety of ways. In some cases, DOTs were forced to drop positions or more creatively add or maintain positions, after state referenda or legislation disallowed funding transfers between agencies.

While the growth of positions overall slowed somewhat from a 36 percent increase between 2001 and 2003 to a 24 percent increase over the past two years, this slower growth may be deceptive; positions counted for 2003 included those that DOTs had planned to be implemented; 2003 figures were adjusted for those that never materialized that year. In 2003, this included all of the positions FDOT planned to fund at resource agencies to support the state's ETDM program, even though some were implemented later. Also, before NCDOT's EEP was completely up and running, the state may have counted some of those positions among those it funds at other agencies.

Key findings with the most recent census are as follows:

- One third of all DOT funded positions are at federal agencies; two-thirds are at state resource agencies.
- Positions at natural resource agencies comprise 79 percent of all positions. Those at tribes and/or state community or planning agencies or the SHPO total 21 percent.
- State Historic Preservation Offices (SHPOs) continued to add DOT-funded positions at a relatively high rate, 53 percent since 2003, for a total of 50.5 nationwide.
- State environmental protection departments or agencies with water quality administration responsibilities still have the largest number of DOT-funded positions, 86 in 2005. Increases are still occurring there, as evidenced by a 22 percent increase from 2003.
- The U.S. Army Corps of Engineers (Corps) increased their number of DOT-funded positions by 38 percent, with a 2005 total of 23.5 full time positions.

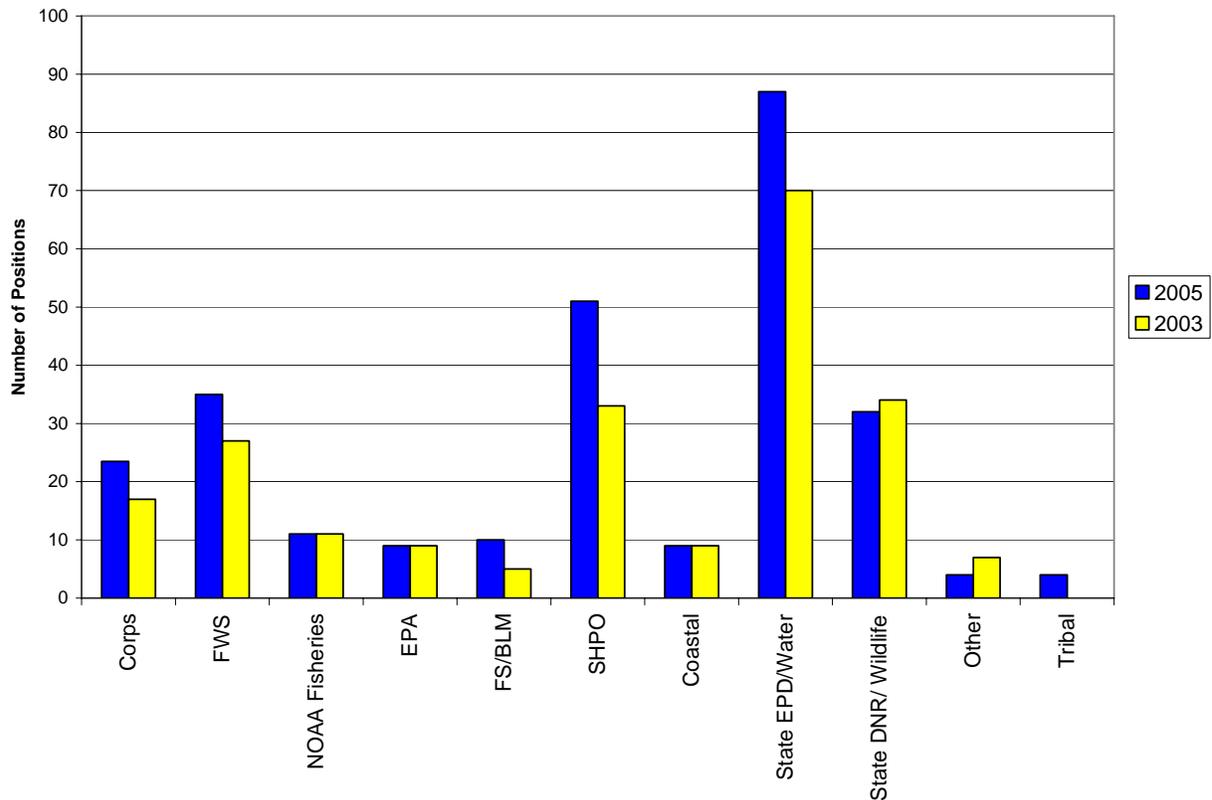
**Figure 1: Distribution of DOT-Supported Positions at Resource Agencies and Tribes**



- The U.S. Fish and Wildlife Service continues to benefit from the largest number of DOT-funded positions of any agency, now 34 nationally, a 26 percent increase from 2003.
- The number of positions at NOAA Fisheries has remained the same with 11 positions nationwide.

- EPA has the same number of positions in 2003 as well (nine total), though some states have added and some have dropped. Some states have plans in the works to add positions not yet recorded here.
- The Forest Service and BLM have separately the smallest number of positions (10 combined), but additions at the Forest Positions Service create the largest percent increase in positions at any federal agency.
- Coastal and other agencies remained relatively flat, with only a small increase for other state agencies.
- State DNRs, with a much smaller total of 32 positions, lost three positions since 2003, producing a 6 percent decrease. Inclusion of NCDOT's EEP program, funded at the state's DENR would produce a large swing in the opposite direction.

**Figure 2: DOT-Supported Positions at Resource Agencies, 2003 and 2005**



### ***Tribal Funded Positions Are Beneficial***

According to the latest data, two state DOTs have funded positions with tribes. A key example is WSDOT's Tribal Liaison office, which provides a central contact point for tribal access to the DOT's transportation plans and programs. The office also coordinates government-to-government training for WSDOT staff in tribal sovereignty, history, and culture and Indian employment rights on DOT projects.

In addition to the project problem-solving role of all types of funded positions, DOT tribal funded positions:

- Help establish and maintain communication between WSDOT staff and tribal government offices in areas of policy, planning, real estate, cultural resources, natural resources, and Tribal Employment Rights Ordinances (TERO).
- Improve coordination and communication with the Bureau of Indian Affairs.
- Act as a point of contact for other state agencies and tribal funded positions, national and regionally, regarding projects, resolving issues, or promoting partnerships in joint ventures.
- Assist in establishing processes to effectively gain tribal participation in community focused processes.
- Support technical training programs for tribes and the public including data input into the State Transportation Improvement Plan (STIP), cultural resources and NHPA Section 106 Compliance, and Federal-Aid highway financing process.

Rhode Island DOT is replacing its previous support to a tribe with a lump sum to provide funding to that tribe; in the future, the tribe will choose which projects to participate in, alleviating the project-specific paperwork previously required.

### ***Some States Fund Services in Lieu of Positions***

A number of state DOTs are providing funding for services in lieu of direct funding of positions.

For example, in each of these two cases, the DOT considers the program to be separate from the positions they fund at resource agencies, which primarily focus on early consultation, project delivery, and streamlining goals.

- Florida DOT contributes \$550,000-\$600,000 annually to the University of Florida to manage the Florida Geographic Data Library (FGDL). The FGDL has developed tools to access, navigate, and analyze the state's GIS data. In addition, FDOT contributes a large number of data layers helpful to FEMA and local jurisdictions, including bike paths, trailways, culvert outfalls, and assistance to statewide greenways program. Graduate student labor at the University of Florida adds to the program's overall efficiency.
- In the North Carolina Department of Environment and Natural Resources (DENR) Ecosystem Enhancement Program (EEP), "51 employees are producing wetland and stream mitigation based on forecast impacts by the DOT and according to protocols of the MOA" signed by DENR and NCDOT and funded by state transportation dollars. The program is intended to expedite project delivery and focus mitigation investments where they can do the most good for water quality and watershed restoration. EEP is administered separately from the NCDOT and its funded position program. The funded position program entails a documented request process and oversight from the NCDOT environmental office. EEP oversight is conducted at a higher organizational level and in greater detail, tantamount with the state's investment in the program. EEP is an outgrowth of the state's long-running Wetland Restoration Program, administered by DENR, and the state's commitment to watershed planning, on the state and local levels.

For the purposes of this report, cases where funding for services was specifically directed toward support of positions or prescribed performance standards (whether that was assigning a DOT staff person to actually do the work or the resource agency assigning someone themselves) were counted in the master table of positions funded by all state DOTs (see Appendix A). All calculations are based on the 50 states (i.e., not on 52 entities, for consistency with expression of percentages from the 2001 and 2003 surveys). The Texas FHWA Division is counted in conjunction with Texas DOT (TxDOT), as positions are funded for similar purpose as in other states, and with state DOT approval and funding that would otherwise go to the state's highway program.

### ***Partnerships Are Growing***

Although none of the DOTs reported underwriting positions at local agencies, they indicated that other types of partnerships are growing. Such partnership efforts include the following:

- Maine DOT funded “Beginning with Habitat” to develop habitat and natural resource maps for 14 towns as planning/screening tools.
- Iowa DOT has a number of local roadside native vegetation improvement partnerships.
- WisDOT has a pilot program working with FHWA on projects in the southeastern part of the state, working with a Regional Planning Agency.
- NJDOT has also reached out to Metropolitan Planning Organizations (MPOs) to enhance environmental analysis at that level.
- Florida DOT has incorporated MPOs into the state's Efficient Transportation Decision Making (ETDM) process and trained MPO staff on use of the Environmental Screening Tool for transportation projects. FDOT plans to add to this effort and use consultants to support MPOs' contribution to ETDM.
- Colorado DOT initiated a program with the Denver Regional Council of Governments where the MPO formally reviews purpose and need, project description, and objective in relation to the Regional Transportation Plan and the region's growth management plan, MetroVision. Another MPO in Colorado will be modeling cumulative traffic impacts to be used in four NEPA processes for CDOT projects.
- At WSDOT, the Transportation Permit Efficiency Accountability Committee (TPEAC) includes a local government task, which develops training and outreach opportunities, identifies programmatic permit needs, and evaluates variations in how exemptions are granted for routine maintenance projects.
- UDOT and FHWA have a cooperative agreement with a city to fund transportation and land-use planning analyses as part of environmental streamlining activities associated with EIS development for a new roadway in southern Utah.

### ***Various Reasons for Dropping Positions***

Although funding of positions is on the rise nationally, a small number of states terminated positions. In some cases, DOTs added capacity in other areas based on their needs.

States that dropped positions did so for a variety of reasons, including:

- Passage of state legislation or a constitutional amendment prohibiting transfer of funds to federal agencies or other state agencies, eliminating diversion of state highway funds to other state agencies and affecting financial support for DOT-funded positions.
- Change of policy on interagency transfers, with change of administration.
- Decline in overall project workload in some states.
- End of a large project that had absorbed most the position's time.
- Expiration of temporary agreement with a resource agency to fund someone who otherwise would have lost their position, in order to retain experienced personnel.
- Diminishing overall project load in some states, especially where an agency only bills for hours or projects worked.
- Shift to alternative arrangements to achieve the desired capacity (see explanation provided below).
- Inadequate performance.

Performance and/or inability to find qualified personnel were cited in only a couple cases. In one case, the resource agency chose to handle their dissatisfaction with the person by deciding that the funded position itself was not really needed. A couple DOTs dropped a funded position at an agency when improvements in turnaround times could not be achieved.

At least one DOT has decreased their external support due to bringing the position in-house. Colorado DOT (CDOT) is already one of a small number of DOTs employing a DOT staff person located at a resource agency. This year, CDOT will bring in-house their remaining position funded as a resource agency position, at the request of and with the support of the Colorado Department of Public Health and Environment. The primary reason for this was the individual's workload distribution at the agency; moving the position in-house (as a DOT employee and in terms of location at CDOT) presented a way to achieve an overall increase in capacity. To keep up with a doubling of the number of EAs and EISs underway since 2002, CDOT has also nearly doubled environmental staff on a regional level.

Three other DOTs experimented with funding positions and discontinued them when they did not work out. Limited assistance, lack of role definition or utility, and focus on finding violations rather than problem solving or providing technical assistance were factors agencies cited for discontinuing positions. One DOT is exploring reinitiating the program and the other has continued to add positions in other areas.

### ***Some DOTs Plan to Increase Funded Positions***

Seven states indicated plans to increase the number of funded positions. Two states that do not currently fund any positions are in preliminary discussions to add them. A few others expressed the desire to fund positions with federal agencies already if they could work it out. In one state case a federal agency (USCG) did not think they could have a federal position funded by a DOT. DOTs that are increasing their number of funded positions are largely focused on earlier problem identification and issue resolution, to deal with perceived bottlenecks in the process.

## **Chapter 3: Other Methods of DOT-Funded External Support**

### ***More than 80 Percent of State DOTs Fund External Support for Environment***

The latest data show an increasing dedication to environmental concerns within transportation agencies, with more than 80 percent having some sort of DOT-funded external support underway for environmental purposes. This figure includes the 68 percent of states funding positions and 15 percent more funding other types of programs and partnerships.

Only eight state DOTs, the District of Columbia and Puerto Rico have no DOT-funded external support initiatives. Of those eight, some said they were participating on interagency committees for various purposes, including stewardship and streamlining, without funds transferred to other agencies. A group of states that initially indicated no external support for environmental stewardship or streamlining initiatives with resource agencies (including two cases where a DOT funded position(s) with another agency and felt that effort had no streamlining or stewardship benefit), did identify initiatives that support such efforts. In addition, some of the remaining states may have funded environmental research through state universities, although DOT research managers were not contacted for this study.

### ***Support for Mapping and Planning Initiatives***

Aside from funding of positions, the most common means of external support has been support for mapping and planning initiatives. Over half of state DOTs (26 states) have supported mapping or Geographical Information Systems (GIS) data initiatives with other agencies, often accompanied by the development of environmental screening tools for transportation.

Investments in joint mapping efforts contribute to improved project scoping on transportation projects, improved environmental protection by early identification of sensitive resources, and more informed selection of mitigation locations for DOT projects. Information generated through such efforts generally helps other agencies and may be used in resource and land use planning as well. Nineteen state DOTs are working on advance conservation/mitigation site identification efforts.

State DOTs described the following types of mapping and planning initiatives:

- Funding for aerial photo runs and upgrades of high-resolution aerial ortho-photos (aerial photographs that have the properties of a map) from natural color or black and white to color infrared.
- Landscape/watershed modeling of wetlands, water quality, or habitat connectivity for future conservation and/or restoration.
- Scanning and GIS digitization of natural and cultural resource information previously only available in hard copy.
- Predictive models for archaeological sites.
- Identification of roadkill areas, potential crossings, and development of an interagency system for tracking and analysis.

- Contributions to maintenance of state Natural Heritage Program (NHP) GIS on rare species, so that the DOT can access this information and preserve confidentiality of location records where needed or have NHP staff do this for them.
- Completion of wetlands and other important habitat mapping, not previously captured, including cooperative efforts with U.S. Fish and Wildlife Service National Wetlands Inventory and state resource agencies.
- Environmental screening of long-range transportation plan projects by resource agencies.
- Development of a State Wildlife Connectivity Plan and associated transportation screening tool.

### ***Other DOT-Funded Partnership Efforts with Agencies***

Aside from cooperative GIS initiatives, other partnerships reported by DOTs included:

- Development of outreach, training, and guides for the contracting community to enhance environmental compliance.
- Joint work with other state agencies to development Environmental Management Systems.
- Multi-agency development of data for streams in the state, by physiographic region and by Rosgen stream type, to help define stable reach characteristics for use in highway and bridge construction and maintenance projects and in-stream channel restoration and mitigation projects.
- Development of multi-agency programmatic permits and web-based joint application permits.
- Public education on water quality, through the state environmental agency, as a partnership effort in fulfilling National Pollutant Discharge Elimination System (NPDES) Phase II requirements.
- Studies on threatened and endangered species.
- Identification of needed fish passage improvements.
- Partnership training programs with the state wildlife agency on wildlife habitat and crossing areas, funded by the DOT.
- Partnerships with local entities for restoration of roadsides with native plants or eradication of invasive species.
- Multi-agency development and testing of measures to prevent animal/vehicle collisions, including funding for production and distribution of promotional materials (brochures, crash location maps, etc) and planning, installing, monitoring prevention measures.
- Contributions to total maximum daily load studies and watershed improvement plans.
- University affiliated technical assistance and training for Context Sensitive Solutions.
- Air quality programs at the state environmental agency.

- Archaeological curation systems, plans, and facilities.
- Establishment of protocols with the State Historic Preservation Office (SHPO) for cultural resource impact analysis.
- Provision of funding to a tribe to develop a model NEPA consultation process that could be used by other tribes in developing their own consultation process.

This list does not reflect the still wider array of university research partnerships pertaining to the environment, which are known or likely to exist. On the environmental end, many of the latter focus on the effectiveness of erosion and sedimentation controls and anti-icing and deicing compounds.

### ***Partnerships with NGOs Increasing***

Partnerships with non-governmental organizations (NGOs), such as the Nature Conservancy, are emerging for conservation/mitigation site identification and management and invasive species.

For example, in 2002, NYSDOT contributed \$15,000 to the funding of the salary of an Invasive Plant Field Manager for the Adirondack Park Invasive Plant Program (APIPP). This person was an employee of the Adirondack Nature Conservancy (TNC) and office expenses were provided by TNC. This person had primary responsibility for the development of an invasive plant inventory and implementation of control projects along state highways within the Adirondack Park. In 2004, NYSDOT contributed \$30,000 to TNC for the salary of the Program Manager for APIPP to coordinate all APIPP Programs, develop of information and education materials for APIPP, and for public education and outreach on invasive species control within the Adirondack Park. In 2005, FHWA is funding an Invasive Plant Scenic Byways Project in the Adirondack Park, a portion of which will fund the APIPP Program Manager located at TNC. TNC continues to provide office space and administrative costs associated with the position.

In Florida, the state funded 1000 Friends of Florida to jointly host public meetings and workshops across the state to get feedback on FDOT's proposed ETDM process. Support from environmental organizations has given the process even greater credibility and attracted the attention of environmental organizations and resource agencies nationally.

Mitigation/conservation sites are frequently identified by teams of professionals from state and federal agencies, in cooperation with watershed groups or other NGOs that have engaged in watershed or ecoregional conservation planning work. In Washington State, legislatively established non-profits, called Regional Fish Enhancement Groups (RFEGs), have received transportation funding to identify areas for potential enhancement and advance mitigation by WSDOT. In some cases, the RFEGs carry enhancement projects through to implementation. In two states, a third-party non-profit handles the state's in-lieu fee mitigation. Caltrans, CDOT, Montana, and Arizona DOTs have partnered with resource agencies and NGOs to identify habitat linkage areas. The Nature Conservancy typically invites DOT environmental specialists or managers to participate in ecoregional planning and conservation site prioritization efforts. Universities and resource agency specialists are also involved, and ecoregional conservation plans now have been completed for the lower 48 states. These and other efforts are important stepping-stones in innovative partnerships to increase both environmental stewardship and process efficiency.

## **Chapter 4: Administrative Aspects of DOT Funding Arrangements**

### ***Decisions to Fund Positions Require Senior Management Support***

Typically the decision to fund positions at another agency starts with an interagency discussion between the DOT environmental office and the agency facing difficulties handling DOT workload. Decisions to fund a position at another agency almost always entail senior DOT management support. Instigating factors in DOT management consideration have included the large increase in a DOT's program from federal transportation bills, state resource initiatives, high profile transportation projects, and discussions about the importance of DOT proactive avoidance of environmental violations. Decisions to create a funded position program adding a substantial number of positions or for specific process improvement initiatives (e.g., NCDOT, WSDOT) often required a special legislative allocation or additional budget requests (e.g., Caltrans).

After a DOT's support for the funded position program was up and running, annual renewals or decisions to modify or increase the level of support are sometimes made at a lower level than that required to initiate the program, with written justification of workload or project delivery needs. Although agencies are beginning to try to document baseline services being provided prior to starting a new position, most positions have been added without baselines established.

Heavy workloads were also cited as a main reason to continue funding positions, although increasing workloads or capital programs were not a factor in all cases. In Arizona, officials noted an increase in smaller projects requiring more individual attention that needed to move forward. Several DOTs mentioned a funding squeeze at a resource agency as a factor in the need to fund positions. However, some DOTs did raise concerns about increasing resource agency dependence on DOT funds.

### ***Formal Approaches for Position Requests Have Been Developed***

Two states have developed formal approaches for position requests. For example, NCDOT uses an agency request form and requires documentation of baseline level of services, though the agency reports continued difficulty in actually establishing such a baseline. The request also includes questions on:

- Functions to be provided by the requested position;
- Whether such functions are new, expanded, or existing;
- How much the function will be expanded;
- Expected efficiency gains (quantity and quality);
- Whether the request is associated with specific initiatives; and
- Whether the agency has made an internal request for more staffing, and if not, why not.

NCDOT's environmental office consults with other Branch Managers as needed and makes a recommendation on the request; NCDOT's Board of Transportation then considers the request and usually approves it. If funded, a detailed job description and proposed budget are prepared by the requesting agency and submitted to the Program Administrator, who then prepares the

interagency Reimbursement Agreement. Invoices are usually submitted on a monthly, quarterly or yearly cycle, depending on the agency and terms outlined in the Reimbursement Agreement. Reimbursement Agreements are legally binding and set forth the terms of the contract for a minimum of three years and preferably four years, to allow for recruitment and retention of qualified people.

### ***Most Support Arrangements Use Customized MOAs***

Agency-specific agreements or customized MOAs are developed for most resource agencies and positions they support. Payments to resource agencies are often transferred on an annual or quarterly basis. In some cases, payments occur monthly. Funding still may occur via a lump sum payment or may be tied to actual expenditures for time spent on review on a project-by-project basis.

A small number of states used Intergovernmental Personnel Act (IPA) agreements, particularly for staff at federal agencies. IPA agreements often have term limits, which have contributed to loss of experienced personnel when the term expires. Having sustained such losses and subsequent time re-training replacement staff, one DOT questioned why some federal agencies are using restrictive term limits and others seem to be able to keep a person in a position under an IPA agreement for ten years or more.

At least two states are in the process of developing overall Statewide Interagency Streamlining Agreements, and then plan to work individually with different resource agencies to fund positions. Existing agreements like these range from relatively non-specific (“group hug” agreement as one DOT described) to providing a detailed framework for agency interaction, data provision and consideration, and timely decisionmaking (such as FDOT’s Master Agreement). TennDOT is working on a less involved approach through the drafting of an interagency agreement, which will still “lead to quite a few new positions.”

### ***DOT Services Contracts with Other State Agencies Often Fund Positions***

In some cases, state law or new policies have prevented DOTs from directly funding positions at federal agencies or other state agencies. Missouri, Minnesota, and Texas are now prevented from funding positions at other agencies (federal agencies in the case of Texas) by state law. In Missouri and Minnesota, positions were discontinued when the state law went into effect. In Texas, the FHWA has agreements to fund positions at EPA, FWS, and the Corps, without involvement of TxDOT but using funds that otherwise would have been allocated to the DOT. TxDOT comments that the department “has avoided many transactional and administrative problems by not funding federal positions directly.”

State DOTs have dealt with this more restricted environment by funding “mobility staff” (i.e. deploying their own staff), funding consultants to work in resource agency offices, or funding “services agreements” where the receiving agency then “chooses” to fund a position. While a verbal understanding that a position will be funded is almost always in place, the agreements themselves are more and less specific in alluding to the actual position. The Idaho Transportation Department (ITD) has an agreement with the Idaho SHPO and the Idaho Department of Fish and Game wherein ITD reimburses them for the time they spend on ITD projects. In this case, funds may be paid from specific project budgets with federal participation.

With state agencies, TxDOT preferred to focus on services to be delivered rather than personnel. Their agreements provide funds to the Texas Historical Commission (THC) for expedited consultations/document review services (20 days instead of 30), and travel to and participation in project meetings and field visits. TxDOT funds the Texas Commission on Environmental Quality (TCEQ) to facilitate and expedite review of TxDOT Edwards Aquifer Protection Plans and fulfill any fee requirements for the Edwards Aquifer Protection Program that might have otherwise been paid by individual projects. Both agencies have used the DOT funding to add positions to provide these services.

In other cases, DOTs transfer money to other agencies without a contract for services or any expected positions. An example is the Illinois DOT funding for the vehicle inspection program and the air quality unit of the Illinois Environmental Protection Agency (\$30 million annually). Illinois DOT does not consider it a fee, but “more like the Department’s way of paying our fair share of the analysis necessary for ensuring that transportation plans and programs conform to the state implementation plan.” No accountability mechanisms are in place.

### ***Funded Positions Are Usually Employees of Resource Agency***

DOT-funded positions are usually employees of the resource agency where they work, and as such the positions count toward the resource agency’s full-time position limits. Only one state DOT shifted part of its own allocation to a resource agency for the purpose of funding positions, and that DOT noted it would not do so again because of the unpopularity of the loss of positions at the DOT.

In addition, full-time position caps are an issue for many state agencies. Some states have handled this by having all positions be temporary, “at least on paper.” Temporary or term positions have become a major factor in turnover in some cases, or have resulted in difficulty recruiting staff with the desired level of experience. In one case, a DOT cited a cap at the DOT as a principal reason for funding positions at resource agencies. In another case, extra positions were left after a reduction in force at a resource agency, which the DOT then used to hire “liaisons,” not only for that resource agency but others. These positions were all technically employees of the first resource agency.

In another case where a resource agency was losing staff, a DOT developed a separate agreement to ensure that DOT projects would still receive priority and “go to the top of the pile.”

In some cases, the DOT had positions but the resource agency did not. In a state where hiring freeze and position limits at the SHPO prevented hiring additional staff as the funding agreement had specified, the DOT and the SHPO creatively solved the issue by beginning a staff rotation program. DOT cultural resources staff rotated to work at the SHPO, usually working on non-DOT projects, which freed up SHPO staff to work on DOT projects. This lasted for periods of six months or more. Several years later, the SHPO has obtained approval to hire new staff, but the rotation program was found to be sufficiently valuable that the DOT plans to continue it, subject to staff availability and interest.

### ***DOT Contributions Have Prevented Layoffs at Some Resource Agencies***

Not all DOT contributions have expanded capacity at resource agencies; instead some DOT resources for funded positions have prevented layoffs of experienced personnel or supplemented general operating expenses. In general, the DOT managers that mentioned this did not identify

the absence of extra capacity as a problem; both agencies are focusing on turnaround time and achieving timely response on the resource agency end regardless of other staffing losses.

In some cases, DOTs are helping resource agencies accomplish other important objectives outside of staff/capacity retention, such as providing support for joint mapping efforts and other agency initiatives. One such example, which did not involve funds transfer to another agency, is TxDOT's planned use of in-house contracting services to inventory USFWS records and combine that data into the Texas Parks and Wildlife Department's Natural Diversity Database (NDD).

### ***DOTs Assign Staff to Serve at Resource Agencies***

A handful of DOTs are assigning their own staff (or specifically hiring staff) for the purpose of working at a resource agency. This has been accomplished with and without Intergovernmental Personnel Act (IPA) agreements. Some federal agencies have felt IPA agreements were necessary for them to be able to "accept" the positions. When used, IPA agreements have imposed different terms, some as short as two years, others allowing up to six years. Two-year terms have been a source of turnover problems and difficulties with bringing in new, inexperienced staff. Some agencies with six-year terms are just now looking into alternatives and/or potential exceptions to avoid losing experienced staff. Where an IPA agreement was not used, employing a DOT staff person at the resource agency was regarded as a way to provide stability and continuity, while avoiding any impacts to the DOT from potential reductions in force at the resource agency.

When DOTs assign their own staff to positions at resource agencies, DOTs and resource agency staff emphasize that the positions are compiling information and preparing documentation, not performing final review for the resource agency in question. Both agencies take care to avoid a conflict of interest, ensuring from the DOT side that the position/staff person has latitude and independence to operate as if they were a resource agency employee. At the resource agency, the staff person's work is reviewed by a supervisor who actually signs off on the permit, letter, project agreement, or opinion. Alaska, Colorado, and Washington have such arrangements. Although not included in the types of positions counted in this survey, TxDOT added an internal position, called a permit assistance officer, to serve as a funded position with the Corps of Engineers and work out of two different Corps offices. This position differs from funded positions or services contracts because the person is not carrying out Corps work or permit preparation. Nevertheless, the purpose of the position is similar to that of DOT-funded positions at resource agencies: "streamlining the permitting process and fostering a working relationship based on trust."

### ***DOTs Are Funding Professional Level Positions***

The 2005 census collected information about the professional level of staffing in a common classification system, as each state's government service levels differ somewhat. States are sufficiently familiar with the federal government service (GS) system that they were able to estimate the GS levels of staff they fund. States commonly stipulated GS level in the funding agreement for the position, given the direct relation to that level to qualifications of staff to be hired and funding to be supplied by the DOT. GS levels in use by states ranged from GS-7 to GS-13, with GS-11 and GS-12 positions the most common. Of states funding positions, the average funded position was between a GS-11 and GS-12.

In a few cases, said they attracted insufficiently experienced staff to the positions, and that the agencies discovered that higher-level positions were needed. Few agencies tried to hire at a GS-7/9 equivalent, and one that did reported staff to be too inexperienced to be effective. In a few other cases, clerical or intern-level staff were hired to free up the time of experts at the resource agency, an arrangement that has been reported to work well.

Several DOTs reported challenges in trying to ensure consistency of grade levels funded at the DOT and at the host agencies. In two cases, the DOT indicated that the funded positions often tracked (higher) federal pay scales. In such cases, one agency said, “we would be funding positions somewhat equivalent to some of ours, but at much higher pay grades,” a prospect which created heartburn among DOT staff. Another DOT reported they could not raise internal environmental staff salary levels because of equity with others at the resource agency.

Occasionally, a resource agency has requested a higher grade level of position, either to reduce turnover or fund a promotion (one DOT refused out of desire to keep technical level staff rather than create a supervisor). In another case, the DOT expressed willingness to hire at a higher grade level, but the agency used their current requirements to assign a lower grade level. Within a grade level, agreements often build in step increases over multiple years.

### ***Turnover Has Been a Problem in Many States***

Twelve of the 34 state DOTs funding positions indicated they had experienced turnover problems with the funded position. Frequently, problems were related to the lack of permanent positions and the related loss of (or ability to attract) qualified personnel. In a couple cases, lower level personnel (students, interns, or clerks) have been provided by the DOT to free up the time of existing qualified staff to help review DOT projects and solve issues that may arise. In one case, the DOT used unilateral authority as provided by the agreement to terminate a staff person, and both agencies have been happy with the replacement. In another other case, a resource agency decided not to renew the agreement based on personnel issues and feeling of poor “fit.” The DOT concurred.

In some cases, trained resource agency staff with a high degree of knowledge of transportation issues have moved on to other positions of authority where they can employ their problem-solving skills and knowledge in even more influential ways. For example, PennDOT and TxDOT’s former EPA funded positions are now facilitating a voluntary “green highway” forum and stewardship effort and looking at environmental performance standards.

### ***Most Positions Located at the Resource Agency***

Funded positions are almost always located at the resource agency. One DOT reported making a workstation available at the DOT so that the funded position is available in-house on an informal basis one day a week. CDOT is re-locating one funded position in-house. In Texas, FHWA provides office space for an EPA funded position.

The practice of co-location—locating multiple agencies in a common office with one primary goal—has been implemented in a few instances and has been successful. In 2003, three Washington State agencies and one federal agency decided to co-locate personnel in a common office. This Multi-Agency Permitting (MAP Team) identifies potential permitting risks, develops cooperative processes and solutions, and provides a unified package of environmental information to the project manager at an earlier point in the process than previously occurred.

WSDOT found that this arrangement helped to reduce environmental impacts and keep the projects on schedule. The team is comprised of engineers, biologists, and project managers from the Washington State Department of Ecology, the Washington State Department of Fish and Wildlife, WSDOT, the U.S. Army Corps of Engineers, and King County. Team members are internally accountable to each other, as well as reporting regularly to a steering committee comprised of individual supervisors from each agency. Performance measures and business results are presented to the directors of all five agencies every quarter. The team is funded and led by WSDOT and currently oversees 45 projects in WSDOT's Northwest Region. On average, permits are authorized approximately 45 days from the time of a complete application, and to date, no MAP Team permits have resulted in a project delay. The MAP Team goal is to permit the projects at least 60 to 90 days prior to the project contract advertisement (so far their average is 82 days). The team also aims to process permits quickly and accurately, work out conflicts, and reduce the chance of delays. Co-location allows the MAP Team a natural forum for identifying, debating, and resolving conflicts that arise during project review, design, and permitting. The cooperative attitude of team members, combined with encouragement from each agency, contributes to a "can-do," problem-solving environment. The team has:

- Defined WSDOT and regulatory agency expectations for a complete application.
- Implemented early Project Coordination meetings and response letters to identify project risks and opportunities.
- Created and implemented the first Washington State Interagency Design Build Permitting Process.
- Worked on testing the new On-Line - Joint Aquatic Resource Permit Application (JARPA).

The team also identified further improvement opportunities within each agency including: wetland mitigation site selection, design, and long-term site management and monitoring; stormwater design guidance; guidance on documentation of alternatives analysis; and a policy on improvements in fish passage and habitat design.

Other examples of co-location positions include Colorado DOT's co-location with the Regional Transportation District during the I-25 transportation expansion project, a model that has been employed elsewhere. In addition, the Alaska Pipeline office co-located multiple agencies, providing a model that the Alaska DOT is now trying to implement with resource agencies. In Alaska's model, all agencies would have a representative for dedicated review of state transportation projects. The DOT is seeking federal funding.

### ***Co-Funding a Position Uncommon***

Agencies rarely consider co-funding a position with another agency or adjacent state DOT. Although Kentucky and Iowa had considered such arrangement, they are no longer exploring the possibility. Oregon is the only state to indicate potential interest in this option. New Mexico cautioned against this approach, reiterating what other DOTs found when they shared a position with other transportation entities in the state: problems can emerge with the position accumulating other duties and having less time available for the work the DOT is funding.

### ***Overhead and Travel Are Usually Included in Agreements***

Travel and general overhead are usually included in the funding arrangements. In the few instances where overhead was not included in the agreement, expenses were often included in subsequent revisions of the agreement. One DOT has taken a firm position that overhead should not be necessary, given the contribution the DOT is already making in supporting the positions. In yet another case with DOT employees detailed to a federal agency through an IPA contract, the federal agency provided work space, equipment, training, and travel, and the DOT had provided further travel support to increase site visits and invest in additional training opportunities for the funded position. Computers and computer upgrades usually are not included in funding arrangements.

### ***Annual Reporting to Senior Management Usually Not Required***

Once support for the funding program was obtained, senior management typically did not require extensive reporting to their level. In most cases, managers indicated they were asked to provide an occasional (verbal) update or a short item on the status of the program as part of larger annual updates. At least one DOT forwards the resource agencies' annual performance summary to executive management; the information contained in these is considered sufficiently sensitive that it could not be included among the sample tools accompanying this report. Larger programs such as NC's EEP and FDOT's ETDM have significant reporting requirements with senior management and FDOT, at least, is looking into how to automate performance tracking to minimize the contracting burden and facilitate reporting. In some states, FHWA has required the DOT to maintain performance data that could be audited at any time.

### ***Training and Support for Agency DOT-Funded Positions***

Many DOTs offered funding and support for agency positions and encouraged travel for training, conferences, and other opportunities. A few felt that the resource agency should cover such needs, given the DOT's contribution in covering a salary and other expenses. DOTs have relied on the National Highway Institute's classes on NEPA and transportation decision making, secondary and cumulative effects analysis, linking planning and NEPA, Section 4(f), Section 106, and others. A few DOTs mentioned sending FWS staff to receive training on the Endangered Species Act (ESA) Section 7 process at the FWS National Training Center. On-the-job-training and attendance at national Transportation Research Board (TRB) meetings also were identified as training methods and opportunities. DOTs also use internal training at the DOT and at the resource agencies.

Caltrans aims to have all of their resource agency "reviewers" attend their week-long Environmental Academy, which provides an introduction to Caltrans' project delivery process and environmental procedures. Ohio DOT offers a similar two-week course, which is required training both for DOT-funded positions and DOT consultants. South Carolina DOT developed a "Transportation 101" orientation for funded positions.

DOTs have been involved in the design and development of a number of other customized courses that have been used for training funded positions and others both inside and outside the agencies:

- Caltrans and the SHPO developed and delivered joint training on their Section 106 Programmatic Agreement.
- Caltrans developed a new class on “Design, Construction and Maintenance for Environmental Personnel,” which they intend to deliver to agency staff.
- Florida DOT provides active, on-line training using the Environmental Screening Tool (EST) associated with the state Geographic Data Library. Personal training is done on the ETDM process overview, FDOT’s PD&E Process (i.e., NEPA) training, and computer/EST use.
- The Idaho Transportation Department and FHWA are working on material to better define and illustrate transportation terms and types of projects, i.e., what a seal coat is, etc.
- NCDOT has developed and/or underwritten training in Context Sensitive Solutions and Rosgen method stream channel assessment and restoration design methods for a wide range of staff, including funded positions.
- Mississippi DOT has sponsored courses on Clean Water Act Section 404, Wetland Delineation, and Stream Restoration.

### ***Dispute Resolution Processes***

Almost all agencies with DOT-funded positions resolve disputes informally in phone calls or in meetings. The agencies are typically careful to separate project issues, about which differences of professional opinion are to be expected and addressed, from potential personnel conflicts. Personnel administration is most commonly the province of the resource agency, though DOTs may provide input to annual reviews or with regard to the funded position program with the agency. Such discussions most often occur at the time of annual contract renewal and review.

Specific dispute resolution provisions are not provided in most agreements for funded positions. However, some simple conflict resolution provisions in DOT-resource agency agreements identified the possibility for elevation to the resource agency regulatory office manager and the DOT Environmental Manager.

Florida DOT is unusual in their highly detailed conflict resolution system for agency participation in screening on the planning, programming, and project levels. In general, projects that have issues flagged for resolution will not progress to the next level until the identified issues are resolved. The District FDOT ETDM Coordinator for Environmental Technical Advisory Team (ETAT) representatives from each agency has the first line of responsibility for working with the appropriate ETAT representatives to address all known conflicts or issues, at the agency staff level. The FDOT ETDM Coordinator has the authority to make FDOT commitments to further resolve conflicts, such as requiring specific technical studies, considering alternative project concepts, and exploring mitigation options recommended by the interagency ETAT for that District. Any conflict that cannot be resolved through agreement with

the FDOT Coordinator may be referred by FDOT to a subteam of ETAT agency representatives. The ETAT subteam has the authority to:

- Resolve and document the issue or conflict through consultation.
- Require FDOT's completion, correction, or expansion of plans and feasibility or technical studies for the disputing parties to review.
- Advance a project, upon agreement of the disputing parties.

Any conflict not resolved by the ETAT subteam may be referred by FDOT to the local agency heads of the disputing parties for resolution, and can be appealed higher from there.

In another state, documents supporting WisDOT's funded position with the state Department of Natural Resources includes an agreement on conflict resolution.

## **Chapter 5: Performance Measurement for DOT-Supported Positions**

Many DOTs stated that if there was an area where they really needed to improve, it was performance measurement. DOTs are devoting substantial effort to developing performance measures for funded positions that are reasonable and quantifiable.

DOTs frequently stated that initial rounds of agreements lacked performance measures, or if they were included, “they really weren’t very measurable” and in some cases were “unuseable.” About half of states supporting positions indicated they now include performance measures in contracts. Increasing effort has gone into developing measures that “are reasonable and quantifiable – but that don’t require the agencies to track a lot of information that they wouldn’t otherwise track.”

Contracts are not always in place with the other agencies. Where a contract was not in place and a DOT employee was just detailed to another agency, special performance measures were sometimes instituted due to the unusual nature of the position and assignment at the service of another agency. As evidence of the value of the position grew, performance-reporting requirements were reduced over time. Provisions for renewal on an annual basis were common, and discussions between the agencies often occurred at that point. In most cases, DOTs and resource agencies are including performance measures in contract revisions.

Descriptions of performance measurement systems in use at some of the leading state DOTs are included in Appendix D.

### ***Documentation of Baseline Services is Infrequent***

Agencies are beginning to document baseline services, such as permit turnaround times and number of consultations that were being achieved prior to adding the funded position(s). But in most cases positions have been added and continue to be added without getting this information. Many DOTs said they wished they had baseline information. Some had tried but had not been able to obtain it. Others felt that it would not have been possible to generate such data with any accuracy. Some indicated that qualitative aspects, such as ease or smoothness of the permitting process, were more important. Several state DOTs indicated they had noticed a more cooperative, less adversarial relationship with the resource agency after the DOT-funded positions were in place.

Once positions are in place, many states track turnaround times to ensure that project deadlines are met. One DOT indicated that having funded positions “enables the agencies to meet, or come closer to regulatory timeframes, which is a definite improvement. (One office) compared the average processing time for the DOT to other applicants, and there is a significant difference.” Colorado DOT documented improvements in times in which concurrence letters and Biological Opinions were received, before and after placing a funded position at FWS and noted an improvement.

In a few cases, FHWA Division offices decides not to participate in funding positions due to a lack of baseline data from the agencies involved. In one FHWA Division office, the Division

Administrator's understanding of personal liability if services "above and beyond" the baseline could not be demonstrated was key in the decision to use state rather than federal funds. Another state DOT reported having been told by an FHWA Division that "the documentation and red-tape required wouldn't be worth it."

The vast majority of DOTs do not have baselines for services performed before and after implementation of positions; documentation and accountability are ongoing challenges. While the DOT has funded additional capacity, many said they suspect or know that other resource agency staff have been diverted to other areas. An electronic timesheet pilot is underway in one state to help monitor and avoid the diversion of DOT-funded staff to environmental review for other entities. One state DOT is lobbying to gain contributions from tollways and transit authorities that benefit from but do not help pay for the funded positions. Still, DOTs value the ability to reach someone at the resource agency and appreciate the knowledge and predictability that comes with having the same staff deal with all DOT projects.

### ***More States Are Attempting to Establish a Baseline***

Increasingly, states are attempting to collect this baseline information. For example, PennDOT is adding more specific language in MOU renewals for its program, specifying that services must be over and above a baseline. PennDOT is trying to put the burden on the resource agencies to define that baseline.

NCDOT is pursuing a similar strategy. NCDOT now uses an agency request form and requires documentation of baseline level of services, although the DOT still reports "challenges" in gathering and establishing this information. The request form also includes questions on:

- functions to be provided by the requested position;
- whether such functions are new, expanded, or existing;
- how much the function will be expanded;
- expected efficiency gains (quantity and quality);
- whether the request is associated with specific initiatives;
- association with specific initiatives; and
- whether the agency has requested its own increase in staffing.

In Florida, each agency provided an initial estimate of needs for an agency's staff participation in planning, programming, and project review. Although not exactly a baseline as the new program had not existed in the past, the estimates gave the agency something to work with. FDOT has been tracking through quarterly reports, the Environmental Screening Tool, and Annual Program reviews the number of reviews each agency conducts, as well as responsiveness and quality of commentary. Now the actual history of ETAT performance will be used "in combination with FDOT assessment of the value added by agency involvement in program and production." FDOT is trying to develop a more complete picture of a baseline, by having all agencies answer a standard set of questions on their process before and after implementation of its ETDM process.

### ***Joint Performance Reviews Are Needed***

DOTs expressed a need to conduct joint performance reviews and to ensure that funding agreements contain provisions for accountability. Of the 34 DOTs supporting positions, eight conduct no review at all (though annual personnel review may occur at the resource agency), and four DOTs conduct a separate review themselves, although they still meet annually with the agencies involved. The remaining states described the reviews as jointly conducted. In some cases, annual renewal of agreements comprised the only review. In other cases, work plans and goals for the following year were developed. In still other cases, joint review occurred monthly or quarterly in conjunction with discussions of priorities and review of hours spent on each project.

### ***Performance Assessment Approaches Vary Widely***

Accountability systems and methods of communicating expectations ranged from daily phone calls to brief review of the contract every three years, and everything in between. Some approaches included:

- Project deadline/performance tracking systems;
- Monthly or quarterly reports;
- Annual reports from each agency;
- Annual reports from each funded position; and
- Customer service ranking surveys circulated within the DOT.

Almost one-third of DOTs indicated that no tools were used to evaluate performance or success. In some of these cases, the DOT had tried to implement more accountability and had encountered resistance from the resource agency. One DOT (Oregon) conducted an intra-agency audit.

A third of DOTs use annual meetings for performance evaluation. Another third of DOTs say they evaluate timeliness in an ongoing fashion. Less than 10 percent of DOTs rely on quarterly reports, which were also identified to be more qualitative and narrative in these cases. One state, that identified inclusion of quantitative measures, said such measures “paint a grander picture” than actual performance; i.e. meeting 90 percent of turnaround targets may still mean that the most important or more complex cases were the ones left undone. Program performance standards have been most commonly developed for the larger DOT-funded position programs.

At least three DOTs distribute surveys within their own agencies to assess satisfaction with the funded positions and the program, often based on the model PennDOT initiated over ten years ago. These surveys typically require justification for high and low scores, and have tended to result in slightly above average scores. PennDOT’s customer satisfaction survey utilizes a numeric scale 1-9, but “all of the agencies wind up with well above 5 (5.5 to 8) so it appears all have done well meeting terms of MOUs.” PennDOT is wrestling with why some are consistently toward the lower end of that scale and others at the high end. The agency has wondered if their system is inflated or if it should be a bell curve. PennDOT program managers have found that the agencies assume that with “above average” work, no follow up or improvement are required, despite PennDOT’s performance questions. Now, PennDOT is re-focusing on turnaround time in MOU renegotiation with all agencies and on working with all of

them to figure out better ways to document the work performed. PennDOT feels the agency is still making notable progress. Previously, officials said, “just getting them down to (turnaround times) required by law was a major effort.” The DOT is also looking at ways to involve resource agency staff earlier, in the planning and programming phase.

Other problems reported by DOTs with numeric customer service surveys have included resource agency staff feeling that a “witch hunt” was being conducted, leading the DOT to conclude that more outreach on the purpose and use of the surveys needed to be conducted in advance.

While meetings and frequent contact by phone or e-mail to discuss permit or consultation status and timeframes are the most common accountability method for new positions funded at other agencies, DOTs are tracking a number of other measures. The most common among these are:

- Number of days environmental documents are at the offices of resource agencies.
- Amount of time sent on each project, projects in general, and non-project administrative work (office meetings, required training, etc.).

Resource agency resistance to performance standards was reported by several DOTs, a few of which have given up trying to implement them. An example comment cited by a DOT from funded staff was: “Do you want us to fill out a report or work on your project?” Nevertheless, most resource agencies have been understanding of and cooperative with the need to document the services provided, to help ensure ongoing DOT support.

### ***DOTs Are Generally Satisfied with the Positions and External Support***

DOTs generally reported that the positions they funded helped save time and avoid delays, although they had not tracked data. For example, NCDOT indicated their improved permitting process “couldn’t exist without resource agency positions to get discussions and information exchange going early on.” However, the transportation development “process takes so long, we haven’t had most of the positions and performance in place for the whole process length for an EIS, so we haven’t had data to track. There is a gross absence of performance data.”

Nevertheless, DOTs appreciate the ability to reach a resource agency staff person on the phone, sit down with them at a meeting and prioritize DOT projects, and have a dedicated staff person at the resource agency who understands the DOT’s.

## Chapter 6: Lessons Learned to Improve DOT-Funded Positions

DOTs have acquired sufficient experience over the last several years to identify the following “lessons learned” in establishing and managing funded positions:

- **Devote sufficient DOT effort to prioritizing projects and ensuring attention to those priorities.** DOTs with such systems in place consistently noted higher levels of satisfaction with funded positions. As one noted, “It is very important for positions to know what their priorities are... so they know how to use their time wisely.” This was most often accomplished through monthly meetings and/or regular phone/e-mail contact.
- **Provide clear expectations through position descriptions and quarterly or annual performance reviews.** A guide for DOT-funded positions can also support communication of expectations.
- **Provide accountability measures and joint review.** Provisions for accountability measures and joint review correlated strongly with reported DOT satisfaction. Accountability measures have been employed for the funded resource agency or for the individual position added at the agency.
- **Develop guidance for funded position programs at resource agencies.** FDOT has developed a Funded Positions Reference Manual, which describes agency agreements, required forms and reports, and current policy decisions related to the use of Section 1309 funds. It also contains instructions and questions to be addressed by the agency to request new or additional funding for ETDM support activities. The manual is available on FDOT’s website. NCDOT has also developed a manual for their funded positions, which is described in greater detail elsewhere in this report.
- **Keep lines of communication open.** DOTs report that communication is key, both regarding priorities and where they could be doing a better job. “In the absence of that (input) they are pulled in a lot of different directions. DOTs communicating to agencies/positions is number one.” DOTs report having decided not to pursue communication or “pushing the issue” in some cases, out of a desire to avoid eroding the working relationship.
- **Designate a program management person at the DOT.** Often DOT specialists are most closely involved with establishing priorities for positions at the resource agencies affiliated with those specialty areas. A DOT funded position program manager can make sure that overall priorities among multiple specialty areas are coordinated. Furthermore, a program manager provides a first point of contact for resource agencies that may be having trouble with their DOT-funded position, and can help avoid elevation of issues that can be resolved at a lower level. Program managers for funded positions also arrange quarterly meetings and brown-bag lunch trainings especially for funded positions. Such meetings have been valuable both as a place to have common questions answered and to exchange perspectives with other resource agency funded positions working on the same projects.
- **Where multiple DOT-funded staff are employed, designate/fund the position of a program manager within the resource agency.** While some DOTs have resisted hiring

more than technical level staff or funding promotions when there are no staff (or only one person) to oversee, one DOT indicated, it is “important to have someone at the resource agency making sure priorities established and workload balanced among multiple staff, especially where there are a lot of positions. It has been really great to have someone to handle policy/project issues as well as make sure staff priority issues are appropriately assigned.” Resource agencies could be asked to allocate these duties to an existing position or include them in a position created for that purpose.

- **Provide orientation to the DOT transportation planning and project development process for funded positions.** Caltrans aims to have all of their resource agency “reviewers” attend their week-long Environmental Academy, which introduces Caltrans’ project delivery process and environmental procedures. Ohio DOT offers a similar two-week course, which is required training both for DOT-funded positions and DOT consultants. SCDOT developed a “Transportation 101” orientation for funded positions
- **Support ongoing professional training for the position.** Investment in ongoing professional education has been found to enhance the DOT funded staff’s understanding of the issues. In addition, it communicates that the DOT values the staff person’s professional skills.
- **Realize the limits of satisfaction evaluation scales.** While evaluating satisfaction has been desirable and quantitative data is generally preferred, merging these objectives in a quantitative ranking system for DOT satisfaction has often yielded a disappointing amount of information for the level of effort required.